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Executive Orders

EXECUTIVE ORDER BJ 10-03

State of Emergency—Extension of
Qualifying in the Parish of Desoto

WHEREAS, "in order to ensure maximum citizen participation in the electoral process and provide a safe and orderly procedure for persons seeking to qualify or exercise their right to vote, to minimize to whatever degree possible a person's exposure to danger during declared states of emergency, and to protect the integrity of the electoral process," the Louisiana Legislature enacted R.S. 18:401.1 to provide "a procedure for the emergency suspension or delay and rescheduling of qualifying, early voting, and elections"; and

WHEREAS, on February 12, 2010, pursuant to the provisions of R.S. 18:401.1(B), the Secretary of State certified to the Governor that as a result of severe weather conditions, a state of emergency exists in the parish of Desoto and they recommend that qualifying in that parish be suspended and rescheduled for Wednesday, February 17, 2010;

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: Under the authority of R.S. 18:401.1(B) and based on the February 12, 2010 certification from the Secretary of State that a state of emergency exists in the parish of Desoto and the February 12, 2010 recommendation that the qualifying period in that parish be suspended until Wednesday, February 17, 2010, a state of emergency is hereby declared to exist in the following parish and qualifying in the following parish is hereby suspended for the time periods and dates designated: Parish of Desoto, Council Member(s), Village of Longstreet, suspended from 8:30 a.m. to 5:00 p.m. on Friday, February 12, 2010;

SECTION 2: In accordance with the procedures set forth in R.S. 18:401.1, qualifying in the parish of Desoto shall be rescheduled for and/or resume at 8:30 a.m. on Wednesday, February 17, 2010, and conclude at 5:00 p.m. on Wednesday, February 17, 2010.

SECTION 3: This Order is effective upon signature.

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 12th day of February, 2010.

Bobby Jindal
Governor

ATTEST BY
THE GOVERNOR
Jay Dardenne
Secretary of State
1003#111

EXECUTIVE ORDER BJ 10-04

Carry-Forward Bond Allocation 2009

WHEREAS, pursuant to the Tax Reform Act of 1986 and Act 51 of the 1986 Regular Session of the Louisiana Legislature (hereafter "Act"), Executive Order No. BJ 2008-47 was issued to establish a method for allocating bonds subject to private activity bond volume limits, including

(1) the method of allocating bonds subject to the private activity bond volume limits for the calendar year 2008 and subsequent calendar years;

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

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

WHEREAS, Section 4(H) of No. BJ 2008-47 provides that if the ceiling for a calendar year exceeds the aggregate amount of bonds subject to the private activity bond volume limit issued during the year by all issuers, by executive order, the Governor may allocate the excess amount to issuers or an issuer for use as a carry-forward for one or more carry-forward projects permitted under the Act;

WHEREAS, The sum of three hundred ninety six million nine hundred seventy-one thousand six hundred forty (\$396,971,640) represents the amount of the ceiling determined by the staff of the Louisiana State Bond Commission ("SBC") for private activity bond volume limits for the year 2009 ("2009 Ceiling");

WHEREAS, Executive Order No. BJ 2009-18, issued on November 20, 2009, as amended by Executive Order No. BJ 2009-20, issued on December 15, 2009 allocated thirty million dollars (\$30,000,000) from the 2009 Ceiling to the Jefferson Parish Finance Authority for Mortgage Revenue Bonds for single family housing, and thirty million dollars (\$30,000,000) of the allocation was returned unused to the 2009 Ceiling;

WHEREAS, Executive Order No. BJ 2009-15, issued on September 16, 2009, allocated four million dollars (\$4,000,000) from the 2009 Ceiling to the Louisiana Public Facilities Authority for Mortgage Revenue Bonds for multifamily housing, but one million dollars (\$1,000,000) was returned unused to the 2009 Ceiling;

WHEREAS, Three hundred sixty million four hundred seventy one thousand six hundred forty dollars (\$360,471,640) of the 2009 Ceiling was not allocated during the 2009 calendar year; and

WHEREAS, The SBC has determined that three hundred ninety-one million four hundred seventy-one thousand six hundred forty dollars (\$391,471,640) of the excess 2009 Ceiling is eligible as carry-forward and the Governor desires to allocate this amount as carry-forward for projects which are permitted and eligible under the Act;

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: Pursuant to and in accordance with the provisions of Section 146(f) of the Internal Revenue Code of 1986, as amended, and in accordance with the requests for carry-forward filed by the designated issuers, the excess private activity bond volume limit under the 2009 Ceiling is hereby allocated to the following issuers, for the following carry-forward projects, and in the following amounts:

Issuer	Carry-Forward Project	Carry-Forward Amount
Jefferson Parish Finance Authority	Single Family Mortgage Revenue Bond Program	\$25,000,000
Jefferson Parish Finance Authority	Single Family Mortgage Revenue Bond Program	\$61,077,910
Lafayette Public Trust Authority	Single Family Mortgage Revenue Bond Program	\$20,357,910
East Baton Rouge Home Mortgage Authority	Single Family Mortgage Revenue Bond Program	\$40,717,910

Issuer	Carry-Forward Project	Carry-Forward Amount
Louisiana Housing Finance Authority	Single Family Mortgage Revenue Bond Program	\$244,317,910

SECTION 2: All references in this Order to the singular shall include the plural, and all plural references shall include the singular.

SECTION 3: 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 the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 15th day of February, 2010.

Bobby Jindal
Governor

ATTEST BY
THE GOVERNOR
Jay Dardenne
Secretary of State
1003#112

Emergency Rules

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Agricultural Finance Authority

Farm and Agribusiness Recovery and Loan Program
(LAC 7:III.101, 701-715)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and under the authority of R.S. 3:266, the Louisiana Agricultural Finance Authority declares an emergency to exist and adopts by emergency process these regulations for the Louisiana Farm and Agribusiness Recovery and Loan Program.

Louisiana's agricultural and timber industries are a vital part of Louisiana's overall economy and are worth approximately \$9.5 billion to Louisiana's economy every year.

In 2008, Hurricanes Gustav and Ike did approximately \$1 billion of damage to the agricultural and timber industries of this State. Much of the damage resulted from the destruction of crops, livestock, timber, and other agricultural products. Because of these losses, a substantial number of agricultural producers and agribusinesses were left without sufficient income to pay off crop and other agricultural loans or to obtain financing for the 2009 crop year. The financial crisis in 2008 and 2009 and the reluctance of financial institutions to provide loans have exacerbated the severe shortage of capital and credit available for investment in agriculture.

Money for loans and grants to agricultural producers and agribusinesses suffering losses as a result of Hurricanes Gustav and Ike has become available and must be distributed as soon as possible. Delaying the distribution of this money until permanent rules and regulations can be promulgated will cause the money to be unavailable for the 2009 crop year. Failure to utilize this money quickly will disrupt the livelihood of agricultural producers, agribusinesses and the related businesses that depend on them. Failure to timely utilize the money will substantially eliminate or reduce the amount of crops, livestock, and other agricultural products, planted, produced, harvested or processed in 2009; thereby further increasing the losses to agricultural producers, agribusiness, and the economy of this state.

The losses caused by the two hurricanes, the effect these losses have on the ability of agricultural producers and agribusinesses to obtain financing, the severe shortage of capital and credit available for investment in agriculture, and the potential loss of more of this State's agricultural producers, agribusinesses, and agricultural revenues creates an imminent peril to the public health, safety, and welfare of the citizens of this state; thereby requiring the promulgation of these emergency rules and regulations.

This Emergency Rule is a renewal of the original Emergency Rule signed on July 7, 2009 and become effective upon the signature of the commissioner and shall remain in effect for 120 days, unless renewed or until the permanent Rule is effective.

Title 7

AGRICULTURE AND ANIMALS

Part III. Agricultural Finance

Chapter 1. General Provisions

§101. Definitions

A. The words and terms defined in R.S. 3:263 are applicable to this Part.

B. The following words and terms are defined for the purposes of this Chapter.

Agribusiness—a person, other than an agricultural producer, who engages in agriculture or provide support activities, products, or services to an agricultural producer and such products or services are directly related to the production and harvesting of crops and livestock.

Agricultural—the adjective form of *agriculture* as defined in R.S. 3:263(2).

Agricultural Producer—a person engaged in agriculture for the planting, growing, harvesting, or production of an agricultural product in its natural state and who primarily assumes the production and market risks associated with such activities.

Agricultural Product—any agronomic, aquacultural, floricultural, horticultural, maricultural, silvicultural, or viticultural crop, livestock, or product.

* * *

Farm—the total of all areas of land, water, or both in Louisiana, used by an agricultural producer to produce or harvest one or more agricultural products, regardless of whether the area or areas are located in more than one parish.

* * *

Livestock—any animal except dogs and cats, bred, kept, maintained, raised, or used for profit, that is used in agriculture, aquaculture, agritourism, competition, recreation, or Silviculture, or for other related purposes or used in the production of crops, animals, or plant or animal products for market. This definition includes but is not limited to cattle, buffalo, bison, oxen, and other bovine; horses, mules, donkeys, and other equine; goats; sheep; swine; chickens, turkeys, and other poultry; domestic rabbits; imported exotic deer and antelope, elk, farm-raised white-tailed deer, farm-raised ratites, and other farm-raised exotic animals; fish, turtles, and other animals identified with aquaculture which are located in artificial reservoirs or enclosures that are both on privately owned property and constructed so as to prevent, at all times, the ingress and egress of fish life from public waters; any commercial crawfish from any crawfish pond; and any hybrid, mixture, or mutation of any such animal.

* * *

AUTHORITY NOTE: Promulgated in accordance with R. S. 3:266.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Louisiana Agricultural Finance Authority, LR 10:866 (November 1984), amended by the Department of Agriculture and Forestry, Agricultural Finance Authority, LR 36:

Chapter 7. Louisiana Farm and Agribusiness Recovery and Loan Program

§701. Louisiana Farm and Agribusiness Recovery and Loan Program; Establishment of; Purpose; Limitations; Terms

A. The Louisiana Farm and Agribusiness Recovery and Loan Program is established.

B. The Louisiana Farm and Agribusiness Recovery and Loan Program provides loans, grants, or a combination thereof to agricultural producers or agribusinesses for the purpose of aiding in the recovery from the 2008 hurricanes, Gustav and Ike, and to subsequently provide Louisiana agricultural producers and agribusinesses additional financial resources for recovery from any future disasters and for the maintenance and growth of agriculture in Louisiana.

C. The limits on loans and grants from the Louisiana Farm and Agribusiness Recovery and Loan Program are as follows.

1. Agricultural producers may receive from \$10,000 up to a maximum of \$100,000. The amount provided shall be a combination of an 80 percent loan and 20 percent grant.

2. Agribusinesses may receive from \$10,000 up to a maximum of \$250,000 in the form of a direct loan.

D. The general terms under which disbursements will be made are as follows.

1. Interest at the rate of 1 1/2 percent interest per annum will be charged on the unpaid balance of all loans made under this program.

2. The maximum term of any loan shall be 10 years.

3. Any grant given in combination with a loan shall be subject to being repaid if the loan plus interest is not paid in full or if the loan goes into default.

4. Normal and customary terms of loans regarding notices, defaults, late fees, attorney fees, and other matters customarily spelled out in a promissory note or other negotiable instrument. Such terms, as authorized by LAFA, shall be in the negotiable instrument approved by LAFA.

AUTHORITY NOTE: Promulgated in accordance with R. S. 3:266.

HISTORICAL NOTE: Promulgated by the amended by the Department of Agriculture and Forestry, Agricultural Finance Authority, LR 36:

§703. Eligibility of Applicant

A. An agricultural producer experiencing a 2008 storm related loss shall be eligible to receive money from the Louisiana Farm and Agribusiness Recovery and Loan Program upon meeting the following requirements:

1. the farm upon which a loss occurred must be located in Louisiana;

2. active agricultural operations must have been ongoing before the 2008 storms occurred and continue to be ongoing thereafter;

3. a minimum annual gross revenue of \$25,000 from the agricultural operations must have been received in 2007 or in 2008 prior to the storms;

4. suffered a minimum storm related loss of \$10,000;

5. employed one or more person (including owner) full time during the previous year.

B. An agribusiness experiencing a 2008 storm related loss shall be eligible to receive money from the Louisiana Farm and Agribusiness Recovery and Loan Program upon meeting the following requirements:

1. The agribusiness must be physically located in Louisiana.

2. Active agribusiness operations must have been ongoing before the 2008 storms occurred and continue to be ongoing from the time active agribusiness operations could resume after the storms up to the date of application.

3. A minimum annual gross revenue of \$25,000 from the agribusiness operations must have been received in 2007 or in 2008 prior to the storms.

4. Employed at least 2 full time employees (including owner) in 2008, prior to the storms and support at least two other indirect jobs in this state.

5. Experienced a 20 percent decline in gross agribusiness revenue for the period of time in 2008 after the storms occurred as compared to gross agribusiness revenue for the same time period in 2007 or experienced a combined tangible property loss and revenue loss of \$10,000 or more.

AUTHORITY NOTE: Promulgated in accordance with R. S. 3:266.

HISTORICAL NOTE: Promulgated by the amended by the Department of Agriculture and Forestry, Agricultural Finance Authority, LR 36:

§705. Application Procedure and Forms

A. The application period shall be publicly announced or published in a manner that fairly puts agricultural producers and agribusinesses on notice of the Louisiana Farm and Agribusiness Recovery and Loan Program and the start and end of the application period.

B. Only application forms prepared by LAFA for this purpose may be used.

C. Every applicant for a loan or grant shall submit the following documents to LAFA:

1. The Completed Application Form Signed by the Agricultural Producer or Agribusiness, if a Sole Proprietorship. If the agricultural producer or agribusiness is not a sole proprietorship then the application form must be signed by all owners or by a duly authorized representative. The authorization of a representative to sign on behalf of an agricultural producer or agribusiness must be shown by a power of attorney, corporate resolution or other expression of authority that is consistent with the legal form of the agricultural producer or agribusiness.

2. Proof of Identity of the Signer of the Application. One or more of the following may be used as proof of identity: birth certificate, government issued photo identification or other documentation acceptable to the agricultural loan committee.

3. Proof of Address of the Farm or Agribusiness. One or more of the following may be used as proof of address: copy of utility bill, Louisiana tax return from the previous year, lease agreement, business license, USDA Farm Service Administration (FSA) certification, or other documentation acceptable to the agricultural loan committee.

4. Proof of Ownership of the Farm or Agribusiness. One or more of the following may be used as proof of ownership: tax returns with appropriate schedules, stock certificates with proof of total number of shares, or other documentation acceptable to the agricultural loan committee.

5. Proof of Employees. One or more of the following may be used as proof of employees: Federal form 941, Louisiana unemployment tax records, internal payroll register, or other documentation acceptable to the agricultural loan committee.

6. Proof of Revenue. One or more of the following may be used as proof of gross revenues: Federal tax returns with appropriate schedules, actual revenue receipts, or other documentation acceptable to the agricultural loan committee.

7. The agricultural loan committee may require an applicant to supply; tax returns with appropriate schedules, insurance claim forms, settlement sheets, FSA declarations, receipts for replacement, or other documentation when such documentation is needed by the agricultural loan committee in deciding whether to approve or deny an application.

AUTHORITY NOTE: Promulgated in accordance with R. S. 3:266.

HISTORICAL NOTE: Promulgated by the amended by the Department of Agriculture and Forestry, Agricultural Finance Authority, LR 36:

§707. Approval of Application

A. The applicant must provide all required information at least 10 working days prior to the meeting of the agricultural loan committee where the application will be considered, unless partial submission is allowed by LAFA's staff or the committee.

B. The agricultural loan committee, based on circumstances, may require terms and conditions that are not included in other loan/grants to be in a particular loan/grant so long as such terms and conditions are consistent with these regulations.

C. The agricultural loan committee may authorize LAFA's director to negotiate additional terms and conditions for a specific loan/grant within the parameters established by these regulations and the instructions of the agricultural loan committee.

D. The agricultural loan committee shall review each loan application and approve or deny the application, after consideration of the application, supporting documentation, comments of the applicant, and staff recommendations. However, the agricultural loan committee may defer action on an application to obtain additional information.

E. Within three business days after an application has been acted upon by the agricultural loan committee notice of the decision shall be sent to the applicant. Notification may be by U.S. mail, private commercial courier, hand delivery, fax, e-mail, or other electronic means. However, whatever the means of notification used must be designed to verify receipt of the notification by the applicant.

AUTHORITY NOTE: Promulgated in accordance with R. S. 3:266.

HISTORICAL NOTE: Promulgated by the amended by the Department of Agriculture and Forestry, Agricultural Finance Authority, LR 36:

§709. Agricultural Loan Committee; Establishment of; Purpose; Membership; Quorum

A. The agricultural loan committee is hereby established to consider and act on applications for loans or grants, or a combination of both made pursuant to this Part.

B. The agricultural loan committee shall consist of the following seven members.

1. the Commissioner of Agriculture and Forestry or his designee;

2. the Chancellor of the LSU AgCenter or his designee;

3. the Chancellor of the Southern University AgCenter or his designee;

4. the President of the Louisiana Farm Bureau Federation or his designee;

5. the Assistant Commissioner of Agriculture and Forestry, Office of Management and Finance or his designee;

6. one member at large appointed by the Commissioner of Agriculture and Forestry,

7. the Director of LAFA or his designee.

C. Four members of the agriculture loan committee shall constitute a quorum.

AUTHORITY NOTE: Promulgated in accordance with R. S. 3:266.

HISTORICAL NOTE: Promulgated by the amended by the Department of Agriculture and Forestry, Agricultural Finance Authority, LR 36:

§711. Disbursement of Funds

A. After the agricultural loan committee has approved an application the proceeds of the loan/grant shall be disbursed by LAFA's staff upon the signing of the loan or grant documents by the applicant and LAFA's director.

B. If the total amount of proceeds to be disbursed under the Louisiana Farm and Agribusiness Recovery and Loan Program exceeds the amount of available money then the amount received by each approved applicant shall be reduced on a pro-rata basis.

AUTHORITY NOTE: Promulgated in accordance with R. S. 3:266.

HISTORICAL NOTE: Promulgated by the amended by the Department of Agriculture and Forestry, Agricultural Finance Authority, LR 36:

§713. Use of Loan and Grant Proceeds

A. Loan and grant proceeds may be used to:

1. pay current year expenses that are related to the preparation, planting, management and harvesting the current year crop as specified;

2. pay down or pay off existing crop production loans, if a financial institution has committed itself to furnish sufficient funding for preparing, planting, managing and harvesting the current year crop;

3. pay operating expenses (rent, insurance, utilities, etc.);

4. purchase inventory.

5. pay or refinance more expensive business-related debt to improve cash flow.

B. Loan and grant proceeds may not be used for:

1. acquisition of buildings or land;

2. new construction or reconstruction;

3. refinancing of State Bridge Loans;

4. payments of tax arrearages, government fines or penalties;

5. political or religious activities;

6. buying out any stockholder or equity holder in a business;

7. buying out or reimbursing any family member;

8. investing in instruments or investments for the sole purpose of a return on investment; or

9. a loss or expense for which insurance benefits has been or is to be paid or for which financial assistance has been or is to be provided from any other source, whether public or private.

AUTHORITY NOTE: Promulgated in accordance with R. S. 3:266.

HISTORICAL NOTE: Promulgated by the amended by the Department of Agriculture and Forestry, Agricultural Finance Authority, LR 36:

§715. Delinquencies and Defaults

A. A loan shall become delinquent if the full monthly or periodic payment is not received within 10 calendar days following the due date or the loan is otherwise in default for non-compliance with any other provision of the loan.

1. Written notification of a delinquency shall be sent to the borrower giving the borrower the opportunity to cure the cause for the delinquency within 30 days from the date of the notice plus payment of any late fee.

2. If the delinquency is due to late payment, the director of LAFA, when he determines that such payment arrangements are justified by the circumstances, may make payment arrangements with the borrower to cure the delinquency before reporting the loan to the LAFA Board as a delinquent loan.

3. If the delinquency is not timely cured, the delinquent loan shall be reported to the LAFA Board, which may review and take action on the delinquent loan at any meeting of the board.

B. Upon review, the LAFA Board may direct that a loan be maintained in delinquent status and set the terms and time by which the payments may be brought up to date or the delinquency cured, or the board may declare the loan to be in default and that the entire amount due on the loan accelerated in accordance with the terms of the loan.

1. If a loan is continued as delinquent the LAFA Board shall establish the terms and time by which the borrower may bring the loan out of delinquency and into good standing and the borrower shall be notified of such terms and time.

2. If a loan is declared to be in default, notice of the default and a demand for full payment of all sums due, including the amount of any portion of the loan that may be forgiven as a grant, shall be sent to the borrower along with a request for full payment within 10 business days from the sending of the notice.

C. If a loan is continued as delinquent and the borrower does not accept the terms and time set by the board or if the borrower does not timely comply with the terms, the loan shall automatically go into default without further action of the board. Upon default, a demand for payment shall be made and if payment is not timely made the loan shall be turned over for collection, as provided for in these regulations.

D. If full payment is not received by the deadline given in the notice of default the loan, including the amount of any portion of the loan that may be forgiven as a grant, shall be turned over to an attorney for collection in accordance with the terms of the loan.

E. Any notice required by these regulations or by the terms of any loan may be sent by certified United States mail, return receipt requested; by any commercial courier who requires a receipt of delivery; or by hand delivery.

AUTHORITY NOTE: Promulgated in accordance with R. S. 3:266.

HISTORICAL NOTE: Promulgated by the amended by the Department of Agriculture and Forestry, Agricultural Finance Authority, LR 36:

Mike Strain DVM
Commissioner

1003#007

DECLARATION OF EMERGENCY

**Department of Agriculture and Forestry
Office of the Commissioner**

Sweet Potato Yield Adjustment (LAC 7:XV.143)

In accordance with the emergency provisions, (R.S. 49:953 (B), of the Administrative Procedure Act and under the authority of R.S. 3:1732 and R.S. 3:1734, the Commissioner of Agriculture and Forestry declares an emergency to exist and adopts by emergency process the attached rules and regulations governing the adjustment to the sweet potato yields for purposes of the sweet potato tax and sweet potato assessment. Sweet Potato growers pay a sweet potato tax of four cents per fifty pound bushel and an assessment of six cents per bushel. The payments are based on an average yield of 175 bushels per acre.

Louisiana's 2009 sweet potato crop was devastated by adverse weather conditions, especially torrential rain that occurred just prior to harvest. The adverse weather caused many growers to experience a substantial reduction in the yield per acre. The losses to the sweet potato crop and the inability to timely harvest the crop has caused a severe economic hardship for Louisiana's sweet potato growers. It is necessary to allow sweet potato growers an adjustment from the average yield per acre to reflect the reduction in the yields per acre experienced by growers in order to avoid growers paying excess taxes and assessments during a time that they are experiencing financial hardship. Failure to allow such an adjustment creates a substantial risk of causing growers to pay more in taxes and assessments than the amount actually due and has the potential of forcing growers out of business. Both situations created an imminent peril to the welfare of the citizens of Louisiana and to Louisiana's economy, thereby making this Emergency Rule necessary. This Rule becomes effective upon signature, February 22, 2010, and will remain in effect for 120 days.

Title 7

AGRICULTURE AND ANIMALS

Part XV. Plant Protection and Quarantine

Chapter 1. Crop Pests and Diseases

§143. Fees

A. - D.2. ...

E. A person who commercially grows, sells, or offers for sale sweet potatoes (grower) may petition the Louisiana Sweet Potato Advertising and Development Commission (commission) for a yield adjustment on the planted acres of the grower's 2009 sweet potato crop. Adjusted yields will range from the average yield of 175 bushels per acre set by

the commission down to 70 bushels per acre, which is the minimum adjusted yield the commission will accept.

1. A grower requesting a yield adjustment shall submit a written request to the commission.

a. The request shall include the farm name and address; the sweet potato dealer's permit number; the grower's name, address, telephone number, and e-mail address if available; the acres planted; the total fresh market bushels harvested from the 2009 crop; and a brief explanation of the reason for the request.

b. The grower shall sign the written request. The written request shall be delivered to the commission through mail, fax or other form of actual delivery, on or before 4:30 p.m. on Friday, March 12, 2010. A request will also be deemed to be timely when the papers are mailed on or before the due date. Timeliness of the mailing shall be shown only by an official United States postmark or by official receipt or certificate from the United States Postal Service made at the time of mailing which indicates the date thereof. A fax shall be considered timely only upon proof of actual receipt of the transmission.

2. Each grower who has timely filed a request for an adjustment with the commission shall be notified of the date, time and place the commission is scheduled to consider the request at least 10 days prior to the commission meeting. The commission shall not consider a written request that is not timely.

3. Each grower who has timely filed a request for an adjustment may be present and speak on his behalf at the time the grower's request is considered by the commission.

4. The commission shall grant or deny the adjustment based on the following factors:

- a. the location of the farm;
- b. the yield per planted acre as compared to the average statewide yield per planted acre, as set by the commission for 2009;
- c. the reason given for the request for an adjustment;
- d. any other fact that is relevant to the request for an adjustment.

5. The commission may grant a request for adjustment if it finds all of the following.

- a. The actual yield per planted acre for 2009 is less than the average yield per planted acre set by the commission for 2009.
- b. The decreased yield for 2009 is related to factors beyond the grower's control.
- c. The grower or farm submitting the request owes no delinquent or outstanding sweet potato fees, taxes or fines, levied prior to the 2009 crop year, to the Louisiana Department of Agriculture & Forestry or to the commission.

6. The denial or granting of the request for an adjustment shall be a discretionary decision of the commission.

7. Each grower submitting a timely request for an adjustment shall be notified in writing of the commission's decision and the amount of the adjustment in the yield per planted acre, if any.

8. If the request for an adjustment is granted, then the amount of both the sweet potato fee and sweet potato tax owed by the grower shall be based on the adjusted yield set by the commission.

9. Each grower who submits a timely request for an adjustment, regardless of whether that adjustment is granted or denied by the commission, shall be entitled to pay his sweet potato fee and sweet potato tax without imposition of a penalty if he pays the assessment within 30 days after receiving written notification of the commission's decision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1732 and R.S. 3:1734.

HISTORICAL NOTE: Promulgated by Department of Agriculture, Office of Agricultural and Environmental Sciences, LR 11:321 (April 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 15:77 (February 1989), LR 18:705 (July 1992), LR 27:1178 (August 2001), LR 29:2298 (November 2003).

Mike Strain, DVM
Commissioner

1002#004

DECLARATION OF EMERGENCY
Department of Agriculture and Forestry
Office of the Commissioner
Agricultural Commodities Commission

Fees: Amount, Time of Payment (LAC 7:XXVII.128)

In accordance with the emergency provisions of the Administrative Procedures Act, R.S. 49:953(B), and the authority of R.S. 3:3405, the Louisiana Agricultural Commodities Commission proposes to adopt by emergency rule fees for the testing and sampling of aflatoxin for corn.

Aflatoxin is a toxic metabolite produced primarily by a naturally occurring fungus that affects corn. Aflatoxin is listed as a human and animal carcinogen. Aflatoxicosis in humans is characterized by vomiting, abdominal pain, pulmonary edema, convulsions, coma and death with cerebral edema and fatty involvement of the liver, kidneys and heart. Aflatoxicosis in animals causes liver damage, cancer, decreased milk and egg production, increased infections due to immunity suppression, anemia, jaundice and death. Aflatoxicosis in humans and animals results from the eating of food contaminated with aflatoxin. The United States Food and Drug Administration have established a limit of 20 parts per billion for aflatoxin in foods to be consumed by humans.

The presence and levels of aflatoxin in corn can be determined only by sampling and testing the corn. The accuracy and reliability of the methods of testing corn directly affect both the marketability of the corn and the price received for the corn by the farmer and operators of grain elevators. Failure to immediately implement regulations governing the testing of corn at grain elevators creates and imminent peril to the public health, safety and welfare of the farmers and economy of this state.

The Louisiana Agricultural Commodities Commission has, therefore, determined that these emergency rules are necessary in order to ensure an accurate and reliable sampling and testing of corn for aflatoxin.

This Emergency Rule shall have the force and effect of law five days after their promulgation in the official journal of the state and will remain in effect for 120 days, unless renewed or until permanent rules are promulgated in accordance with law.

Title 7

AGRICULTURE AND ANIMALS

Part XXVII. Agricultural Commodity Dealer and Warehouse Law

**Chapter 1. Agricultural Commodities Commission
Subchapter E. Assessments and Fees**

§128. Fees: Amount, Time of Payment

A. - C.3. ...

4. Official Services (including sampling except as indicated)

Online D/T sampling inspection service (sampling, grading and certification), per regular hour	\$25
Overtime hourly rate, per hour	\$40
Unit Inspection Fees:	
Aflatoxin Testing, per sample	\$30
Hopper Car, per car	\$20
Boxcar, per car	\$15
Truck/Trailer, per carrier	\$10
Barge, per 1,000 bushels	\$2.50
Submitted sample inspection	\$12
Re-grade grain sample	\$15

D. - D.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405, R.S. 3:3414.3 and R.S. 3:3422.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 12:287 (May 1986), amended LR 14:528 (August 1988), LR 19:889 (July 1993), LR 23:196 (February 1997), LR 27:815 (June 2001), amended by the Department of Agriculture and Forestry, Office of the Commissioner, Agricultural Commodities Commission, LR 30:197 (February 2004), LR 36:

Mike Strain, DVM
Commissioner

1003#005

DECLARATION OF EMERGENCY

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

**CommunityCARE Program—Immunization
Pay-for-Performance Initiative—Payment Levels
(LAC 50:I.2915)**

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:I.2915 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 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 CommunityCARE Program in order to implement an immunization pay-for-performance supplemental payment based on the provider’s participation in the Louisiana Immunization Network for Kids Statewide and performance in achieving immunization benchmarks (*Louisiana Register*, Volume 33, Number 6).

As a result of a budgetary shortfall in state fiscal year 2010, the department determined that it was necessary to promulgate an Emergency Rule to amend the provisions governing the CommunityCARE Program to revise the payment levels for the pay-for-performance initiative (*Louisiana Register*, Volume 36, Number 2). The department now proposes to amend the February 1, 2010 Emergency Rule to further revise the payment levels.

This action is being taken to avoid a budget deficit in the medical assistance programs. Because of a three month payment lag, implementation of this Emergency Rule will have no effect on expenditures in the Medicaid Program for state fiscal year 2009-2010.

Effective April 1, 2010 the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions of the February 1, 2010 Emergency Rule governing the reimbursement methodology for the CommunityCARE Program to revise the payment levels for the immunization pay-for-performance initiative.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part I. Administration

Subpart 3. Medicaid Managed Care

Chapter 29. CommunityCARE

§2915. Immunization Pay-for-Performance

A. - C.3. ...

D. Effective February 1, 2010, supplemental payments shall be available to physicians when 50-74 percent of the recipients are up-to-date with the appropriate vaccine series by 24 months of age. The payment shall be \$0.25 per Medicaid recipient under the age of 21 linked to the CommunityCARE PCP.

E. Effective April 1, 2010, supplemental payments shall be available to physicians when 60-74 percent of the recipients are up-to-date with the appropriate vaccine series by 24 months of age. The payment shall be \$0.25 per Medicaid recipient under the age of 21 linked to the CommunityCARE PCP.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:1139 (June 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

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

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box

91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Alan Levine
Secretary

1003#084

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

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

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:V.953, 955 and 959 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 in state fiscal year (SFY) 2009, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which reduced the reimbursement rates paid to non-rural, non-state hospitals for inpatient services (*Louisiana Register*, Volume 35, Number 2). The final Rule was published September 20, 2009 (*Louisiana Register*, Volume 35, Number 9). In anticipation of a budgetary shortfall in SFY 2010, the bureau further reduced the reimbursement rates paid for inpatient hospital services (*Louisiana Register*, Volume 35, Number 5). In July 2009, an Emergency Rule was promulgated to provide a supplemental payment to hospitals that demonstrated substantial financial and operational challenges in the aftermath of Hurricanes Katrina, Rita, Gustav and Ike (*Louisiana Register*, Volume 35, Number 7). As a result of the legislature allocating additional funds to lessen the impact of SFY 2010 budget reductions, the bureau repealed the rate reduction provisions of the May 1, 2009 Emergency Rule (*Louisiana Register*, Volume 35, Number 8) and amended the reimbursement methodology for inpatient hospital services to adjust the rate reductions (*Louisiana Register*, Volume 35, Number 8). In October 2009, the bureau amended the July 1, 2009 Emergency Rule for supplemental payments to incorporate the provisions of the August 4, 2009 Emergency Rule which adjusted the rate reductions (*Louisiana Register*, Volume 35, Number 10). The bureau also revised the reimbursement

methodology for inpatient hospital services to align the prospective per diem rates more closely with reported costs (*Louisiana Register*, Volume 35, Number 10). In November 2009, the department amended the August 4, 2009 Emergency Rule to incorporate the provisions of the October 20, 2009 Emergency Rule and reorganized these provisions in the appropriate place in the *Louisiana Administrative Code* (*Louisiana Register*, Volume 35, Number 11). In December 2009, the department promulgated an Emergency Rule to repeal the provisions for children's specialty hospitals which were erroneously incorporated into the rate alignment for acute care hospitals (*Louisiana Register*, Volume 35, Number 12). The department now proposes to amend the provisions of the November 20, 2009 Emergency Rule in order to incorporate the provisions of the December 20, 2009 Emergency Rule. This action is being taken to ensure that these provisions are appropriately adopted into the *Louisiana Administrative Code*.

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

Effective March 20, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions of the November 20, 2009 Emergency Rule governing the reimbursement methodology for inpatient hospital services.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 1. Inpatient Hospitals

Chapter 9. Non-Rural, Non-State Hospitals

Subchapter B. Reimbursement Methodology

§953. Acute Care Hospitals

A. - 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.

J. Hospitals Impacted by Hurricane Katrina (Region 1). Effective for dates of service on or after July 1, 2009, a quarterly supplemental payment will be issued to qualifying non-rural, non-state acute care hospitals for services rendered from July 1, 2009 through December 31, 2010. Maximum aggregate payments to all qualifying hospitals in this group (along with those in §963.A and outpatient supplemental payments) will not exceed \$170,000,000.

1. Qualifying criteria. In order to qualify for the supplemental payment, the non-rural, non-state acute care hospital must be located in DHH Administrative Region 1 (New Orleans) and identified in the July 17, 2008 United States Government Accountability Office report as a hospital that has demonstrated substantial financial and operational challenges in the aftermath of Hurricane Katrina.

2. Each eligible hospital shall receive quarterly supplemental payments which in total do not exceed a specified individualized hospital limit. Payments will be distributed based on Medicaid paid claims data from state fiscal year 2008 service dates. Payments will end on December 31, 2010 or when the hospital specific cap is reached, whichever occurs first.

K. Other Hospitals Impacted by Hurricanes Katrina and Rita. Effective for dates of service on or after July 1, 2009, a quarterly supplemental payment will be issued to qualifying non-rural, non-state acute care hospitals for services rendered from July 1, 2009 through December 31, 2010. Maximum aggregate payments to all qualifying hospitals in this group (along with those in §959.C and §963.B payments) will not exceed \$10,000,000.

1. Qualifying Criteria. Non-rural, non-state acute care hospitals that do not qualify for payment under §953.E provisions may receive a supplemental payment if the hospital is located in either the New Orleans or Lake Charles metropolitan statistical area (MSA), had at least 1,000 paid Medicaid days for state fiscal year 2008 service dates and is currently operational.

2. Each eligible hospital shall receive quarterly supplemental payments which in total do not exceed \$1,200,000 per hospital for the 18 month period.

a. Payments will be distributed as follows using Medicaid paid days for state fiscal year 2008 service dates.

i. Qualifying hospitals with greater than 7,500 paid Medicaid days for state fiscal year 2008 service dates will be paid \$60 per Medicaid paid day.

ii. Qualifying hospitals with greater than 1,000, but less than or equal to 7,500 paid Medicaid days for state fiscal year 2008 service dates will be paid \$130 per Medicaid paid day.

b. Payments will end on December 31, 2010 or when the \$1,200,000 limit is reached, whichever occurs first.

L. Hospitals Impacted by Hurricanes Gustav and Ike. Effective for dates of service on or after July 1, 2009, a quarterly supplemental payment will be issued to qualifying non-rural, non-state acute care hospitals for services rendered from July 1, 2009 through December 31, 2010. Maximum aggregate payments to all qualifying hospitals in this group (along with §959.D and §963.C payments) will not exceed \$7,500,000.

1. Qualifying Criteria. Non-rural, non-state acute care hospitals that do not qualify for payment under §953.E or §953.F may receive a supplemental payment if the hospital

is located in either DHH Administrative Region 2 (Baton Rouge) or 3 (Thibodaux), had at least 1,000 paid Medicaid days for state fiscal year 2008 service dates and is currently operational.

2. Each eligible hospital shall receive quarterly supplemental payments which in total do not exceed \$1,200,000 per hospital for the 18 month period.

a. Payments will be distributed as follows using Medicaid paid days for state fiscal year 2008 service dates.

i. Qualifying hospitals with greater than 20,000 paid Medicaid days for state fiscal year 2008 service dates will be paid \$60 per Medicaid paid day.

ii. Qualifying hospitals with greater than 2,500, but less than or equal to 20,000 paid Medicaid days for state fiscal year 2008 service dates will be paid \$105 per Medicaid paid day.

iii. Qualifying hospitals with greater than 1,000, but less than or equal to 2,500 paid Medicaid days for state fiscal year 2008 service dates will be paid \$225 per Medicaid paid day.

b. Payments will end on December 31, 2010 or when the \$1,200,000 limit is reached, whichever occurs first.

M. Effective for dates of service on or after August 4, 2009, the prospective per diem rate paid to acute care hospitals shall be reduced by 6.3 percent of the per diem rate on file as of August 3, 2009.

1. Payments to small rural hospitals as defined in R.S. 40:1300 shall be exempt from this reduction.

2. - 2.b. 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 34:876 (May 2008), amended LR 34:877 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1895 (September 2009), amended LR 36:

§955. Long Term Hospitals

A. - C. ...

D. Hurricane Impacted Hospitals. Effective for dates of service on or after July 1, 2009, a quarterly supplemental payment will be issued to qualifying long term hospitals for services rendered from July 1, 2009 through December 31, 2010. Maximum aggregate payments to all qualifying hospitals in this group (along with §961.A payments) will not exceed \$500,000.

1. Qualifying criteria. In order to qualify for the supplemental payment, the long term hospital must have had at least 100 paid Medicaid days for state fiscal year 2008 service dates and must be located in one of the following DHH administrative regions:

- a. Region 1 (New Orleans);
- b. Region 2 (Baton Rouge);
- c. Region 3 (Thibodaux);
- d. Region 5 (Lake Charles); or
- e. Region 9 (Mandeville).

2. Each eligible hospital shall receive quarterly supplemental payments at the rate of \$40 per Medicaid paid day for state fiscal year 2008 service dates. Payments will end on December 31, 2010 or when the \$500,000 maximum payment limit for this group is reached, whichever occurs first.

E. Effective for dates of service on or after August 4, 2009, the prospective per diem rate paid to long term hospitals for inpatient services shall be reduced by 6.3 percent of the per diem rate on file as of August 3, 2009.

1. - 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: 34:876 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1895 (September 2009), amended LR 36:

§959. Inpatient Psychiatric Hospital Services

A. - C. ...

D. Free-Standing Psychiatric Hospitals Impacted by Hurricanes Katrina and Rita. Effective for dates of service on or after July 1, 2009, a quarterly supplemental payment will be issued to qualifying free-standing psychiatric hospitals for services rendered from July 1, 2009 through December 31, 2010. Maximum aggregate payments to all qualifying hospitals in this group (along with §953.F and §961.A payments) will not exceed \$10,000,000.

1. Qualifying Criteria. Non-rural, non-state free-standing psychiatric hospitals that do not qualify for payment under §953.F provisions may receive a supplemental payment if the hospital is located in either the New Orleans or Lake Charles metropolitan statistical area (MSA), had at least 1,000 paid Medicaid days for state fiscal year 2008 service dates and is currently operational.

2. Each eligible hospital shall receive quarterly supplemental payments which in total do not exceed \$1,200,000 per hospital for the 18 month period.

a. Payments will be distributed as follows using Medicaid paid days for state fiscal year 2008 service dates.

i. Qualifying hospitals with greater than 7,500 paid Medicaid days for state fiscal year 2008 service dates will be paid \$60 per Medicaid paid day.

ii. Qualifying hospitals with greater than 1,000, but less than or equal to 7,500 paid Medicaid days for state fiscal year 2008 service dates will be paid \$130 per Medicaid paid day.

b. Payments will end on December 31, 2010 or when the \$1,200,000 limit is reached, whichever occurs first.

E. Free-Standing Psychiatric Hospitals Impacted by Hurricanes Gustav and Ike. Effective for dates of service on or after July 1, 2009, a quarterly supplemental payment will be issued to qualifying free-standing psychiatric hospitals for services rendered from July 1, 2009 through December 31, 2010. Maximum aggregate payments to all qualifying hospitals in this group (along with §953.G and §961.C payments) will not exceed \$7,500,000.

1. Qualifying Criteria. Non-rural, non-state free-standing psychiatric hospitals that do not qualify for payment under §953.E or §953.F may receive a supplemental payment if the hospital is located in either DHH Administrative Region 2 (Baton Rouge) or 3 (Thibodaux), had at least 1,000 paid Medicaid days for state fiscal year 2008 service dates and is currently operational.

2. Each eligible hospital shall receive quarterly supplemental payments which in total do not exceed \$1,200,000 per hospital for the 18 month period.

a. Payments will be distributed as follows using Medicaid paid days for state fiscal year 2008 service dates.

i. Qualifying hospitals with greater than 20,000 paid Medicaid days for state fiscal year 2008 service dates will be paid \$60 per Medicaid paid day.

ii. Qualifying hospitals with greater than 2,500, but less than or equal to 20,000 paid Medicaid days for state fiscal year 2008 service dates will be paid \$105 per Medicaid paid day.

iii. Qualifying hospitals with greater than 1,000, but less than or equal to 2,500 paid Medicaid days for state fiscal year 2008 service dates will be paid \$225 per Medicaid paid day.

b. Payments will end on December 31, 2010 or when the \$1,200,000 limit is reached, whichever occurs first.

F. Effective for dates of service on or after August 4, 2009, the prospective per diem rate paid to non-rural, non-state free-standing psychiatric hospitals shall be reduced by 5.8 percent of the rate on file as of August 3, 2009.

1. - 2.b. Repealed.

G. Effective for dates of service on or after August 4, 2009, the prospective per diem rate paid to non-rural, non-state distinct part psychiatric units shall be reduced by 6.3 percent of the rate on file as of August 3, 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 34:876 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1895 (September 2009), amended LR 36:

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

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

Alan Levine
Secretary

1003#083

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Laboratory and Radiology Services
Reimbursement Rate Reduction
(LAC 50:XIX.4329 and 4334-4337)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XIX.4329 and §4334-4337 in the Medical Assistance Program as authorized by R.S. 36:254, 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 in state fiscal year 2009, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated Emergency Rules which reduced the reimbursement rates paid for laboratory and radiology services (*Louisiana Register*, Volume 35, Number 3) and clarified the reimbursement methodology for radiation therapy centers (*Louisiana Register*, Volume 35, Number 6). These provisions were published as a final Rule on 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 to amend the provisions governing the reimbursement methodology for laboratory and radiology services to further reduce the reimbursement rates (*Louisiana Register*, Volume 35, Number 8). The department promulgated an Emergency Rule to amend the provisions of the August 4, 2009 Emergency Rule to revise the formatting of LAC 50:XIX.4329 and §§4334-4337 as a result of the promulgation of the September 20, 2009 final Rule governing the reimbursement methodology for laboratory and radiology services (*Louisiana Register*, Volume 35, Number 11). This Emergency Rule is being promulgated to continue the provisions of the November 20, 2009 Emergency Rule. This action is necessary to avoid a budget deficit in the medical assistance programs and to ensure that these provisions are appropriately incorporated into the *Louisiana Administrative Code*.

Effective March 21, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing laboratory and radiology services.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XIX. Other Services

Subpart 3. Laboratory and Radiology

Chapter 43. Billing and Reimbursement

Subchapter B. Reimbursement

§4329. Laboratory Services (Physicians and Independent Laboratories)

A. - F. ...

G. Effective for dates of service on or after August 4, 2009, the reimbursement rates for laboratory services shall be reduced by 4.7 percent of the fee amounts on file as of August 3, 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 28:1025 (May 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1897 (September 2009), LR 36:

§4334. Radiology Services

A. - E. ...

F. Effective for dates of service on or after August 4, 2009, the reimbursement rates for radiology services shall be

reduced by 4.7 percent of the fee amounts on file as of August 3, 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 35:1897 (September 2009), LR 36:

§4335. Portable Radiology Services

A. - C. ...

D. Effective for dates of service on or after August 4, 2009, the reimbursement rates for portable radiology services shall be reduced by 4.7 percent of the fee amounts on file as of August 3, 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 30:1026 (May 2004), amended LR 35:1898 (September 2009), LR 36:

§4337. Radiation Therapy Centers

A. - C. ...

D. Effective for dates of service on or after August 4, 2009, the reimbursement rates for radiology services provided by radiation therapy centers shall be reduced by 4.7 percent of the fee amounts on file as of August 3, 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 35:1898 (September 2009), 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 Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Alan Levine
Secretary

1003#077

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Mental Health Rehabilitation Program
Service Limitations and Reimbursement Rate Reduction
(LAC 50:XV.401-405 and 901)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:XV.401-405 and amends §901 in the Medical Assistance Program as authorized by R.S. 36:254, 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 mental health rehabilitation services to reduce the reimbursement rates (*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 bureau determined that it was necessary to further reduce the reimbursement rates paid for mental health rehabilitation services and to establish service limitations (*Louisiana Register*, Volume 35, Number 8). The department amended the August 4, 2009 Emergency Rule in order to revise the formatting of LAC 50:XV.401-405 and §901 as a result of the promulgation of the September 20, 2009 final Rule governing the reimbursement methodology for mental health rehabilitation services (*Louisiana Register*, Volume 35, Number 11). This Emergency Rule is being promulgated to amend the provisions of the November 20, 2009 Emergency Rule to implement an exception to the service limits when the need for additional services is supported by medical necessity. This action is being taken to comply with recommendations from the Centers for Medicare and Medicaid Services (CMS).

Effective March 20, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions of the November 20, 2009 Emergency Rule governing mental health rehabilitation services.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 1. Mental Health Rehabilitation

Chapter 3. Covered Services and Staffing

Requirements

Subchapter D. Service Limitations

§401. Individual Daily Service Limits

A. Individual daily service limits shall be placed on the following services.

1. Individual, Family or Group Counseling (any modifier). The maximum number of units provided on any given date of service shall not exceed eight units (two hours).

2. Psychosocial Skills Training. The maximum number of units provided on any given date of service shall not exceed 12 units (three hours).

3. Community Supports. The maximum number of units provided on any given date of service shall not exceed 12 units (three hours).

4. Assessment. The maximum number of units provided for an initial assessment shall not exceed six units (1.5 hours).

5. Reassessment. The maximum number of units provided for a reassessment shall not exceed three units (0.75 hours).

B. Medicaid will not reimburse services in excess of these limits.

1. Exceptions may be made on a case-by-case basis for special circumstances or crisis situations with documentation of medical necessity. Requests to exceed the established limits are subject to review and approval by the department.

C. Service limitations shall not apply to Early and Periodic Screening, Diagnostic and Treatment (EPSDT) recipients when the need for additional services is supported by medical necessity.

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:

§403. Combined Daily Service Limits

A. Daily service limits shall be placed on the combination of counseling, psychosocial skills training and community support services. The maximum units of service for a combination of these services shall not exceed a total of 16 units (four hours) on any given date of service.

1. The individual daily service limits in §401 are applicable to the services that are being combined.

B. Medicaid will not reimburse services in excess of these limits.

1. Exceptions may be made on a case-by-case basis for special circumstances or crisis situations with documentation of medical necessity. Requests to exceed the established limits are subject to review and approval by the department.

C. Service limitations shall not apply to EPSDT recipients when the need for additional services is supported by medical necessity.

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:

§405. Combined Weekly Service Limits

A. Weekly service limits shall be placed on the combination of counseling, psychosocial skills training and community support services. The maximum units of service for a combination of these services shall not exceed a total of 80 units (20 hours) in any given calendar week (Sunday through Saturday).

1. The individual and combined daily service limits in §401 and §403 are applicable to these services.

B. Medicaid will not reimburse services in excess of these limits.

1. Exceptions may be made on a case-by-case basis for special circumstances or crisis situations with documentation of medical necessity. Requests to exceed the established limits are subject to review and approval by the department.

C. Service limitations shall not apply to EPSDT recipients when the need for additional services is supported by medical necessity.

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:

Chapter 9. Reimbursement

§901. Reimbursement Methodology

A. - C. ...

D. Effective for dates of service on or after August 4, 2009, the reimbursement rates for the following MHR services shall be reduced by 1.23 percent of the fee amounts on file as of August 3, 2009:

1. counseling;
2. oral medication administration;
3. psychosocial skills training;
4. community supports; and
5. injections.

E. Effective for dates of service on or after August 4, 2009, the reimbursement rates for parent/family intervention (intensive) services shall be reduced by 17.6 percent of the fee amounts on file as of August 3, 2009.

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

HISTORICAL NOTE: Promulgate by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1091 (May 2005), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1899 (September 2009), amended LR 36:

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

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

Alan Levine
Secretary

1003#082

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

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

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XV.25701 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 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, Bureau of Health Services Financing adopted provisions governing the coverage and reimbursement of multi-systemic therapy (MST) for youth with serious emotional/behavioral disturbances who are at risk of out-of-home placement or returning home from out-of-home placement as a result of the emotional/behavioral disturbance (*Louisiana Register*, Volume 35, Number 2). As a result of a budgetary shortfall, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule to amend the provisions governing the reimbursement methodology for multi-systemic therapy to reduce the reimbursement rates (*Louisiana Register*, Volume 35, Number 8). This Emergency Rule is being promulgated to continue the provisions of the August 4, 2009 Emergency Rule. This action is necessary to avoid a budget deficit in the medical assistance programs.

Effective April 3, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for multi-systemic therapy to reduce the reimbursement rates.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 17. Multi-Systemic Therapy

Chapter 257. Reimbursement

§25701. Reimbursement Methodology

A. - A.2. ...

B. Effective for dates of service on and after August 4, 2009, the reimbursement rates for multi-systemic therapy services will be reduced by 5.17 percent of the rates on file as of August 3, 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 35:245 (February 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 Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Alan Levine
Secretary

1003#076

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Outpatient Hospital Services
Non-Rural, Non-State Hospitals
Reimbursement Rate Reduction
(LAC:V.5313, 5513, 5713, 5913 and 6115)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:V.5313, §5513, §5713, §5913 and §6115 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 in state fiscal year 2009, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule to reduce the reimbursement paid to non-rural, non-state hospitals for outpatient services (*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 determined that it was necessary to further reduce the reimbursement rates paid to non-rural, non-state hospitals for outpatient services (*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 bureau determined that it was necessary to repeal the provisions of the May 1, 2009 Emergency Rule and to amend the reimbursement methodology for non-rural, non-state hospitals to adjust the reimbursement rates for outpatient services (*Louisiana Register*, Volume 35, Number 8). The department promulgated an Emergency Rule to amend the provisions of the August 4, 2009 Emergency Rule to revise the formatting of LAC 50:V.5313, §5513, §5713, §5913 and §6115 as a result of the promulgation of the September 20, 2009 final Rule governing the reimbursement methodology for outpatient hospital services (*Louisiana Register*, Volume 35, Number 11). This Emergency Rule is being promulgated to continue the provisions of the November 20, 2009 Emergency Rule.

Taking into consideration the 5.65 percent reduction in outpatient hospital rates in state fiscal year 2010, the Department has carefully reviewed the proposed rates and is satisfied that they are consistent with efficiency, economy and quality of care and are sufficient to enlist enough providers so that private (non-state) outpatient hospital services under the State Plan are available at least to the extent that they are available to the general population in the state. This action is being taken to avoid a budget deficit in the medical assistance programs and to ensure that these provisions are appropriately incorporated into the *Louisiana Administrative Code*.

Effective March 21, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for outpatient services rendered by non-rural, non-state hospitals.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospitals

Subpart 5. Outpatient Hospitals

Chapter 53. Outpatient Surgery

Subchapter B. Reimbursement Methodology

§5313. Non-Rural, Non-State Hospitals

A. ...

B. Effective for dates of service on or after August 4, 2009, the reimbursement paid to non-rural, non-state hospitals for outpatient surgery shall be reduced by 5.65 percent of the fee schedule on file as of August 3, 2009.

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

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

Chapter 55. Clinic Services

Subchapter B. Reimbursement Methodology

§5513. Non-Rural, Non-State Hospitals

A. ...

B. Effective for dates of service on or after August 4, 2009, the reimbursement paid to non-rural, non-state hospitals for outpatient clinic services shall be reduced by 5.65 percent of the fee schedule on file as of August 3, 2009.

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

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

Chapter 57. Laboratory Services

Subchapter B. Reimbursement Methodology

§5713. Non-Rural, Non-State Hospitals

A. ...

B. Effective for dates of service on or after August 4, 2009, the reimbursement paid to non-rural, non-state hospitals for outpatient laboratory services shall be reduced by 5.65 percent of the fee schedule on file as of August 3, 2009.

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

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

Chapter 59. Rehabilitation Services
Subchapter B. Reimbursement Methodology
§5913. Non-Rural, Non-State Hospitals

A. ...

B. Effective for dates of service on or after August 4, 2009, the reimbursement paid to non-rural, non-state hospitals for outpatient rehabilitation services provided to recipients over the age of three years shall be reduced by 5.65 percent of the fee schedule on file as of August 3, 2009.

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

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

Chapter 61. Other Outpatient Hospital Services
Subchapter B. Reimbursement Methodology
§6115. Non-Rural, Non-State Hospitals

A. ...

B. Effective for dates of service on or after August 4, 2009, the reimbursement paid to non-rural, non-state hospitals for outpatient hospital services other than clinical diagnostic laboratory services, outpatient surgeries, rehabilitation services and outpatient hospital facility fees shall be reduced by 5.65 percent of the rates effective as of August 3, 2009. Final reimbursement shall be at 78.48 percent of allowable cost through the cost settlement process.

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

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

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

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

Alan Levine
Secretary

1003#075

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing

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

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services amends LAC 50:XV.12917 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 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 of Aging and Adult Services promulgated an Emergency Rule to amend the provisions governing the reimbursement methodology for long-term personal care services (LT-PCS) to reduce the reimbursement rates (*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 determined that it was necessary to further reduce the reimbursement rates paid for LT-PCS. (*Louisiana Register*, Volume 35, Number 8). The department subsequently promulgated an Emergency Rule to amend the provisions of the August 4, 2009 Emergency Rule to revise the formatting of LAC 50:XV.12917 as a result of the promulgation of the September 20, 2009 final Rule governing the reimbursement methodology for long-term personal care services (*Louisiana Register*, Volume 35, Number 11). This Emergency Rule is being promulgated to continue the provisions of the November 20, 2009 Emergency Rule. This action is necessary to avoid a budget deficit in the medical assistance programs and to ensure that these provisions are appropriately incorporated into the *Louisiana Administrative Code*.

Effective March 21, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services amends the provisions governing the reimbursement methodology for long-term personal care services.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 9. Personal Care Services

Chapter 129. Long-Term Care

§12917. Reimbursement Methodology

A. - D. ...

E. Effective for dates of service on or after August 4, 2009, the reimbursement rate for long-term personal care services shall be reduced by 4.8 percent of the rate on file as of August 3, 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 29:913 (June 2003), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:253 (February 2008), LR 34:2581 (December 2008), amended by the Department of Health and Hospitals,

Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:1901 (September 2009), 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 Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Alan Levine
Secretary

1003#074

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Pharmacy Benefits Management Program Maximum Allowable Costs (LAC 50:949)

The Department of Health and Hospitals, Bureau of Health Services Financing repeals the provisions of the March 1, 2010 Emergency Rule, in its entirety, governing the Pharmacy Benefits Management Program and amends LAC 50:XXIX.949 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repromulgated all of the Rules governing the Pharmacy Benefits Management Program in a codified format in Title 50 of the *Louisiana Administrative Code* (*Louisiana Register*, Volume 32, Number 6). The department later promulgated a Rule (*Louisiana Register*, Volume 34, Number 1) amending the provisions of the June 20, 2006 Rule governing methods of payments in order to comply with the directives of Act 801 of the 2006 Regular Session of the Louisiana Legislature, which directed the department to submit a Medicaid State Plan amendment to the Centers for Medicare and Medicaid Services (CMS) to increase the Medicaid dispensing fee on prescription drugs, contingent upon CMS' approval of the proposed amendment. CMS subsequently disapproved the proposed amendment to the Medicaid State Plan that had been submitted in compliance with Act 801. An Emergency Rule was later promulgated to repeal the January 20, 2008 Rule and to restore the repealed provisions of the June 20, 2006 Rule in the *Louisiana Administrative Code* (*Louisiana Register*, Volume 36, Number 1).

Act 10 of the 2009 Regular Session of the Louisiana Legislature provided that the department may redefine the reimbursement methodology for multiple source drugs in establishing the state maximum allowable cost (MAC) in

order to control expenditures to the level of appropriations for the Medicaid Program. In accordance with the provisions of Act 10, the department promulgated an Emergency Rule to redefine the Louisiana maximum allowable cost (LMAC) (*Louisiana Register*, Volume 36, Number 1). In addition, the dispensing fee was increased for drugs with an LMAC.

The department subsequently determined that it was necessary to repeal the January 1, 2010 Emergency Rule in its entirety and amend the provisions governing the methods of payment for prescription drugs to redefine the LMAC (*Louisiana Register*, Volume 36, Number 2). The department promulgated an Emergency Rule to amend the February 1, 2010 Emergency Rule to revise the provisions governing the methods of payment for prescription drugs to further redefine the LMAC and increase the dispensing fee (*Louisiana Register*, Volume 36, Number 3). The department has now determined that it is necessary to repeal the March 1, 2010 Emergency Rule in its entirety and proposes to amend the provisions governing the methods of payment for prescription drugs to revise the LMAC provisions.

This action is being taken to control expenditures in the Medical Assistance Program and to avoid a budget deficit. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Pharmacy Benefits Management Program by approximately \$16,593,994 for fiscal year 2009-2010.

Effective March 20, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing repeals the March 1, 2010 Emergency Rule and amends the provisions governing the methods of payment for prescriptions covered under the Pharmacy Benefits Management Program.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXIX. Pharmacy

Chapter 9. Methods of Payment

Subchapter D. Maximum Allowable Costs

§949. Cost Limits

A. - B. ...

1. Louisiana Maximum Allowable Cost (LMAC) is the average actual acquisition cost of a drug, defined as the pharmacist's payment made to purchase a drug product, adjusted by a multiplier of 2.35.

2. LMAC reimbursement will apply to certain multiple source drug products that meet therapeutic equivalency, market availability, and other criteria deemed appropriate by the Louisiana Medicaid Agency. Drugs are subject to LMAC if there are at least two non-innovator multiple source alternative products available that are classified by the FDA as Category "A" in the Approved Drug Products with Therapeutic Equivalence Evaluations.

3. LMAC rates are based on the average actual acquisition cost per drug, adjusted by a multiplier of 2.35, which assures that each rate is sufficient to allow reasonable access by providers to the drug at or below the established LMAC rate. The LMAC rate will apply to all versions of a drug that share the same active ingredient combination, strength, dosage form, and route of administration.

4. Average actual acquisition cost will be determined through a semi-annual collection and review of pharmacy invoices and other information deemed necessary by the Louisiana Medicaid Agency and in accordance with applicable State and Federal law.

5. In addition to the semi-annual review, the Louisiana Medicaid Agency will evaluate on an ongoing basis throughout the year and adjust the rates as necessary to reflect prevailing market conditions and to assure that pharmacies have reasonable access to drugs at or below the applicable LMAC rate. Providers shall be given advance notice of any additions, deletions, or adjustments in price. A complete LMAC rate listing will be available to providers and updated periodically.

6. In no case shall a recipient be required to provide payment for any difference in a prescription price that may occur with implementation of the LMAC limit, nor may BHSF use a cost which exceeds the established maximums except for physician certification for brand name drugs.

C. - E.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 32:1065 (June 2006), amended LR 34:88 (January 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 Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Alan Levine
Secretary

1003#081

DECLARATION OF EMERGENCY

Department of Health and Hospital Bureau of Health Services Financing

Pharmacy Benefits Management Program
Methods of Payment
(LAC 50:XXIX.915-925, 949 and 963)

The Department of Health and Hospitals, Bureau of Health Services Financing repeals LAC 50:XXIX.915-923 and amends §§925, 949 and 963 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repromulgated all of the Rules governing the Pharmacy Benefits Management Program in a codified format in Title 50 of the *Louisiana Administrative Code* (*Louisiana Register*, Volume 32, Number 6). The department later promulgated a Rule (*Louisiana Register*, Volume 34,

Number 1) amending the provisions of the June 20, 2006 Rule governing methods of payments in order to comply with the directives of Act 801 of the 2006 Regular Session of the Louisiana Legislature, which directed the department to submit a Medicaid State Plan amendment to the Centers for Medicare and Medicaid Services (CMS) to increase the Medicaid dispensing fee on prescription drugs, contingent upon CMS' approval of the proposed amendment. CMS subsequently disapproved the proposed amendment to the Medicaid State Plan that had been submitted in compliance with Act 801. An Emergency Rule was later promulgated to repeal the January 20, 2008 Rule and restore the repealed provisions of the June 20, 2006 Rule in the *Louisiana Administrative Code* (*Louisiana Register*, Volume 36, Number 1).

Act 10 of the 2009 Regular Session of the Louisiana Legislature provided that the department may redefine the reimbursement methodology for multiple source drugs in establishing the state maximum allowable cost (MAC) in order to control expenditures to the level of appropriations for the Medicaid Program. In accordance with the provisions of Act 10, the department promulgated an Emergency Rule to redefine the Louisiana maximum allowable cost (LMAC) (*Louisiana Register*, Volume 36, Number 1). In addition, the dispensing fee was increased for drugs with an LMAC.

The department subsequently determined that it was necessary to repeal the January 1, 2010 Emergency Rule in its entirety and amend the provisions governing the methods of payment for prescription drugs to redefine the LMAC (*Louisiana Register*, Volume 36, Number 2). The department now proposes to amend the February 1, 2010 Emergency Rule to revise the provisions governing the methods of payment for prescription drugs to further redefine the LMAC and increase the dispensing fee.

This action is being taken to control expenditures in the Medical Assistance Program and to avoid a budget deficit. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Pharmacy Benefits Management Program by approximately \$11,051,847 for fiscal year 2009-2010.

Effective March 1, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions of the February 1, 2010 Emergency Rule governing the methods of payment for prescriptions covered under the Pharmacy Benefits Management Program.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXIX. Pharmacy

Chapter 9. Methods of Payment

Subchapter B. Maximum Allowable Overhead Cost

§915. Cost Determination

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 32:1062 (June 2006), repealed LR 34:87 (January 2008), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

§917. Maximum Allowable Overhead Cost Calculation

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 32:1062 (June 2006), repealed LR 34:87 (January 2008), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

§919. Parameters and Limitations

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1063 (June 2006), repealed LR 34:87 (January 2008), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

§921. Interim Adjustment to Overhead Cost

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 32:1063 (June 2006), repealed LR 34:87 (January 2008), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

§923. Cost Survey

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 32:1063 (June 2006), repealed LR 34:87 (January 2008), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

§925. Dispensing Fee

A. The dispensing fee for drugs with a State Maximum Allowable Cost will be up to \$9.29 per prescription. This includes the provider fee assessed for each prescription filled in the state or shipped into the state, as mandated by R.S. 46:2625.

B. The dispensing fee for other drugs not subject to a State Maximum Allowable Cost will be up to \$5.77 per prescription. This includes the provider fee assessed for each prescription filled in the state or shipped into the state.

C. The dispensing fee for drugs obtained through the Public Health Service 340B Program will be up to \$9.29 per prescription. This includes the provider fee assessed for each prescription filled in the state or shipped into the 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, Office of the Secretary, Bureau of Health Services Financing, LR 32:1064 (June 2006), amended LR 34:88 (January 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

Subchapter D. Maximum Allowable Costs

§949. Cost Limits

A. - B. ...

1. The Louisiana Maximum Allowable Cost (LMAC) is the average actual acquisition cost of a drug, defined as the pharmacist's payment made to purchase a drug product, adjusted by a multiplier of 1.69.

2. LMAC reimbursement will apply to certain multiple source drug products that meet therapeutic equivalency, market availability, and other criteria deemed appropriate by the Louisiana Medicaid Agency. Drugs are subject to LMAC if there are at least two non-innovator

multiple source alternative products available that are classified by the FDA as Category "A" in the Approved Drug Products with Therapeutic Equivalence Evaluations.

3. LMAC rates are based on the average actual acquisition cost per drug, adjusted by a multiplier of 1.69, which assures that each rate is sufficient to allow reasonable access by providers to the drug at or below the established LMAC rate. The LMAC rate will apply to all versions of a drug that share the same active ingredient combination, strength, dosage form, and route of administration.

4. Average actual acquisition cost will be determined through a semi-annual collection and review of pharmacy invoices and other information deemed necessary by the Louisiana Medicaid Agency and in accordance with applicable State and Federal law.

5. In addition to the semi-annual review, the Louisiana Medicaid Agency will evaluate on an ongoing basis throughout the year and adjust the rates as necessary to reflect prevailing market conditions and to assure that pharmacies have reasonable access to drugs at or below the applicable LMAC rate. Providers shall be given advance notice of any additions, deletions, or adjustments in price. A complete LMAC rate listing will be available to providers and updated periodically.

6. In no case shall a recipient be required to provide payment for any difference in a prescription price that may occur with implementation of the LMAC limit, nor may BHSF use a cost which exceeds the established maximums except for physician certification for brand name drugs.

C. - E.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 32:1065 (June 2006), amended LR 34:88 (January 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

Subchapter E. 340B Program

§963. Reimbursement

A. - B. ...

C. Dispensing Fees. The covered entity shall be paid a dispensing fee for each prescription dispensed to a Medicaid patient, unless the covered entity has implemented the carve-out option, in which case the covered entity shall be paid the state's existing maximum allowable overhead cost. With respect to contract pharmacy arrangements in which the contract pharmacy also serves as the covered entity's billing agent, the contract pharmacy shall be paid the dispensing fee on behalf of the covered entity, unless the covered entity elects the Medicaid carve-out, in which case the contract pharmacy shall be paid the state's existing maximum allowable overhead cost.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1066 (June 2006), amended LR 34:88 (January 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 Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Alan Levine
Secretary

1003#006

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Professional Services Program—Anesthesia Services Reimbursement Rate Reduction (LAC 50:IX.15111 and 15131-15135)

The Department of Health and Hospitals, Bureau of Health Services Financing repeals LAC 50:IX.15111 and adopts §§15131-15135 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 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 to amend the provisions governing the reimbursement methodology for anesthesia services to reduce the reimbursement rates paid to certified registered nurse anesthetists (CRNAs) for services rendered to Medicaid recipients (*Louisiana Register*, Volume 35, Number 3). 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 determined that it was necessary to amend the provisions governing anesthesia services to further reduce the reimbursement rates paid to CRNAs (*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 (*Louisiana Register*, Volume 35, Number 8) and to amend the reimbursement

methodology for anesthesia services to reduce the reimbursement rates paid to physicians (*Louisiana Register*, Volume 35, Number 8). The department promulgated an Emergency Rule to amend the provisions of the August 4, 2009 Emergency Rule to incorporate exclusions to the rate reduction for maternity-related anesthesia services and anesthesia services rendered to recipients under the age of 16. This Emergency Rule also revised the formatting of LAC 50:IX.15111 as a result of the promulgation of the September 20, 2009 final Rule governing the reimbursement methodology for anesthesia services (*Louisiana Register*, Volume 35, Number 11). The department promulgated an Emergency Rule governing anesthesia services in order to revise the formula-based reimbursement methodology for services rendered by physicians and CRNAs (*Louisiana Register*, Volume 36, Number 1). This Emergency Rule also repromulgated the provisions governing anesthesia services, in their entirety, in Subchapter D of LAC 50:IX.Chapter 151 in order to reorganize these provisions in a clear and concise manner in the *Louisiana Administrative Code (LAC)*. The department now proposes to amend the November 20, 2009 Emergency Rule in order to incorporate the provisions of the January 22, 2010 Emergency Rule which reorganized the provisions governing anesthesia services in the LAC. This action is necessary to avoid a budget deficit in the medical assistance programs and to assure that these provisions are located in the proper place in the *Louisiana Administrative Code*.

Effective March 20, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions of the November 20, 2009 Emergency Rule governing the reimbursement methodology for anesthesia services.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part IX. Professional Services Program

Subpart 15. Reimbursement

Chapter 151. Reimbursement Methodology

Subchapter D. Anesthesia Services

§15111. Anesthesia Services

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1902 (September 2009), repealed LR 36:

§15131. General Provisions

A. The most appropriate procedure codes and modifiers shall be used when billing for surgical anesthesia procedures and/or other services performed under the professional licensure of the physician (anesthesiologist or other specialty) or certified registered nurse anesthetist (CRNA).

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:

§15133. Formula-Based Reimbursement

A. Reimbursement is based on formulas related to a percentage of the 2009 Louisiana Medicare Region 99 allowable.

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:

§15135. Flat Fee Reimbursement

A. Reimbursement for maternity related anesthesia services is a flat fee, except for general anesthesia related to a vaginal delivery which is reimbursed according to a formula.

B. Other anesthesia services that are performed under the professional licensure of the physician (anesthesiologist or other specialty) or CRNA are reimbursed a flat fee based on the appropriate procedure code.

C. Effective for dates of service on or after February 26, 2009, the reimbursement rates paid to CRNAs will be reduced by 3.5 percent of the reimbursement as of February 25, 2009.

D. Effective for dates of service on or after August 4, 2009, the reimbursement rates paid for anesthesia services that are performed under the professional licensure of a physician (anesthesiologist or other specialty) shall be reduced by 3.5 percent of the rates in effect on August 3, 2009.

1. Effective for dates of service on or after November 20, 2009, maternity-related anesthesia services and anesthesia services rendered to recipients under the age of 16 shall be exempt from the August 4, 2009 rate reduction on anesthesia services performed by a physician (anesthesiologist or other specialty).

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:

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

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

Alan Levine
Secretary

1003#080

DECLARATION OF EMERGENCY

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

Professional Services Program—Physician Services
Reimbursement Rate Reduction
(LAC 50:IX.15103, 15111-15113)

The Department of Health and Hospitals, Bureau of Health Services Financing repeals LAC 50:IX.15103 and adopts §§15111-15113 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.

In compliance with Act 18 of the 2007 Regular Session of the Louisiana Legislature, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for physician services to adjust the reimbursement rates. In addition, the bureau repealed the provisions contained in the following rules governing the reimbursement methodology for physician services: December 20, 2000; May 20, 2001; August 20, 2002; and February 20, 2007 (*Louisiana Register*, Volume 34, Number 8). As a result of a budgetary shortfall, the department promulgated an Emergency Rule to adjust the reimbursement rates paid for physician services (*Louisiana Register*, Volume 35, Number 8). The August 4, 2009 Emergency Rule was amended to incorporate exclusions to the rate reduction for prenatal evaluation and management and delivery services rendered by physicians (*Louisiana Register*, Volume 35, Number 11). In January 2010, the department promulgated an Emergency Rule to further reduce the reimbursement rates paid for physician services (*Louisiana Register*, Volume 36, Number 1). This Emergency Rule also repromulgated the provisions governing physician services, in their entirety, in Subchapter B of LAC 50:IX.Chapter 151 in order to reorganize these provisions in a clear and concise manner in the *Louisiana Administrative Code* (LAC). The department now proposes to amend the provisions of the November 20, 2009 Emergency Rule in order to incorporate the provisions of the January 22, 2010 Emergency Rule which reorganized the provisions governing physician services in the LAC. This action is necessary to avoid a budget deficit in the medical assistance programs and to assure that these provisions are located in the proper place in the *Administrative Code*.

Effective March 20, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions of the November 20, 2009 Emergency Rule governing the reimbursement methodology for physician services.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part IX. Professional Services Program

Subpart 15. Reimbursement

Chapter 151. Reimbursement Methodology

Subchapter B. Physician Services

§15103. Physician Services

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 34:1629 (August 2008), repealed by the

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

§15111. General Provisions (Reserved)

§15113. Reimbursement

A. The reimbursement rates for physician services shall be based on a percentage of the Louisiana Medicare Region 99 allowable for a specified year.

B. Effective for dates of service on or after October 15, 2007, the reimbursement for selected physician services shall be 90 percent of the 2007 Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount, unless otherwise stipulated.

1. The reimbursement shall remain the same for those services that are currently being reimbursed at a rate that is between 90 percent and 120 percent of the 2007 Louisiana Medicare Region 99 allowable.

2. For those services that are currently reimbursed at a rate above 120 percent of the 2007 Louisiana Medicare Region 99 allowable, effective for dates of service on or after October 15, 2007, the reimbursement for these services shall be reduced to 120 percent of the 2007 Louisiana Medicare Region 99 allowable.

C. Effective for dates of service on or after January 1, 2008, the reimbursement for selected physician services shall be 90 percent of the 2008 Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount, unless otherwise stipulated.

1. The reimbursement shall remain the same for those services that are currently being reimbursed at a rate that is between 90 percent and 120 percent of the 2008 Louisiana Medicare Region 99 allowable.

2. For those services that are currently reimbursed at a rate above 120 percent of the 2008 Louisiana Medicare Region 99 allowable, effective for dates of service on or after January 1, 2008, the reimbursement for these services shall be reduced to 120 percent of the 2008 Louisiana Medicare Region 99 allowable.

D. Effective for dates of service on or after August 4, 2009, the reimbursement for all physician services rendered to recipients 16 years of age or older shall be reduced to 80 percent of the 2009 Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount.

1. For those services that are currently reimbursed at a rate below 80 percent of the Louisiana Medicare Region 99 allowable, effective for dates of service on or after August 4, 2009, the reimbursement for these services shall be increased to 80 percent of the Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount.

2. The following physician services are excluded from the rate adjustment:

- a. preventive medicine evaluation and management;
- b. immunizations;
- c. family planning services; and
- d. select orthopedic reparative services.

3. Effective for dates of service on or after November 20, 2009, the following physician services are excluded from the rate adjustment:

- a. prenatal evaluation and management; and
- b. delivery 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 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 Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Alan Levine
Secretary

1003#079

DECLARATION OF EMERGENCY

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

Prosthetics and Orthotics—Reimbursement Rate Reduction
(LAC 50:XVII.501)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XVII.501 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 in state fiscal year 2009, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule to amend the provisions governing the reimbursement methodology for prosthetic and orthotic devices to reduce the reimbursement rates (*Louisiana Register*, Volume 35, Number 3). 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 March 7, 2009 Emergency Rule to further reduce the reimbursement rates paid for prosthetic and orthotic devices (*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 promulgated Emergency Rules to repeal the provisions of the May 1, 2009 Emergency Rule (*Louisiana Register*, Volume 35, Number 8) and to amend the reimbursement methodology for prosthetics and orthotics to adjust the reimbursement rates (*Louisiana Register*, Volume 35, Number 8). The department promulgated an Emergency Rule to amend the provisions of the August 4, 2009 Emergency Rule to revise the formatting of LAC 50:XVII.501 as a result of the promulgation of the September 20, 2009 final Rule governing the reimbursement methodology for prosthetics and orthotics (*Louisiana Register*, Volume 35, Number 11).

The department now proposes to amend the provisions of the November 20, 2009 Emergency Rule in order to revise the formatting of LAC 50:XVII.501 to place these provisions in the proper place in the *Louisiana Administrative Code (LAC)*. This action is being taken to ensure that these provisions are appropriately incorporated into the *LAC*.

Effective March 20, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the November 20, 2009 Emergency Rule governing the reimbursement methodology for prosthetics and orthotics.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XVII. Prosthetics and Orthotics

Subpart 1. General Provisions

Chapter 5. Reimbursement

§501. Reimbursement Methodology

A. - D.1. ...

E. Effective for dates of service on or after August 4, 2009, the reimbursement for prosthetic and orthotic devices for recipients 21 years of age and older shall be reduced by 4 percent of the fee amounts on file as of August 3, 2009.

1. The rate reduction shall not apply to items that do not appear on the fee schedule and are individually priced.

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 31:1597 (July 2005), amended LR 34:881 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1903 (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 Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for

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

Alan Levine
Secretary

1003#078

DECLARATION OF EMERGENCY

Department of Public Safety and Corrections Office of State Police

Tow Truck License Plate (LAC 55:I.1913)

The Louisiana Department of Public Safety and Corrections, Office of State Police, hereby adopts the following Emergency Rule. This Rule will prevent the denial of applications submitted by owners of tow trucks manufactured prior to 2007 with a Gross Vehicle Weight Rating of 10,000 pounds. These vehicles were inadvertently included in the list of those tow trucks which did not meet the specifications required to obtain a tow truck license plate. This Rule is being adopted in accordance with the Emergency Rule provisions of R.S. 49:953(B) of the Administrative Procedure Act. This Emergency Rule becomes effective on the date of the signature by the authorized representative of the Louisiana State Police and shall remain in effect for the maximum period allowed by the APA, which is 120 days.

Immediate adoption of this rule will prevent the unnecessary rejection of applications submitted by owners of these specific tow trucks and the unnecessary cancellation of tow truck license plates previously issued to these owners.

Title 55

PUBLIC SAFETY

Part I. State Police

Chapter 19. Towing Recovery and Storage

§1913. Tow Truck License Plate

A. - B.2. ...

3. Denial of Applications

a. An application for a tow truck license plate shall be denied if:

i. ...

ii. a tow truck has a GVWR of 10,000 pounds or less and it shall not be used for towing vehicles for compensation; unless the year of manufacture is prior to 2007, in which case, a GVWR of 10,000 pounds shall not be cause for denial; or

B.4.iii. - D.

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 32:856 (May 2006), amended LR 36:

Jill Boudreaux
Undersecretary

1003#001

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Elmer's Island Wildlife Refuge Rules (LAC 76:III.337)

The Elmer's Island Wildlife Refuge was opened for public access on July 3, 2009. More than 800 people participated in fishing, crabbing, swimming and sun bathing during that holiday weekend. Since the refuge's opening it has been heavily used by the public, as it is commonly regarded as one of the premiere bank fishing locations in south central Louisiana. A recent attempt to clean up the refuge yielded in excess of 6,000 pounds of trash being removed.

Because of this heavy use, and in some instances misuse of the area, there is an urgent need to establish rules in order to protect the public health, safety and welfare. There is an immediate need to regulate the possession of glass containers, excessive vehicle speed and careless vehicle operations on the refuge and to enact and enforce other rules necessary for the health, safety and welfare of the visiting public. The absence of an existing rule impairs the Department's legal authority to enforce and protect the public health, safety and welfare. For these reasons, it is imperative that regulations be put in place immediately.

It is necessary for the Wildlife and Fisheries Commission to invoke the emergency provisions of the Administrative Procedure Act, R. S. 49:953(B) to adopt these rules. This Declaration of Emergency will become effective on March 4, 2010 and will supersede that Declaration of Emergency published in the November 20, 2009 *Louisiana Register*. It shall remain in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final rule.

Title 76

WILDLIFE AND FISHERIES

Part III. State Game and Fish Preserves and Sanctuaries Chapter 3. Particular Game and Fish Preserves, Wildlife Management Areas, Refuges and Conservation Areas

§337. Elmer's Island Wildlife Refuge

A. Visitor Regulations for Elmer's Island Wildlife Refuge

1. Use of the refuge will be permitted from thirty minutes before official sunrise to thirty minutes after official sunset. This includes any land access routes to the refuge. No person or vehicle shall remain on the Elmer's Island Wildlife Refuge or any land access routes during the period from thirty minutes after official sunset to thirty minutes before sunrise.

2. No person shall possess any glass bottles, glass drink containers or other glass products on Elmer's Island Wildlife Refuge.

3. The Secretary of the Department may restrict access to the refuge whenever circumstances exist such that restrictions are necessary to protect the Refuge or the public from harm. No person shall enter onto or be on the grounds of Elmer's Island Wildlife Refuge during a restricted access period; or alternatively shall do so only in accordance with restrictions set forth by the secretary.

4. No person shall discharge or fire any firearms including muzzleloaders, or bows and arrows or crossbows on Elmer's Island.

5. No person shall commercially fish, conduct any guiding service, hunt, pursue, kill, molest or intentionally disturb any type of wildlife on the refuge, except for the legal recreational harvest of living aquatic resources.

6. No person shall be in areas marked as restricted by signs posted by the department.

7. No person shall operate any vehicles in a restricted area. No person shall operate a vehicle in an unsafe or careless manner as to endanger life or property or at any speed in excess of five (5) miles per hour.

8. The requirement of a Wild Louisiana Stamp on Elmer's Island Wildlife Refuge is hereby waived, and the Secretary is directed to take all necessary steps to accomplish this waiver.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6, R.S. 56:109, R.S. 56:109.2, R.S. 56:763 and R.S. 56:781 et seq.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 36:

Stephen J. Oats
Chairman

1003#035

Rules

RULE

Department of Agriculture and Forestry Agricultural Finance Authority

Farm and Agribusiness Recovery and Loan Program (LAC 7:III.101, 103, and 301-341)

In accordance with the Administrative Procedures Act, R.S. 49:950 et seq., and with the enabling statute, R.S. 3:266, the Louisiana Agricultural Finance Authority (LAFA), hereby adopts regulations to add needed definitions, update regulations regarding the administration of the LAFA and to establish the Farm and Agribusiness Recovery and Loan Program. Louisiana's agricultural producers and agribusinesses were severely damaged in 2008 by hurricanes Gustav and Ike. The federal government has appropriated \$44.7 million to assist the state's agricultural producers and agribusinesses in recovering from the effects of the two storms. The money is to be provided as an 80 percent loan and 20 percent grant to agricultural producers and 100 percent loans to agribusinesses. The LAFA is authorized to administer the disbursement of the loan and grant and subsequent collection of the loan and the use of the collection proceeds. The LAFA, by these regulations, is establishing the Farm and Agribusiness Recovery and Loan Program to disburse the money and administer the program.

Title 7

AGRICULTURE AND ANIMALS

Part III. Agricultural Finance

Chapter 1. General Provisions

§101. Definitions

A. The words and terms defined in R.S. 3:263 are applicable to this Part.

B. The following words and terms are defined for the purposes of this Part and are applicable to this Part.

Act—the Louisiana Agricultural Finance Act found in Chapter 3-B of Title 3 of the Louisiana Revised Statutes of 1950, (R.S. 3:261 et seq.).

Agricultural—the adjective form of *agriculture* as defined in R.S. 3:263(6).

Farm—the total of all areas of land, water, or both in Louisiana, used by an agricultural producer to produce or harvest one or more agricultural products, regardless of whether the area or areas are located in more than one parish.

LAFA—the Louisiana Agricultural Finance Authority.

C. The following words and terms are defined for the purposes of the Louisiana Direct Placement Agricultural Revenue Bond Program (§§105-141) only.

Bond or *Bonds*—LAFA Direct Placement Agricultural Revenue Bonds which are exempt from federal taxation. Such bonds are issued from time to time throughout the year, and each issue will be identified by a letter designation, e.g., Series 1984-A, Series 1984-B, etc. The letter designation merely identifies the date of issue of each series of bonds.

The proceeds of such bonds are used to purchase loans and pay the costs of issuance of the bonds.

Bond Resolution—the resolution adopted by LAFA to authorize the issuance of a bond to be sold to a lender.

Borrower—an individual, partnership, firm, corporation, company, cooperative, association, society, trust or any other business unit or entity, including any state or federal agency, which uses proceeds of a loan for any project which meets the requirements of these regulations.

Borrower's Certificate—the certified statement which each borrower must execute, prior to submission of the offer, setting forth the borrower's eligibility to participate in the program.

Closing—the date on which a loan is originated by a lender, which shall be mutually agreed upon between lender and borrower and sold to LAFA.

Code—the Federal Internal Revenue Code of 1954 as amended. In these regulations, the term Code may have specific reference to section 103(b)(6) of the Internal Revenue Code and/or to regulations enacted by the Internal Revenue Service pursuant thereunder.

Default or *In Default*—with respect to any loan, any payment of principal or interest which is more than 30 days in arrears.

Farm—includes stock, dairy, poultry, fruit, fur-bearing animal and truck farms; plantations; ranches; nurseries; ranges; greenhouses or similar structures used primarily for the raising of agricultural or horticultural commodities; and orchards.

Fee or *Fees*—any and all of the following:

a. *Application Fee*—a set fee based on the total value of the loan which is paid by the borrower and transmitted by the lender to LAFA for LAFA processing of the application for a loan.

b. *Commitment Fee*—a percentage of the total value of the loan which is paid by the borrower to the lender prior to submission of the offer to cover the costs of issuing the bond to support the loan granted to the borrower. This fee is refundable to the borrower under the conditions set forth in §121.B hereof.

c. *Cost of Issue Fee*—a percentage of the total value of the loan which is paid by the borrower to cover the costs of issuing the bond to support the loan granted to the borrower. The fee is paid in the form of a discount from the original principal amount of the loan when purchased by a LAFA from lender.

d. *Origination Fee*—a percentage of the total value of the loan which is paid by the borrower to the lender to cover the costs of processing, originating, and disbursing the proceeds of the loan granted to the borrower.

e. *Program Participation Fee*—a percentage of the remaining principal balance of the loan granted to borrower which is paid by the borrower to the lender on the due date of the annual payment directed by trustee. The lender transmits to the trustee along with the loan payment, and the proceeds thereof are used to cover the administrative costs of trustee and LAFA.

First-Time Farmer—an individual who has never had any direct or indirect ownership interest in substantial farmland in the operation of which such individual materially participated. Ownership or participation by a spouse or child is treated as ownership or participation by the individual. Substantial farmland means any parcel of land unless:

a. such parcel is smaller than 15 percent of the median farm size in the parish in which such parcel is located; and

b. the fair market value of the land does not at any time while held by the individual exceed \$125,000.

Intent Resolution—the resolution adopted by LAFA stating its intent to accept the offer and to issue a bond, the proceeds of which will be used to purchase an agricultural loan originated by the lender and accepting the offer.

Interest Rate—one of the following when applied to a loan:

a. *Fixed Interest Rate*—a rate of interest which does not change throughout the term of the loan.

b. *Variable Interest Rate*—a rate of interest which may change from time to time at stated intervals throughout the term of the loan.

c. *Prime Interest Rate*—the base rate on corporate loans at large U.S. money center commercial banks as published in The Wall Street Journal as the prime rate. When the prime rate is published in The Wall Street Journal as a range in the form of a low and high rate, then in that event, LAFA may designate a rate within the published range which shall be the prime interest rate. When LAFA does not designate a rate within the published range the prime interest rate shall be the high of the range.

IRS—the Internal Revenue Service of the United States.

LAFA—the Louisiana Agricultural Finance Authority, an agency of state government under the jurisdiction of the Department of Agriculture and Forestry, and any of its duly authorized agents; the term also means the issuer of Direct Placement Agricultural Revenue Bonds.

Lender—any of the following, when participating in the program: a bank, bank or trust company, federal land bank, production credit association, bank for cooperatives, building and loan association, homestead, insurance company, investing banker, mortgage banker or company, pension or retirement fund, savings bank or savings and loan association, small business investment company, credit union, any other financial institution authorized to do business in Louisiana or operating under the supervision of any federal agency or any Edge Act Corporation or agreement, or a corporation organized or operating pursuant to Section 25 of the Federal Reserve Act.

Loan or Loans—an interest-bearing agricultural loan, described by an offer, originated by a lender participating in the LAFA Program to an eligible borrower, and evidenced by a loan note.

Loan File—the loan documents pertaining to a particular loan, which consist of the following, all in the form provided by LAFA:

- a. loan purchase agreement;
- b. loan submission voucher;
- c. opinion of lender's counsel;
- d. officer's closing certificate;
- e. loan note;

f. mortgage or any other evidence of security securing the borrower's obligations under the loan note;

g. certificate of economic life; and

h. assignment of loan note.

Loan Note—a promissory note or other evidence of indebtedness executed by a borrower to evidence the borrower's obligation to repay the loan.

Loan Purchase Agreement—an agreement between LAFA and a lender under which, among other required provisions, LAFA agrees to purchase a loan after it is originated by the lender and the lender agrees to repurchase the loan in the event of default by the borrower.

Loan Submission Voucher—a document provided by LAFA and submitted by the lender to the trustee requesting the purchase of the loan by LAFA at a price equal to a specified percentage of the principal amount of the loan and which also contains substantially the same terms and conditions set forth in the loan terms schedule contained in the offer.

Loan Terms Schedule—a loan description form, to be attached to the offer, which describes the terms and conditions of the proposed loan and the project to be financed with loan proceeds.

Offer—the written document entitled Offer to Originate and Sell Agricultural Loans executed by a lender setting forth the terms and conditions whereby the lender agrees to originate and sell a loan to LAFA and to purchase a bond in the same principal amount as the loan.

Origination Period—a six-month period beginning with the date of issuance of a bond by LAFA.

Principal User—a person or company who uses more than 10 percent of a project, measured by the value paid by such user for the project. All capital expenditures for the project, must be taken into account to determine which are principal users of the project. For example, A, B, and C own Farm X in Parish X, each owning individually and not as a partner, respectively, 55 percent, 40 percent, and 5 percent by value, of the farm. A and B are principal users of Farm X (i.e., each owns more than 10 percent, by value), but C is not a principal user of Farm X because C only owns 5 percent by value. If A or B seek to acquire another Farm Y in Parish X, to be financed by a bond, the capital expenditures of A or B on Farm X will be deducted from the maximum principal amount of the bond (either \$1,000,000 or \$10,000,000; see §111). Since C is not a principal user of Farm X, if he acquired Farm Y with bond financing, he would not be required to deduct his capital expenditures on Farm X from the loan proceeds for the purchase of Farm Y.

Program—the Direct Placement Agricultural Revenue Bond Program administered by LAFA.

Project—the property to be financed with loan proceeds, pursuant to the terms and conditions contained in the offer and in the loan purchase agreement.

Rehabilitation Expenditures—any costs associated with renovation or modernization of an existing building or the equipment located within an existing building which can be properly charged to a capital account; the term does not include expenditures for enlargement of an existing building.

Related Person—

a. the following are related persons if borrower is an individual:

- i. borrower's spouse or a spouse's ancestors or lineal descendants;
 - ii. borrower's siblings (i.e., brothers and sisters);
 - iii. borrower's ancestors and/or lineal descendants;
 - iv. a corporation in which more than 50 percent in value of the outstanding stock is owned, directly or indirectly, by or for borrower;
 - v. a trust of which borrower is the grantor or the beneficiary; and
 - vi. a partnership of which borrower owns, directly or indirectly, more than 50 percent of the capital or profits interest;
- b. the following are related persons if borrower is a corporation:
- i. an individual who owns, directly or indirectly, more than 50 percent in value of the outstanding stock of the corporation;
 - ii. a trust which owns, directly or indirectly, more than 50 percent in value of the outstanding stock of the corporation;
 - iii. a corporation that is a member of the same parent-subsidiary controlled group, a brother-sister controlled group, or a combined group of corporations;
 - iv. a partnership which owns, directly or indirectly, more than 50 percent of the outstanding stock of the corporation; and
 - v. for purposes of these regulations, stock owned, directly or indirectly, by or for a corporation, partnership, estate or trust is considered to be owned proportionately by or for its shareholders, partners or beneficiaries. In addition, an individual is considered to be the owner of stock owned, directly or indirectly, by or for his family;
- c. the following are related persons if borrower is a partnership:
- i. a partner who owns, directly or indirectly, more than 50 percent of the capital or profits interest of the partnership;
 - ii. another partnership in which the same persons own, directly or indirectly, more than 50 percent of the capital or profits interest;
 - iii. if an individual owns stock in a corporation, other than constructively through his family, he is considered as owning the stock owned, directly or indirectly, by or for his partner; and
 - iv. a partner is considered as the owner of partnership interests:
 - (a). owned by a corporation, partnership, estate or trust, proportionately, if he is a shareholder, partner, or beneficiary; and
 - (b). owned by his brothers, sisters, spouse, ancestors or lineal descendants;
- d. the following are related persons if borrower is a trust:
- i. its grantor;
 - ii. another trust, if the same person is the grantor of both trusts;
 - iii. a beneficiary of the trust;
 - iv. a beneficiary of another trust, if the same person is the grantor of both trusts; and
 - v. a corporation of which more than 50 percent in value of the outstanding stock is owned, directly or

indirectly, by or for the trust or by or for a grantor of the trust.

TEFRA—the Tax Equity and Fiscal Responsibility Act of 1982 (Federal).

Trustee—Capital Bank and Trust Company of Baton Rouge, Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R. S. 3:266.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Agricultural Finance Authority, LR 10:866 (November 1984), amended LR 36:464 (March 2010).

§103. Administration of LAFA's Affairs

A. LAFA officers shall be a chairman, vice-chairman, and secretary who shall serve terms of one year but may be elected for an indefinite number of terms.

B. After the initial election of officers, the officers shall be elected at LAFA's regular meeting during the first quarter of the year.

C. In the absence of the chairman at any LAFA meeting, the vice-chairman shall preside.

D. LAFA shall hold at least one meeting during each quarter of the year but may meet more frequently upon the call of the chairman.

E. LAFA meetings shall normally be held at its domicile but may be held at other locations upon the determination of the chairman or the will of the members.

F. There shall be no voting by proxy.

G. The chairman shall designate a hearing officer, who may or may not be a LAFA member, to preside at all adjudicatory proceedings. The chairman may, if he so desires, serve as hearing officer at any such proceeding. All adjudicatory proceedings held by LAFA shall be conducted in accordance with the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S.3:266.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Agricultural Finance Authority, LR 10:867 (November 1984), amended LR 36:466 (March 2010).

Chapter 3. Farm and Agribusiness Recovery and Loan Program

§301. Farm and Agribusiness Recovery and Loan Program; Establishment of; Purpose; Limitations; Terms

A. The Farm and Agribusiness Recovery and Loan Program is hereby established.

B. The Farm and Agribusiness Recovery and Loan Program provides loans, grants, or a combination thereof to agricultural producers or agribusinesses for the purpose of aiding in the recovery from the 2008 hurricanes, Gustav and Ike, and to subsequently provide Louisiana agricultural producers and agribusinesses additional financial resources for recovery from any future disasters and for the maintenance and growth of agriculture in Louisiana.

C. The limits on loans and grants from the Farm and Agribusiness Recovery and Loan Program are as follows:

1. Agricultural producers may receive a minimum of \$10,000 and up to a maximum of \$100,000. The amount provided shall be a combination of an 80 percent loan and 20 percent grant.

2. Agribusinesses may receive a minimum of \$10,000 and up to a maximum of \$250,000 in the form of a direct loan.

D. The general terms under which disbursements will be made are as follows.

1. Interest at the rate of 1 ½ percent interest per annum will be charged on the unpaid balance of all loans made under this program.

2. The maximum term of any loan shall be 10 years.

3. Any grant given in combination with a loan shall be subject to being repaid if the loan plus interest is not paid in full or if the loan goes into default.

4. Normal and customary terms of loans regarding notices, defaults, late fees, attorney fees, and other matters customarily spelled out in a promissory note or other negotiable instrument. Such terms, as authorized by LAFA, shall be in the negotiable instrument approved by LAFA.

AUTHORITY NOTE: Promulgated in accordance with R. S. 3:266.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Agricultural Finance Authority, LR 36:466 (March 2010).

§303. Eligibility of Applicant

A. An agricultural producer experiencing a 2008 storm related loss shall be eligible to receive money from the Farm and Agribusiness Recovery and Loan Program upon meeting the following requirements:

1. the farm upon which a loss occurred must be located in Louisiana;

2. active agricultural operations must have been ongoing before the 2008 storms occurred and continue to be ongoing thereafter;

3. a minimum annual gross revenue of \$25,000 from the agricultural operations must have been received in 2007 or in 2008 prior to the storms;

4. suffered a minimum storm related loss of \$10,000;

5. employed one or more person (including owner) full time during the previous year.

B. An agribusiness experiencing a 2008 storm related loss shall be eligible to receive money from the Louisiana Farm and Agribusiness Recovery and Loan Program upon meeting the following requirements.

1. The agribusiness must be physically located in Louisiana.

2. Active agribusiness operations must have been ongoing before the 2008 storms occurred and continue to be ongoing from the time active agribusiness operations could resume after the storms up to the date of application.

3. A minimum annual gross revenue of \$25,000 from the agribusiness operations must have been received in 2007 or in 2008 prior to the storms.

4. Employed at least 2 full time employees (including owner) in 2008, prior to the storms and support at least two other indirect jobs in this state.

5. Experienced a 20 percent decline in gross agribusiness revenue for the period of time in 2008 after the storms occurred as compared to gross agribusiness revenue for the same time period in 2007 or experienced a combined tangible property loss and revenue loss of \$10,000 or more.

AUTHORITY NOTE: Promulgated in accordance with R. S. 3:266.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Agricultural Finance Authority, LR 36:467 (March 2010).

§305. Application Procedure and Forms

A. The application period shall be publicly announced or published in a manner that will fairly put agricultural producers and agribusinesses on notice of the Farm and Agribusiness Recovery and Loan Program and the start and end of the application period.

B. Only application forms prepared by LAFA for this purpose may be used.

C. Every applicant for a loan or grant shall submit the following documents to LAFA.

1. The completed application form signed by the agricultural producer or agribusiness, if a sole proprietorship. If the agricultural producer or agribusiness is not a sole proprietorship then the application form must be signed by all owners or by a duly authorized representative. The authorization of a representative to sign on behalf of an agricultural producer or agribusiness must be shown by a power of attorney, corporate resolution or other expression of authority that is consistent with the legal form of the agricultural producer or agribusiness.

2. Proof of identity of the signer of the application. One or more of the following may be used as proof of identity:

a. birth certificate;

b. government issued photo identification or other documentation acceptable to the agricultural loan committee.

3. Proof of address of the farm or agribusiness. One or more of the following may be used as proof of address: copy of utility bill, Louisiana tax return from the previous year, lease agreement, business license, USDA Farm Service Administration (FSA) certification, or other documentation acceptable to the agricultural loan committee.

4. Proof of Ownership of the Farm or Agribusiness. One or more of the following may be used as proof of ownership: tax returns with appropriate schedules, stock certificates with proof of total number of shares, or other documentation acceptable to the agricultural loan committee.

5. Proof of Employees. One or more of the following may be used as proof of employees: Federal form 941, Louisiana unemployment tax records, internal payroll register, or other documentation acceptable to the agricultural loan committee.

6. Proof of Revenue. One or more of the following may be used as proof of gross revenues: Federal tax returns with appropriate schedules, actual revenue receipts, or other documentation acceptable to the agricultural loan committee.

7. The agricultural loan committee may require an applicant to supply; tax returns with appropriate schedules, insurance claim forms, settlement sheets, FSA declarations, receipts for replacement, or other documentation when such documentation is needed by the agricultural loan committee in deciding whether to approve or deny an application.

AUTHORITY NOTE: Promulgated in accordance with R. S. 3:266.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Agricultural Finance Authority, LR 36:467 (March 2010).

§307. Approval of Application

A. The applicant must provide all required information at least 10 working days prior to the meeting of the agricultural

loan committee where the application will be considered, unless partial submission is allowed by LAFA's staff or the agricultural loan committee.

B. The agricultural loan committee may require terms and conditions that are not included in other loan/grants to be in a particular loan/grant based on the circumstances of each individual loan/grant so long as such terms and conditions are consistent with these regulations.

C. The agricultural loan committee may authorize LAFA's director to negotiate additional terms and conditions for a specific loan/grant within the parameters established by these regulations and the instructions of the agricultural loan committee.

D. The agricultural loan committee shall review each loan application and approve or deny the application, after consideration of the application, supporting documentation, comments of the applicant, and staff recommendations. However, the agricultural loan committee may defer action on an application to obtain additional information.

E. Within three business days after an application has been acted upon by the agricultural loan committee notice of the decision shall be sent to the applicant. Notification may be by U.S. mail, private commercial courier, hand delivery by an employee of the department, fax, e-mail, or other electronic means. However, whatever the means of notification used must be designed to verify receipt of the notification by the applicant.

AUTHORITY NOTE: Promulgated in accordance with R. S. 3:266.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Agricultural Finance Authority, LR 36:467 (March 2010).

§309. Agricultural Loan Committee; Establishment of; Purpose; Membership; Quorum

A. The agricultural loan committee is hereby established to consider and act on applications for loans or grants, or a combination of both made pursuant to this Part.

B. The agricultural loan committee shall consist of the following seven members:

1. the Commissioner of Agriculture and Forestry or his designee;
2. the Chancellor of the LSU AgCenter or his designee;
3. the Chancellor of the Southern University AgCenter or his designee;
4. the President of the Louisiana Farm Bureau Federation or his designee;
5. the Assistant Commissioner of Agriculture and Forestry, Office of Management and Finance or his designee;
6. one member at large appointed by the Commissioner of Agriculture and Forestry;
7. the Director of LAFA or his designee.

C. Four members of the agriculture loan committee shall constitute a quorum.

AUTHORITY NOTE: Promulgated in accordance with R. S. 3:266.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Agricultural Finance Authority, LR 36:468 (March 2010).

§311. Disbursement of Funds

A. After the agricultural loan committee has approved an application the proceeds of the loan/grant shall be disbursed

by LAFA's staff upon the signing of the loan or grant documents by the applicant and LAFA's director.

B. If the total amount of proceeds to be disbursed under the Louisiana Farm and Agribusiness Recovery and Loan Program exceeds the amount of money available for the program then the amount received by each approved applicant shall be reduced on a pro-rata basis.

AUTHORITY NOTE: Promulgated in accordance with R. S. 3:266.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Agricultural Finance Authority, LR 36:468 (March 2010).

§313. Use of Loan and Grant Proceeds

A. Loan and grant proceeds may be used to:

1. pay current year expenses that are related to the preparation, planting, management and harvesting the current year crop as specified;
2. pay down or pay off existing crop production loans, if a financial institution has committed itself to furnish sufficient funding for preparing, planting, managing and harvesting the current year crop;
3. pay operating expenses (rent, insurance, utilities, etc.);
4. purchase inventory;
5. pay or refinance more expensive business-related debt to improve cash flow.

B. Loan and grant proceeds may not be used for:

1. acquisition of buildings or land;
2. new construction or reconstruction;
3. refinancing of State Bridge Loans or Community Development Block Grant loans;
4. payments of tax arrearages, government fines or penalties;
5. political or religious activities;
6. buying out any stockholder or equity holder in a business;
7. buying out or reimbursing any family member;
8. investing in instruments or investments for the sole purpose of a return on Investment; or
9. a loss or expense for which insurance benefits has been or is to be paid or for which financial assistance has been or is to be provided from any other source, whether public or private.

AUTHORITY NOTE: Promulgated in accordance with R. S. 3:266.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Agricultural Finance Authority, LR 36:468 (March 2010).

§315. Delinquencies and Defaults

A. A loan shall become delinquent if the full monthly or periodic payment is not received within 10 calendar days following the due date or the loan is otherwise in default for non-compliance with any other provision of the loan.

1. Written notification of a delinquency shall be sent to the borrower giving the borrower the opportunity to cure the cause for the delinquency within 30 days from the date of the notice plus payment of any late fee .

2. If the delinquency is due to late payment, the director of LAFA, when he determines that such payment arrangements are justified by the circumstances, may make payment arrangements with the borrower to cure the delinquency before reporting the loan to the LAFA Board as a delinquent loan.

3. If the delinquency is not timely cured, the delinquent loan shall be reported to the LAFA Board, which may review and take action on the delinquent loan at any meeting of the board.

B. Upon review, the LAFA Board may direct that the loan be maintained in delinquent status and set the terms and time by which the borrower may bring the payments up to date or otherwise cure the delinquency or the board may declare the loan to be in default and that the entire amount due on the loan accelerated in accordance with the terms of the loan.

1. If a loan is continued as delinquent the LAFA Board shall establish the terms and time by which the borrower may bring the loan out of delinquency and into good standing and the borrower shall be notified of such terms and time.

2. If a loan is declared to be in default, notice of the default and a demand for full payment of all sums due, including the amount of any portion of the loan that may be forgiven as a grant, shall be sent to the borrower along with a request for full payment within 10 business days from the sending of the notice.

C. If a loan is continued as delinquent and the borrower does not accept the terms and time set by the board or if the borrower does not timely comply with the terms, the loan shall automatically go into default without further action of the board. Upon default, a demand for payment shall be made and if payment is not timely made the loan shall be turned over for collection, as provided for in these regulations.

D. If full payment is not received by the deadline given in the notice of default the loan, including the amount of any portion of the loan that may be forgiven as a grant, shall be turned over to an attorney for collection in accordance with the terms of the loan.

E. Any notice required by these regulations or by the terms of any loan may be sent by certified United States mail, return receipt requested; by any commercial courier who requires a receipt of delivery; or by hand delivery.

AUTHORITY NOTE: Promulgated in accordance with R. S. 3:266.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Agricultural Finance Authority, LR 36:468 (March 2010).

Mike Strain, DVM
Commissioner

1003#103

RULE

Department of Culture and Recreation and Tourism 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 amends LAC 25:I:1103-1119 pertaining to the administration of the Cultural Districts program. The 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 36:469 (March 2010).

§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 36:469 (March 2010).

§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 36:469 (March 2010).

§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 36:469 (March 2010).

§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 36:470 (March 2010).

§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 36:470 (March 2010).

§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 36:470 (March 2010).

§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 36:470 (March 2010).

§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 36:470 (March 2010).

Pam Breaux
Secretary

1003#069

RULE

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 has adopted the following Rules. The purpose of the Rule 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 entrepreneurs.

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 36:471 (March 2010).

§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 entrepreneurs. 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 36:471 (March 2010).

§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 36:471 (March 2010).

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 36:472 (March 2010).

§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 36:472 (March 2010).

§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 36:472 (March 2010).

§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 36:473 (March 2010).

§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 36:473 (March 2010).

§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 36:473 (March 2010).

§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 36:474 (March 2010).

§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 36:474 (March 2010).

Kristy Mc Kearn
Undersecretary

1003#048

RULE

**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., has adopted the following Rules of the Retention and Modernization Program. The purpose of the Rule 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 36:474 (March 2010).

§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: 36:474 (March 2010).

§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 36:475 (March 2010).

§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 36:475 (March 2010).

§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 36:476 (March 2010).

§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 36:476 (March 2010).

§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 36:476 (March 2010).

§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 36:477 (March 2010).

§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 36:477 (March 2010).

Kristy Mc Kearn
Undersecretary

1003#047

RULE

Board of Elementary and Secondary Education

Bulletin 118—Statewide Assessment
Standards and Practices
(LAC 28:CXI.107, 1803, 1813, and 1817)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 118—Statewide Assessment Standards and Practices*, containing the state Board of Elementary and Secondary Education (BESE) and the Division of Assessments and Accountability (DAA) test policy rules, guidelines, and procedures for easy access during statewide test administration. The purpose of this project is to provide information and updates regarding Chapter 1, General Provisions, and Chapter 18, End-of-Course Tests (EOCT).

The document will provide new and updated statewide test information and provide easy access to that information. It is necessary to revise the bulletin at this time to incorporate new and edited policy guidelines for the End-of-Course Tests (EOCT) statewide assessment program.

Title 28

EDUCATION

Part CXI. Bulletin 118—Statewide Assessment Standards and Practices

Chapter 1. General Provisions

§107. Assessment Programs

A. - G. ...

H. End-of-Course Tests (EOCT). The EOCT will be administered to high school students enrolled in and/or receiving credit for an EOCT course online beginning fall 2007. The tests, which are criterion-referenced and standards-based, will be phased in over a period of six years to assess student mastery of six high school courses.

I. - N. ...

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1526 (July 2005), amended LR 32:233 (February 2006), LR 33:255 (February 2007), LR 36:477 (March 2010).

Chapter 18. End-of-Course Tests

Subchapter B. General Provisions

§1803. Introduction

A. - G.3. ...

4. Algebra I—Middle School: course code 160380;
5. Applied Algebra: course code 160331.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 35:214 (February 2009), amended LR 36:477 (March 2010).

Subchapter D. Achievement Levels and Performance Standards

§1813. Performance Standards

A. - B.1.Table. ...

2. English II Scaled-Score Ranges

Achievement Level	English II Scaled-Score Ranges
Excellent	739–800
Good	700–738
Fair	668–699
Needs Improvement	600–667

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

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

Subchapter E. Achievement Level Descriptors

§1817. EOCT Achievement Level Descriptors

A. - Table. ...

B. English II Achievement Level Descriptors

Excellent
Students at this achievement level generally have exhibited the ability to:
<ol style="list-style-type: none"> 1. evenly develop and elaborate ideas in written compositions using specific examples as support; 2. relate written texts to life experiences when writing compositions; 3. select language and ideas to establish tone or voice in written compositions; 4. differentiate formal adverb use from colloquial use; 5. determine effects of complex literary elements and devices; 6. interpret literary images to make inferences about meaning; 7. analyze elements of humor and purposes of rhetorical devices; 8. compare literary elements and devices across texts; 9. synthesize information within and across texts to draw conclusions; and 10. evaluate usefulness, relevance, and objectivity of information resources.
Good
Students at this achievement level generally have exhibited the ability to:
<ol style="list-style-type: none"> 1. include a clear central idea and use relevant elaboration in written compositions; 2. use varied vocabulary when writing compositions; 3. use language and ideas selected for impact when writing compositions; 4. recognize errors in verb tense; 5. derive word meanings from roots, prefixes, and suffixes; 6. recognize how an author's word choice relates to tone and purpose; 7. analyze literary devices to identify recurring themes; 8. make inferences about cultural characteristics based on texts; 9. make inferences about character motivation based on passage details; 10. examine a sequence of information to determine meaning; 11. make predictions based on information or details provided; and 12. determine appropriateness of research sources.

Fair
Students at this achievement level generally have exhibited the ability to:
<ol style="list-style-type: none"> 1. develop written compositions with evidence of conscious organization; 2. include some relevant information when writing compositions; 3. use language that demonstrates an awareness of audience in written compositions; 4. identify correct use of capitalization, including proper nouns and key words in a title; 5. recognize basic literary elements and devices; 6. summarize information from grade-appropriate texts; 7. extend ideas in texts by making simple inferences and some connection to personal experiences; 8. recognize uses of various basic research sources; and 9. evaluate results of an online search.
Needs Improvement
Students at this achievement level are generally working toward the ability to:
<ol style="list-style-type: none"> 1. develop written compositions with evidence of conscious organization; 2. use language that demonstrates an awareness of audience in written compositions; 3. summarize information from grade-appropriate texts; 4. extend ideas in texts by making simple inferences and some connection to personal experiences; and 5. evaluate results of an online search.

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

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

Jeanette B. Vosburg
Executive Director

1003#014

RULE

Board of Elementary and Secondary Education

Bulletin 126—Charter Schools
Renewal Process and Timelines
(LAC 28:CXXXIX.1503)

In accordance with R.S. 49:950, et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 126—Charter Schools* (LAC 28:CXXXIX.1503), Charter Renewal Process and Timeline. The Rule sets minimum academic, financial, and legal/contractual performance measures for the renewal of charter schools authorized by the Board of Elementary and Secondary Education (BESE). The Rule also sets forth a timeline and process for submitting and reviewing charter school renewal applications. As the authorizer of Type 2, 4, and 5 charter schools, BESE promulgates rules and policies governing charter school contract conditions, to include applications, amendments, renewals, and revocations. The action is required to set minimum performance standards for renewing charter school contracts when schools are at the end of their current contract terms.

**Title 28
EDUCATION**

Part CXXXIX. Bulletin 126—Charter Schools

Chapter 15. Charter Renewal

§1503. Charter Renewal Process and Timeline

A. The renewal of charter schools based on a compelling record of success is a critical component of charter school accountability. In the final year of its charter, a BESE-authorized charter school seeking renewal must demonstrate its success during the previous charter term and establish goals and objectives for the next charter term. Ultimately, the renewal process offers an opportunity for the school community to reflect on its experiences during its first term, to make a compelling, evidence-based case that it has earned the privilege of an additional charter term, and, if renewed, to build an ambitious plan for the future.

B. Student Performance

1. The Louisiana Charter School Law requires each charter school to make demonstrable improvements in student performance over the term of its charter contract. BESE will rely on data from the state’s assessment and accountability program as objective and verifiable measures of student achievement and school performance. Student performance is the primary indicator of school quality; therefore, BESE will heavily factor each charter school’s student performance data in all renewal decisions.

2. The state’s assessment and accountability program assigns performance labels to all schools based on school performance scores. Consistent with the philosophy of rewarding strong performance and providing incentives for schools to strive for continual improvement, the renewal terms for BESE-authorized charter schools will be linked to each school’s performance label (based on the school’s performance on the state assessment in the year prior to the renewal application) in accordance with the table that follows.

**School Performance Labels and
Maximum Charter Renewal Terms**

Performance Label	SPS (SY 2008-09)	Maximum Renewal Term
Academically Unacceptable	Below 60.0	3 years
★	60.0 – 79.9	3 Years
★★	80.0 – 99.9	5 Years
★★★	100.0 – 119.9	10 Years
★★★★	120.0 – 139.9	10 years
★★★★★	140.0 and above	10 years

3. A school will be allowed a maximum of two three-year renewal terms.

4. A charter school in its initial term where fewer than 50 percent of its enrolled grades are testable under state accountability will be eligible for a renewal term of three years.

5. A charter school receiving an academically unacceptable performance label based on performance on the state’s assessment and accountability program based on year four test data (or the year prior to the submission of a renewal application for subsequent renewals) will not be eligible for renewal, unless one of these conditions are met:

a. a charter school that by contract serves a unique student population where an alternate evaluation tool has been established between the charter operator and the Board may be renewed for a term not to exceed five years;

b. a charter school in its initial term that is AUS, but which met its growth target at the end of year four or which has a Growth Performance Score of 60 or higher may be renewed for a term not to exceed three years;

c. a charter school in its initial term that is AUS, but where fewer than 30 percent of its enrolled grades are testable under state accountability, may be renewed for a term not to exceed three years;

d. if, in the superintendent’s judgment, the non-renewal of an AUS charter school in its initial charter term would likely require many students to attend lower performing schools, and the superintendent recommends its renewal, the charter may be renewed for a term not to exceed three years. Prior to recommending such renewal, the superintendent must demonstrate that efforts to find a new, high-quality operator for the school were unsuccessful.

C. Financial Performance

1. The charter operator is required to engage in financial practices, financial reporting, and financial audits to ensure the proper use of public funds and the successful fiscal operation of the charter school. The evaluation financial performance indicator standards shall be measured as follows.

Indicator	Standard
Prior and Current Year Budgets	Both budgets balanced using realistic and responsible assumptions
Annual Financial Report	Timely and sufficient filing
Financial Audit	Unqualified opinion; no major findings
Financial Obligations	All in good standing
Financial Reporting	Timely and sufficient filing of all LDOE-required financial reports
Student Count Audit	No major findings from LDOE audit staff

2. An audit finding shall be considered “Major” if it indicates a deliberate act of wrongdoing, reckless conduct, or causes the loss of confidence in the abilities or integrity of the school or seriously jeopardizes the continued operation of the school.

3. Financial obligations shall include, but not be limited to, pension payments, payroll taxes, insurance coverage, and loan payments and terms.

4. BESE will reduce the renewal term by a year for any charter school otherwise recommended for renewal in any of the following instances, but no term shall be less than three years:

a. a charter school that is not current in all financial reporting at the time of its renewal application or at the time of the department’s renewal recommendation;

b. a charter school that has failed to submit at least half of its required financial reports timely or sufficiently in the 12 months immediately preceding the department’s renewal recommendation to BESE;

c. a charter school with a “major finding” in either student count audit or financial audit in the most recent reporting period; or

d. a charter school projecting a deficit in its most recent year end general fund balance.

5. A charter contract will be non-renewed if the charter has failed to demonstrate over the term of its charter, the fundamental ability to operate a fiscally sound charter school, as evidenced by repeated failure to adhere to the financial standards articulated above.

D. Legal and Contract Performance

1. BESE will include a charter school’s compliance with its statutory, regulatory, and contractual obligations and all reporting requirements in its renewal decision. BESE’s evaluation shall be based on, but not limited to, the following indicators.

Indicator	Standard
Special Education and ELL Program	Pursuant to applicable law and regulation and contract provisions
Student Enrollment	Pursuant to applicable law and regulation and contract provisions
Student Discipline	Pursuant to applicable law and regulation and contract provisions
Health and Safety	Pursuant to applicable law and regulation and contract provisions
Governance	Pursuant to applicable law and regulation and contract provisions
Facilities	Pursuant to applicable law and regulation and contract provisions

2. BESE will consider a standard not met if a violation indicates a deliberate act of wrongdoing, reckless conduct, or causes a loss of confidence in the abilities or integrity of the school or seriously jeopardizes the rights of students, safety of students, or the continued operation of the school.

3. BESE will not renew a charter if it has failed to demonstrate over the term of its contract, the fundamental ability to adhere to the legal and contractual performance standards articulated above.

E. Initial Renewal

1. In October of each charter school’s fifth year, the charter operator will be required to submit a request for renewal to BESE in accordance with LDOE guidelines.

2. In January of the charter school’s fifth year, the department will make a recommendation to BESE about the disposition of any school whose contract is up for renewal. The basis for the recommendation will be the charter school’s student, financial, and legal and contractual performance during years one through four of the charter contract.

3. Based on the school’s year four performance label, the department may recommend one of three actions:

- a. renewal for the maximum term identified in the School Performance Labels and Maximum Charter Renewal Terms table;
- b. renewal for a shorter term (based on deficiencies in financial and/or legal/contract performance); or
- c. non-renewal.

4. A recommendation for non-renewal may also include a recommendation that a new charter provider operate the school.

F. Subsequent Renewal

1. After an initial renewal, charter operators will be required, in October of the final year of their renewal charter contracts, to submit a request for renewal to BESE in accordance with LDOE guidelines.

2. A charter school operating under a renewal contract may request early renewal in any year that its performance

label would qualify the school for a longer-term renewal than its current contract provides, based on the School Performance Labels and Maximum Charter Renewal Terms table.

3. In January of the charter school’s final contract year, the department will make a recommendation to BESE about the disposition of any school whose contract is up for renewal. The basis for the recommendation will be the charter school’s student, financial, legal and contractual performance during its current charter contract.

4. Based on the school’s performance label in the year prior to the renewal application, the department may recommend one of the following actions:

- a. renewal for the maximum term identified in the School Performance Labels and Maximum Charter Renewal Terms table;
- b. renewal for a shorter term (based on deficiencies in financial and/or legal/contract performance); or
- c. non-renewal.

5. A recommendation for non-renewal may also include a recommendation that a new charter provider operate the school.

G. Ongoing Evaluation

1. All BESE-authorized charter schools will be subject to regular performance evaluations, which may include reviews of student achievement data, financial performance data, and legal and contractual performance data, as well as formal and informal site visits. During its renewal term, each charter school will be subject to regular site visits and contract review on a schedule established by the Department of Education.

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

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981 and R.S. 17:3992.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:479 (March 2010).

Jeanette B. Vosburg
Executive Director

1003#015

RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Administration of Medication (LAC 28: CXV.1129)

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*: §1129. Administration of

Medication. The change is the result of Act 145 of the 2009 Louisiana Legislature, to enact R.S. 17: 436.1(J), which provides relative to the administration of medication to public school students and requires public school governing authorities to permit students with certain conditions to self-administer certain medications.

Title 28
EDUCATION

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

Chapter 11. Student Services

§1129. Administration of Medication

A - H.1.Note ...

I.1. Notwithstanding any provision of law or any rule, regulation, or policy to the contrary, the governing authority of each public elementary and secondary school shall permit the self-administration of medications by a student with asthma or the use of auto-injectable epinephrine by a student at risk of anaphylaxis, provided that the student's parent or legal guardian provides the school in which the student is enrolled with the following documentation:

- a. written authorization for the student to carry and self-administer such prescribed medications;
- b. written certification from a licensed medical physician or other authorized prescriber that the student:
 - i. has asthma or is at risk of having anaphylaxis;
 - ii. has received instruction in the proper method of self administration of the student's prescribed medications to treat asthma or anaphylaxis;
- c. written treatment plan from the student's licensed medical physician or authorized prescriber for managing asthma or anaphylactic episodes. The treatment plan must be signed by the student, the student's parent or other legal guardian, and the student's licensed medical physician or other authorized prescriber and shall also contain the following information:
 - i. the name, purpose, and prescribed dosage of the medications to be self-administered;
 - ii. the time or times the medications are to be regularly administered and under what additional special circumstances the medications are to be administered;
 - iii. the length of time for which the medications are prescribed;
 - d. any other documentation required by the governing authority of the public elementary or secondary school.

2. The documentation required by Paragraph 1 of this Subsection shall be kept on file in the office of the school nurse or other designated school official.

3. The governing authority of the public elementary and secondary school shall inform the parent or other legal guardian of the student in writing that the school and its employees shall incur no liability as a result of any injury sustained by the student from the self-administration of medication used to treat asthma or anaphylaxis. The parent or legal guardian of the student shall sign a statement acknowledging that the school shall incur no liability and that the parent or other legal guardian shall indemnify and

hold harmless the school and its employees against any claims that may arise relating to the self-administration of medications used to treat asthma or anaphylaxis.

4. For the purposes of the Subsection:

Auto-Injectable Epinephrine—a medical device for the immediate self-administration of epinephrine by a person at risk for anaphylaxis.

Inhaler—a medical device that delivers a metered dose of medication to alleviate the symptoms of asthma.

5. A student who has been granted permission to self-administer medication pursuant to this Subsection shall be allowed to carry and store with the school nurse or other designated school official an inhaler or auto-injectable epinephrine, or both, at all times.

6. Permission for the self-administration of asthma medications or use of auto-injectable epinephrine by a student shall be effective only for the school year in which permission is granted. Permission for self-administration of asthma medications or the use of auto-injectable epinephrine by a student shall be granted each subsequent school year, provided all of the requirements of this Subsection are fulfilled.

7. Upon obtaining permission to self-administer asthma medication or to use auto-injectable epinephrine pursuant to this Subsection, a student shall be permitted to possess and self-administer such prescribed medication at any time while on school property or while attending a school sponsored activity.

8. A student who uses any medication permitted pursuant to this Subsection in a manner other than prescribed shall be subject to disciplinary action; however, such disciplinary action shall not limit or restrict such student's immediate access to such prescribed medication.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:436.1; R.S. 17:436.1(J)

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1278 (June 2005), amended LR 35:1476 (August 2009), LR 36:481 (March 2010).

Jeanette Vosburg
Executive Director

1003#016

RULE

Board of Elementary and Secondary Education

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

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 741—Louisiana Handbook for School Administrators*: §1103, Compulsory Attendance and §1105, Types of Absences. This policy revision increases the amount of time students are required to be present at school to receive grades and clarifies definitions of the types of excused and unexcused absences and extenuating circumstances.

**Title 28
EDUCATION**

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

Chapter 11. Student Services

§1103. Compulsory Attendance

A. - F. ...

G. In order to be eligible to receive grades, high school students shall be in attendance a minimum of 30,060 minutes (equivalent to 83.5 six hour school days), per semester or 60,120 minutes (equivalent to 167 six hour school days) a school year for schools not operating on a semester basis. To receive Carnegie credit for a course, students must be present 94 percent of the required time listed in §907. Elementary students shall be in attendance a minimum of 167 days (60,120 minutes) a school year.

G.1. - I. ...

J. The only exception to the attendance regulation shall be the enumerated extenuating circumstances that are verified by the Supervisor of Child Welfare and Attendance. Students shall be temporarily excused from the attendance regulation for the following reasons:

1. extended personal physical or emotional illness in which a student is absent for three or more consecutive school days as verified by a physician or nurse practitioner licensed in the state;

2. extended hospital stay in which a student is absent for three or more consecutive school days as verified by a physician or dentist;

3. extended recuperation from an accident in which a student is absent for three or more consecutive school days as verified by a physician, dentist, or nurse practitioner licensed in the state;

4. extended contagious disease within a family in which a student is absent for three or more consecutive school days as verified by a physician or dentist licensed in the state; or

5. observance of special and recognized holidays of the student's own faith.

K. - N. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:221; R.S. 17:226; R.S. 17:233.

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

§1105. Types of Absences

A. ...

B. Excused absences are absences of two or fewer consecutive school days incurred due to personal illness or serious illness in the family; see the extenuating circumstances definition in Subsection J if the student is absent for three or more consecutive days or for other types of absences in which a student would be allowed to receive grades.

C. ...

D. Unexcused Absence—any absence not meeting the requirements set forth in the excused absence and extenuating circumstances definitions, including but not limited to, out of school suspensions and absences due to any job (including agriculture and domestic services, even in their own homes or for their own parents or tutors) unless it is part of an approved instructional program.

E. ...

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

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

Jeanette Vosburg
Executive Director

1003#017

RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School
Administrators—Non-Complex Health Procedures
(LAC 28: CXV.1147)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has adopted *Bulletin 741—Louisiana Handbook for School Administrators*: §1147, Non-Complex Health Procedures. The policy change is based on Act 414 of the 2009 Louisiana Legislature, to amend and reenact R.S. 17:436(A)(2) and (E) relative to removal of the term "outside tracheostomy suctioning" from the definition of non-complex health procedures and replace with "tracheostomy suctioning."

**Title 28
EDUCATION**

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

Chapter 11. Student Services

§1147. Non-Complex Health Procedures

A. The term "noncomplex health procedure" shall mean a task which is safely performed according to exact directions, with no need to alter the standard procedure, and which yields predictable results. It shall include the following:

1. modified activities of daily living which require special instruction such as toileting/diapering, bowel/bladder training, toilet training, oral/dental hygiene, lifting/positioning, and oral feeding;

2. health maintenance procedures such as postural drainage, percussion, tracheostomy suctioning, and gastrostomy feeding and monitoring of these procedures;

3. screenings such as growth, vital signs, hearing, vision, and scoliosis.

B. No city or parish school board shall require any employee other than a registered nurse, licensed medical physician, or an appropriate licensed health professional to perform noncomplex health procedures until all the following conditions have been met.

1. A registered nurse or a licensed medical physician and, when appropriate, another licensed health professional employed by a city or parish school board, has assessed the health status of the specific child in his specific educational setting and has determined that, according to the legal standards of the respective licensed health professional performing such procedure, the procedure can be safely performed, the results are predictable, and the procedure can be delegated to someone other than a licensed health professional following documented training.

2. The registered nurse or the licensed medical physician and, when appropriate, another licensed health professional shall train, in his or her area of expertise, at least two such employees to perform noncomplex health procedures on the specific child in his educational setting. The employees shall be given not less than four hours of training in the area of noncomplex health procedures.

3.a. Following the training provided for in Paragraph 2, no noncomplex health procedure, except screenings and activities of daily living such as toileting/diapering, toilet training, oral/dental hygiene, oral feeding, lifting, and positioning may be performed unless prescribed in writing by a physician licensed to practice medicine in the state of Louisiana or an adjacent state.

b. The employee, other than the registered nurse, licensed medical physician, or appropriate licensed health professional shall be required to complete, under the direct supervision or coordination of a registered nurse, a minimum of three satisfactory demonstrations. Upon satisfactory completion of these noncomplex health procedures, the registered nurse, licensed medical physician, or appropriate licensed health professional and the trainee shall sign a standard form indicating that the trainee has attained the prescribed level of competency. A copy of this form shall be kept on file by the school system.

4. Individuals who are required to perform noncomplex health procedures and have been trained according to the provisions of this Section, may not decline to perform such service at the time indicated except as exempted for reasons as noted by the licensed medical physician or registered nurse. The reasons for such exemption shall be documented and certified by the licensed medical physician or a registered nurse within seventy-two hours.

5. Any employee shall have the right to request that another school board employee be present while he or she is performing noncomplex health procedures for a student, to serve as a witness to the procedure. After making such a request, the employee shall not be required to perform noncomplex health procedures without such a witness.

C. For the purposes of this Section, "employee" means any appropriate member of the education staff.

D. Each city and parish school board shall provide the necessary safety equipment, materials, and supplies to each employee who performs noncomplex health procedures as provided in this Section. Such safety equipment, materials, and supplies shall include but shall not be limited to gloves, anti-bacterial soaps and wipes, paper towels, and masks.

E. Notwithstanding any provision of law or any rule, regulation, or policy to the contrary, no employee other than a registered nurse, licensed medical physician, an appropriate licensed health professional, or hired and trained unlicensed nursing personnel or unlicensed assistive personnel as defined by the Louisiana State Board of Nursing shall be required to perform an tracheostomy suctioning procedure on any child in an educational setting. However, nothing in this Section shall prohibit an employee who volunteers to perform such procedure and who complies with the training and demonstration requirements as provided in Paragraphs B.2 and 3 of this Section from being allowed to perform such procedure on a child in an educational setting.

F. For purposes of this Section, "appropriate licensed health professional" shall include a licensed practical nurse.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:436(A)(2) and (E).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:482 (March 2010).

Jeanette Vosburg
Executive Director

1003#018

RULE

Department of Education Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School
Administrators—Science Education
(LAC 28: CXV.2304)

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*, Section 2304, Science Education. This policy provides a procedure to be followed for complaints filed about supplemental materials used in a science classroom under the provisions of the Science Education Act. This policy provides a fair and thorough evaluation of materials in response to a complaint.

Title 28

EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 23. Curriculum and Instruction §2304. Science Education

A - D.4.c. ...

E. The following procedure shall be followed for complaints filed about supplemental materials used in a science classroom.

1. Any Louisiana citizen may challenge materials used by an LEA by submitting a complaint to the Division of Curriculum Standards of the DOE for consideration by BESE. The complaint should contain the reasons for the challenge and cite evidence to substantiate the challenge. The complaint should be sent to the Director of Curriculum Standards.

2. The DOE will notify the LEA using the supplementary material that the complaint has been filed and will provide the LEA with a copy of the complaint. The DOE will request from the LEA a copy of the supplementary materials in question.

3. The DOE shall have the opportunity to appoint two reviewers of the materials. The challenger, the LEA, and the publisher (if any) shall each have the opportunity to appoint one reviewer of the materials. The DOE will provide the reviewers with copies of the supplementary materials and the complaint. The reviewers should be experts who are capable of determining if the materials are grade-level appropriate, if the materials are scientifically sound and supported by empirical evidence, and if the materials do not promote any religious doctrine, promote discrimination for or against a particular set of religious beliefs, or promote discrimination for or against religion or non-religion.

4. The DOE will determine a time and location for a meeting. The DOE will notify the LEA, the complainant, and the reviewers of the date, time, and location. The LEA and the complainant may bring others with them to the meeting.

5. At the meeting, the LEA and the complainant and/or the representatives of each side will explain their positions. The reviewers may ask questions. All reviewers will complete a form indicating that the materials do or do not violate each of the following provisions and include explanations for their recommendations.

a. The supplementary materials are grade-level appropriate.

b. The information contained in the supplementary materials are scientifically sound and supported by empirical evidence.

c. The materials shall not promote any religious doctrine, promote discrimination for or against a particular set of religious beliefs, or promote discrimination for or against religion or nonreligion.

6. The DOE will forward the reports of the reviewers to BESE. The DOE may elect to make its own recommendation. The DOE will notify the challenger, the

LEA, and the publisher of the date and time when the recommendations will be presented to BESE for consideration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:285.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 35:1476 (August 2009), amended LR 36:483 (March 2010).

Jeanette Vosburg
Executive Director

1003#019

RULE

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel—ACT/SAT Scores in Lieu of PRAXIS I SCORES (LAC 28:CXXXI.241 and 243)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 746—Louisiana Standards for State Certification of School Personnel*: §241, PRAXIS I SCORES and §243, ACT/SAC Scores in Lieu of PRAXIS I Scores. This revision of the PRAXIS examination policy will allow the new School Leaders Licensure Assessment (1011) to be required for Louisiana licensure in Educational Leadership and replace the discontinued School Leaders Licensure Assessment (1010). Education Leader candidates would be required to earn a passing score of 166 for the PRAXIS SLLA (1011), effective January 1, 2010. Educational Testing Services (ETS) is discontinuing the current PRAXIS School Leaders Licensure Assessment (1010). A new edition of the SLLA (1011) will be administered by ETS in the fall 2009.

Title 28

EDUCATION

Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel
Chapter 2. Louisiana Teacher Preparation Program
Subchapter B. Alternate Teacher Preparation Programs
§241. PRAXIS I SCORES

A. - D. ...

E. Administrative Area

Certification Area	Name of Praxis Test	Area Test Score
Principal	Educational Leadership: Administration & Supervision (0410)	620
Educational Leader – Level 1	School Leaders Licensure Assessment (1010)	168
	School Leaders Licensure Assessment (1011) Effective 1/1/10	166
Educational Leader – Level 3	School Superintendent Assessment (1020)	154

All PRAXIS scores used for certification must be sent directly from ETS to the State Department of Education electronically, or the original PRAXIS score report from ETS must be submitted with candidate's application.

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.

E. Administrative Areas

Certification Area	Name of Praxis Test	Area Test Score
Principal	Educational Leadership: Administration & Supervision (0410) Prior to 1/1/09	620
Educational Leader – Level 1	School Leaders Licensure Assessment (1010) Effective 7/1/06	168
	School Leaders Licensure Assessment (1011) Effective 1/1/10	166
Educational Leader – Level 3	School Superintendent Assessment (1020) Effective 7/1/06	154

F. All PRAXIS scores used for certification must be sent directly from ETS to the State Department of Education electronically, or the original Praxis score report from ETS must be submitted with candidate's application.

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 32:1833 (October 2006), amended LR 36:485 (March 2010).

Jeanette B. Vosburg
Executive Director

1003#020

RULE

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel—Adult Education Instructor (LAC 28:CXXXI.645)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 746—Louisiana Standards for State Certification of School Personnel*, Section 645, Adult Education Instructor. This revision in policy will allow individuals the option of using three years of successful teaching experience in adult education to waive the practicum course requirement for add-on certification in adult education. In addition, the policy change will require successful completion of the Reading in Adult Education course, along with one additional three hour adult education course for certification. Currently, policy requires candidates to complete a three semester hour practicum course in adult education for certification in this area. Other add-on policies of Bulletin 746 allow waivers of teaching practicums with three years of successful teaching experience in the appropriate area. This change will align the adult education add-on policy with other add-on policies in Bulletin 746.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1836 (October 2006), amended LR 33:2355 (November 2007), LR 35:644 (April 2009), LR 36:484 (March 2010).

§243. ACT/SAT Scores in Lieu of PRAXIS I SCORES

A. - D. ...

**Title 28
EDUCATION**

Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel

**Chapter 6. Endorsements to Existing Certificates
Subchapter C. All Other Teaching Endorsement Areas**

§645. Adult Education Instructor

A. Eligibility requirements:

1. valid standard Louisiana teaching certificate; and
2. one of the following:
 - a. five years of adult education experience prior to implementation of certification requirements (September 1982); or
 - b. 9-12 semester hours, as follows:
 - i. introduction to or foundations of adult education, three semester hours;
 - ii. practicum in adult education, three semester hours or three years of successful teaching experience in adult education;
 - iii. reading instruction in adult education, three semester hours; and
 - iv. three semester hours from the following areas:
 - (a). materials, methods, and/or curricular development in adult education;
 - (b). adult learning and development;
 - (c). use of community resources;
 - (d). administration and supervision of adult education;
 - (e). guidance and counseling in adult education;
 - (f). competency-based adult education;
 - (g). independent study, special problems, or issues in adult education.

B. ...

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 32:1818 (October 2006), amended LR 36:485 (March 2010).

Jeanette B. Vosburg
Executive Director

1003#021

RULE

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel—World Language Certificate (LAC 28:CXXXI.311)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 746—Louisiana Standards for State Certification of School Personnel*: §311, World Language Certificate (WLC) PK-12—Valid for Six Years and Renewable with CLUs. This revision in policy would allow individuals participating in the Louisiana Department of Education Foreign Associate Teacher Program to be issued a World Language Certificate (WLC) to teach in a world language or an immersion setting in grades PK-12. During the 2009 Louisiana Legislative Session, the Legislature approved House Bill No. 621, Act 43, which required BESE to develop and implement policies relative to the certification of foreign associate teachers. The revision of 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 3. Teaching Authorizations and Certifications

Subchapter A. Standard Teaching Authorizations

§311. World Language Certificate (WLC) PK-12—Valid for Six Years and Renewable with CLUs

A. This certificate may be issued to a foreign associate teacher who participates in the Department of Education (LDE) Foreign Associate Teacher Program, and who teaches world language and/or immersion in grades PK-12.

B. This certificate allows the holder to receive the same benefits as any other regularly certified teacher.

C. Eligibility guidelines:

1. a bachelor's degree in education or equivalent preparation in education from a foreign country. The status of this degree will be determined by the Department of Education (LDE). If LDE staff cannot make a degree equivalent determination, the candidate's credentials must be evaluated by the American Association of Collegiate Registrars and Admissions Officers (AACRAO) or by World Education Services (WES). In the case of an AACRAO or WES evaluation, the determination must be on "safe script" paper and must include a course-by-course evaluation;

2. a teaching certificate in the foreign country for the certification area and/or grade level that the candidate will teach in Louisiana;

3. evidence of two years of successful teaching experience in the country of origin; and

4. a native speaker of the language to be taught.

D. Renewal Guidelines. A teacher holding an FLES/WLC certificate may qualify for a renewal of the certificate by completing 150 continuing learning units (CLUs) of district-approved and verified professional development over the six year time period during which he/she holds the certificate, or during the six year time period immediately preceding the request for renewal. The Louisiana employing authority must request renewal of a FLES/WLC certificate. If the 150 continuing learning units were completed abroad then the request must come from the Division of Curriculum Standards.

E. Professional Certificate—a Professional Level 1 certificate may be issued after successful completion of the PRAXIS I Pre-Professional Skills Test, PRAXIS II content area examination(s), and PRAXIS Principles of Learning and Teaching: K-6, 5-9, or 7-12. The Test of English as a Foreign Language may be used in lieu of the PRAXIS I Pre-Professional Skills for Reading and Writing (TOEFL). For renewal and reinstatement guidelines of a Level 1 certificate see Chapter 3.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1800 (October 2006), amended LR 33:1618 (August 2007), LR 34:233 (February 2008), LR 35:642 (April 2009), LR 36:486 (March 2010).

Jeanette B. Vosburg
Executive Director

1003#024

RULE

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)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 746—Louisiana Standards for State Certification of School Personnel*: §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 revisions to Bulletin 746 will align certification policy with statutory requirements.

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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 36:487 (March 2010).

§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.

C. Certification Areas

1. Grades 6-12 Certification

Grades 6-12 Certification Areas		Score			PLT 7-12
Agriculture	Agriculture (0700) Effective 7/1/05	510	---	---	161
Business	Business Education (0100) Prior to 5/31/04 Effective 6/1/04	540	---	---	161
		570			
English	English Language, Literature, & Composition: Content Knowledge (0041) Pedagogy (0043)	160	---	---	161
		130			

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 36:487 (March 2010).

Jeanette B. Vosburg
Executive Director

1003#022

RULE

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel—PRAXIS I Scores (LAC 28:CXXXI.241, 243, and 409)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 746—Louisiana Standards for State Certification of School Personnel*: §241, "PRAXIS I SCORES, §243, ACT/SAC Scores in Lieu of PRAXIS I Scores, and §409, School Librarian. This revision of the PRAXIS examination policy will allow the transition of the PRAXIS Library Media Specialist (0310) to the Library Media Specialist (0311) with a passing score of 136. In addition, the PRAXIS Speech Communications (0220) exam would transition to the Speech Communications (0221) exam with a passing score of 146. These transitions will enable use of the PRAXIS scale of 100-200 which is used for the majority of the PRAXIS exams. The effective date of this transition is at the next test administration (9/12/09). Educational Testing Services (ETS) undergoes a periodic review, revision, and regeneration of all assessments offered in the PRAXIS program. The Library Media Specialist and Speech Communications exams have been changed by ETS from the old NTE scale (250-990) to the new PRAXIS scale (100-200).

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EDUCATION**

**Part CXXXI. Bulletin 746—Louisiana Standards for
State Certification of School Personnel**

**Chapter 2. Louisiana Teacher Preparation Programs
Subchapter B. Alternate Teacher Preparation Programs**

§241. PRAXIS I SCORES

A. - B. ...

Grades 6-12 Certification Areas		Score			PLT 7-12
Family & Consumer Sciences (formerly Home Economics)	Family & Consumer Sciences (0120) Prior to 12/31/08	510	---	---	161
	Family & Consumer Sciences (0121) Effective 1/1/09	141			
French	French (0170) Prior to 5/31/04	520	---	---	161
	French: Content Knowledge (0173) Effective 6/1/04	156			
German	German (0180) Prior to 6/30/06	500	---	---	161
	German: Content Knowledge (0181) Effective 7/1/06	151			
Mathematics	Mathematics (0060) Prior to 5/31/04	550	---	---	161
	Mathematics: Content Knowledge (0061) Effective 6/1/04	125			
	Mathematics: Content Knowledge (0061) Effective 6/1/07	130			
	Mathematics: Content Knowledge (0061) Effective 6/1/10	135			
School Librarian	Library Media Specialist (0310) Prior to 9/11/09	560	---	---	---
	Library Media Specialist (0311) Effective 9/12/09	136			
Social Studies	Social Studies: Content Knowledge (0081)	149	---	---	161
	Interpretation of Materials (0083)	152			
Science Areas					
Biology	Biology & General Science (0030) Prior to 6/30/05	580	---	---	161
	Biology: Content Knowledge (0235) Effective 7/1/05	150			
Chemistry	Chemistry/Physics/General Science (0070) Prior to 6/30/06	530			161
	Chemistry: Content Knowledge (0245) Effective 7/1/06	151			
Earth Science	None Available**				161
Environmental	None Available**				161
General Science	General Science: Content Knowledge (0435) Effective 7/1/05		---	---	161
	Biology & General Science (0030) Prior to 6/30/05	156			
	or Chemistry/Physics/General Science (0070) Prior to 6/30/06	580 530			
Physics	Chemistry/Physics/General Science (0070) Prior to 6/30/06	530			161
	Physics: Content Knowledge (0265) Effective 7/1/06	141			
Spanish	Spanish (0190) Prior to 5/31/04	540	---	---	161
	Spanish: Content Knowledge (0191) Effective 6/1/04	160			
Speech	Speech Communications (0220) Effective 7/1/05	575	---	---	161
	Speech Communications (0221) Effective 9/12/09	146			
Technology Education (formerly Industrial Arts)	Technology Education (0050) Effective 7/1/05	600	---	---	161

C.2. - E. ...

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 32:1836 (October 2006),

amended LR 33:2355 (November 2007), LR 35:644 (April 2009), LR 36:487 (March 2010).

§243. ACT/SAT Scores in Lieu of PRAXIS I SCORES

A. - B. ...

C. Certification Areas

1. Grades 6-12 Certification

GRADES 6-12 CERTIFICATION AREAS		Score			PLT 7-12
Agriculture	Agriculture (0700) Effective 7/1/05	510	---	---	161
Biology	Biology & General Science (0030) Prior to 6/30/05	580	---	---	161
	Biology: Content Knowledge (0235) Effective 7/1/05	150			
Business	Business Education (0100) Prior to 5/31/04	540	---	---	161
	Business Education (0100) Effective 6/1/04	570			
Chemistry	Chemistry/Physics/General Science (0070) Prior to 6/30/06	530			161
	Chemistry: Content Knowledge (0245) Effective 7/1/06	151			
English	English Language, Literature, & Composition: Content Knowledge (0041)	160	---	---	161
	English Language, Literature, & Composition: Pedagogy (0043)	130			
Family & Consumer Sciences (formerly Home Economics)	Family & Consumer Sciences (0120)	510	---	---	161
French	French (0170) Prior to 5/31/04	520	---	---	161
	French: Content Knowledge (0173) Effective 6/1/04	156			
General Science	Biology & General Science (0030) -OR- Chemistry/Physics/General Science (0070) Prior to 6/30/05	580	---	---	161
	General Science: Content Knowledge (0435)	530			
	General Science: Content Knowledge (0435) Effective 7/1/05	156			
German	German (0180)	500	---	---	161
	German: Content Knowledge (0181) Effective 7/1/06	151			
Mathematics	Mathematics (0060) Prior to 5/31/04	550	---	---	161
	Mathematics: Content Knowledge (0061) Effective 6/1/04	125			
	Mathematics: Content Knowledge (0061) Effective 6/1/07	130			
	Mathematics: Content Knowledge (0061) Effective 6/1/10	135			
Physics	Chemistry/Physics/General Science (0070) Prior to 6/30/06	530			161
	Physics: Content Knowledge (0265) Effective 7/1/06	141			

GRADES 6-12 CERTIFICATION AREAS					
		Score			PLT 7-12
School Librarian	Library Media Specialist (0310) Prior to 9/11/09	560	---	---	---
	Library Media Specialist (0311) Effective 9/12/09	136			
Social Studies	Social Studies:	149	---	---	161
	Content Knowledge (0081)	152			
	Interpretation of Materials (0083)				
Spanish	Spanish (0190) Prior to 5/31/04	540	---	---	161
	Spanish: Content Knowledge (0191) Effective 6/1/04	160			
Speech	Speech Communications (0220) Effective 7/1/05	575	---	---	161
	Speech Communications (0221) Effective 9/12/09	146			
Technology Education (formerly Industrial Arts)	Technology Education (0050) Effective 7/1/05	600	---	---	161
Computer Science Earth Science Environmental Science Journalism Latin Marketing (formerly Distributive Education)	At this time, a content area exam is not required for certification in Louisiana.	---	---	---	161

C.2. - E. ...

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 32:1833 (October 2006), amended LR 36:488 (March 2010).

§409. School Librarian

A. School Librarian—valid for five years.

1. Eligibility requirements:

a. master's degree in library science from a regionally accredited institution; and

b. passing score on Praxis Library Media Specialist examination (#0311).

2. Renewal guidelines:

a. complete 150 continuing learning units of district-approved and verified professional development over the five year time period during which the certificate is held;

b. the Louisiana employing authority must request renewal of an Ancillary School Librarian 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 32:1808 (October 2006), repromulgated LR 33:1617 (August 2007), amended LR 36:489 (March 2010).

Jeanette B. Vosburg
Executive Director

1003#023

RULE

Board of Elementary and Secondary Education

Bulletin 1179—Driver Education, Traffic Safety, and Administrative Guide for Louisiana Schools (LAC 28:XXXI.503 and 507)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 1179—Driver Education, Traffic Safety, and Administrative Guide for Louisiana Schools*, Sections 503 and 505. The policy change will

permit a child who is at least in the ninth grade and is less than 15 years of age to participate in the classroom instruction component Driver Education. Current policy did not allow participation unless the child was fifteen years of age before the class began. The policy change to Bulletin 1179 is the result of R.S. 17:270(A) and R.S. 32:402.1(D), which were passed during the 2009 Regular Session of the Legislature.

Title 28

EDUCATION

Part XXXI. Bulletin 1179—Driver Education, Traffic Safety, and Administrative Guide for Louisiana Schools Chapter 5. Administrative Policies

§503. Driver Education and Training Program for Children (R.S. 17:270)

A. The state Board of Education and the state Department of Education, in consultation with the Department of Public Safety and Corrections, shall establish and operate a driver education and training program in each parish of this state for children who are fifteen years of age or older. The program shall consist of a course of not less than eight hours of actual driving experience and thirty hours of classroom instruction. A child who is in at least the ninth grade and is within ninety days of their fifteenth birthday may participate in the classroom instruction component of the program. The state Board of Elementary and Secondary Education shall provide written notice to each city, parish, and local school board of the requirements of this Subsection. The aims and purposes of the driver education and training program shall be to educate drivers to be competent and to develop a knowledge of those provisions of the law of this state relating to the operation of motor vehicles, a proper acceptance of personal responsibility in traffic, a true appreciation of the causes, seriousness, and consequences of traffic accidents, and the knowledge, attitudes, habits, and skills necessary for the safe operation of motor vehicle.

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1219 (July 1999), amended LR 35:1488 (August 2009), LR 36:489 (March 2010).

§507. Driver Education; Required (R.S.32:402.1)

A. - C. ...

D. Except as provided in R.S. 17:270(A), no person under the age of 15 shall be allowed to enroll or participate in any driver education course or driver training program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(5).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1220 (July 1999), amended LR 35:1488 (August 2009), LR 36:490 (March 2010).

Jeanette B. Vosburg
Executive Director

1003#025

RULE

**Student Financial Assistance Commission
Office of Student Financial Assistance**

Scholarship/Grant Programs—Intersession
(LAC 28:IV.301, 703, 705, and 803)

The Louisiana Student Financial Assistance Commission (LASFAC) has amended its Scholarship/Grant rules (R.S. 17:3021-3025, R.S. 3041.10-3041.15, R.S. 17:3042.1, R.S. 17:3048.1, R.S. 17:3048.5 and R.S. 17:3048.6).(SG10111R)

**Title 28
EDUCATION**

**Part IV. Student Financial Assistance—Higher
Education**

Scholarship and Grant Programs

Chapter 3. Definitions

§301. Definitions

A. Words and terms not otherwise defined in these rules shall have the meanings ascribed to such words and terms in this Section. Where the masculine is used in these rules, it includes the feminine, and vice versa; where the singular is used, it includes the plural, and vice versa.

Academic Year (College)—through the 2007-2008 *academic year*, the two- and four-year college and university *academic year* begins with the fall term of the award year, includes the winter term, if applicable, and concludes with the completion of the spring term of the award year. Intersessions ending during the *academic year* are included in the *academic year*. The two- and four-year college and university *academic year* does not include summer sessions or intersessions that do not end during the *academic year*.

a. Beginning with the 2008-2009 *academic year* and thereafter, the *academic year* begins with the fall term of the award year, includes the winter term, if applicable, and concludes with the completion of the intersession immediately following the spring term of the award year. Intersessions ending during the *academic year*, including the intersession immediately following the spring term, are included in the *academic year*. The two- and four-year college and university *academic year* does not include summer sessions or other intersessions.

* * *

Intersession—an academic term between regular semesters/terms that provides credit courses to students in an intensive, condensed format.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 24:2237 (December 1998), LR 25:256 (February 1999), LR 25:654 (April 1999), LR 25:1458 and 1460 (August 1999), LR 25:1794 (October 1999), LR 26:65 (January 2000), LR 26:688 (April 2000), LR 26:1262 (June 2000), LR 26:1601 (August 2000), LR 26:1993, 1999 (September 2000), LR 26:2268 (October 2000), LR 26:2752 (December 2000), LR 27:36 (January 2001), LR 27:284 (March 2001), LR 27:1219 (August 2001), LR 27:1840 (November 2001), LR 27:1875 (November 2001), LR 28:45 (January 2002), LR 28:446 (March 2002), LR 28:772 (April 2002), LR 28:2330, 2331 (November 2002), LR 29:555 (April 2003), LR 29:879 (June 2003), LR 30:1159 (June 2004), LR 30:2015 (September 2004), LR 31:36 (January 2005), LR 31:3112 (December 2005), LR 33:86 (January 2007), LR 33:439 (March 2007), LR 33:1339 (July 2007), LR 33:2612 (December 2007), LR 34:234 (February 2008), LR 34:1388 (July 2008), LR 34:1884 (September 2008), LR 35:228 (February 2009), LR 36:490 (March 2010).

**Chapter 7. Taylor Opportunity Program for Students
(TOPS) Opportunity, Performance, and
Honors Awards**

§703. Establishing Eligibility

A.1.a. - A.4.a. ...

b. if the student joins the United States Armed Forces within one year after graduating from an eligible Louisiana or an eligible non-Louisiana high school or from an eligible out of country high school, enroll not later than the semester, excluding summer semesters or sessions, immediately following the 5th anniversary of the date that the student graduated from high school or not later than the semester, excluding summer semesters or sessions, immediately following the one year anniversary of the student's separation from active duty, whichever is earlier; or

c. if the student is eligible under the provisions of §703.A.5.d or e, enroll not later than the semester or term, excluding summer semesters or sessions, immediately following the first anniversary of the date the student completes the home study program, which is deemed to be May 31; or

d. if the student is eligible under the provisions of §703.A.5.d or e, and has joined and is on active duty with the United States Armed Forces within one year of completion of the 12th grade of an approved home study program, enroll not later than the semester or term, excluding summer semesters or sessions, immediately following the 5th anniversary of the completion of the approved home study program or not later than the semester, excluding summer semesters or sessions, immediately following the one year anniversary of the student's separation from active duty, whichever is earlier; or

A.4.e. - J.4.b.ii. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:636 (April 1998), amended LR 24:1902 (October 1998), LR 24:2237 (December 1998), LR 25:257 (February 1999), LR 25:655 (April 1999), LR 25:1794 (October 1999), LR 26:64, 67 (January 2000), LR 26:689

(April 2000), LR 26:1262 (June 2000), LR 26:1602 (August 2000), LR 26:1996, 1999, 2001 (September 2000), LR 26:2268 (October 2000), LR 26:2753 (December 2000), LR 27:36 (January 2001), LR 27:702 (May 2001), LR 27:1219, 1219 (August 2001), repromulgated LR 27:1850 (November 2001), amended LR 28:772 (April 2002), LR 28:2330, 2332 (November 2002), LR 29:125 (February 2003), LR 29:2372 (November 2003), LR 30:1162 (June 2004), LR 30:1471 (July 2004), LR 30:2019 (September 2004), LR 31:37 (January 2005), LR 31:2213 (September 2005), LR 31:3112 (December 2005), LR 32:2239 (December 2006), LR 33:435 (March 2007), LR 33:2357 (November 2007), LR 33:2612 (December 2007), LR 34:1389 (July 2008), LR 35:228 (February 2009), LR 36:490 (March 2010).

§705. Maintaining Eligibility

A. - A.5. ...

6. minimum academic progress:

a.i. in an academic undergraduate program at an eligible college or university, by the end of each academic year (college), earn a total of at least 24 college credit hours as determined by totaling the earned hours reported by the institution for each semester or term in the academic year (college), including any hours earned during an intersession ending during the academic year. These hours shall include remedial course work required by the institution, but shall not include hours earned during qualified summer sessions, summer sessions or intersessions that do not end during the academic year or by advanced placement course credits. Unless granted an exception for cause by LASFAC, failure to earn the required number of hours will result in permanent cancellation of the recipient's eligibility; or

ii. beginning in the 2008-2009 academic year, in an academic undergraduate program at an eligible college or university, by the end of each academic year (college), earn a total of at least 24 college credit hours as determined by totaling the earned hours reported by the institution for each semester or term in the academic year (college), including any hours earned during an intersession ending during the academic year or immediately following the spring term. These hours shall include remedial course work required by the institution, but shall not include hours earned during qualified summer sessions, summer sessions or intersessions that do not end during the academic year or intersessions that do not immediately follow the spring term or by advanced placement course credits. Unless granted an exception for cause by LASFAC, failure to earn the required number of hours will result in permanent cancellation of the recipient's eligibility; or

A.1.b. - E.3. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:637 (April 1998), amended LR 24:1904 (October 1998), LR 25:257 (February 1999), LR 25:656 (April 1999), LR 25:1091 (June 1999), LR 26:67 (January 2000), LR 26:688 (April 2000), LR 26:1996 (September 2000), LR 26:2001 (September 2000), repromulgated LR 27:1853 (November 2001), amended LR 28:447 (March 2002), LR 28:772 (April 2002), LR 28:2332 (November 2002), LR 29:2373

(November 2003), LR 30:781 (April 2004), LR 30:1163 (June 2004), LR 30:2019 (September 2004), LR 31:3115 (December 2005), LR 33:437 (March 2007), LR 34:1390 (July 2008), LR 36:491 (March 2010).

Chapter 8. TOPS-Tech Award

§803. Establishing Eligibility

A.1.a. - A.4.a. ...

b. if the student joins the United States Armed Forces within one year after graduating from an eligible Louisiana or an eligible non-Louisiana high school or from an eligible out of country high school, enroll not later than the semester, excluding summer semesters or sessions, immediately following the 5th anniversary of the date that the student graduated from high school or not later than the semester, excluding summer semesters or sessions, immediately following the one year anniversary of the student's separation from active duty, whichever is earlier; or

c. if the student is eligible under the provisions of §803.A.5.d, enroll not later than the semester or term, excluding summer semesters or sessions, immediately following the first anniversary of the date the student completed the home study program, which is deemed to be May 31; or

d. if the student is eligible under the provisions of §803.A.5.d and has joined and is on active duty with the United States Armed Forces within one year of the date the student completed the home study program, which is deemed to be May 31, enroll not later than the semester or term, excluding summer semesters or sessions, immediately following the 5th anniversary of the date the student completed the home study program, or not later than the semester, excluding summer semesters or sessions, immediately following the one year anniversary of the student's separation from active duty, whichever is earlier; and

A.5. - B.4.b.ii. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:1904 (October 1998), amended LR 24:2237 (December 1998), LR 25:1795 (October 1999), LR 26:65 and 67 (January 2000), LR 26:1602 (August 2000), LR 26:1997 (September 2000), LR 26:2269 (October 2000), LR 26:2754 (December 2000), LR 27:36 (January 2001), LR 27:1220 (August 2001), repromulgated LR 27:1854 (November 2001), amended LR 28:447 (March 2002), LR 28:773 (April 2002), LR 28:2330 (November 2002), LR 29:554 (April 2003), LR 30:1164 (June 2004), LR 30:2019 (September 2004), LR 31:39 (January 2005), LR 31:3114 (December 2005), LR 33:437 (March 2007), LR 33:2614 (December 2007), LR 35:230 (February 2009), LR 36:491 (March 2010).

George Badge Eldredge
General Counsel

1003#002

NOTICE OF INTENT

Tuition Trust Authority Office of Student Financial Assistance

START Saving Program—Split Investment
(LAC 28:VI.305, 311, and 315)

The Louisiana Tuition Trust Authority has amended its START Saving Program rules (R.S. 17:3091 et seq.). (ST10112R)

Title 28 EDUCATION

Part VI. Student Financial Assistance—Higher Education Savings

Chapter 3. Education Savings Account

§305. Deposits to Education Savings Accounts

A. - D.2. ...

3. The account owner:

a. shall select one investment option in completing the owner's agreement, and

b. beginning December 1, 2009, may select the same or a different investment option at the time of each deposit.

4. Changing the Investment Option

a. Through 2008, the investment option can be changed only once in any 12-month period.

b. For the 2009 calendar year, the investment option may be changed at any time, but no more than two times.

c. Beginning December 1, 2009, if an education savings account has funds in two or more investment options:

i. each option in the account may be changed to one different option or allowed to remain the same.

ii. all funds in each option changed must be transferred.

iii. funds in one option may not be moved to more than one option.

iv. all changes in investment options must take place in one transaction.

v. whether the funds are moved from one option or all options, the change is considered the one per calendar year investment option change.

d. Beginning the 2010 calendar year and thereafter, the investment option may be changed one time each calendar year.

5. Once a selection is made, all deposits shall be directed to the last investment option selected.

D.6. - E.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:715 (June 1997), amended LR 24:1270 (July 1998), LR 26:2263 (October 2000), LR 27:1880 (November 2001), LR 30:788 (April 2004), LR 30:1169 (June 2004), LR 30:2302 (October 2004), LR 32:1433 (August 2006), LR 32:2240 (December 2006), LR 36:491 (March 2010).

§311. Termination, Refund, and Rollovers of an Education Savings Account

A. - H. ...

I. Rollovers

1. Rollovers among Education Savings Accounts of the Same Account Owner

a. Beginning October 1, 2009, an account owner may rollover any part or all of the value of an education savings account to another education savings account if the beneficiary of the account receiving the funds is a member of the family of the beneficiary of the original account.

b. If the current value of an education savings account is transferred, all earnings enhancements and earnings thereon shall be included in the transfer.

2. Rollover to another Qualified Tuition Program

a. An account owner may request a rollover of the current value of the account less earnings enhancements and earnings thereon to another qualified tuition program.

b. Earnings enhancements and the earnings thereon allocated to an education savings account that is rolled over to another qualified tuition program are forfeited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:717 (June 1997), amended LR 24:1273 (July 1998), repromulgated LR 26:2265 (October 2000), amended LR 27:38 (January 2001), LR 27:1882 (November 2001), LR 28:779 (April 2002), LR 30:790 (April 2004), LR 31:639 (March 2005), LR 32:1434 (August 2006), LR 32:2240 (December 2006), LR 33:444 (March 2007), LR 35:236 (February 2009), LR 36:491 (March 2010).

§315. Miscellaneous Provisions

A. - M.3. ...

N. Effect of a Change in Residency. On the date an account is opened, either the account owner or beneficiary must be a resident of the state of Louisiana (see §301.G); however, if the account owner or beneficiary, or both, temporarily or permanently move to another state after the account is opened, they may continue participation in the program in accordance with the terms of the owner's agreement.

O. - S.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:718 (June 1997), amended LR 24:1274 (July 1998), LR 26:1263 (June 2000), repromulgated LR 26:2267 (October 2000), amended LR 27:1221 (August 2001), LR 27:1884 (November 2001), LR 28:1761 (August 2002), LR 28:2335 (November 2002), LR 29:2038 (October 2003), repromulgated LR 29:2374 (November 2003), amended LR 30:791 (April 2004), LR 30:1472 (July 2004), LR 31:2216 (September 2005), LR 32:1434 (August 2006), LR 32:2240 (December 2006), LR 33:2359 (November 2007), LR 34:1886 (September 2008), LR 36:491 (March 2010).

George Badge Eldredge
General Counsel

1003#003

RULE

Office of the Governor Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River

General Provisions
(LAC 46:LXX.Chapters 61 - 67)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River has amended its rules. The Rule restates existing rules and will be reenacted for the purpose of codification. New rules are in the public's interest and will promote public safety. The new rules provide more stringent educational and licensing requirements for applicants, clarify the standard of conduct for state commissioned NOBRA pilots, establish recency and education requirements for pilots and establishes a Pilot Development Program.

Chapter 61 pertains to the general operation of the board. Chapter 62 pertains to the general qualifications necessary to become an apprentice candidate and the examination of pilots. Chapter 63 outlines standards of conduct, standards of proper and safe pilotage, standards of competency and recency of service, along with continuing education requirements. Chapter 64 establishes procedures for the investigation and enforcement of board rules, together with penalties associated therewith. Chapter 65 outlines the board's drug and alcohol policy together with penalties associated therewith.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXX. River Pilots

Subpart 3. Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River

Chapter 61. General Provisions

§6101. Authority

A. As mandated by R.S. 34:1041, these rules and regulations are issued by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., for the purpose of adopting rules, regulations and requirements regarding the general operation of the board.

B. This board is the sole competent pilotage authority statutorily created for the purpose of regulating, supervising and overseeing the body of pilots authorized by R.S. 34:1042, et seq. These rules shall apply to all applicants, apprentice pilots and commissioned pilots.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2471 (November 2004), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:493 (March 2010).

§6102. Definitions

Association or Pilot Association—the New Orleans and Baton Rouge Steamship Pilots Association.

Board of Examiners or Board—the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, as designated in R.S. 34:1042.

Examiner(s)—those individuals appointed, as per law, to be members of the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots.

Pilot(s)—New Orleans and Baton Rouge steamship pilot(s), as designated in R.S. 34:1043.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2471 (November 2004), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:493 (March 2010).

§6103. Appointment

A. When there is a need for new examiners, the board shall make recommendations to the governor for replacement(s) to fill any vacancies.

B. When this need arises the board shall recommend only those pilots who have served at least five years as an unrestricted Louisiana state commissioned New Orleans and Baton Rouge steamship pilot.

C. Examiners in the performance of their statutory duties have the exclusive and complete authority to determine their work schedule. Further, examiners shall not suffer any loss of benefits or compensation while they are performing their duties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2471 (November 2004), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:493 (March 2010).

§6104. Expenses

A. The board shall maintain an office and conduct business as is necessary to fulfill its legislative mandate and/or as may be required by these rules.

B. All ordinary and necessary operating and administrative costs and expenses of the board, including, but not limited to, the cost of administrative offices, furniture and fixtures, communications, transportation, office supplies and equipment, publications, travel, examiners' reimbursement, attorney fees, expert fees, costs, expenses of litigation or any other expenses whatsoever incurred by the board while performing its duties shall be provided by the pilots and timely paid through their pilot association.

C. The board shall have the authority to hire administrative staff and any other staff, independent contractors or investigators in order to provide assistance in the implementation of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge

Steamship Pilots, LR 30:2471 (November 2004), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:493 (March 2010).

§6105. Rules, Records, Meetings, Application

A. All board rules must be adopted by a majority of the examiners. The board shall maintain records in accordance with R.S. 44:1 et seq., and all other state laws. The board shall file an annual report of investigations, findings, actions and accident data in accordance with state laws. The board shall conduct its meeting in accordance with R.S. 42:4.1 et seq., and any other state laws.

B. The board shall hold quarterly meetings on the call of the president or by a majority of the examiners. The president has the prerogative of calling additional meetings as needed to conduct business upon giving proper notice, as required by law.

C. Any formal action taken by the board shall be by a majority vote when there is a quorum present. A majority of the board constitutes a quorum.

D. These rules shall apply to all New Orleans and Baton Rouge steamship pilots.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2472 (November 2004), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:494 (March 2010).

§6106. Association of Pilots

A. The pilots may form themselves into an association not in conflict with the rules and regulations of the board.

B. The formation of an association incorporated or unincorporated which is for the purpose of providing pilotage service under the law, including but not limited to R.S. 34:1047, must be submitted to the board for approval.

C. The board hereby recognizes the fact that the New Orleans and Baton Rouge steamship pilots have formed themselves into a legal registered corporation known as the New Orleans and Baton Rouge Steamship Pilots Association.

D. No pilot association, has any authority to impose or legislate any rules, bylaws or charter provisions affecting the board; further, any attempt to exercise any authority over or affecting the board is a violation of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2472 (November 2004), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:494 (March 2010).

§6107. Duties and Responsibilities of Pilots

A. It is the duty and responsibility of pilots to provide for dispatching services and to maintain continuous communications sufficient to accept requests and dispatch orders for pilotage services 24 hours each day 7 days each week.

B. The pilots shall organize themselves and be available for duty and accept pilotage assignments in accordance with a work rotation schedule.

C. Notwithstanding any sections of these rules, the board reserves the right to compel each and every individual pilot to be available for and accept orders for pilotage assignments in declared emergency situations or in other overriding operational conditions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2472 (November 2004), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:494 (March 2010).

§6108. Severability

A. It is understood that any provision and/or requirement herein that is deemed invalid or unenforceable, for any reason whatsoever, may be severed from the whole and that the remaining provisions and/or requirements shall be deemed valid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2472 (November 2004), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:494 (March 2010).

Chapter 62. Qualifications and Examination of Pilots

§6201. Statement of Purpose

A. The purposes of these rules and regulations is to establish standards for recommendation by the board to the governor of the State of Louisiana for appointment as a New Orleans and Baton Rouge steamship pilot, pursuant to R.S. 34:1043.

B. The board is charged by the Louisiana Legislature with the responsibility of promoting the health, safety and welfare of the citizens of the State of Louisiana and maintaining safety of maritime commerce along the Mississippi River. To this end, the board has set the requisite qualifications to become a pilot at a high level. The combination of education, licensing and experience will foster the type of conscientious pilots who will conduct themselves in a professional manner. It is the sole responsibility of each individual state commissioned pilot to conduct themselves in accordance with the rules and regulations of this board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2472 (November 2004), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:494 (March 2010).

§6202. Authority

A. As mandated by R.S. 34:1041, these rules and regulations are issued by the board in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., for the purpose of adopting rules, regulations and requirements regarding the general qualifications and examination of pilots.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2472 (November 2004), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:494 (March 2010).

§6203. Definitions

A. As used in this Chapter, the following terms, unless the context otherwise requires or unless redefined by a particular part hereof, shall have the following meanings:

Accredited Institution of Higher Learning—an institution that is accredited by the Commission of Colleges of the Southern Association of Colleges and Schools, the Louisiana Community and Technical College System, or is part of the Louisiana State University System or one whose credits are honored by any of these systems.

Administrative Procedure Act (APA)—the Louisiana Administrative Procedure Act, R.S. 49:950 et seq.

Applicant—any person who has submitted an application to be considered for selection into the Pilot Development Program for New Orleans and Baton Rouge Steamship Pilots.

Application—the completed written application including all supporting documentation supplied to the board by an applicant who desires to become a New Orleans and Baton Rouge steamship pilot

Apprentice—any person duly selected by the members of NOBRA, but not yet commissioned, who is serving in the Pilot Development Program.

Association or NOBRA—New Orleans and Baton Rouge Steamship Pilot Association.

Board of Examiners or Board—Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, as established in R.S. 34:1041 et seq.

Deputy Pilot—a commissioned pilot in the Pilot Development Program.

NOBRA Pilot—a state commissioned New Orleans and Baton Rouge Steamship Pilot, as designated in R.S. 34:1041, et seq.

Pilot Development Program—a period of training and instruction administered to apprentice and deputy pilots.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2472 (November 2004), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:495 (March 2010).

§6204. Application

A. Any person wishing to submit an application to enter the Pilot Development Program shall obtain an application from the board. The board's contact information is:

Board of Examiners for New Orleans and Baton Rouge
Steamship Pilots for the Mississippi River
2805 Harvard Avenue, Suite 101
Metairie, Louisiana 70006
Telephone: 1 (504) 887-5799
Facsimile: 1 (504) 887-5799
Website: www.nobraexaminers.louisiana.gov

B. All applications shall be in writing, signed by the applicant and presented to a member of the board by the applicant. All persons wishing to submit an application shall

make an appointment with an examiner by contacting the board's office. All applications shall be notarized and be accompanied by satisfactory proof of compliance with all of the board's objective requirements. Upon submission a board member will provide a stamped copy to the applicant indicating the date and time of submission. The board shall reject all deficient applications and provide an applicant written notice of the specific deficiency.

C. It is the responsibility of the applicant to inform the board of any changes in their contact information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2473 (November 2004), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:495 (March 2010).

§6205. General Requirements

A. An applicant must be of good moral character. An applicant shall be required to submit to a background check conducted by the Jefferson Parish Sheriff's office. An applicant shall sign all pertinent authorization forms allowing the board to obtain and verify the authenticity of all documents submitted to the board.

B. An applicant must have been a registered voter of the State of Louisiana for the preceding two consecutive years prior to submitting an application.

C. An applicant shall submit proof of a current satisfactory United States Coast Guard approved physical (Merchant Mariner Physical Examination Report). Upon notification of an impending NOBRA selection of apprentices, the applicant shall submit to a physical examination administered by an Examiner appointed physician specializing in occupational medicine no more than 120 days prior to the selection.

D. An applicant shall submit evidence of satisfactory completion of training programs approved by the board for the following courses of instruction:

1. bridge resource management;
2. basic ship handling (5 day);
3. radar observer;
4. advanced firefighting; and
5. CPR, as approved by the American Red Cross.

E. An applicant shall provide proof they have passed a board approved drug screen test consistent with the board's drug screen policy (See Chapter 65 of the board's rules) within thirty days prior to submission of an application. Additionally, upon notification of a pending NOBRA selection of apprentices, the applicant shall submit proof that they have passed a board approved drug screen test not more than one hundred twenty days prior to the selection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2473 (November 2004), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:495 (March 2010).

§6206. Licenses/Education/Experience

A. In addition to the above, an applicant must submit satisfactory proof of the following licensing, education and experience criteria.

1. An applicant must hold at least a current First Class Pilots License, Any Gross Tons, upon the Lower Mississippi River from Chalmette, Louisiana to Baton Rouge Railroad and Highway Bridge at Baton Rouge, Louisiana, including physical, and, at least, either a Master of Steam or Motor Vessels of not more than 1600 Gross Tons; or Master of Towing Vessels; or Chief Mate; or Master Any Gross Tons.

a. Notwithstanding Paragraph A.1 of this Section, an applicant with First Class pilotage from the Industrial Fore Bay, mile marker 92.7 AHP, to the Port Allen Fore Bay, mile marker 228.5 AHP, shall be eligible for selection into the Pilot Development Program. However, an applicant selected for the Pilot Development Program shall be required to obtain First Class pilotage from mile marker 88.0 AHP to Baton Rouge Railroad and Highway Bridge prior to commissioning.

2. An applicant must hold a Bachelors degree from an accredited institution of higher learning.

NOTE: Should the association choose to select entrants into the Pilot Development Program prior to January 1, 2012, applicants who hold at least an associate degree from an accredited institution of higher learning may be presented to the association for consideration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2473 (November 2004), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:495 (March 2010).

§6207. Notice of Apprentice Selection

A. At least 120 days prior to an apprentice selection, NOBRA must inform the board, in writing, that a selection will be held and the date of the selection.

B. At least 100 days prior to the apprentice selection, the board will advertise the date of the apprentice selection, as well as the deadline for submission of application materials, in at least two periodicals, one of which shall have a circulation of the greater New Orleans area and one of which shall have a circulation of the greater Baton Rouge area. In addition, all relevant dates will be posted on the board's website.

C. At least 75 days prior to the apprentice selection, the board will give notice, via U.S. Mail, to all applicants of the date of the selection and the deadline for submitting documentation in support of their application.

D. The deadline for submitting an application and supporting documentation, shall be 3 p.m., 45 days prior to the apprentice selection.

E. At least 30 days prior to the apprentice selection, the board will forward to NOBRA a list of all qualified candidates and supporting documentation of all candidates who meet the criteria for selection, as enumerated in the board's rules.

F. At the conclusion of a NOBRA apprentice selection, NOBRA shall provide the board, in writing, a list of those candidates selected for admission into the Pilot Development Program as an Apprentice Pilot. The board shall unilaterally determine the maximum number apprentices admitted into the Pilot Development Program at any given time. After receipt of notification from NOBRA, the board will notify the selected applicant via U.S. Mail of the time, date and

location of the commencement of the Pilot Development Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2474 (November 2004), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:496 (March 2010).

§6208. Expiration of Applications

A. Following an apprentice selection, all unselected applications on file with the board will be deemed expired.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2474 (November 2004), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:496 (March 2010).

§6209. Pilot Development Program

A. The Pilot Development Program is a mandatory program administered by the board for all Association selected applicants wherein each applicant must successfully and satisfactorily perform such duties, receive training and instruction, meet required standards, pass examinations and obtain such licensure as determined by the board. The program will last not less than four calendar years and be comprised of an apprentice period and a deputy pilot period. Successful completion of the program is required prior to the board approving the deputy pilot for unrestricted pilot status.

1. The board shall determine the number of selected applicants admitted into the Pilot Development Program at any given time.

B. Apprentice Period

1. All persons participating in the Pilot Development Program shall successfully complete the apprentice portion of the program designed and administered by the board. The Apprenticeship Period shall last for a period of not less than one calendar year. This Apprentice Period shall include the following:

a. not less than one year of training and instruction prior to commissioning, during which time the apprentice shall accompany state commissioned pilots in the performance of their duties;

b. advanced qualification testing;

c. any necessary license preparation and upgrades; and

d. any other industry related professional development that may be relevant and necessary.

C. Deputy Pilot Period

1. The Deputy Pilot Period of the Pilot Development Program shall last for a period of not less than three calendar years. The Deputy Pilot Period shall include the following:

a. movement of vessels of particular types and sizes and at times under specific conditions set by the board;

b. training and instruction during which the Deputy Pilot accompanies pilots in the performance of their duties;

c. advanced qualification testing;

d. any necessary license preparation and upgrades;

e. successful completion of licensure and education requirements; and

f. any other industry related professional development that may be relevant and necessary.

D. Time to Complete the Pilot Development Program

1. The Apprentice Period shall be successfully completed within a timely period unless the board determines that exceptional conditions apply such as illness, injury or limited availability of a necessary resource. Participants who fail to demonstrate satisfactory progress as determined by the board shall be subject to dismissal from the Apprenticeship Program.

2. The Deputy Pilot Period may last up to four years provided the participant is making acceptable progress as determined by the board.

3. The Deputy Pilot Period may be extended up to one additional year after the initial four years at the discretion of the board. If, after the one year extension period, the deputy pilot fails to meet the criteria and standards set by the board, said deputy pilot shall be released from the Pilot Development Program and a recommendation will be made to the governor to have the deputy pilot's state commission revoked.

E. Grounds for Release from the Pilot Development Program

1. Any program participant who fails to meet the criteria and standards set by the board shall be released from the Pilot Development Program and will not be recommended to the governor for commissioning. If, already commissioned, a recommendation will be made to have the deputy pilot's state commission revoked.

2. Grounds for release from the Pilot Development Program include, but are not limited to:

- a. failure to complete the requirements of any period, stage, segment, license upgrades or educational requirements necessary to progress or complete the program;
- b. recklessness and/or display of lack of judgment;
- c. disregard of state rules, laws, and regulations;
- d. disregard of United States Coast Guard rules and regulations;
- e. lack of fitness for the position and responsibilities of a pilot;
- f. lack of professional integrity, veracity, ability and/or capability; and
- g. any violations of standards of conduct as enumerated in §6307 of the board's rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2474 (November 2004), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:496 (March 2010).

§6210. Examination by the Board of Examiners; Recommendation to Governor

A. In order to be recommended to the governor for commissioning as a pilot, all apprentices must complete an examination to be conducted by the board as a practicum, orally, written or a combination thereof. This examination shall test the apprentice's knowledge of pilotage and demonstrate the apprentice's proficiency and capability to serve as a state commissioned pilot.

B. The board shall certify to the governor for consideration to be commissioned as a New Orleans and

Baton Rouge steamship pilot those apprentices who satisfactorily complete all requirements established by state law and these rules and who successfully complete the examination(s) given by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2474 (November 2004), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:497 (March 2010).

§6211. Severability

A. It is understood that any provision and/or requirement herein that is deemed invalid or unenforceable, for any reason whatsoever, may be severed from the whole and that the remaining provisions and/or requirements shall be deemed valid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2475 (November 2004), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:497 (March 2010).

Chapter 63. Standards of Conduct

§6301. Purpose/Statement of Policy

A. Due to the safety sensitive nature of the duties performed by state commissioned pilots, this board has a strong commitment to the public and maritime industry. The board promulgates these standards of conduct, in order to further enhance the safety and well being of the citizens of Louisiana, as well as to prevent any imminent peril to public health, safety, and welfare, and to achieve and maintain reliable, safe and efficient pilotage services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2475 (November 2004), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:497 (March 2010).

§6302. Application

A. The board hereby adopts the following rules and regulations relating to all applicants, apprentices, state commissioned New Orleans and Baton Rouge steamship pilots or any association comprised thereof pursuant to the provisions of R.S. 34:1041 et seq. Where applicable, any conflict is to be construed and resolved in the stricter sense. To that end, all current rules and regulations are adopted and incorporated herein in extenso.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2475 (November 2004), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:497 (March 2010).

§6303. Authority

A. As mandated by R.S. 34:1041 et seq., these rules and regulations, are promulgated by the board, in accordance with the Louisiana Administrative Procedure Act, R.S.

49:950 et seq., for the purpose of adopting rules, regulations and requirements for pilot oversight of New Orleans and Baton Rouge steamship pilots, apprentices and any association comprised thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2475 (November 2004), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:497 (March 2010).

§6304. Definitions

A. As used in this Chapter, the following terms, unless the context otherwise requires or unless redefined by a particular part hereof, shall have the following meanings.

Administrative Procedure Act (APA)—the Louisiana Administrative Procedure Act, R.S. 49:950 et seq.

Applicant—any person who has submitted an application to be considered for selection into the Pilot Development Program for New Orleans and Baton Rouge steamship pilot(s).

Application—the completed written application including all supporting documentation supplied to the board by an applicant who desires to become a New Orleans and Baton Rouge steamship pilot.

Apprentice—any person duly selected by the members of NOBRA, but not yet commissioned, who is serving in the Pilot Development Program.

Association or *NOBRA*—New Orleans and Baton Rouge Steamship Pilot Association.

Board of Examiners or *Board*—Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, as established in R.S. 34:1041 et seq.

Fit for Duty—a pilot who meets the board's requirements regarding licensure, physical and medical competency, recency, is current with their continuing education requirements and is available to be dispatched for pilotage service.

Pilot—a New Orleans and Baton Rouge steamship pilot, as designated in R.S. 34:1041 et seq.

Services of a Pilot—any advice or assistance with respect to pilotage by the commissioned pilot, including but not limited to advice concerning weather, channel conditions, or other navigational conditions.

VTC—Vessel Traffic Center, or any other similarly related United States Coast Guard or governmental facility, institution, or program whatsoever.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2475 (November 2004), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:498 (March 2010).

§6305. Severability

A. It is understood that any provision and/or requirement herein that is deemed invalid or unenforceable, for any reason whatsoever, may be severed from the whole and that the remaining provisions and/or requirements shall be deemed valid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2475 (November 2004), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:498 (March 2010).

§6306. Violations of the Policy

A. The board shall take the necessary actions for any violation of its policies, rules and regulations. These actions may include referral of such pilot to the Office of the Governor, if required by law, for reprimand, fine, suspension and/or revocation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2476 (November 2004), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:498 (March 2010).

§6307. Standards of Conduct

A. The board may in its discretion recommend to the Office of the Governor, reprimand, fine, suspension and/or revocation of a pilot or Deputy Pilot, for the following non-exclusive list of particulars:

1. failure to maintain, in good, valid and current standing a United States Coast Guard First Class Pilot License of any gross tons;
2. failure to remain a qualified and registered voter of the State of Louisiana;
3. failure to successfully complete continuing professional education requirements;
4. failure to maintain recency;
5. failure to maintain a current satisfactory United States Coast Guard approved physical (Merchant Mariner Physical Examination Report);
6. conviction of any felony from any jurisdiction whatsoever;
7. any violation of the board's drug and alcohol policy;
8. lack of professional integrity, veracity, ability, capability, or competency;
9. neglect of duty; and
10. any violation of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2476 (November 2004), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:498 (March 2010).

§6308. Obligation of Pilots

A. Obligation of safe pilotage rest entirely with each and every individual state commissioned pilot. When a pilot offers themselves for any pilotage assignment, such pilot certifies and warrants that they are competent, capable and qualified for such assignment and will perform such assignment in compliance with all applicable standards and duties.

B. A pilot who has been ill or injured to the extent that the pilot has been unable to perform pilotage duties for a period of 30 calendar days or longer or, who after submitting their annual physical to the United States Coast Guard is

notified that the Medical Evaluation Division has determined that a condition exists that warrants further medical evaluation shall:

1. notify the board, or arrange for it to be notified as soon as possible, after the 30th day of the disability; or immediately notify the board upon receipt from the United States Coast Guard requiring further medical review; and

2. not resume pilotage duties until the pilot has successfully completed and submitted a Merchant Mariner Physical Examination Report to the board.

C. Before allowing the pilot to return to duty, the board may require the pilot to:

1. submit to an examination, at the board's expense, by a board selected physician;

2. complete a re-orientation program established by the board; and/or

3. appear before the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2476 (November 2004), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:498 (March 2010).

§6309. Adoption of Navigational Rules

A. Pilots shall use a standard of navigation consistent with that of a prudent pilot in adherence with common local practices.

B. Pilots shall use their own independent judgment when piloting an assigned vessel.

C. The board does not direct or control a pilot in the performance of their duties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2476 (November 2004), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:499 (March 2010).

§6310. Recency Requirement

A. The purpose of this rule is to ensure that pilots retain their skills in ship handling and maintain familiarity on the NOBRA route.

B. All pilots shall complete at least 18 turns every six months.

1. Members of the board of directors shall be considered recent by completing six turns or six observer trips every six months.

2. A turn shall be considered a vessel transit of at least 20 miles.

3. Work performed at the VTC shall not be considered as a turn for the purpose of recency. However, a pilot is required to be recent in order to stand watch at the VTC, unless specifically waived by the board for a temporary condition not effecting performance of duty.

4. It is the duty of any pilot who fails to maintain recency to remove themselves from rotation and immediately notify the board.

C. Failure of a pilot to remove themselves from rotation and notify the board shall be deemed a violation of these rules and shall result in an investigation.

D. Before a non-recent pilot is eligible to resume pilotage duty, the pilot shall be required to successfully complete, to the exclusive and unilateral satisfaction of the board, a specially designed program to re-orient said pilot to Mississippi River pilotage.

1. Before a non-recent pilot is eligible to resume pilotage duty, the board reserves the right to require the pilot to satisfactorily pass a current United States Coast Guard approved Merchant Mariner Physical Examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2476 (November 2004), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:499 (March 2010).

§6311. Continuing Professional Education

A.1. Every pilot seeking to maintain a pilot's commission must successfully complete the following required courses every five years:

a. A Bridge Resource Management (B.R.M.P.) course or seminar for pilots;

b. An Emergency Ship Handling course or seminar for pilots;

c. A marine technical course or seminar, which includes vessel traffic service training;

d. A course or seminar in marine electronic navigation for pilots;

e. A course or seminar on applicable United States Coast Guard navigation regulations (Rules of the Road); and

f. A course or seminar on marine incident management for pilots.

2. Every pilot must annually and successfully complete 24 hours of professional development courses approved by the board. The board may, from time to time, adjust these requirements in order to maintain the highest level of professional competency and pilot safety.

B. All professional education classes and programs shall be approved by the board. The board will maintain a non-exclusive list of approved professional education classes and programs, which may be periodically updated.

C. It is the responsibility of the pilot to attend the necessary professional education classes and to present the board with proof of satisfactory completion.

D. Any pilot who fails to successfully complete the required professional education classes or programs will be removed from duty until the pilot complies with the requirements of this section.

E. The board may, for good cause shown, grant a waiver or extend the time for a pilot to complete the continuing professional education requirement, upon timely application, in writing, by the pilot.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge

Steamship Pilots, LR 30:2477 (November 2004), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:499 (March 2010).

§6312. Mandatory Rest Period

A. For the purpose of this rule, a turn is the time period from dispatch to the termination of the allotted travel time.

B. All pilots shall have a minimum of eight hours rest period between turns.

C. For the purpose of this rule, the rest period begins at the termination of the allotted travel time at the completion of one turn and ends at the time of dispatching for the next turn.

D. Notwithstanding Subsection B, the captain of the station and shift pilots shall be exempt from the minimum 8 hours rest period in between turns. However, in no case shall the captain of the station and shift pilots exceed 12 bridge hours in any 24 hour period.

E. Notwithstanding Subsection B, any pilot completing a turn lasting less than 4 bridge hours or receiving a discharge, shall not be required to comply with the mandatory 8 hours rest period. However, in no case shall any pilot acquire more than 12 hours in a 24 hour period. Pilots requesting eight hours rest period shall not be called or dispatched in less than 8 hours from the completion of their finishing time.

F. Notwithstanding Subsection B, during a state of declared emergency all pilots shall be exempt from the minimum 8 hours rest period in between turns. However, in no case shall any pilot exceed 12 bridge hours in any 24 hour period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2476 (November 2004), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:500 (March 2010).

Chapter 64. Investigations and Enforcement

§6401. Purpose/Statement of Policy

A. Due to the safety sensitive nature of the duties performed by state commissioned pilots, this board has a strong commitment to the public and maritime industry. In accordance with state law, and in order to further enhance the safety and well being of the citizens of Louisiana, as well as to prevent any imminent peril to public health, safety, and welfare, and to achieve and maintain reliable, safe and efficient pilotage services, the board will maintain and enforce a strict policy of conducting full and complete investigations, and possible subsequent referrals to the office of the governor, of any and all violations of board rules and state and/or federal law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2476 (November 2004), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:500 (March 2010).

§6402. Authority

A. As mandated by R.S. 34:1041, these rules and regulations are issued by the board in accordance with the Administrative Procedure Act under R.S. 49:950 et seq., for

the purpose of adopting rules, regulations and requirements for oversight of pilots, apprentices, candidates or any association of pilots comprised thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2477 (November 2004), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:500 (March 2010).

§6403. Severability

A. It is understood that any provision and/or requirement herein that is deemed invalid or unenforceable, for any reason whatsoever, may be severed from the whole and that the remaining provisions and/or requirements shall be deemed valid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2477 (November 2004), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:500 (March 2010).

§6404. Duty to Report

A. In any case, where a vessel under pilotage shall go aground, or shall collide or allide with any other object, or shall meet with any incident, or be injured or damaged in any way, the pilot shall report the matter as follows:

1. report the incident to the nearest United States Coast Guard Marine Safety Unit by way of the most expeditious means available;

2. report the incident by way of the most expeditious means available to NOBRA and report for mandatory post incident drug and alcohol testing;

a. notify the board of the incident by way of the most expeditious means available;

3. be available for interview by the board and furnish complete details of the incident; and

4. submit a written report to the board as soon as practical, but no later than thirty days following the incident.

B. Any pilot who neglects or refuses to submit a written report to the board as required by these rules may be reported to the governor for possible disciplinary action.

C. Any pilot requested or summoned to testify before the board shall appear in accordance with said request or summons and answer any questions related to or in any way connected with the pilot's service. The pilot has the right to legal counsel at this meeting.

D. Upon receipt of any incident by a pilot the board shall conduct an investigation, as per these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2477 (November 2004), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:500 (March 2010).

§6405. Removal from Duty

A. When any examiner has reason to believe that the conduct or actions of a pilot is creating a dangerous or unsafe condition, the examiner may immediately relieve that pilot from duty, without the necessity of formal notice and

hearing, in order to protect the interests of the State of Louisiana. However, at the earliest possible time, the board shall conduct an investigation of the pilot's conduct, as per these rules, and conduct any necessary hearings in order to protect the due process and equal protection requirements afforded the pilot by the Louisiana and United States Constitutions.

B. When any examiner has reason to believe that a pilot is or may be under the influence of alcohol, drugs or any other stimulant or depressant or is suffering from a medical condition that may affect the pilot's ability to perform their duties, the examiner shall immediately relieve that pilot from pilotage duty, without the necessity of formal notice and hearing, in order to protect the interests of the State of Louisiana. However, at the earliest possible time, the board shall conduct an investigation of the pilot's conduct or condition, as per these rules, and conduct any necessary hearings in order to protect the due process and equal protection requirements afforded the pilot by the Louisiana and United States Constitutions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2477 (November 2004), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:500 (March 2010).

§6406. Investigations and Enforcement

A. All incidents and complaints reported to the board shall be referred for investigation.

B. The board shall appoint an investigating officer to conduct a preliminary investigation of the incident and/or complaint and report their findings to the board.

C. Following the preliminary investigation, the board shall determine whether the incident and/or complaint is sufficient to justify further proceedings or may dismiss the matter.

D. If after the preliminary investigation, the board is of the opinion that the incident and/or complaint is sufficient to justify a full investigation, the board shall, if so required by law, notify the office of the governor and request authority from the governor to conduct a full investigation and/or administrative hearing regarding the incident and/or complaint. Following receipt of authority from the governor, if so required by law, the board shall authorize its investigating officer to conduct a full investigation of the incident and/or complaint.

E. Following the full investigation, the investigating officer shall make a report to the board, who, in its exclusive discretion, shall determine whether the incident and/or complaint is sufficient to justify further proceedings or may dismiss the incident and/or complaint.

F. Following the full investigation, if the board is of the opinion that an administrative hearing is required, the board shall give notice to the pilot. Said notice shall be issued pursuant to R.S. 49:955(B) and shall include:

1. a statement of the time, place, and nature of the hearing;
2. a statement of the legal authority and jurisdiction under which the hearing is being held;
3. a reference to the particular sections of the statutes and rules involved; and

4. a short and plain statement of the matters asserted.

G. The board may make informal disposition of any investigation or adjudication/hearing by means of stipulation, agreed settlement, consent order or default. If required by law, approval of such informal disposition must be sought from the Office of the Governor before the informal disposition may be deemed final.

H. Any pilot may be represented in any adjudication/hearing before the board by an attorney at law duly admitted to practice in the State of Louisiana. Following receipt of proper notice of such representation, all further notices, subpoenas or other processes related to the proceedings shall be served on the pilot through designated counsel of record.

I. Any pre-hearing motion shall be referred for decision to the board, who in its discretion, may rule on the motion prior to the hearing date or may defer the matter until the hearing date.

J. All investigations and hearings undertaken as authorized herein above, shall be conducted pursuant to the Administrative Procedure Act, R.S. 49:950 et seq. If any specific provision of this section in any way conflicts with the more general rule of the Administrative Procedure Act, the more specific rule of this section shall govern.

K. Upon request of any party and upon compliance with the requirements of this Section, any board member shall sign and issue subpoenas in the name of the board requiring the attendance and giving of testimony by witnesses and the production of books, papers, and other documentary evidence at an adjudication hearing.

L. No subpoena shall be issued unless and until the party who wishes to subpoena the witness first deposits with the board 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. Witnesses subpoenaed to testify before the board only to an opinion founded on special study or experience in any branch of science, or to make scientific or professional examination, and to state the results thereof, shall receive such additional compensation from the party who wishes to subpoena such witnesses as may be fixed by the board with reference to the value of time employed and the degree of learning or skill required.

M. Unless otherwise requested by the respondent/pilot, adjudication hearings, shall be conducted in open session, unless the respondent/pilot expressly requests that the matter be conducted in executive session, all as per law.

N. At the hearing, opportunity shall be afforded to all parties to present evidence on all issues of fact and argument on all issues of law and policy involved, to call, examine and cross-examine witnesses, and to offer and introduce documentary evidence and exhibits as may be required for full and true disclosure of the facts and disposition of the administrative notice.

O. Unless stipulation is made between the parties, and approved by the board, providing for other means of recordation, all testimony and other proceedings of an adjudication shall be recorded by a certified stenographer who shall be retained by the board to prepare a written transcript of such proceedings. Witness fees (expert or otherwise) and related hearing costs caused by the respondent/pilot shall be their responsibility; in no way

whatsoever shall the board be liable for nor responsible for costs or fees incurred by the respondent/pilot.

P. During evidentiary hearing, the board shall rule upon all evidentiary objections and other procedural questions, but may consult in or out of executive session, all as per law. At any such hearing, the board may be assisted by legal counsel, who is independent of the prosecutor and who has not participated in the investigation or prosecution of the case.

Q. The record in a case of adjudication shall include, but is not limited to:

1. the administrative notice, notice of hearing, respondent's response to the complaint, if any, subpoenas issued in connection with discovery, and all pleadings, motions, and intermediate rulings;
2. evidence received or considered at the hearing;
3. a statement of matters officially noticed except those so obvious that statement of them would serve no useful purpose;
4. offers of proof, objections, and rulings thereon;
5. proposed findings and exceptions, if any;
6. the decision, opinion, report or other disposition of the case made by the board;
7. findings of fact; and
8. conclusions of law.

R.1 In an adjudication hearing, the board may give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent men in the conduct of their affairs. Effect shall be given to the rules of privilege recognized by law. The board may exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written or recorded form.

2. All evidence, including records and documents in the possession of the board which the parties desire the board to consider, shall be offered and made a part of the record, and all such documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference.

3. Notice may be taken of judicially cognizable facts and generally recognized technical or scientific facts within the board's knowledge. The board's experience, technical competence and knowledge may be utilized in the evaluation of the evidence.

4. Any member of the board serving as presiding officer in an adjudication hearing shall have the power to and shall administer oaths or affirmations to all witnesses appearing to give testimony, shall regulate the course of the hearing, set the time and place of continued hearings, fix the time for the filing of briefs and other documents, if they are required or requested, and may direct the parties to appear and confer to consider simplification of the issues.

S.1. The final decision of the board in an adjudication proceeding shall be in writing and shall include findings of fact and conclusions of law, and shall be signed by the presiding officer of the hearing panel on behalf and in the name of the board.

2. Upon issuance of a final decision, a copy thereof shall promptly be served upon all parties of record, or upon

respondent personally in the absence of counsel, in the same manner of service prescribed with respect to service of administrative notices.

T.1. A decision by the board in a case of adjudication shall be subject to rehearing, reopening, or reconsideration by the board pursuant to written motion filed with the board within 10 days from service of the decision on respondent or on its own motion. A motion for rehearing, reopening, or reconsideration shall be made and served in the form and manner prescribed herein above and shall set forth the grounds upon which such motion is based, as provided herein.

2. The board may grant rehearing, reopening, or reconsideration if it is shown that:

- a. The decision is clearly contrary to the law and the evidence;
- b. The respondent has discovered since the hearing evidence important to the issues which he or she could not have with due diligence obtained before or during the hearing;
- c. Other issues not previously considered ought to be examined in order to properly dispose of the matter; or
- d. There exists other good grounds for further consideration of the issues and the evidence in the public interest.

U. As per law, the board shall have the specific authority to recommend probation, to impose a fine, to recommend reprimand or removal from duty, or to recommend to the governor that the commission of any pilot be suspended or revoked.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2478 (November 2004), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:501 (March 2010).

§6407. Recusal

A. No member of the board shall participate in the investigation of or vote on any matter to which he/she is a party to or in which he/she has a conflict of interest. In such cases, he/she shall automatically be recused from participating in or voting on such matters.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2479 (November 2004), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:502 (March 2010).

Chapter 65. Drug and Alcohol Policy

§6501. Purpose/Statement of Policy

A. Due to the safety sensitive nature of the duties performed by pilots, the board will maintain and enforce a strict policy of zero tolerance for the use of prohibited drugs and the misuse of alcohol. Prohibited drugs shall not be used, possessed, nor distributed by any pilot, at any time, whether on duty or off duty.

B. To this end, all state commissioned NOBRA pilots shall be subject to drug and alcohol testing as per U.S. DOT rules (49 CFR Part 40) and United States Coast Guard regulations (46 CFR Parts 4, 5 and 16). This testing is

federally mandated and all rules for specimen collection, handling, testing, confirmation, reporting and medical review shall be adhered to at all times. Additionally, in order to maintain its policy of zero tolerance, the board hereby establishes an enhanced drug screening program, over and above the federal rules. All pilots, apprentices and applicants shall be subject to this enhanced drug screening program, in addition to any testing required under the federal rules. As outlined below, this enhanced drug screening program shall consist of screening in the following situations: pre-qualification, random, post accident, reasonable suspicion, return to duty and follow-up.

C. Any violation of this drug and alcohol policy shall be reported to the United States Coast Guard and shall subject the pilot to disciplinary action by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 28:1794 (August 2002), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:502 (March 2010).

§6502. Definitions

A. As used in this Chapter:

Administrative Procedure Act (APA)—the Louisiana Administrative Procedure Act under R.S. 49:950 et seq.

Alcoholic Beverage—any fluid, or solid capable of being converted into fluid, suitable for human consumption, which contains ethanol; any substance that may otherwise impair or affect the ability of a pilot to function in any way whatsoever.

Applicant—any person who submits the written application for admission into the Pilot Development Program.

Application—the form supplied by the board to any individual seeking selection into the Pilot Development Program.

Apprentice—any person duly selected but not yet commissioned, to serve in the Pilot Development Program.

Board of Examiners—Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, as established by R.S. 34:1041 et seq.

NOBRA Pilot or *Pilot*—a commissioned Mississippi River pilot for the territory established in R.S. 34:1041 et seq.

Drug—any and all controlled dangerous substances as defined in R.S. 40:961(7). Drugs which are illegal under federal, state, or local laws include but are not limited to, marijuana, heroin, hashish, cocaine, hallucinogens, and depressants and stimulants not prescribed for current personal treatment by an accredited or licensed physician.

Prescription Medication—any medication distributed by or with the authorization of a licensed physician, as defined in R.S. 40:961(33).

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots LR 28:1794 (August 2002), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:503 (March 2010).

§6503. Circumstances for Drug Testing

A. Regular and random, unannounced urine and hair drug screening shall be done at a frequency designed to assure the state, shipping clients and the general public that the board is dedicated in its enforcement of a zero tolerance policy towards prohibited drugs and the abuse of prescription drugs.

B. Additionally, the board reserves the right to require a drug screen whenever the board has reasonable suspicion a pilot is under the influence of a drug. Such screen may be done by any means chosen by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 28:1795 (August 2002), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:503 (March 2010).

§6504. Urine Testing

A. Any pilot involved in an accident or incident while performing his duties as a pilot shall be subject to a urine drug screen test, as required by these rules, U.S. DOT rules and United States Coast Guard regulations. This urine drug screen shall consist of an expanded screening panel designed to detect various illegal drugs, and commonly abused prescription drugs, which are not detected by standard U.S. DOT screens. The expanded panel shall be determined from time to time at the discretion of the board. The results of all drug screens taken pursuant to this paragraph shall become part of the pilot's permanent personnel file.

B. In addition to these required drug screens, all pilots shall be subject to random urine screening by means of the expanded screening panel. This random urine screen will be at a rate of a minimum of six pilots per month. The board shall design a protocol for the random selection of the pilots to be tested. Failure to timely appear for testing or refusing to provide proper or adequate samples will subject the pilot to disciplinary action by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 28:1795 (August 2002), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:503 (March 2010).

§6505. Hair Testing

A. Every NOBRA pilot shall submit to a hair drug screen on a bi-annual basis. The timing of the bi-annual hair drug screens for each pilot shall be randomly selected as per a protocol designed by the board. Each pilot shall appear for their hair drug screen when notified to do so by the board. This hair screen is designed to detect various illegal drugs, and commonly abused prescription drugs, which may have been used by a pilot. Failure to timely appear for testing or refusing to provide proper or adequate samples will subject the pilot to disciplinary action by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 28:1795 (August 2002), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:503 (March 2010).

§6506. Split Sample/Safety Net Testing

A. Whenever there is a positive test result, that pilot shall be entitled to split sample/referee sample testing or safety net testing through the board's designated testing facilities.

B. The board shall designate, an authorized testing facility or laboratory.

C. The designated testing facility or laboratory shall ensure and be responsible that all specimen collection and related procedures are properly followed and maintained.

D. The designated testing facility or laboratory shall be responsible for the safeguarding of all specimen collection facilities, equipment and samples collected.

E. Samples shall be taken, witnessed and handled in accordance with all applicable federal guidelines.

F. The designated testing facility or laboratory shall assist in ensuring that the sample will be correctly and properly transferred for testing purposes.

G. The following procedure is hereby established for the testing of a split or referee urine, blood or hair sample.

1. Upon the timely request of a pilot, a urine or blood specimen may be split or divided into approximately equal parts; one being processed for initial laboratory testing for detection of the presence of prohibited drugs or substances therein; the remaining or second part shall be identified as the split or referee sample to be processed for future testing under the following procedures. Failure to timely request the taking of a split or referee sample shall be deemed, classified and designated as a waiver of any and all rights to have a split or referee sample.

2. As to hair, upon notice that a test result has been returned or reported as positive, the pilot shall have twenty-four hours to notify the testing facility that the pilot requests that the referee sample be properly taken and tested. Failure of the pilot to timely notify the testing facility that the referee sample is to be tested shall be deemed classified and designated as a waiver and forfeiture of having the referee sample tested.

3. The split or referee sample may, at the election of the pilot, be tested by an alternate testing facility or laboratory, as pre-approved by the board.

H. All test reports shall be submitted to this board in writing.

I. Reports to this board shall present documentary or demonstrative evidence acceptable in the scientific community and be admissible in court in support of a professional opinion as to the positive findings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 28:1795 (August 2002), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:504 (March 2010).

§6507. Effect of Positive Drug Screen/Disciplinary Action

A. Any pilot with a prohibited drug detected in his system will have an opportunity to explain any medical condition which may have had an effect on the test result. However, passive inhalation or atmospheric contamination are not acceptable explanations for confirmed positive drug tests.

B. Any positive drug screen shall be reported to the United States Coast Guard and will place the pilot's state commission in jeopardy. Any pilot testing positive for a prohibited drug, or residual thereof, shall be removed from duty, pursuant to the board's rules, pending a hearing pursuant to R.S. 34:1042. Any pilot who presents a positive drug screen shall be subject to disciplinary action by the board, including the recommendation of revocation or suspension of his commission by the governor, reprimand or treatment/rehabilitation. The proper disciplinary action shall be determined by the board on a case by case basis. Any pilot who is required to undergo evaluation and/or treatment for drug use shall do so at their personal expense. In addition, the evaluation and treatment facility must be pre-approved by the board.

C. Refusing a drug screen, or any attempts at alteration or substitution of samples is considered a violation of the federal rules, as well as this policy. Any pilot who refuses to submit to a drug screen, fails to cooperate fully with the testing procedures, or in any way tries to alter the test results, shall be removed from duty as a pilot pursuant to the board's rules, pending a hearing pursuant to R.S. 34:1042. Furthermore, avoiding the directions of the board after an incident which mandatorily requires a drug/alcohol screen will be considered a refusal to test and will subject the offending pilot to disciplinary action by the board.

D. In addition, if the master of a vessel refuses a pilot's services due to the alleged impairment of the pilot, the pilot shall immediately contact a member of the board to receive instructions regarding testing. The pilot shall then immediately proceed to a testing facility selected and pre-designated by the board. Furthermore, avoiding the directions of the board after an incident which mandatorily requires a drug/alcohol screen will be considered a refusal to test and will subject the offending pilot to disciplinary action by the board.

AUTHORITY NOTE: Promulgated in accordance with RS. 34:1041.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 28:1796 (August 2002), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:504 (March 2010).

§6508. Prescription Drug Use

A. Every pilot has a duty to ascertain whether a prescription medication, legally prescribed, will impair their ability to safely perform their piloting duties. If, after consultation with their treating physician, a pilot reasonably believes or has been informed or advised that a prescription medication may cause impairment, the pilot shall inform the board and remove themselves from duty until such time that their treating physician, in consultation with a physician specializing in occupational medicine, to be named by the board, certifies that they may return to duty or changes the medication to one which will not impair the pilot.

B. If a drug screen indicates the presence of a prescription drug which may impair a pilot's ability to perform their piloting duties, and the pilot has not voluntarily taken leave, the pilot shall be removed from duty until such time the board, in consultation with a physician specializing in occupational medicine to be named by the board, can determine that the pilot is fit for duty.

AUTHORITY NOTE: Promulgated in accordance with RS. 34:1041.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 28:1796 (August 2002), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:504 (March 2010).

§6509. Alcohol Use

A. No pilot shall consume any alcohol within six hours before, or during, the performance of their piloting duties. Alcohol testing shall be conducted following any incident involving a pilot in the performance of their duties. The board and/or the Board of Directors of NOBRA may also require a pilot to submit to alcohol testing upon reasonable suspicion that a pilot is performing his duties while under the influence of alcohol. Duty, in this case, shall be defined as the time the pilot is dispatched for pilotage services. Testing positive for alcohol while on duty is directly reportable to the board and is not subject to review by a Medical Review Officer. Any pilot who requires medicines, such as cough and cold medications, which may have a small amount of alcohol, should ask their physician or pharmacist to recommend a non-alcoholic medication. While the United States Coast Guard prohibits alcohol use above the level of 0.04 percent BAC, the board reserves the right to take disciplinary action on lower alcohol levels, depending on the facts and circumstances of each particular case.

B. Any positive alcohol test shall be reported to the United States Coast Guard and shall place the pilot's state commission in jeopardy. Any pilot testing positive for alcohol shall be removed from duty pending a hearing. Any pilot with a positive alcohol test shall be subject to disciplinary action. The proper disciplinary action shall be determined on a case by case basis. In addition, the board may require the pilot to undergo evaluation and treatment at a facility pre-approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 28:1796 (August 2002), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:505 (March 2010).

§6510. Confidentiality

A. The results of all positive drug screens and alcohol tests shall be confidential and shall not be disclosed to any entity or person other than:

1. The Governor of Louisiana;
2. The board of Louisiana River Pilot Review and Oversight;
3. The United States Coast Guard; and
4. In the event that the board determines that a hearing is required pursuant to R.S. 34:1042, there shall be no requirement of confidentiality in conducting the hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 28:1797 (August 2002), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:505 (March 2010).

§6511. Severability

A. It is understood that any provision and/or requirement herein that is deemed invalid and unenforceable, for any

reason whatsoever, may be severed from the whole and that the remaining provisions and/or requirements shall be deemed valid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 28:1797 (August 2002), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:505 (March 2010).

§6512. Applicable Procedures

A. Any investigation, action or disciplinary proceeding undertaken in conjunction with this policy shall be conducted in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 28:1797 (August 2002), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:505 (March 2010).

Chapter 66. Standards of Conduct

§6601. Purpose/Statement of Policy

Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2475 (November 2004), repealed by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:505 (March 2010).

§6603. Application

Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2475 (November 2004), repealed by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:505 (March 2010).

§6607. Authority

Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2475 (November 2004), repealed by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:505 (March 2010).

§6609. Definitions

Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2475 (November 2004), repealed by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:505 (March 2010).

§6611. Severability

Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2475 (November 2004), repealed by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:505 (March 2010).

§6615. Violations of the Policy

Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2476 (November 2004), repealed by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:506 (March 2010).

§6617. Standards of Conduct for Proper and Safe Pilotage

Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2476 (November 2004), repealed by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:506 (March 2010).

§6623. Absolute Insurer

Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2476 (November 2004), repealed by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:506 (March 2010).

§6625. Adoption of Navigational Rules

Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2476 (November 2004), repealed by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:506 (March 2010).

§6627. Duty of a Pilot

Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2476 (November 2004), repealed by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:506 (March 2010).

§6629. Pilot's Duty to Remain on Duty at the Vessel Traffic Center (VTC)

Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2476 (November 2004), repealed by the Office of the Governor, Board of Examiners for New Orleans and

Baton Rouge Steamship Pilots for the Mississippi River, LR 36:506 (March 2010).

§6647. Recency Requirement

Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2476 (November 2004), repealed by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:506 (March 2010).

§6649. Re-Orientation Period

Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2476 (November 2004), repealed by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:506 (March 2010).

§6651. Continuing Professional Education

Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2477 (November 2004), repealed by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:506 (March 2010).

§6653. Mandatory Rest Period

Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 31:56 (January 2005), repealed by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:506 (March 2010).

Chapter 67. Investigations and Enforcement

§6701. Purpose/Statement of Policy

Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2477 (November 2004), repealed by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:506 (March 2010).

§6703. Authority

Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2477 (November 2004), repealed by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:506 (March 2010).

§6705. Severability

Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2477 (November 2004), repealed by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:506 (March 2010).

§6707. Duty to Report

Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2477 (November 2004), repealed by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:507 (March 2010).

§6709. Removal from Duty

Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2477 (November 2004), repealed by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:507 (March 2010).

§6711. Investigations and Enforcement

Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2478 (November 2004), repealed by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:507 (March 2010).

§6713. Recusal

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2479 (November 2004), repealed by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:507 (March 2010).

Captain Christopher R. Brown
President

1003#011

RULE

**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, adopts 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 36:507 (March 2010).

§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 36:508 (March 2010).

§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 36:508 (March 2010).

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 36:509 (March 2010).

§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 36:509 (March 2010).

§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 36:509 (March 2010).

§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 36:509 (March 2010).

§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 36:510 (March 2010).

§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 36:510 (March 2010).

§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 36:510 (March 2010).

§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 36:511 (March 2010).

§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 36:511 (March 2010).

Denise Lea
Assistant Commissioner
and
Sandra Gillen
Director
Office of Contractual Review

1003#0012

RULE

**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 has amended 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.

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 36:512 (March 2010).

Alan Levine
Secretary

1003#096

RULE

**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 has adopted 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 Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XIII. Home Health Program

Subpart 3. Medical Equipment, Supplies and Appliances

Chapter 85. Provider Participation

§8501. Accreditation Requirements

A. Effective for dates of service on or after 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 36:512 (March 2010).

§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 36:512 (March 2010).

Alan Levine
Secretary

1003#097

RULE

**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 has amended LAC 48:I.9303 and adopted 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.

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 36:513 (March 2010).

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 36:513 (March 2010).

§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 36:513 (March 2010).

§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 36:513 (March 2010).

§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 36:514 (March 2010).

§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 36:514 (March 2010).

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 1 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 36:514 (March 2010).

§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 36:515 (March 2010).

§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 36:516 (March 2010).

§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 36:516 (March 2010).

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 36:517 (March 2010).

§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 36:518 (March 2010).

§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 36:518 (March 2010).

§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 36:518 (March 2010).

Alan Levine
Secretary

1003#098

RULE

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 has adopted 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 Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 1. Inpatient Hospital Services

Chapter 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 36:519 (March 2010).

Alan Levine
Secretary

1003#099

RULE

Department of Health and Hospitals Bureau of Health Services Financing

Nursing Facilities Per Diem Rate Reduction (LAC 50:VII.1305 and 1309)

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 50:VII.1305 and 1309 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part VII. Long Term Care Services

Subpart 1. Nursing Facilities

Chapter 13. Reimbursement

§1305. Rate Determination

A. – D.4.b. ...

5. Adjustment to the Rate. Adjustments to the Medicaid daily rate may be made when changes occur that will eventually be recognized in updated cost report data (such as a change in the minimum wage, a change in FICA or a utility rate change). These adjustments would be effective until the next rebasing of cost report data or until such time as the cost reports fully reflect the change.

6. Budget Shortfall. In the event the department is required to implement reductions in the nursing facility program as a result of a budget shortfall, a budget reduction category shall be created. Without changing the parameters established in these provisions, this category shall reduce the statewide average Medicaid rate by reducing the reimbursement rate paid to each nursing facility using an equal amount per patient day.

a. Effective for dates of service on or after July 1, 2010, the per diem rate paid to non-state nursing facilities shall be reduced by an amount equal to 10.52 percent of the rate in effect on June 30, 2010 until such time that the rate is rebased.

E. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1791 (August 2002), amended LR 31:1596 (July 2005), LR 32:2263 (December 2006), LR 33:2203 (October 2007), amended by the Department of Health and

Hospitals, Bureau of Health Services Financing, LR 36:520 (March 2010).

§1309. Non-State, Government Owned or Operated Facilities and State-Owned or Operated Facilities

A. Non-state, government-owned or operated nursing facilities will be paid a case-mix reimbursement rate in accordance with §1305.

1. Repealed.

B. State-owned or operated nursing facilities will be paid a prospective per diem rate. The per diem payment rate for each of these facilities will be calculated annually on July 1, using the nursing facility's allowable cost from the most recently filed Medicaid cost report trended forward from the midpoint of the cost report year to the midpoint of the rate year using the index factor.

1. – 2. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1793 (August 2002), amended LR 30:53 (January 2004), LR 31:1596 (July 2005), LR 32:2265 (December 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:520 (March 2010).

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

1003#100

RULE

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 has amended 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 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 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 LR 36:520 (March 2010).

Alan Levine
Secretary

1003#101

RULE

Department of Health and Hospitals Bureau of Health Services Financing

Prosthetics and Orthotics—Reimbursement Rate Reduction (LAC 50:XVII.501)

Editor's Note: Section 501 is being repromulgated to correct a formatting error. This Rule was originally promulgated in the September 20, 2009 *Louisiana Register*.

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 50:XVII.501 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 XVII. Prosthetics and Orthotics

Subpart 1. General Provisions

Chapter 5. Reimbursement

§501. Reimbursement Methodology

A. - C. ...

D. Effective for dates of service on or after March 7, 2009, the reimbursement for prosthetic and orthotic devices shall be reduced by 3.5 percent of the fee amounts on file as of March 6, 2009.

1. The rate reduction shall not apply to items that do not appear on the fee schedule and are individually priced.

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 31:1597 (July 2005), amended LR 34:881 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1903 (September 2009), repromulgated LR 36:521 (March 2010).

Alan Levine
Secretary

1003#102

RULE

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, has adopted LAC 48:I.Chapter 129, Opioid Treatment Programs: Need and Application Reviews as authorized by R.S. 40:1058.3(C)(2). This Rule has been 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 has adopted 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 insures 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.

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 Application Review—a review of applications to select an OTP to be licensed once a need has been determined.

Opioid Treatment Program Need Review—a review to determine whether there is a need for new or additional OTPs in a certain geographic location.

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 36:521 (March 2010).

§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 36:522 (March 2010).

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).

C. 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 36:523 (March 2010).

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 36:523 (March 2010).

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.

C. The issuance of the approval shall be suspended if an applicant files an appeal. The suspension is effective only during the administrative appeal process.

D. 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.

E. 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 36:524 (March 2010).

§12911. Licensure 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 36:525 (March 2010).

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 36:525 (March 2010).

Alan Levine
Secretary

1003#027

RULE

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 repeals 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 36:525 (March 2010).

James M. Le Blanc
Secretary

1003#061

RULE

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 amends 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. 15:567.1(C). 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.

RULE

**Department of Public Safety and Corrections
Corrections Services**

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

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950), the Department of Public Safety and Corrections, Corrections Services, hereby amends the contents of Section 107 Louisiana Risk Review Panels.

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,

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 36:526 (March 2010).

James M. Le Blanc
Secretary

1003#062

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;

1. 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 32:1069 (June 2006), repromulgated LR 32:1247 (July 2006), amended LR 36:528 (March 2010).

James M. Le Blanc
Secretary

1003#057

RULE

**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 amends 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 3 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 36:531 (March 2010).

James M. Le Blanc
Secretary

1003#058

RULE

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 adopts 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 DPSC 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 36:533 (March 2010).

James M. Le Blanc
Secretary

1003#060

RULE

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 amends 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 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

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
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 36:534 (March 2010).

James M. Le Blanc
Secretary

1003#059

RULE

**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. 32:402.3(D), hereby promulgates 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.

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

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 36:536 (March 2010).

§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 36:537 (March 2010).

§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 36:537 (March 2010).

§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.

Certification—motorcycle safety instructor certification.

Course—a DPSC approved motorcycle operator training course.

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 (DPSC).

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:I.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.

Trainer Motorcycle—any motorcycle used in a motorcycle operator-training course.

Training Site—any department-approved location where course classroom and/or driving range sessions are conducted for the purpose of motorcycle operator training.

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 36:537 (March 2010).

§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 36:538 (March 2010).

§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 36:538 (March 2010).

§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 36:539 (March 2010).

§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 36:539 (March 2010).

§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 36:539 (March 2010).

§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 36:540 (March 2010).

§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 \$125 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 36:540 (March 2010).

§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.

I. 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 36:541 (March 2010).

§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 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 36:542 (March 2010).

§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 36:543 (March 2010).

§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 36:543 (March 2010).

§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 36:544 (March 2010).

§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 36:544 (March 2010).

§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 36:545 (March 2010).

§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 36:545 (March 2010).

Jill P. Boudreaux
Undersecretary

1003#034

RULE

**Department of Public Safety and Corrections
Office of State Police**

Preparedness and Response Act
(LAC 33:V.10105, 10117, and 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., hereby amends 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 36:545 (March 2010).

§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 36:545 (March 2010).

§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), LR 36:546 (March 2010).

Jill P. Boudreaux
Undersecretary

1003#033

RULE

**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., hereby promulgates 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 and 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 10,001 pounds as rated by the manufacturer. Tow trucks manufactured prior to 2007 shall have a GVA rating of not less than 10,000 pounds;

(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). minimum of 72 inches from rear of cab to the center of the rear axle;

(b). four-speed manual or automatic transmission;

(c). 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;

(d). a separate parking brake system maintained in good working order;

(e). 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). minimum of 102 inches from rear of passenger cab to the center of the rear axle or bogie on tandem trucks;

(b). dual mounted wheels and tires on single or tandem axles;

(c). 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;

(d). 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 mover:s

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 36:546 (March 2010).

Jill Boudreaux
Undersecretary

1003#031

RULE

**Department of Public Safety and Corrections
Office of State Police
Transportation and Environmental Safety Section**

Explosives Code (LAC 55:I.Chapter 15)

The Department of Public Safety and Corrections, Office of State Police, in accordance with R.S. 49:950 et seq. and 40:1472.1 et seq., hereby amends its rules regulating explosives to provide for needed definition changes, to remove the requirement for fingerprint cards unless requested, to provide for license numbers to be die stenciled on magazines, to reduce the number of hours of refresher training for handlers, and to specify requirements for explosives course instructors.

Title 55

PUBLIC SAFETY

Part I. State Police

Chapter 15. Explosives Code

Subchapter A. General

§1501. Scope of Rules and Regulations

A. ...

B. These rules and regulations shall not apply to the transportation of explosives or blasting agents when under the jurisdiction of and in compliance with the regulations of the U.S. Department of Transportation, and the regulations of the United States Coast Guard.

C. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1472.1 et seq.

HISTORICAL NOTE: Filed by the Department of Public Safety, Office of State Police, at the Office of the State Register, 1974, promulgated and amended LR 10:803 (October 1984), amended by the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, Explosive Control Unit, LR 22:1230 (December 1996), amended by the Department of Public Safety and Corrections, Office of State Police, LR 26:90 (January 2000), LR 36:550 (March 2010).

§1503. Definitions

* * *

Blaster—any person employed by a primary licensee who detonates or otherwise effects the explosion of an explosive by loading, arming or firing an explosive or who is in immediate personal charge and supervision of one or more other persons engaged in such activity.

* * *

Handler—a person who touches, moves, or otherwise handles explosives but does not detonate or otherwise effect the explosion of explosives by loading, arming or firing the explosive. The license issued to a handler shall not be used by a blaster or user who uses explosives as an ultimate consumer. However, an individual with a blaster’s license may engage in the activities of a handler without a handler’s license.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1472.1 et seq.

HISTORICAL NOTE: Filed by the Department of Public Safety, Office of State Police, at the Office of the State Register, 1974, promulgated and amended LR 10:803 (October 1984), amended by the Department of Public Safety and Corrections,

Office of State Police, Transportation and Environmental Safety Section, Explosive Control Unit, LR 22:1230 (December 1996), amended by the Department of Public Safety and Corrections, Office of State Police, LR 26:90 (January 2000), amended LR 34:2674 (December 2008), LR 36:550 (March 2010).

§1505. General Administrative Requirements

A. - C. ...

D. No person or business shall possess, keep, store, sell, or offer for sale, give away, use, transport, or dispose of , or otherwise handle in any manner any explosive or blasting agent except in conformity with the provisions of R.S. 40:1472.2 et seq. Nothing in this Subsection shall be so construed as to prevent hand-loaders of ammunition from giving small quantities of black powder or smokeless propellant to one another in quantities of one pound or less.

E.

F. Prior to the sale of any explosives, manufacturers and dealer-distributors are to possess a copy of the purchasing company’s current explosives license. Manufacturers and dealer/distributors shall be required to retain copies of sales of explosives for a period of not less than 24 months. These sale slips or invoices must be legible, correct and complete.

G. - I. ...

J. Each manufacturer, dealer-distributor, user, blaster, or handler shall possess a valid and subsisting license issued by the Office of the Deputy Secretary of Public Safety Services, in accordance with the provisions of R.S. 40:1472.1 through 40:1472.19. If requested by the deputy secretary, applicants for a license shall submit with their application two complete, legible, and classifiable FBI applicant fingerprint cards taken by a person employed by a law enforcement agency who is appropriately trained in recording fingerprints. Cost incurred by the department for processing, Louisiana State Police and Federal Bureau of Investigation fingerprint cards shall be borne by the applicant.

K. - K.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1472.1 et seq.

HISTORICAL NOTE: Filed by the Department of Public Safety, Office of State Police, at the Office of the State Register, 1974, promulgated and amended LR 10:803 (October 1984), amended by the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, Explosive Control Unit, LR 22:1230 (December 1996), amended by the Department of Public Safety and Corrections, Office of State Police, LR 34:2674 (December 2008), LR 35:491 (March 2009), LR 36:550 (March 2010).

§1509. General Storage Requirements

A. All explosives, including black powder in excess of 5 pounds, except when preempted by federal or state regulations, shall be kept in magazines which meet the requirements of these rules and regulations. Blasting agents shall be stored in accordance with the requirements set forth in §1515. Storage of explosives in underground mining operations is exempt from the rules and regulations set forth in this Section, but must comply with all applicable federal regulations set forth in 30 CFR Part 57. Underground mine storage will provide all adequate safety and security procedures necessary to ensure that unlicensed personnel will not have access to the explosives. Such security must be approved by the Deputy Secretary of Public Safety Services.

B. - N. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1472.1 et seq.

HISTORICAL NOTE: Filed by the Department of Public Safety, Office of State Police, at the Office of the State Register, 1974, promulgated and amended LR 10:803 (October 1984), amended by the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, Explosive Control Unit, LR 22:1230 (December 1996), amended by the Department of Public Safety and Corrections, Office of State Police, LR 26:91 (January 2000), LR 36:550 (March 2010).

§1511. Magazine Construction Requirements

A. - C. ...

1. The license number assigned by the Louisiana Department of Public Safety, Explosive Control Unit, for that specific magazine will be permanently inscribed, welded, or otherwise permanently affixed to one hood covering a lock on each indoor and outdoor magazine; does not apply to Type 3 magazines. The letters and numbers shall be at least 1/4" in height die stenciled, welded or engraved in a manner that is clear, legible and permanent.

D. - I.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1472.1 et seq.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Office of State Police, 1974, amended and promulgated LR 10:803 (October 1984), amended by the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, Explosive Control Unit, LR 22:1230 (December 1996), LR 24:105 (January 1998), amended by the Department of Public Safety and Corrections, Office of State Police, LR 26:91 (January 2000), LR 34:1037 (June 2008), LR 34:2675 (December 2008), LR 36:551 (March 2010).

§1521. General Transportation Requirements

A. - B. ...

C. No licensee or an agent thereof shall smoke, carry matches or any other flame producing device, or carry firearms or loaded cartridges while in a conveyance transporting explosives. Nothing in this Subsection shall be so construed as to prevent the presence of a duly authorized and legally constituted armed guard on such conveyances where security considerations dictate their necessity to possess or carry a firearm.

D. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1472.1 et seq.

HISTORICAL NOTE: Filed by the Department of Public Safety, Office of State Police, at the Office of the State Register, 1974, promulgated and amended LR 10:803 (October 1984), amended by the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, Explosive Control Unit, LR 22:1230 (December 1996), amended by the Department of Public Safety and Corrections, Office of State Police, LR 36:551 (March 2010).

§1541. Training

A. ...

1. All blaster, user, manufacturer and or dealer distributor licensees shall attend a minimum of 4 hours of annual refresher training utilizing any combination of classroom or hands on practice, in the use of explosives to include updates in §1541.D.6 and explosive safety procedures.

2. All explosive handler licensees shall attend a minimum of 4 hours of annual refresher training to include topics covered in §1541.E.2 and §1541.E.3.

B. - B.2. ...

C. Course instructors shall show documented proof of his or her knowledge, experience, and training in the field of explosives being taught as set forth in Subparagraph 1 below. Course instructors shall possess a current Louisiana Explosives' License in one of the following classes: blaster, user, manufacturer and or dealer distributor. In addition, instructors shall also be cleared by the Bureau of Alcohol, Tobacco, Firearms and Explosives as an Employee Possessor or Responsible Person for an ATF licensee or permittee. That license or permit is to relate to the field of instruction.

1. Instructor Qualifications. Qualification for instructors are as follows:

a. each instructor shall have a minimum of three years documented practical and/or field experience as a blaster, user, manufacturer and or dealer distributor or combination thereof;

b. written documentation shall include, but is not limited to, verifiable employment records, written job descriptions, certificates of training in the use and handling of explosives, or licensure by a governmental entity to use, handle, detonate or otherwise initiate explosives in its respective jurisdiction;

c. each instructor shall have a minimum of two years documented experience in a classroom environment, or other similar educational setting, as an instructor or educator. Written documentation shall include but is not limited to:

- i. course curriculums;
- ii. student rosters;
- iii. copies of student certificates; and
- iv. instructor development course certificates;

d. in the absence of any of the documentation required in Subparagraphs b and c of this Subsection, an applicant to be an instructor shall submit a notarized affidavit detailing his educational and practical experience which he believes meets the minimum qualifications specified above to be an instructor. Upon evaluation and acceptance by the deputy secretary, the applicant may be approved as an instructor in the area or areas that he is qualified to instruct; and

e. upon evaluation and acceptance by the deputy secretary, an applicant certified by the Mining Safety and Health Administration (MSHA) as an instructor in the field of explosives shall be determined suitable as an instructor pursuant to these rules limited to the field of underground mining.

D. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1472.1 et seq.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Office of State Police, 1974, amended and promulgated LR 10:803 (October 1984), amended by the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, Explosive Control Unit, LR 22:1230 (December 1996), LR 24:106 (January 1998), amended by the Department of Public Safety and Corrections, Office of State Police, LR 34:2676 (December 2008), LR 36:551 (March 2010).

§1543. Drug Testing Requirements

A. - C. ...

D. All holders of Louisiana Explosives Licenses shall be drug-screened within 72 hours of employment or initial application for, or renewal of, an explosives license. The drug testing required by this Paragraph shall meet the same testing standards as tests required by Subsection A of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1472.1 et seq.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Office of State Police, at the Office of State Police, 1974, amended and promulgated LR 10:803 (October 1984), amended by the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, Explosive Control Unit, LR 22:1230 (December 1996), LR 24:106 (January 1998), amended by the Department of Public Safety and Corrections, Office of State Police, LR 34:2677 (December 2008), amended by the Department of Public Safety and Corrections, Office of State Police, LR 35:491 (March 2009), LR 36:552 (March 2010).

Jill Boudreaux
Undersecretary

1003#032

RULE

**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 adopts 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.

Title 61

REVENUE AND TAXATION

Part III. Department of Revenue—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 36:552 (March 2010).

Leonore Heavey
Senior Policy Consultant

1003#026

RULE

**Department of Social Services
Office of Community Services**

**Guardianship Subsidy Program
(LAC 67:V.Chapter 41)**

In accordance with the provision of R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Social Services (DSS), Office of Community Services (OCS), has adopted the Rule LAC 67:V, Subpart 5, Foster Care, Chapter 41 Guardianship Subsidy Program.

Title 67

SOCIAL SERVICES

Part V. Community Services

Subpart 5. Foster Care

Chapter 41. Guardianship Subsidy Program

§4101. Subsidizing Guardianship Arrangements for Children in Foster Care

A. Overview of Program Purpose

1. The Subsidized Guardianship Program enables the Department of Social Services (DSS) to make payments to

certified relative and fictive kin caregivers on behalf of a child who otherwise might not be able to achieve permanency outside of agency custody because of special needs or other circumstances. Subsidy payments shall be limited to a child(ren) for whom guardianship is indicated due to other more permanent options such as reunification with the parents, immediate unsubsidized custody to a relative or other caregiver, or adoption being determined unfeasible for the child. The guardianship subsidy applies only to a child(ren) for whom the DSS holds legal custody, only to potential caregivers with whom the child had an established familial or emotional relationship prior to entering DSS custody, and when the kinship placement provider becomes a certified foster caregiver according to the certification standards of the State, and, the child(ren) remains in the certified kinship placement for at least six consecutive months. The granting of a subsidy shall not affect the legal status of the child nor the rights and responsibilities of the guardianship caregivers.

2. The prospective guardianship family must meet basic foster care certification eligibility requirements in all respects except for the ability to assume complete financial responsibility for the child's care.

B. Types of Subsidy Payments. The child may be subsidized for the following services up to age 18.

1. Maintenance. The maintenance subsidy includes basic living expenses such as board, room, clothing, spending money, and ordinary medical costs. The maintenance subsidy may be ongoing until the child reaches age 18, but must be renewed on a yearly basis. This renewal will be dependent upon the child remaining in the care of the guardian with whom the subsidy agreement was established. The amount of payment shall not exceed 80 percent of the state's regular foster care board rate based on the monthly flat rate payments of the regular foster care board rate for the corresponding age group. Monthly maintenance payments shall not be based on subsidized foster care arrangements such as specialized foster care, alternate family care, or therapeutic foster care. Changes in the maintenance subsidy rate may only occur once a year and the adjustment is made at the time of the subsidy renewal. Any such adjustments to the maintenance subsidy rate may occur due to availability of funds, legislative changes or adjustments to the regular foster care board rate.

2. Special Board Rate. Foster parents entering into a guardianship agreement for a foster child for whom a special board rate was received during the foster care episode may request up to a maximum of \$240 which is 80 percent of the special board rate amount of \$300. This is only provided if the care and needs of the child in the guardianship arrangement warrant this same special board rate. The continued need for the special board rate shall be reviewed at the time of the annual review. This review shall consist of a determination of whether the same level of specialized care by the guardian, for which the special board rate was being provided at the time of the subsidy agreement, continues to be necessary to meet the child's needs. Any reduction in the level of care required by the guardian should result in a decrease in the amount of special board rate compensation to the guardian.

3. Special Services

a. The special services subsidy is time limited and in some cases may be a one time payment. It is the special assistance given to handle an anticipated expense when no other family or community resource is available. If needed, it can be offered in addition to the maintenance and special board rate subsidy. The special services subsidy must be established as a part of the initial guardianship subsidy agreement, and may not be provided or renegotiated based on any circumstances which develop or issues identified after that point. Special services subsidies include the following types of needs:

i. special medical costs deemed medically necessary for the daily functioning of the child for any condition existing prior to the date of the initial judgment establishing guardianship with the kinship caregiver and not covered by Medicaid or other insurance;

ii. ongoing therapeutic treatment costs to complete current therapy and future treatment costs on a time limited basis up to 18 years of age, as agency resources allow, related to the abuse/neglect received by the child and impacting the child's capacity to function effectively as part of the child's educational, family or social environment. This does not include the cost of residential care or psychiatric hospitalization, nor does it include therapeutic intervention for the sole purpose of providing behavior management assistance to the guardian;

iii. legal and court costs to the family up to \$2000 for establishing the guardianship arrangement.

b. Medicaid Eligibility. The child remains eligible for Medicaid coverage up to 18 years of age when entering a Guardianship arrangement from foster care. This coverage will be eligible utilizing Title IV-E federal benefits if the child was Title IV-E eligible at the time of the subsidy arrangement.

c. Chaffee Foster Care Independent Living Skills Training and Education Training Voucher Eligibility. The child is eligible for participation in the Chaffee Foster Care Independent Living Skills Training and for Education Training Vouchers if the child enters a guardianship arrangement from foster care after reaching 16 years of age.

C. Exploration of Guardianship Resources

1. Before a child is determined by the Office of Community Services (OCS) as eligible for a guardianship subsidy, it must be determined the child can not be reunited with the parents, it must be determined there are no relative resources available to accept custody of the child without subsidy payment, and, resources for adoptive placement must be explored by the child's worker. If the kinship family with whom the child is placed refuses to adopt the child or is unable to be certified as an adoptive family, the agency has to demonstrate the benefits of maintaining the child in the placement in a guardianship arrangement as opposed to pursuing adoption or any other long term permanency arrangement. It is also necessary for the child's worker to discuss plans for a guardianship arrangement with the child and document the outcome of that discussion with the child, including agreement with that plan by any child 14 years of age up to 18 years of age. Lack of agreement by any child 14 years of age up to 18 years of age should be an ongoing

topic of counseling regarding the benefits of the arrangement between the worker and the child, until a permanency option is achieved for the child or until the child attains 18 years of age.

2. Whenever an eligible child in the custody of DSS is legally placed based on the Interstate Compact on the Placement of Children guidelines with a certified kinship caregiver in another state, the family shall be eligible for a guardianship subsidy under the same conditions as Louisiana residents.

D. Eligibility Criteria

1. The OCS, Guardianship Subsidy Program, will determine the appropriateness of subsidy benefits, the type of subsidy, and, the level of the subsidy. An agreement form between the OCS and the prospective guardianship parent(s), with clearly delineated terms, must be signed prior to the granting of the final decree for guardianship. This agreement will be reviewed on an annual basis thereafter by the OCS to insure ongoing eligibility.

2. A family is considered eligible for participation in the Guardianship Subsidy Program if they are related to the child or family of the child through blood or marriage or if there exists a fictive kin relationship, which is defined as a relationship with those individuals connected to an individual child or the family of that child through bonds of affection, concern, obligation, and/or responsibility prior to the child's entry into the custody of the state, and the individual(s) are considered by the child or family to hold the same level of relationship with the child or family as those individuals related by blood or marriage.

E. Effects of Deaths of Guardians on Guardianship Subsidy

1. Where a guardianship subsidy agreement is in effect and the guardians both die prior to the child reaching the age of majority, the subsidy agreement will end. The child may remain in the care of a duly designated tutor/guardian as established by the family prior to their death, without further involvement of the agency.

2. If the duly designated tutor/guardian requires financial assistance to maintain the care of the child it will be necessary for those individuals to become certified as foster parents and retain care of the child six months after certification prior to entering into a Guardianship Subsidy Agreement with the agency. During the process of becoming certified as foster parents the family may retain care responsibility of the child without the child returning to the custody of the state. However, there can be no financial support of the child by the state until such family has been certified and the Guardianship Subsidy Agreement established. Also, the agency may support the establishment of the legal guardianship arrangement between the designated tutor/guardian and the child up to any amount added to the amount utilized for the previously established Guardianship arrangement that does not exceed the \$2000 limit.

3. If the designated tutor/guardian is unable to satisfy criteria for certification, the tutor/guardian may retain care of the child based on the prior arrangements by the deceased guardians without further intervention or financial support of

the agency or the child may be returned to the custody and care of the state by order of the court.

AUTHORITY NOTE: Promulgated in accordance with P.L. 110-351.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 36:552 (March 2010).

§4103. Nonrecurring Expenses in Guardianship Arrangements

A. The OCS sets forth criteria for reimbursement of nonrecurring expenses associated with establishing Guardianship arrangements for children in foster care.

1. The amount of the payment made for nonrecurring expenses associated with establishing guardianship arrangements for children in foster care shall be determined through agreement between the guardian(s) and the OCS. The agreement must indicate the nature and amount of the nonrecurring expenses to be paid.

2. The agreement for nonrecurring expenses must be signed prior to the final decree granting guardianship.

3. There must be no income eligibility requirement for guardian(s) in determining whether payments for nonrecurring expenses associated with establishing Guardianship arrangements for children in foster care shall be made. However, potential guardians cannot be reimbursed for out-of-pocket expenses for which they have otherwise been reimbursed.

4. The maximum rate of reimbursement for nonrecurring expenses has been set at \$2,000 per guardianship arrangement.

5. In cases where siblings are placed and guardianship arrangements established, whether separately or as a unit, each child is treated as an individual with separate reimbursement for nonrecurring expenses up to the maximum amount allowable for each child.

6. In cases where a child has been returned to the custody of the state and a guardianship arrangement dissolved, the child is allowed separate and complete reimbursement for nonrecurring expenses up to the maximum amount allowable for establishing another guardianship arrangement.

7. Reimbursement is limited to costs incurred by or on behalf of guardian(s) not otherwise reimbursed from other sources. Payments for nonrecurring expenses shall be made directly by the OCS.

8. When the guardianship arrangement for the child involves interstate placement, Louisiana will only be responsible for paying the nonrecurring expenses for the arrangement for the child when Louisiana is the child's legal custodian and enters into the Guardianship Subsidy Agreement with the caregiver.

9. The term *nonrecurring expenses in relation to guardianship arrangements* means reasonable and necessary legal fees, court costs, attorney fees and other expenses which are directly related to the legal establishment of the guardianship arrangement for a child in foster care, which are not incurred in violation of state or federal law, and which have not been reimbursed from other sources or other funds. Other expenses which are directly related to the legal establishment of the guardianship arrangement for a child in

foster care means the costs of the arrangement incurred by or on behalf of the guardians and for which guardians carry the ultimate liability for payment. Such costs may include but are not limited to travel costs for the child and/or guardians to be present for the legal proceedings to establish the guardianship arrangement.

AUTHORITY NOTE: Promulgated in accordance with P.L. 110-351.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 36:554 (March 2010).

Kristy H. Nichols
Secretary

1003#107

RULE

**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, has amended 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.

§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

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, 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 (FCDC) 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. - G.1.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 36:555 (March 2010).

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 36:555 (March 2010).

§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. Arts. 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 36:556 (March 2010).

Kristy Nichols
Secretary

1003#106

Notices of Intent

NOTICE OF INTENT

Department of Culture, Recreation and Tourism Office of State Parks

State Parks (LAC 25:IX.Chapters 1-9)

In accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., and R.S. 56:1681-1690, R.S. 56:1801-1809 and R.S. 36:201-209, the Department of Culture, Recreation and Tourism, Office of State Parks proposes to amend its regulations to perform general editing, update provisions pertaining to various facilities and programs, increase fees, and to remove outdated references pertaining to federal programs.

Title 25

CULTURAL RESOURCES

Part IX. Office of State Parks

Chapter 1. General Provisions

§101. Definitions

A. As used by the Office of State Parks (OSP) in association with the operation of its holdings and public facilities.

Assistant Secretary—the assistant secretary of the Office of State Parks, who is the executive head of the office and is appointed by the lieutenant governor with consent of the Senate. This officer is subject to the overall direction and control of the secretary of the Department of Culture, Recreation and Tourism (DCRT) while having direct responsibility for the policies of the OSP, and for the administration, control and operation of the functions, programs and affairs of the office.

* * *

Site—any holding of the OSP including, but not limited to state historic sites, state parks, state preservation areas, and special holdings.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690, R.S. 56:1801-1809 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 12:90 (February 1986), amended LR 19:308 (March 1993), LR 31:1979 (August 2005), LR 36:

Chapter 3. Rules and Regulations

§301. General Authority and Purpose

A. The following rules and regulations, procedures and fees replace, supersede and cancel all rules and regulations, procedures and fees adopted by the OSP prior to the effective date of these rules.

B. These rules and regulations are enacted by the OSP. Unless otherwise stated, the rules govern any and all sites under OSP jurisdiction pursuant to the authority given in Title 56, Chapter 6 of the Revised Statutes of 1950.

C. ...

D. The programs and activities of the OSP are open to all qualified persons regardless of race, color, national origin, age or handicap. If anyone believes he or she has been discriminated against in any OSP program, activity or

facility, he or she may file a complaint alleging discrimination with either the OSP or the Office for Equal Opportunity, U.S. Department of the Interior, Washington, D.C. 20240.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 16:1051 (December 1990), LR 31:1980 (August 2005), LR 36:

§303. Park Property and Environment

A. ...

B. No person shall intentionally remove, damage, disturb, or destroy any OSP property or the property of another person, without the consent of the owner. "Property" shall include but is not limited to structures, watercraft, movables, signs, markers, natural features, cultural features wildlife, and plants.

C. - E. ...

F. Food and beverages are prohibited in structures or areas containing historical furnishings or displays except in designated meeting rooms and assembly locations, or in conjunction with park programs. Smoking is prohibited in all enclosed structures.

G. No person shall excavate, remove, damage, or otherwise alter or deface any cultural or archaeological resource located on any site.

H. The display, possession, and/or use of metal detectors or similar devices is prohibited. It is strictly forbidden to dig for or otherwise remove any historical feature, relic or artifact. Persons wishing to excavate and remove historical features by professional archaeological means for research purposes must request a permit from the Louisiana Archaeological Survey and Antiquities Commission. Applications for such permits must be made through the assistant secretary.

I. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:634 (December 1982), amended LR 12:89 (February 1986), LR 16:1052 (December 1990), LR 19:308 (March 1993), LR 26:25 (January 2000), LR 27:1673 (October 2001), LR 31:1980 (August 2005), LR 36:

§307. Water Craft

A. - E. ...

F. Boats left docked and unattended must be properly secured in designated areas only. The OSP will not be responsible for any loss, theft or damage to boats, equipment, personal property or supplies left unattended.

G. - H. ...

I. Water bodies or portions thereof adjacent to boat ramps, docks, swimming areas, boathouses, cabins, picnic pavilions, or other facilities shall be designated "No Wake Areas". Signs and/or buoys will mark the areas so designated.

J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:634 (December 1982), amended LR 12:89 (February 1986), LR 16:1052 (December 1990), LR 26:26 (January 2000), LR 31:1981 (August 2005), LR 36:

§308. Poverty Point Reservoir State Park

A. - C.3. ...

4. operating a vessel without a current day use receipt or "Resident Boat Permit."

D. - E. ...

F. Skiing and/or towing of persons behind a vessel is prohibited in all areas between sunset and sunrise.

G. Use of the Marina Complex. All visitors to the marina, whether boat owners or their invitees, are prohibited from:

1. ...

2. performing or allowing to be performed any major repairs or maintenance to a boat moored in the marina. Major repairs or maintenance include any activities that pose a safety hazard or nuisance or infringe on the enjoyment of the marina by others;

3. using any cooking appliances including, but not limited to, BBQ pits, fish fryers, meat smokers, seafood boilers, etc., in the marina;

4. creating an open flame within the marina;

5. painting or removing paint in the marina;

6. - 8. ...

9. bringing pets into the marina;

10. ...

H. All boat owners must complete and submit a signed "Marina Slip Rental Agreement" along with any required payments and/or deposits due prior to using a rental slip.

I. Boat owners and their invitees shall be responsible for maintaining the marina facilities available for their use. To that end, every boat owner and invitee shall:

1. - 6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 31:1981 (August 2005), amended LR 36:

§309. Horseback Riding, Livestock, Animals and Pets

A. ...

B. Any pet brought on OSP property must be leashed, caged or crated. Leashes shall not exceed 6 feet in length. With the exception of service dogs, pets are not permitted within buildings or other enclosed structures on site, nor are they allowed near designated swimming areas and in overnight facilities. Owners of pets shall be fully responsible for any injury and/or damage caused by their pet.

C. No person shall allow livestock to run or graze on any site, except in specially designated areas and/or as part of special programs or events approved in advance by the assistant secretary.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks in LR 8:635 (December 1982), amended LR 12:89 (February 1986), LR 14:773 (November 1988), LR 26:26 (January 2000), LR 31:1982 (August 2005), LR 36:

§310. Litter, Sanitation and Health

A. All litter disposed of on site, shall be placed into a proper litter receptacle in such a manner that the litter is prevented from being carried away or deposited by the elements upon OSP property or water bodies. Disposal means to throw, discard, place, deposit, discharge, burn, dump, drop, eject, or allow the escape of a substance.

B. No person shall drain or dump refuse waste including grey water from any trailer or other vehicle except in places or receptacles provided for such uses.

C. - F. ...

G. No person shall bury or burn garbage, litter or dead animals on OSP property.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:635 (December 1982), amended LR 12:89 (February 1986), LR 14:774 (November 1988), LR 26:26 (January 2000), LR 31:1982 (August 2005), LR 36:

§312. Fires

A. Fires shall be built only in places specifically designated for that purpose by site managers.

B. Burn bans declared by a local governing authority shall be observed at the parks within the jurisdiction of the local governing authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 26:27 (January 2000), repromulgated LR 31:1982 (August 2005), amended LR 36:

§313. Fishing, Hunting, Trapping, and the Use of Firearms or Fireworks

A. All wildlife in OSP sites is under strict protection and must not be hunted, molested, disturbed, destroyed, fed or removed, except for scientific or management purposes when approved by the assistant secretary.

B. Bringing or keeping any hunting dogs on OSP property for the purpose of hunting inside or adjacent to a site is prohibited.

C. The possession and/or use of any weapon, including but not limited to shotguns, rifles, pistols, and bow and arrows within a site is prohibited. This prohibition shall not apply to:

1. any law enforcement officer in the performance of his official duties;

2. historic weapons or reproduction historic weapons when used in accordance with department policies and procedures;

3. weapons kept unloaded in a case within a locked vehicle;

4. instances where the assistant secretary has granted special permission because the use of weapons will be used in a manner that furthers the purposes and objectives of the OSP.

D. No person shall possess, shoot, discharge or explode nor cause to be shot, discharged, or exploded any fireworks or other explosives on any OSP property without prior written consent of the assistant secretary or his designee.

E. The taking and hunting of frogs on any OSP property is prohibited.

F. Anyone fishing on OSP property must adhere to all state and federal laws and criteria regarding fresh and/or salt water fishing. The taking of fish by nets (except cast nets), traps or any means other than hook or line is prohibited at any and all sites, except for management purposes as authorized by special permit. Notwithstanding the previous provision to the contrary, the taking of flounder by gigs is permitted as well as the taking of fish by means of a yo-yo or trigger device (as defined in R.S. 56:8) in Chicot Lake at Chicot State Park subject to the following restrictions:

1. fishing with the use of yo-yos or trigger devices shall be permitted on Chicot Lake only from Nov. 1 through March 1 of each year;

2. not more than 24 yo-yos or trigger devices shall be allowed per boat;

3. each yo-yo must be tagged with the name of the responsible party, the registration number of the boat, and the date and time the yo-yo was set;

4. all yo-yos must be attended and re-tagged at least every 48 hours.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 14:773 (November 1988), LR 16:1052 (December 1990), LR 19:308 (March 1993), LR 31:1982 (August 2005), LR 36:

§314. Swimming

A. - C. ...

D. Glass containers of any kind are prohibited within any perimeter boundaries of pools, enclosed swimming areas, enclosed beach areas, water playgrounds and beach parks.

E. ...

F. Only Coast Guard approved Type I or Type II Personal Flotation Devices are allowed in swimming areas with the exception of flotation devices provided by the OSP at the Bayou Segnette State Park wave pool. Site managers or their designees may make site specific exceptions.

G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:635 (December 1982), amended LR 12:89 (February 1986), LR 16:1052 (December 1990), LR 26:27 (January 2000), amended LR 31:1983 (August 2005), LR 36:

§321. Fines and Enforcement of the Rules and Regulations

A. - C.2.NOTE. ...

D. Site visitors may be required to furnish specific information upon registration, including but not limited to, vehicle license plate number and a driver's license number.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:636 (December 1982), amended LR 12:89 (February 1986), LR 26:27 (January 2000), LR 27:1673 (October 2001), LR 31:1983 (August 2005), LR 36:

§331. Overnight Use

A. General Provisions

1. Any overnight use of a site requires a written permit or payment receipt. Overnight facilities are reserved for the exclusive use of persons properly permitted for the

use of overnight facilities and their guests. An exception to this rule will be made for volunteers camping at a state historic site as part of an approved overnight encampment program.

A.2. - A.12. ...

B. Camping

1. With the exception of a campground host and long term stay campsites, overnight camping and group camp, lodge and cabin use are limited to 15 consecutive days. After 15 consecutive days of occupancy at a site, the visitor must vacate the site for seven consecutive days before occupancy may be resumed. No person shall occupy a campsite for more than 23 days in any 30 day period. However, at the site manager's discretion, and subject to availability, overnight camping may be extended on a weekly basis. No campsite may be vacated for longer than a 24-hour continuous period under any permit agreement.

2. Long term stays will be permitted at campsites in accordance with the following regulation:

a. during the winter season, October 1 through March 31;

b. at South Toledo Bend S.P, Jimmie Davis S.P. Poverty Point Reservoir S.P., Fontainebleau S.P. and other parks designated by the assistant secretary;

c. reservations must be made through the reservation center;

d. a deposit of one half the total cost of the entire stay is due within ten days of the date of the reservation;

e. the nightly rate is \$20.

3. OSP campgrounds are intended for tents and recreational vehicles only.

4. Campsite occupancy is limited to six persons. At designated group camping areas occupancy limits are set by the site manager or his designee.

5. Campsite configurations within the system vary in size, length, and surfacing materials. Camping spurs are designed to accommodate one camper/pop-up trailer with tow vehicle or one motorized camper and additional vehicle. Additionally, many sites will have designated tent pads adjacent to the spur. The site manager or his designee will have the authority to evaluate additional possible combinations for on site approval. Due to the numerous possible potential combinations, the following are to be used as general guidelines to define a camping unit by the site manager or his designee:

a. one camper trailer with tow vehicle (may include pickup camper), one large tent or two small tents;

b. one motorized camper with additional vehicle (may include pickup camper), one large tent or two small tents;

c. one pop-up camper with two vehicles (may include pickup camper), one large tent or two small tents;

d. one pickup camper with additional vehicle, one large tent or two small tents;

e. two vehicles and tent combinations not to exceed three tents.

C. Cabins, Lodges, Other Overnight Facilities

1. A written inventory of movable equipment and furnishings is posted in each overnight structure or will be furnished to the visitor. It is the visitor's responsibility to check the inventory immediately upon occupancy. The visitor must report to the site manager or his designee any

discrepancy between the actual inventory and the printed inventory. The visitor may be assessed the cost of items which, if not reported as missing or damaged upon occupancy, are missing or damaged when the structure is vacated. Failure to reimburse the OSP for any missing property or damage to property may result in denial of future use of OSP facilities.

C.2. - C.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:634 (December 1982), amended LR 12:89 (February 1986), LR 14:772 (November 1988), LR 16:1053 (December 1990), LR 19:308 (March 1993), LR 26:28 (January 2000), LR 27:1673 (October 2001), LR 31:1984 (August 2005), LR 36:

Chapter 5. Procedures and Fees

§500. Fees and Exemptions; Day-Use Fees

A. State Parks General Admission Day-Use Entrance Fees

1. Except as otherwise provided in this Chapter, a day-use fee is charged at all State Parks (except St. Bernard State Park).

a. Persons in noncommercial vehicles, walk-in visitors and visitors on bicycles are charged one dollar per person per day.

b. Children age 3 and under are free. Seniors age 62 and older are free.

c. The day-use fee at Hodges Gardens S.P. is \$5 per day. Seniors 62 and older are \$4 per day. Children age 3 and under are free.

d. ...

e. All prices include state and local taxes.

2. Swimming Pools

a. Bayou Segnette SP wave pool fee (in addition to the park entrance fee and all other user fees) is: adults (over 48 inches) \$10 per day, children (under 48 inches) \$8 per day. The price includes one flotation device per person. Discount coupons are available when purchased in quantity lots.

b. OSP may charge a fee of up to \$2 per person, per day to enter any other OSP swimming pool complex.

3. - 4. ...

B. State Historic Sites General Admission Fees

1. Except as otherwise provided in this Section, an admission fee of \$4 per adult is charged for all state historic sites. Admission entitles visitors to all facilities and regular programs that may be offered at the historic site. Special programs and events may include special admission rates.

a. Locust Grove and Los Adaes have no admission fee.

b. Children age 12 and under are free.

c. Seniors age 62 and older are free.

d. Rosedown Plantation admission fees are set forth in this Section.

2. Admission entitles visitors to all facilities and regular programs that may be offered at the historic site. Special programs and events may include special admission rates.

3. Rosedown Plantation State Historic Site

a. Charges for admission to the plantation house and the gardens surrounding the house at the following rates:

i. \$10 per adult (ages 18 to 61);

ii. \$8 per senior citizen (ages 62 and over);

iii. \$4 per student (ages 6 to 17);

iv. FREE for children (ages 5 and under).

b. Charges for admission to the gardens only at the following rates:

i. \$5 per adult (ages 18 to 61);

ii. \$5 per senior citizen (ages 62 and over);

iii. \$4 per student (ages 6 to 17);

iv. FREE for children (ages 5 and under).

4. Organized groups of 10 or more are requested to notify the site manager in advance of their arrival. There is no additional fee for SHS visitors arriving by bus.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:636 (December 1982), amended LR 12:89 (February 1986), LR 14:774 (November 1988), LR 16:1053 (December 1990), LR 19:309 (March 1993), LR 26:29 (January 2000), LR 27:1673 (October 2001), LR 31:1986 (August 2005), LR 36:

§501. Fees and Exemptions; Miscellaneous Services and Facilities Fees

A. - A.2. ...

3. Canoes, kayaks and paddle boats may be rented for \$5 per hour or \$20 per vessel, per day. A canoe float trip is charged \$25 per canoe, per trip. All fees include paddles and life jackets.

4. ...

B. Bicycles. Bicycles may be rented for \$5 per hour or \$20 per day.

C. - D.6.c. ...

E. Meeting Rooms. Meeting rooms used to accommodate meetings and functions of private groups, clubs and other organizations are available during normal park operating hours. Kitchen facilities may be used, if available. Meeting room rates are as follows.

\$100	Type I e.g., Bayou Segnette, North Toledo Bend, Lake D'Arbonne, Arboretum, Fontainebleau, Poverty Point Reservoir, Lake Claiborne
\$150	Type II e.g., Chemin-à-Haut, Chicot
\$200	Type III e.g., Lake Fausse Pointe

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:637 (December 1982), amended LR 12:89 (February 1986), LR 14:774 (November 1988), LR 16:1052 (December 1990), LR 26:29 (January 2000), LR 27:1673 (October 2001), LR 31:1986 (August 2005), LR 36:

§502. Fees and Exemptions; Exemptions/Discounts

A. - B. ...

C. National Parks and Federal Recreation Lands Passes. Any citizen of the United States who possesses a National Parks and Federal Recreation Lands Senior Pass (formerly the Golden Age Passport) or Access Pass (formerly the Golden Access Passport) issued by any agency of the United States, pursuant to 16 U.S.C. Section 460 L-65, upon presentation of the pass and proper identification to any OSP authorities, shall be exempt from the day-use entrance fee to any OSP site.

D. ...

1. Certification of the eligible organization or "provider" must be made in writing to the assistant secretary, and the assistant secretary shall in turn recognize such certification prior to eligibility for this exemption.

D.2. - E.2. ...

F. Discounts and Fee Waivers. The assistant secretary or his designee may grant written approval for a waiver or discount of entrance fees and facility use fees in accordance with guidelines adopted by the Louisiana State Parks and Recreation Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:637 (December 1982), amended LR 12:89 (February 1986), LR 14:774 (November 1988), LR 16:1053 (December 1990), LR 19:309 (March 1993), LR 26:29 (January 2000), LR 27:1673 (October 2001), LR 31:1987 (August 2005), LR 36:

§504. Fees and Exemptions; Overnight Use

A. Camping

1. An improved campsite rents for \$16 per night during the winter season (October 1-March 31) and \$20 per night during the summer season (April 1-September 30). An unimproved campsite rents for \$12 per night. A premium campsite rents for \$18 per night during the winter season and \$26 per night during the summer season. For information regarding campsite reservation fees, see Reservation Policy, §505.

2. Each campsite is restricted to use by one camping unit as defined in §331.B.5.

3. Designated primitive areas accommodating organized groups (Boy Scouts, Girl Scouts, etc.) are available for camping \$25 to \$50, per night based on capacity. Capacity will be set by the site manager.

B. - B.1.a. ...

b. The day-use fee for a rally campground is \$50 per day for the group, and in addition, the standard day-use entrance fee is charged.

2. ...

C. Backpacking

1. ...

2. A permit is required for all overnight backcountry camping or backpacking use and may be obtained at the park entrance station.

C.3. - D.1. ...

E. Cabins and Lodges

1. Cabins

Classification	Standard Rate	Summer Season Weekend Rate	Bedding Accommodations	Maximum Capacity
Deluxe	\$120	\$150	6-8	8
Standard	\$85	\$85	4-6	6-8

2. Park Lodges. These are large overnight structures equipped with kitchen, bath and sleeping facilities and can accommodate a large family or several family groups.

Classification	Standard Rate	Summer Season Weekend Rate	Bedding Accommodations	Maximum Capacity
Standard	\$140	\$175	varies	varies
Deluxe	\$160	\$180	14	16

F. Group Camps. Group camps are available at certain parks for organized group use. The capacity, type of facility, and rates are as follows.

Classification	Overnight Rate	Maximum Capacity
Class III	\$500	100+
Class II	\$250	99
Class I	\$200	49

1. Group camps may be reserved for day or overnight use at a basic rate.

G. - G.3. ...

4. Facility Use Agreement

a. All parties granted permission to use the dormitory must execute a "Facility Use Agreement".

G.4.b. - G.8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:638 (December 1982), amended LR 12:89 (February 1986), LR 12:828 (December 1986), LR 26:30 (January 2000), LR 27:1674 (October 2001), LR 31:1988 (August 2005), LR 36:

§505. Reservation Policy

A. General Provisions

1. Reservations may be made for all OSP facilities that are subject to reservation, by calling the State Parks Reservation Call Center. Overnight and day-use facilities, including cabins, lodges, group camps, camping sites, rally shelters, meeting rooms and pavilions may be reserved 11 months in advance. For example, if a park user wants to use a facility on July 2, he may make the reservation no earlier than August 2, or the first business day after August 2, of the prior year. Reservations may also be made on line 24 hours a day by accessing the OSP web site: www.lastateparks.com. A non-refundable service fee is charged for all reservations.

2. The call center will operate 7 a.m. to 7 p.m., Monday through Friday. The call center will close for state holidays. Based upon demand, the center's hours may be extended by the assistant secretary or his designee.

3. ...

4. Deposit in full must be received within 10 days of the date the reservation is made otherwise the reservation is canceled. Payment may be made by credit card, in-state personal check or money order. If the reservation is made within 14 days or fewer of the usage date, payment shall be by credit card only.

5. ...

6. Reservations made 10 months or more in advance for cabins, lodges and group camps are subject to the following cancellation policy.

a. No change can be made to the reservation until the deposit is paid and 18 days have elapsed from the date the reservation was made.

b. A deposit of one-night stay is due 10 days after the reservation is made and the balance must be paid in full within 30 days after the reservation is made or the reservation will be cancelled.

c. A change fee of one day's rental per facility will be charged for changes to reservations (e.g., dropped days).

d. A cancellation fee of one day's rental per facility will be charged.

7. In the event reservations must be canceled by OSP staff (e.g., for maintenance or emergency reasons) the rental fee will be refunded in full.

8. For cabins, lodges, group camps, rally shelters and campsites a two-day minimum reservation is required for weekends. The minimum may be met by reserving the facility on Friday and Saturday nights, on Saturday and Sunday nights or for all three nights. If facilities are not reserved in advance, they may be rented on weekends for one night to walk-up users using the facilities that day. Exceptions may be granted by the assistant secretary or his designee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1693 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:640 (December 1982), amended LR 12:89 (February 1986), LR 14:777 (November 1988), LR 16:1051 (December 1990), LR 26:32 (January 2000), LR 27:1674 (October 2001), LR 31:1989 (August 2005), LR 36:

§506. Refunds

A. ...

B. Facility rental fees paid on-site may be refunded on-site upon approval of the site manager or his designee for the following reasons:

B.1. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 12:828 (December 1986), LR 26:32 (January 2000), LR 31:1989 (August 2005), LR 36:

§507. Special Uses and Restrictions

A. - B.2. ...

3. The atmosphere created on the historic site is as important as the artifactual evidence. In order that the greater interest and primary function of the area be served, it is necessary to restrict certain incompatible activities from the sites. Any sport or recreational activity that does not contribute to a greater understanding of the theme of the area is prohibited within all historical zones of any state historic site. Recreation zones appropriate for such use may be designated by the site manager if space permits.

B. 4. - C.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 14:779 (November 1988), LR 19:313 (March 1993), LR 26:32 (January 2000), LR 27:1674 (October 2001), LR 31:1989 (August 2005), LR 36:

Chapter 9. Division of Outdoor Recreation Administration

§900. Definitions

A. As used by the Division of Outdoor Recreation:

* * *

Division of Outdoor Recreation (DOR)—the functional subunit of the Office of State Parks responsible for development, promotion and implementation of the Land and Water Conservation Fund and Recreational Trails Program.

* * *

Louisiana Recreational Trails Advisory Committee—the committee whose purpose is to advise the Office of State Parks in matters pertaining to the Recreational Trails Program. The committee meets a minimum of once every fiscal year and represents varied interest related to recreational trails management and development.

Office of State Parks (OSP)—that office in the Department of Culture, Recreation and Tourism which administers the U.S. Department of the Interior's Land and Water Conservation Fund Act of 1965 and Recreational Trails Program (23 U.S.C. §206).

Outdoor Recreation-A Project Handbook—Repealed.

* * *

Recreational Trails Program (RTP)—matching fund grants made by the Federal Highway Administration for the development of and/or maintenance of outdoor recreational trails in accordance with and pursuant to Title 23 U.S.C. §206.

State Application—the information and documents that must be provided by the applicant in sufficient detail to allow the DOR staff to prepare the federal application forms for a LandWCF grant or Recreational Trails Program grant.

State Liaison Officer (SLO)—the assistant secretary of the Office of State Parks who represents the state in matters dealing with the U.S. Department of the Interior's Land and Water Conservation Fund.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690, R.S. 56:1801-1809 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 12:90 (February 1986), amended LR 19:308 (March 1993), LR 31:1990 (August 2005), LR 36:

§901. Land and Water Conservation Fund Program Summarized¹

A. Purpose. The Land and Water Conservation Fund (LandWCF) Act of 1965 (Public Law 88-576, 78 Stat 897) was enacted "... to assist in preserving, developing and assuring accessibility to all citizens of the United States of America of present and future generations ... such quality and quantity of outdoor recreation resources as may be available and are necessary and desirable for individual active participation ...". The LandWCF program provides matching grants to states, and through the states to local governments, for the acquisition and development of public outdoor recreation areas and facilities. Planning grants are also available to the states to help develop Statewide Comprehensive Outdoor Recreation Plans (SCORP).

B. Delegation of Authority. The LandWCF Act authorizes the secretary of the interior to provide financial

assistance to states for outdoor recreation purposes. Except for the apportionment of funds among states and the approval of contingency reserve projects, this authority has been delegated to the director of the National Park Service (NPS). The regional directors are authorized to exercise the full program and administrative authority of the director within the geographic area comprising the region for which they have responsibility. Limitations to this delegation include the director's authority to act on all recommendations to the secretary involving the apportionment of LandWCF monies and the allocation of Contingency Reserve Fund assistance; and to approve or disapprove formal arrangements whereby the state agrees to assume certain responsibilities in the administration of the LandWCF program.

C. Appointment of State Liaison Officer. To be eligible for assistance under the LandWCF Act, the governor of each state shall designate, in writing, an official who has authority to represent and act for the state as the state liaison officer in dealing with the director of NPS for purposes of the LandWCF program. The state liaison officer (SLO) shall have the authority and responsibility to accept and to administer funds paid for approved projects. Upon taking office, a new governor shall officially, in writing, redesignate the present state liaison officer or appoint a new individual to represent and act for the state in dealing with the LandWCF program.

D. Selection Requirements. DOR establishes application requirements, annual application submission dates and develops an Open Project Selection Process in accordance with the LandWCF Grants Manual to provide an objective standard for selection of projects explicitly based on Louisiana's priority needs for acquisition and development of outdoor recreation resources as identified in the SCORP.

¹Department of the Interior, LandWCF Grants Manual, 69, effective October 1, 2008.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 12:89 (February 1986), amended LR 12:829 (December 1986), repromulgated LR 31:1991 (August 2005), amended LR 36:

§903. Land and Water Conservation Fund (LandWCF) Grants Manual²

A. The Land and Water Conservation Fund (LandWCF) Grants Manual sets forth the administrative policies, procedures and guidelines for LandWCF grants awarded to the states by the Department of Interior, National Park Service. It is intended to serve as a basic reference for those who are engaged in the administrative, financial management and stewardship responsibilities of the LandWCF State Assistance Program.

B. Participation in the LandWCF State Assistance Program is deemed to constitute a public trust. As such, participants are responsible for the efficient and effective management of funds in accordance with the approved budgets, for promptly completing reporting performance. The procedures and requirements contained in the LandWCF Grants Manual are subject to applicable federal laws and regulations, and any changes made to these laws and regulations subsequent to the publication of the LandWCF Manual. In the event procedures and requirements conflict

with applicable federal laws, regulations, and policies, the following order of precedence will prevail:

1. federal law;
2. government-wide administrative regulations;
3. terms and conditions of grant award;
4. Land and Water Conservation Fund Manual.

²Department of the Interior, LandWCF Grants Manual, Volume 69, effective October 1, 2008.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 12:89 (February 1986), repromulgated LR 31:1992 (August 2005), amended LR 36:

§905. Who is Eligible for Assistance

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 12:89 (February 1986), repromulgated LR 31:1992 (August 2005), repealed LR 36:

§907. Projects Eligible for Assistance

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 12:89 (February 1986), repromulgated LR 31:1992 (August 2005), repealed LR 36:

§909. Not Eligible for Assistance

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 12:89 (February 1986), repromulgated LR 31:1993 (August 2005), repealed LR 36:

§911. Schools

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 12:89 (February 1986), repromulgated LR 31:1993 (August 2005), repealed LR 36:

§913. Application Preparation, Review and Selection Process

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 12:89 (February 1986), repromulgated LR 31:1994 (August 2005), repealed LR 36:

§915. Application Preparation, Documents to be Submitted

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 12:89 (February 1986), amended LR 12:829 (December 1986), repromulgated LR 31:1995 (August 2005), repealed LR 36:

§917. State Parks and Recreation Commission (SPARC)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 12:89 (February 1986), repromulgated LR 31:1996 (August 2005), repealed LR 36:

§919. Legal Requirements

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1801-1809.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 12:89 (February 1986), amended LR 12:829 (December 1986), repromulgated LR 31:1996 (August 2005), repealed LR 36:

§921. LandWCF Application Preparation, Review and Selection Process

A. Applications for LandWCF funds must be submitted to the DOR through an online application available on the Louisiana State Parks Web site. Applications must be submitted by April first (annually). Receipt of an application initiates an extensive and highly competitive process involving DOR preparation of the federal application package, securing clearinghouse approval, evaluation and rating, and presentation to the Louisiana State Parks and Recreation Commission (SPARC) for review and recommendations to the SLO of those projects to be forwarded to the National Park Service for federal approval. Assistance is available from the DOR staff for completion of the online application at any time throughout the year.

1. Initial Evaluation. DOR staff initially review all application submittals on the first business day following April first annually. Identification of all required documents is completed. Applications with substantial missing required documentation are not be eligible for further consideration. All project sponsors of applications deemed ineligible are notified in writing in regards to the eligibility to participate. Proposed project sites are visited for initial inspection and evaluation by DOR staff.

2. Review and Preparation of Application. Eligible applicants with complete documentation are evaluated through the Open Project Screening Process (OPSP) and ranked in priority order. The OPSP is developed in accordance with the most recent publication of the Statewide Comprehensive Outdoor Recreation Plan and approved by the National Park Service (NPS). This determination of suitability results in a priority order of projects for consideration. Projects are presented to the State Parks and Recreation Commission (SPARC) for review. Upon determination of eligible federal LandWCF monies, all eligible projects are forwarded to the NPS Regional Office within the limits of funding.

3. Projects may be prepared for funding as a single action or may be phased. If phased, only one phase at a time may be recommended for funding, although the entire project may be "qualified" for funding. Further, funding of a phase does not imply automatic funding of succeeding phases. To activate a succeeding phase, the "qualified applicant" must formally request subsequent funds by letter as the ongoing phase nears substantial completion. Substantial completion has been established by DOR as a

minimum of 80 percent of the total project funds expended prior to awarding further funds. Another form of acceptable "phasing" is to add additional elements and funds upon reaching a state of substantial completion.

4. Successive phases are not reprioritized (ranked). At the final SPARC meeting prior to receipt of the annual LandWCF apportionment, a list of requests for successive phases is presented. SPARC reviews and recommends to the SLO that:

- a. only new projects will be funded; or
- b. only subsequent phases of active projects will be funded; or
- c. a combination of new projects and subsequent phases of active projects will be funded.

5. Submission. The approved application is placed in final form and officially submitted as an application of the state of Louisiana to the NPS Southeast Regional Office. At this point, the application is dependent on federal action for its further progress.

6. Recommendation. As funds become available, priority projects are recommended in their established order through the SPARC to the SLO. If all LandWCF monies have been obligated at the time, the project will be held in a standby basis pending release of additional monies. As funds do become available, the application (already qualified) is then recommended in its turn to NPS for obligation of funds. Applications will be recommended for obligation only in an appropriate number to utilize efficiently those funds available at that specific time.

7. Once the desired amount of funds is "obligated" to the subject project by NPS, a project agreement will be executed for this purpose between the NPS and the state, and a state agreement will be executed between the state and the local government sponsor. If found not acceptable for some reason, the application will be rejected by NPS and returned to the applicant, via the state, with reasons for such rejection.

8. Termination. The qualified application, with funds obligated to its subject project, is ready for funding and implementation. This is the final step in the preprocessing procedure, and the application will then be terminated in one of two ways: by successful completion of the project or by deactivating, if for some reason the project cannot be successfully completed. Post processing of applications for successfully completed projects will include progress reports and billings for work performed and accounting for funds expended. The process is concluded with formal notification by NPS of final settlement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1704, R.S. 56:1801-1809 and R.S. 36:201-209.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 36:

§923. Recreational Trail Program Summarized³

A. Purpose. The Recreational Trail Program (RTP) provides funds to the states to develop and maintain recreational trails and trail-related facilities for both non-motorized and motorized recreational trail uses. The RTP is an assistance program of the Department of Transportation's Federal Highway Administration (FHWA). Federal transportation funds benefit recreation including hiking, bicycling, in-line skating, equestrian use, cross-country skiing, snowmobiling, off-road motorcycling, all-terrain vehicle riding, four-wheel driving, or using other off-road motorized vehicles.

B. Delegation of Authority. The RTP is an assistance program of the U.S. Department of Transportation's Federal Highway Administration (FHWA). Each state administers its own program. By virtue of Governor Bobby Jindal's Executive Order 2008-5, the Recreational Trails Program now resides in the Department of Culture, Recreation and Tourism.

C. Program Funding. The RTP funds come from the Federal Highway Trust Fund, and represent a portion of the motor fuel excise tax collected from non-highway recreational fuel use: fuel used for off-highway recreation by snowmobiles, all-terrain vehicles, off-highway motorcycles, and off-highway light trucks. The RTP funds are distributed to the states by legislative formula: half of the funds are distributed equally among all states, and half are distributed in proportion to the estimated amount of nonhighway recreational fuel use in each state.

³Title 23 United States Code §206, Recreational Trails Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1704, R.S. 56:1801-1809 and R.S. 36:201-209.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 36:

§925. RTP Project Eligibility

A. RTP funds may be used for:

1. maintenance and restoration of existing trails;
2. development and rehabilitation of trailside and trailhead facilities and trail linkages;
3. purchase and lease of trail construction and maintenance equipment;
4. construction of new trails (with restrictions for new trails on federal lands);
5. acquisition of easements or property for trails;
6. assessment of trail conditions for accessibility and maintenance;
7. development and dissemination of publications and operation of educational programs to promote safety and environmental protection related to trails (including supporting non-law enforcement trail safety and trail use monitoring patrol programs, and providing trail-related training) (limited to 5 percent of a state's funds);
8. state administrative costs related to this program (limited to 7 percent of a state's funds).

B. States must use 30 percent of their funds for motorized trail uses, 30 percent for non-motorized trail uses, and 40 percent for diverse trail uses. Diverse motorized projects (such as snowmobile and motorcycle) or diverse non-motorized projects (such as pedestrian and equestrian) may satisfy two of these categories at the same time.

C. RTP funds may not be used for:

1. property condemnation (eminent domain);
2. constructing new trails for motorized use on National Forest or Bureau of Land Management lands unless the project is consistent with resource management plans; or
3. facilitating motorized access on otherwise non-motorized trails.

D. Fund Intention. RTP funds are intended for recreational trails. RTP funds may not be used to improve roads for general passenger vehicle use. RTP funds should not be used to provide shoulders or sidewalks along roads unless the shoulders or sidewalks are necessary to complete a trail link. A project proposal solely for trail planning would not be eligible (except a state may use its administrative

funds for statewide trail planning). However, some project development costs may be allowable if they are a relatively small part of a particular trail maintenance, facility development, or construction project. States may allow some project development costs to be credited toward the non-federal share.

E. Eligible Sponsorship. RTP grants may be made to private organizations, or to municipal, county, State, Tribal, Federal government agencies or private organizations. Projects may be on public or private land, but projects on private land must provide written assurances of public access.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1704, R.S. 56:1801-1809 and R.S. 36:201-209.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 36:

§927. RTP Project Funding

A. The maximum federal share for each project from RTP funds is 80 percent.

B. The non-federal match must come from project sponsors or other fund sources. Funds from any other federal program may be used for the non-federal match if the project also is eligible under the other program. RTP funds also may be used toward the non-federal share for some other federal programs.

C. Project payments takes place on a reimbursement basis. The project sponsor must incur costs for work actually completed, and then submit vouchers and supporting documentation to the state for payment. Reimbursement is not permitted for work that takes place prior to project approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1704, R.S. 56:1801-1809 and R.S. 36:201-209.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 36:

§929. RTP Application Preparation, Review and Selection Process

A. RTP applications are due not less than once every fiscal year. Due dates for application submittal are published not less than 60 days prior to deadline.

B. Current applications are available online through the Louisiana Office of State Parks Web site.

C. Technical assistance for completion of the application is available at any time from the Division of Outdoor Recreation staff.

D. Within one business day of the application deadline, Division of Outdoor Recreation staff will begin an initial review of all applications for completeness. Applications lacking all necessary documentation will be considered ineligible and will be returned to the project sponsor. Applications providing satisfactory documentation will be evaluated in accordance with Federal Highway Administration standards and ranked in priority order. The Louisiana Recreational Trails Advisory Committee will give projects gaining initial approval and ranked. This committee will advise the Division of Outdoor Recreation staff on project priority. Applications will be forwarded for environmental clearance by the Department of Transportation and Development. With environmental clearance, projects will be forwarded to the Federal Highway Administration for federal approval.

E. Upon receipt of federal approval, a state agreement must be signed by the Division of Outdoor Recreation and

the project sponsor before the project can begin. This state agreement details the project goals and timelines for completion.

F. Division of Outdoor Recreation staff will complete periodic inspections through the development of the facility until completion. Project sites are subject to periodic inspection after completion by Division of Outdoor Recreation staff and federal partners.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1704, R.S. 56:1801-1809 and R.S. 36:201-209.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 36:

§931. Louisiana Recreational Trails Advisory Committee

A. The Louisiana Recreational Trails Advisory Committee is composed of selected individuals to represent a cross section of trail users and trail providers. The committee meets at a minimum of once per fiscal year.

B. The Louisiana Recreational Trails Advisory Committee, in an advisory capacity, may recommend rules to the Division of Outdoor Recreation in regards to the RTP and may provide input on pending RTP applications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1704, R.S. 56:1801-1809 and R.S. 36:201-209.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, 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.

All interested persons are invited to submit written comments on the proposed rule to Stuart Johnson, Assistant Secretary, Office of State Parks, P.O. Box 44426, Baton Rouge, LA 70804. Such comments must be received no later than April 12, 2010 at 4:00 p.m.

Stuart Johnson
Assistant Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: State Parks

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no anticipated costs to state and local governmental units to implement these rules.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is an anticipated increase in revenue collections for the state through an increase in entrance fees at the state historic sites and an increase in fees charged for the rental of

facilities and some services. Assuming no change in visitation, the agency estimates a resulting 37% increase, or \$2.63 million, in revenue annually.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The estimated cost to the individual park user will vary greatly, from no increase (e.g., day visitors to the state parks) to modest increases (e.g., rental fees for campsites, standard cabins and boat rentals) to more significant increases (e.g., rental fees for campsites, standard cabins and boat rentals) to more significant increases (e.g. rental fees for deluxe cabins on weekends during the summer season, historic site entrance fees and pool use fees).

The fees generated in the park system are statutorily dedicated to repairs and improvements. These fees have not been updated since 2005, while the costs for repairs and improvements continue to rise. Additional funding for repairs and improvements will benefit park users while not tapping into the state general fund.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No significant effect on employment is anticipated. The plan will have a positive effect on competition by bringing the fees charged by the Louisiana State Park System closer in line with those charged by other public and private providers of similar services and facilities.

Stuart Johnson
Assistant Secretary
1003#065

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 119—Louisiana School Transportation Specifications and Procedures (LAC 28: CXIII.Chapters 1-31)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement *Bulletin 119—Louisiana School Transportation Specifications and Procedures*. The proposed Bulletin 119 will replace existing transportation bulletins (*Bulletin 1191—School Transportation Handbook; Bulletin 1213—Minimum Standards for School Buses; Bulletin 1475—Operational and Vehicle Maintenance Procedures; and Bulletin 1886—Special Education Transportation Handbook*). The proposed Bulletin 119 is a compilation of the policies and laws included in the existing four bulletins in addition to all new policies and laws. Bulletin 119 provides updated policies that align with current state and federal law. The incorporation of all school bus transportation policies into a single document promotes efficiency and ease-of-use by school bus transportation personnel, parents, school staff, and other stakeholders. Bulletins 1191, 1213, 1475, and 1886 will be repealed upon final adoption of *Bulletin 119—School Transportation Specifications and Procedures*.

Title 28
EDUCATION

**Part CXIII. Bulletin 119—Louisiana School
Transportation Specifications and Procedures**

Chapter 1. Introduction

§101. General Authority

A. This handbook was developed by the Department of Education (DOE) to provide information and direction to local education agencies (LEAs) involved in school transportation in Louisiana.

B. Acting under the authority of the State Board of Elementary and Secondary Education (BESE), the State Superintendent of Education is responsible for carrying out such policies as may be adopted by BESE. The legal responsibilities of the DOE are defined by Louisiana law or policies of BESE.

C. Aside from matters concerned with the financial aspects imposed upon it by law, the primary responsibility of the DOE in student transportation is to provide strong leadership and technical assistance in the development of a comprehensive student transportation program for statewide application.

D. Under the authority of BESE, the DOE shall work with all LEAs to ensure all federal standards and laws regarding the design, purchase, operation, and maintenance of school buses and the school transportation program are enforced. The responsibilities listed below are assumed directly by the DOE within the framework of a total cooperative effort whereby the state and the LEA work together to ensure a safe, efficient, and economical transportation system:

1. develop and implement clear and concise student transportation policies;
2. develop and implement a statewide system for the management of student transportation;
3. develop and implement educational programs and materials for school bus drivers, transportation supervisors, school administrators, and school bus passengers;
4. coordinate services with other divisions of State Government to ensure adherence to all federal and state regulations;
5. mandate established chassis, body and equipment standards mandated in the Federal Motor Vehicle Safety Standards (FMVSS) for school buses;
6. study and make recommendations regarding legislation and appropriate research in the field of student transportation;
7. develop and direct a statewide management information system for the collection and analysis of student transportation data such as operational costs, accidents and injuries, driver certification, and other data as necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166, and R.S. 17:494.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:625 (April 1999), amended LR 36:

Chapter 3. Selection and Employment of School Bus Drivers and Attendants (Aides)

§301. Employment Requirements

A. Any person hired or contracted to transport or assists in the transportation of students to and from school or school-related activities must meet certain requirements. This applies to full-time school bus drivers, substitute

drivers, activity bus drivers, and bus attendants. Mechanics, supervisors, or other personnel who are licensed to drive school buses but do not actually transport students must fulfill the requirements of the Commercial Driver's License (CDL) Statutes. They may not otherwise be required to fulfill all requirements specified in this section.

B. Employment applications and job descriptions must meet the requirements of the Americans with Disabilities Act.

C. Specific job requirements necessitate specialized training for driving personnel and for bus attendants or aides before they are employed and during the entire terms of service in the transportation program. Each LEA shall be responsible for ensuring specific requirements for local school bus drivers are in accordance with state and federal requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166, R.S. 17:168, and R.S. 32:52.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:628 (April 1999), amended LR 36:

§303. Certification of School Bus Drivers

A. The term *school bus drivers* included in this section includes anyone who is certified to transport students to and from school and school-related activities. Full-time drivers, substitute drivers (including bus attendants who may also be certified to drive in emergency situations), activity bus drivers (teachers, coaches, custodians, etc.), and any other employee who at any time transports students must be certified prior to transporting students.

B. Initial and Annual Certification

1. Initial certification on new applicants and annual certification of existing school bus drivers must be conducted by LEAs on all full-time and substitute school bus drivers. Documentation of those components required for initial certification must be verified and kept on file for all school bus drivers each year.

C. The following requirements are minimum requirements for certification of all school bus drivers in Louisiana; however, LEAs may establish additional criteria for driving personnel and/or bus attendants.

1. Drivers must be 18 years of age or older.
2. Initial applicants must undergo a criminal record check, including finger printing, as described in R.S. 17:15 and R.S. 15:587.1
3. All drivers must have a current and acceptable driving record verified by the Department of Public Safety and Corrections, Office of Motor Vehicles as required by R.S. 17:491.1, verified by the LEAs transportation supervisor, and maintained in the driver's permanent record. Additionally, these drivers must report moving violation convictions in accordance with CDL requirements.

a. No driver or applicant shall be employed as a school bus driver if within the past five years, they have been convicted of, or have forfeited a bond on, any charge of: DUI, possession, distribution, or use of a controlled dangerous substance, as defined by R.S. 40:963, et seq.; leaving the scene of an accident involving an injury or fatality; or any felony involving the use of a motor vehicle.

4. Drivers must have a Commercial Driver's License (CDL) issued by the state of *residence*, which includes a

Passenger (P) and School Bus (S) endorsement. Airbrake authorization may also be required.

5. Drivers must pass a physical and eye examination meeting current CDL requirements. A copy of the examination record must be filed with the LEA transportation office before the beginning of each school year. More extensive and or frequent exams may be required by the LEA.

6. Drivers must pass a drug and alcohol screening meeting current CDL requirements.

7. Initial applicants must complete the following Pre-Service Instruction requirements:

a. Each LEA must provide services for applicants to meet the minimum requirements for certification prior to transporting students on a school bus as outlined in the *Louisiana School Bus Operator Training* manual promulgated by the DOE.

b. Initial applicants must complete the 44 hour pre-service phase of the school bus driver training program which includes 30 hours of pre-service instruction provided by a DOE certified school bus operator instructor, four hours of vehicle familiarization, and 10 hours of on-the-bus training.

8. Newly hired school bus drivers shall be placed on a mandatory three-year probationary period prior to earning tenure within a LEA.

9. Annual or Bi-annual In-Service training for continued certification of school bus drivers must be conducted by the LEA. School bus drivers, including substitute drivers and activity drivers, must complete eight hours of in-service training within a two-year period. The eight hours of training may be provided in four hour annual in-service training opportunities each year.

D. Documentation of certification of school bus drivers must be maintained by the LEA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:587, R.S. 17:15, R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166, R.S. 17:432, R.S. 17:491, R.S. 17:493, R.S. 17:497, R.S. 17: 691, R.S. 32:52, R.S. 32:402, R.S. 32:408, R.S. 32:417, and R.S. 40:963, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:628 (April 1999), amended LR 36:

§305. Bus Attendants (Aides)

A. Bus attendants must be assigned on all school buses as required by the Individualized Educational Plan (IEP). Bus attendants must be physically and emotionally able to assist the bus driver in all activities required to safely transport the student with special needs.

B. LEAs must determine selection criteria for bus attendants. Consideration must be given to annual physical examinations, pre-service and bi-annual in-service training, and transporting students with special needs. The attendant *may* be certified to drive commercially. In the event the attendant is certified to drive commercially, all minimum requirements for school bus drivers must be followed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:629 (April 1999), amended LR 36:

§307. Retaining School Bus Drivers

A. LEAs must enforce the Federal Motor Carrier Safety Act of 1986, Part 383. All school bus drivers must meet the qualifications and guidelines set forth in the Act as follows.

1. School bus drivers shall possess only one valid driver's license issued by their state or jurisdiction of domicile. LEAs shall not knowingly use a driver who has more than one license or whose license is suspended, revoked, or cancelled, or is disqualified from driving. Violation of this requirement may result in civil or criminal penalties.

2. School bus drivers receiving suspension, revocation, cancellation, loss of privilege disqualification and/or right to operate a commercial motor vehicle by any state of jurisdiction, shall notify the school district before the end of the business day following the day the employee received the notice.

3. School bus drivers convicted of violating a state or local motor vehicle traffic law (other than parking violations), in any type of motor vehicle, must notify the LEA within 30 days of conviction.

B. School bus drivers violating Subpart B, License Requirements, and/or Subpart C, Notification Requirements, may be subject to fines and criminal penalties as stated in the Act.

C. The LEA must develop policies that require immediate action when a school bus driver violates any requirements of Part 383 of the Federal Motor Carrier Safety Act regulations:

1. School bus drivers must acknowledge that he/she understands the requirements of the Act and attest that driving and licensing information is correct.

2. Drivers must complete the Employer Notification Form and submit it to the district office when receiving suspension, revocation, cancellation, loss of privilege, disqualification, and/or right to operate a motor vehicle.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166, and R.S. 17:493.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:642 (April 1999), amended LR 36:

§309. Termination of Services or Removal of Certification

A. Full-time bus drivers who have served the mandatory three-year probationary period and have acquired tenure may be terminated for cause, but only in accordance with the terms of R.S. 17: 493. Reasons for dismissal include willful neglect of duty; incompetence; immorality; intoxication while on duty; physical inability to perform duties; failure to keep the school bus in a safe, comfortable and practical operating condition; being a member of or contributing to any group, organization, movement or corporation that is prohibited by law or enjoined from operating in the State of Louisiana.

B. Additionally, the abolition, discontinuance or consolidation of bus routes may require a reduction in force, or lay-off of one or more bus drivers. The procedure prescribed in R.S. 17:493 must be followed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166, and 17:493.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:630 (April 1999), amended LR 36:

Chapter 5. Instructional Program for School Bus Drivers

§501. Driver Training Program

A. The application of federal and state minimum safety standards for school buses has been determined to improve the safety of passengers riding school buses within the state. Emphasis in driver training programs has reduced the school bus accident rate in which the school bus driver is at fault. The driver training program must continue to offer a means of educating drivers in safe, economical, and efficient school transportation operations.

B. LEAs, as well as the DOE, shall cooperate in designing and implementing training programs that will continue to develop the driver's potential for safe, accident-free driving.

C. LEAs are authorized to design specific course content for two distinct categories of drivers:

1. full-time and substitute bus drivers who transport students on daily routes to and from school; and
2. activity bus drivers who transport students occasionally to and from school-related activities (athletic events, parades, field trips, etc.).

D. LEAs must provide that all school bus drivers, including any school board employee who drives a bus on an occasional basis to transport students to and from school activities, attend in-service training not less frequently than once every other school year.

E. Two types of driver training make up the *Louisiana School Bus Operator Training*. Each LEA must provide pre-service and in-service training for drivers.

1. Pre-service training is designed to develop minimum skills in driver applicants.
2. In-service training is designed to improve skills, attitudes and knowledge of all who drive school buses in the state.

F. Pre-service training is designed to develop minimum skills in driver applicants. In order to ensure safe operation from the onset, all driver trainees must complete the 44 hour pre-service phase of the school bus driver training program. Pre-service certification of school bus drivers shall be through successful completion of the *Louisiana School Bus Operator Training* course conducted by a certified trainer. The training sessions must be of at least two days in length and conducted by instructors certified by the DOE.

G. Under special circumstances some drivers may be exempted from part of the required training. Examples of exemptions are segments of curriculum regarding:

1. student management and discipline procedures for certified teachers;
2. first aid for first aid teachers;
3. vehicle maintenance for school bus mechanics;
4. transporting students with disabilities; and
5. daily loading/unloading procedures for activity bus drivers.

H. Drivers who become certified within a year after pre-service training do not have to complete additional in-service training that same school year unless so required by the LEA.

I. Exemptions based on verification of previously completed courses or job related experiences are approved at the discretion of the LEA.

J. The required 44 hours of pre-service training shall consist of the following three phases and are described in the subsequent section:

1. classroom instruction (30 hours);
2. vehicle familiarization and operation (behind the wheel) training (4 hours); and
3. on-the-bus training (10 hours).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:630 (April 1999), amended LR 36:

§503. Pre-service Training

A. Classroom Instruction. The *Louisiana School Bus Operator Training* manual requires a minimum of 30 hours of pre-service instruction.

1. Unless exemptions are authorized in accordance with the preceding section, pre-service classroom instruction must include instruction in the following courses:

- a. First Aid Course (any approved first aid course)—4-8 hours;
- b. Drug/Alcohol Awareness Policy and Testing Procedures—2 hours;
- c. National Safety Council Bus Driver Defensive Driving Course, ("Coaching the School Bus Driver")—6-8 hours;
- d. Appropriate units of DOE School Bus Driver Instructional Program—6-8 hours;
- e. Assertive Discipline/Passenger Management—1-2 hours;
- f. Transporting Students with Disabilities—1-2 hours;
- g. Applicable federal and state laws and regulations, local ordinances, state and local policies governing school bus transportation—2-4 hours;
- h. State and local reporting procedures—2 hours.

2. Additional classroom instruction not to exceed four hours may include the following topics:

- a. Drug Abuse Prevention Awareness;
- b. Recognizing and Reporting Child Abuse;
- c. Preventive Maintenance;
- d. Commercial Driver's License (CDL) Pre-Test Training;
- e. Special activity trip requirements; and
- f. other topics approved by the DOE.

B. Vehicle Familiarization and Operation Training (4 hours)

1. Prior to certification as a school bus driver, applicants must complete a minimum of four hours of vehicle familiarization and operation training (behind-the-wheel).

2. This instruction must be conducted in the type of vehicle(s) the applicant will drive and should cover at least the following operational topics:

- a. pre-trip, enroute, and post-trip inspection procedures;
- b. starting, stopping, and turning procedures;
- c. proper use of school bus signals;

- d. proper backing procedures;
- e. loading and unloading students;
- f. emergency procedures, including emergency evacuation;
- g. procedure at railroad crossings; and
- h. student safety instruction.

C. On-the-Bus Training. Prior to certification as a school bus driver, applicants must complete a minimum of 10 hours of driving a school bus. This phase of the training cycle is designed to introduce the driver to the actual school bus driving task. Additional training on-the-bus training may be required as determined by the supervisor of transportation. Supervised on-the-bus training should include, but need not be limited to, the following:

1. observe regular driver—2 hours;
2. drive empty bus—2 hours;
3. drive loaded bus—6 hours.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:631 (April 1999), amended LR 36:

§505. In-service Training

A. In-service training, which is designed to improve the driver's skills, attitude and knowledge, is a vital part of the total school bus safety effort. To maintain certification, all certified school bus drivers must complete a minimum of eight hours of in-service training within a two-year period; however, annual in-service training is encouraged. (The required eight hours may be divided into two annual four-hour blocks, if so desired by the local transportation supervisor.)

B. Bus driver participation in in-service training sessions is mandatory for the driver to maintain certification. Training topics should be selected from the following courses based on the needs of the LEA:

1. appropriate units of the Louisiana School Bus Driver Instructional Program;
2. National Safety Council Defensive Driving Course: *Coaching the School Bus Driver*;
3. approved first aid course with emphasis on activities designed to meet school bus drivers' needs;
4. assertive discipline/passenger management training;
5. drug abuse prevention awareness training;
6. transporting students with disabilities;
7. recognizing and reporting child abuse;
8. commercial driver's license (CDL) training;
9. special activity trip requirements; and
10. other topics approved by the DOE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:631 (April 1999), amended LR 36:

§507. Remedial Training

A. School bus drivers may require remedial training if their performance does not meet standards set by state and local policy. Remedial training should be designed to improve specific areas of performance.

B. Additional training by the LEA in all phases of student transportation operations is encouraged.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:631 (April 1999), amended LR 36:

Chapter 7. Vehicle Inspection and Maintenance **§701. Inspection and Maintenance**

A. Proper maintenance of student transportation vehicles is vital for a safe, efficient, and economical transportation program. Student transportation vehicles include district owned school buses, independently owned school buses, or other approved vehicles used for transporting students to and from school and school-related activities. Each LEA shall adhere to the following procedures.

1. All student transportation vehicles must be maintained in safe operating condition through a systematic preventive maintenance program.

2. All student transportation vehicles must be inspected during the months of June, July, or August and certified as safe by the appropriate authority prior to the beginning of each school session. Re-inspection or more frequent inspections of vehicles may be made at the discretion of the LEA.

3. All student transportation vehicles must be inspected by an approved Commercial Motor Vehicle Inspection Station during December, January, or February of each school year. Re-inspection or more frequent inspections of vehicles may be made at the discretion of the LEA.

4. Accurate maintenance records must be kept for each school vehicle.

5. Student transportation vehicle drivers must conduct pre-trip inspections before beginning each trip, whether morning, mid-day or afternoon. Inspections must include all items required by the current CDL statutes.

6. Any defects or deficiencies in the areas listed above that may affect the safety of the vehicle's operation or result in its mechanical breakdowns must be reported verbally and in writing to the local transportation office and approval must be granted to continue operation of the vehicle.

7. A pre-trip inspection checklist designed by the LEA must be completed by drivers of all student transportation vehicles and maintained in the vehicle until it is filed with the local Transportation Office. Included in the pre-trip check should be an inventory of required documents: commercial driver's license, Department of Transportation physical verification, proof of vehicle insurance, copy of vehicle registration, student roster, seating chart, route description and stop locations (for daily routes), emergency telephone numbers, accident report forms, etc.

8. A written report shall be made at the completion of each trip or tour of duty regarding any defect, deficiency, malfunction or questionable performance of a student transportation vehicle.

9. A trip inspection must be conducted after each trip or individual run to check for passengers, equipment, medication, etc., that may have been left on the bus.

10. LEAs shall develop and provide approved pre-trip and post-trip inspection report forms to all school bus drivers and develop a system for collection and evaluation of the data.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:835 (May 1999), amended LR 36:

Chapter 9. Vehicle Operation

§901. Specific Procedures

A. Specific procedures have been developed to ensure the highest possible degree of safety for school bus drivers and their passengers. All school bus drivers must be focused on safe operation of the vehicle. In addition to state and federal regulations, the school bus operation policies for each LEA must be in compliance with the Highway Safety Program Guideline No. 17, *Pupil Transportation Safety*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:835 (May 1999), amended LR 36:

§903. Loading and Unloading

A. Warning Signals

1. As required in R.S. 32:318, red flashing warning signals must be used for student loading and unloading. At no other time are these lights to be used.

2. Red Four-Light Flashing Warning System. For buses equipped with a red four-light flashing warning system, drivers must activate the system at least 100 feet but not more than 500 feet before coming to a stop on the roadway. The lights must continue flashing for children to board, alight, and/or cross roadways.

3. Amber and Red Four-Light Flashing Warning System: For buses equipped with an amber and red eight-light flashing warning system, drivers must activate the amber flashing lights at least 100 feet but not more than 500 feet before coming to a stop. Red flashing warning lights must be activated when the bus is stopped and must continue flashing while children board, alight, and/or cross roadways.

B. Locations

1. It is the bus driver's responsibility to select a safe stopping point within LEA guidelines for students to load and unload from the school bus, even if this requires students to walk a distance.

2. The bus must stop in the right traffic lane, or the LEA has the option to permit loading and unloading on the shoulder of the road (when sufficient room exists on the shoulder or on adjacent state property) or on private property, when permission can be obtained from the owner and when no children are required to cross the highway to load or unload. (Off-road loading and unloading negates the effectiveness of flashing lights and stop arm signals. See also R.S. 32:80.)

3. Buses shall not stop within intersections to pick up or discharge students.

4. The school bus shall not be operated on school grounds except to pick up and discharge students or during student safety instruction exercises, but then only when students are carefully supervised.

C. Operations: Preparing to Safely Load or Unload Students

1. The bus driver must activate stop arms after the bus has stopped and before students are permitted to board or alight from the bus. When traveling on undivided roadways, the Louisiana "School Bus Stop Law" (R.S. 32:80) requires drivers of vehicles meeting or overtaking school buses stopped on a highway for the purpose of loading or unloading students to stop the vehicle not less than 30 feet from the school bus when flashing warning lights and stop arms have been activated and to remain stopped until the

signals have been deactivated and the bus has resumed motion. (Bus drivers *must* deactivate signals before resuming motion.)

2. The bus driver must ascertain that traffic has stopped and only then open the door for entrance or exit of students.

3. The bus driver assumes a position behind the wheel before the first student boards and remains seated until the last student is discharged, except for approved loading and unloading of students with disabilities, emergencies, and securing pre-school students into occupant restraints.

5. Emergency doors shall not be used for routine student loading and unloading.

D. Operations: Safe Loading and Unloading Students

1. As the bus approaches a bus stop for student unloading, all students must remain seated until the bus comes to a complete stop and the bus driver has determined that it is safe for students to walk to the front of the bus and to exit.

2. The bus driver should be especially watchful for clothing, book bags, knapsacks, or other carry-on items that can be caught in the handrail or the bus door, thereby possibly causing student injury. The bus driver should always scan the area around the bus door before placing the bus in motion at bus stops.

3. The bus driver must allow all passengers to reach their respective seats before placing the bus in motion after passengers have boarded the bus.

4. Before crossing to the opposite side of the road, students must walk 10 to 15 feet in front of the bus on the shoulder of the roadway, checking the traffic, and then crossing when it is safe to do so. At no time should students be permitted to cross the road behind the school bus. Students who must walk parallel to the bus should walk approximately 10 feet from the side of the bus where space permits. Where space does not permit such a distance, the bus driver must determine that students are clear of the bus before setting the bus in motion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166, R.S. 32:80, and R.S. 32:318.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:835 (May 1999), amended LR 25:2169 (November 1999), amended LR 36:

§905. Crossing Railroad Tracks

A. Railroad Crossings: Stopping Requirements

1. The driver of any school bus, with or without students, shall come to a complete stop no closer than 15 feet but within 50 feet of the rail nearest the front of the bus.

2. Drivers making stops for railroad crossings shall observe traffic. Bus speed shall be reduced far enough in advance of the stop to avoid trapping other motorists in panic stops or rear-end collisions with the bus. On multiple lane roadways, the bus should stop in the right lane whenever possible.

3. During wet, stormy, or foggy weather, before placing part of the bus on the tracks, the bus driver must know that the crossing can be made safely. Any use of flares or warning signals must be taken as an additional warning of danger.

4. Turn signal lights may be operated in their hazard mode except when prohibited by state statute or local regulation. Except for hazard lights and brake lights, no

other school bus signals will be activated for the railroad crossing.

5. When any school bus must stop for any railroad track at grade, all students must be silent until the crossing is completed.

6. After a train has passed the crossing on multiple tracks, the bus driver shall not drive the bus onto any track until the driver is certain that no other train (possibly hidden by the first train) is approaching on an adjacent track.

B. Railroad Crossings with Traffic Signals: Requirements

1. The driver of a school bus that has stopped at any railroad track or tracks at which any crossing gate or barrier is closed or is being opened or closed, and flashing red lights and/or bells have been activated shall not proceed across such tracks unless by authorization from a law enforcement officer. If a flagman is provided by the railroad, movement over the crossing shall be under his direction.

2. At crossings controlled by traffic signals, the bus driver shall obey the traffic signals.

C. Railroad Crossings: Procedures for Crossing

1. When the bus has stopped, the driver shall fully open the service door, listen and look in both directions along the track or tracks for approaching engines, trains or train cars.

2. For improved vision and hearing, the window at the driver's left and the service door should be opened, and all noisy equipment (radios, fans, etc.) should be turned off and should remain turned off until the bus has safely cleared the crossing.

3. If the view of the tracks is obstructed for 1,000 feet or less in either direction, no portion of the bus may be driven onto the tracks until the driver has made certain that no train is approaching. Although railroad signals may indicate the tracks are clear, the driver must develop and use visual and audible senses to determine whether or not it is safe to proceed.

4. The bus driver must never accept a lack of movement as an indication that the device is working or is out of order. A bus driver must always consider a railroad grade crossing as conclusive warning of danger and shall not cross the track until the bus driver has determined that no train is approaching.

5. The school bus driver shall always drive across the tracks in an appropriate low gear and not change gears while crossing the tracks.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166, R.S. 32:80, R.S. 32:171, R.S. 32:173.1, and R.S. 32:174.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:835 (May 1999), amended LR 25:2169 (November 1999), amended LR 36:

§907. Intersections, Turns, Driving Speeds, and Interstate Driving

A. Intersections

1. Use only brake lights as signals when coming to a stop.

2. For buses equipped with standard transmissions, place the gearshift in neutral while waiting for the traffic to clear or for the traffic light to change to green.

3. Use the hand ("parking") brake if on a grade to prevent rolling backward or forward.

4. School buses should not stop within intersections to pick up or to discharge students.

B. Turns

1. Always activate turn signals at least 100 feet before beginning the turning maneuver.

2. Keep the bus as far right as possible for right turns to prevent other vehicles from passing on the right of the bus.

3. For left turns, keep the bus as close to the center line as possible. If two left turn lanes are designated, stay in the outside lane if possible to provide better visibility and a wider turning area.

4. Keep front wheels pointing forward until it is safe to make the turn. This will help to prevent the bus from being knocked into oncoming traffic in the event of a rear-end collision.

C. Driving Speeds

1. School buses must not be driven faster than 55 mph on highways, and no faster than legal speeds on city streets, in school zones, etc.

2. R.S. 32:62 sets the maximum speed at 35 miles per hour under conditions that require frequent stops to receive and discharge students when the posted speed is 35 miles per hour or greater.

D. Interstate Driving

1. School buses must use the right lane except for passing, for exiting to the left, or for hazardous conditions.

2. At no time shall a school bus be operated in excess of 55 miles per hour, including interstate highway travel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166, and R.S. 32:62.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:835 (May 1999), amended LR 25:2169 (November 1999), amended LR 36:

§909. Use of Cell Phones

A. No person shall engage in a call on a cellular radio telecommunication device while driving a school bus except in emergency situations.

B. A cellular radio telecommunication device is defined as a device capable of sending or receiving telephone communications without an access line for service and which requires the operation to dial numbers manually or by voice recognitions. It does not include citizens band radios.

C. The use of cellular telephones by school bus operators shall be authorized for communication with any of the following regarding an emergency situation:

1. an emergency system response operator, 911 public safety communications dispatcher, or school administrator;
2. a hospital or emergency room;
3. a physician's office or health clinic;
4. an ambulance or fire department rescue service; and
5. a fire department or law enforcement agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166, and R.S. 32:289.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:835 (May 1999), amended LR 25:2169 (November 1999), amended LR 36:

§911. Prohibition of Drugs and Weapons

A. School buses are an extension of the school campus and are designated as a drug free zone.

B. Smoking shall be prohibited on any school bus used for the transportation of children attending any public elementary or secondary school.

C. The ownership, possession, or custody of illegal weapons as defined in state law is prohibited from being carried or concealed on a school bus.

AUTHORITY NOTE: Promulgated in accordance with R.S. 14:95, R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166, R.S. 17:240, and R.S. 17:405.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

§913. Passengers

A. Passengers must be instructed to remain seated with hands, arms, and heads inside the bus at all times.

B. All standing is prohibited. At no time may a student stand while the bus is in motion.

C. In compliance with R.S. 32:293, it shall be unlawful for anyone responsible for the transportation of children to permit a number of passengers exceeding 100 percent capacity of a bus to be transported at one time. (School bus capacity is determined by the bus body manufacturer.)

D. The LEA must determine the number of students to be transported in a school bus, but the number must not exceed the manufacturer intents. Auxiliary seating accommodations are not permitted.

E. The bus must never be fueled while passengers are on board or while the engine is running.

F. Drivers shall not leave their buses while passengers are on board unless there is an extreme emergency. If an emergency requires the driver to leave the bus, the engine must be stopped and the ignition key removed by the driver.

G. While the engine is running, the driver shall not leave the bus at any time when passengers are on board. When the bus is empty, the driver should not leave the bus when the engine is running except when inspecting, servicing, or repairing the bus requires the driver to do so. Drivers of buses transporting students with disabilities who must assist in the loading and unloading of passengers in wheel chairs are not considered to have left the bus so long as they remain on or beside the bus to assist with the loading or unloading, itself.

H. Passengers in Type A school buses (buses with a gross weight of 10,000 pounds or less) are required to wear occupant restraints when the vehicle is in motion. Occupant restraints must comply with the requirements of the FMVSS Numbers 208, 209, and 210.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166, and R.S. 32:293.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:835 (May 1999), amended LR 25:2169 (November 1999), amended LR 36:

§915. Miscellaneous

A. Drivers should constantly scan the interior of the bus as well as the areas ahead, to the sides, and to the rear of the bus.

B. Drivers are required to wear seat belts and other safety devices provided by the bus manufacturer at all times while the bus is in motion.

C. The service (entrance) door and the emergency exit door(s) must remain closed at all times while the bus is in motion. School bus aisles must be kept clear and doors and emergency exits must remain unobstructed at all times.

D. Buses must not be backed except in situations where there is no safer alternative. If there is no safe alternative to backing, these warnings should be heeded.

1. Students must be boarded and seated and remain on board the bus when the bus is being backed.

2. The school bus driver must arrange for assistance during backing maneuvers.

E. Headlights shall be turned on whenever it is necessary to use windshield wipers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166, and R.S. 32:281.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:835 (May 1999), amended LR 25:2169 (November 1999), amended LR 36:

Chapter 11. Emergency Evacuations

§1101. Determining Emergency Evacuations

A. Safety is the key word for school transportation in Louisiana. The most important obligation shared by all persons involved in school transportation is their collective responsibility for the safety of the passengers at all times. The safety of the passengers must be considered first when evacuating a school bus.

B. Mandatory emergency evacuation procedures as defined by BESE and outlined in the *Louisiana School Bus Operator Training Manual* must be enforced for all emergency evacuations.

C. School bus drivers are responsible for determining when it is safe for students to exit the bus when an emergency occurs. If the bus is not in danger, the decision to exit the bus must be based on the security of the passengers.

D. Decide whether or not to evacuate the bus. Evacuate the bus if any of these conditions exist:

1. presence of fire or toxic fumes;
2. danger of fire;
3. unsafe position of the bus; or
4. hazardous weather conditions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 9:2793, R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166, and R.S. 32:398.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:838 (May 1999), amended LR 36:

§1103. Fire or Danger of Fire Evacuations

A. The bus should be stopped and evacuated immediately if the engine or any portion of the bus is on fire.

B. Being near an existing fire and unable to move the bus away, or being near the presence of gasoline or other combustible material should be considered as "danger of fire," and students should be evacuated.

C. Students should move to a safe place 100 feet or more from the bus and remain until the driver of the bus has determined that no danger exists.

AUTHORITY NOTE: Promulgated in accordance with R.S. 9:2793, R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166, and R.S. 32:398.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:642 (April 1999), amended LR 36:

§1105. Unsafe Position Evacuations

A. In the event that a bus is stopped due to an accident, mechanical failure, road conditions, or human failure, the driver must determine immediately whether it is safe for students to remain in the bus or evacuate.

B. The driver must evacuate if any of these conditions exist:

1. The final stopping point is in the path of any train or adjacent to any railroad tracks.

2. The stopped position of the bus changes and increases the danger. If, for example, a bus should come to rest near a body of water or near the edge of a cliff, it should be evacuated. The driver should be certain that the evacuation is carried out in a manner that affords maximum safety for the students.

3. The stopped position of the bus is such that there is danger of collision. In normal traffic conditions, the bus should be visible for a distance of 300 or more feet. A position over a hill or around a curve where such visibility does not exist should be considered reason for evacuation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 9:2793, R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166, and R.S. 32:398.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:838 (May 1999), amended LR 36:

Chapter 13. Student Instruction

§1301. Safe Riding Practices

A. Because of the increased number of students being transported and the ever increasing number of accidents on the highways, there is a need to instruct students on safe riding practices and on proper evacuation of a school bus in case of an emergency.

B. It is the responsibility of each LEA to develop policy that requires safe riding practices and proper emergency evacuation instruction for all students. Each LEA must have measures in place to ensure that all students have received intensive classroom instruction. Instruction must include the following:

1. student behavior;
2. identifying individuals who have authority over passengers;
3. loading and unloading procedures;
4. seat assignments;
5. acceptable conduct on the bus, e.g. talking, moving around, and use of windows;
6. keeping the bus clean;
7. care of the bus and its equipment;
8. emergency procedures, including evacuation drills;
9. meeting the bus, waiting for the bus, leaving the area after unloading; and
10. all other applicable local and state rules and regulations.

C. This instruction shall be presented twice each year, at the beginning of each semester. Student instruction information should be coordinated to involve bus drivers, bus attendants, teachers and principals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 14:95, R.S. 17:223, R.S. 17:240, R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166, R.S. 17:405, and R.S. 17:416.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:839 (May 1999), amended LR 36:

§1303. Emergency Exit Drills

A. Students who ride a school bus must be instructed in organized emergency exit procedures. Schools shall organize and conduct, in accordance with the *Louisiana School Bus Operator Training Manual*, emergency drills for all students who may ride school buses.

B. One emergency exit drill shall be held during the first six weeks of each school semester. LEA administrators must provide opportunities at the beginning of each semester for all students riding a school bus to and from school to participate in emergency drill exits.

C. Three exit drill methods are required.

1. All passengers exit through the service (front) door.
2. All passengers exit through the rear emergency exit.
3. Passengers in the front half of the bus exit through the service door; passengers in the rear half exit through the rear emergency exit.

D. If an additional emergency exit door is installed on the bus, passengers should be taught how to exit through this door. It is not necessary to require exiting through emergency exit windows and roof-top hatches during drills, but evacuation procedures using these exits should be explained to passengers.

E. The following guidelines are given for conducting the emergency exit drills:

1. have a local written policy covering the drills;
2. school officials should schedule drills with drivers;
3. practice drills on school grounds, during school hours, in a safe place, and under supervision of the principal or by persons assigned by the principal to act in a supervisory capacity;
4. time and record each drill;
5. practice exiting the bus through the service (front) door and the emergency rear and/or side door. Instruct students on use of other available emergency exits; and
6. students shall practice going a distance of at least 100 feet from the bus and remain there in a group until further directions are given by the principal or persons assigned by the principal to act in a supervisory capacity. Practice drills must provide instruction for student helpers to assist passengers from the bus. Further direction for regarding student helpers as discussed in §1307. Students must be instructed in how and where to get help in emergencies.

F. Important Factors Pertaining to School Bus Evacuation Drills

1. Safety of students is of the utmost importance and must be considered first.
2. All drills should be supervised by the principal or by persons assigned to act in a supervisory capacity.
3. The bus driver is responsible for the safety of the students. In the event of driver incapacitation, see Section 1307.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:632 (April 1999), amended LR 36:

§1305. Verification of Classroom Instruction and Drill Procedures

A. The school principal is responsible for certifying that the passenger instruction and emergency drill procedures have been completed as required.

B. A copy of the *Certification of Passenger Instruction* form and *Emergency Evacuation Drill* form must be verified by the school principal and submitted to the LEA to be maintained in the current transportation files.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:632 (April 1999), amended LR 36:

§1307. Student Helpers

A. Student helpers can be valuable assistants in times of emergency, especially if the driver is incapacitated and unable to direct emergency procedures at the scene of an emergency and no trained adult is available to assist. If student helpers are included in the emergency plan, they should be responsible, should be regular riders, and should live near the end of the bus route. Written parental consent should be obtained by the driver before students are designated for this purpose.

B. Designated students should be taught these basic procedures:

1. how to turn off the ignition switch;
2. how to set the parking brake;
3. how to summon help;
4. how to direct emergency exits;
5. how to set emergency reflective markers; and
6. under what conditions they are authorized to take action and what action they are to take.

C. The bus driver should perform all these functions when possible and should use student helpers only to help with orderly evacuations except when the driver is unable to direct the operation personally.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:839 (May 1999), amended LR 36:

Chapter 15. School Bus Routes

§1501. Routes: Authority and Responsibilities

A. The term *route* shall apply to the combined total daily trips (or "runs") regularly assigned to the bus driver. The statutory authority governing the establishment and continuation of school bus routes in Louisiana is R.S. 17:158 and R.S. 17:497. BESE has been granted the authority under the provisions of R.S. 17:164, et seq., to establish and adopt regulations relating to the operation of school buses in the transportation of students to and from school. These statutes shall be used as a basis in decisions concerning the transportation program in a LEA.

B. The primary responsibility for establishing and continuing school bus routes rests with the LEA. Each LEA has the authority to set additional policies that are not in conflict with state or federal regulations.

C. LEAs are responsible for maintaining safe, efficient, economical school transportation programs by:

1. establishing and continuing only those routes that are needed to assure timely arrivals and departures within the framework of established school hours;
2. designing routes to achieve maximum utilization of buses and the elimination of unnecessary and duplicated mileage; and
3. consolidating and eliminating bus routes when they are no longer needed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166, and R.S. 17:497.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:633 (April 1999), amended LR 36:

§1503. Determining Bus Routes

A. School bus routes must be designed so they begin at the farthest point from the school or schools served and proceed on the shortest charted course.

B. Exceptions may exist when local school officials determine it is more economical to do otherwise and/or when there are hazardous conditions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:634 (April 1999), amended LR 36:

§1505. Routes: Filling Vacancies

A. When filling school bus route vacancies for LEA-owned school buses, the procedures as outlined in R.S. 17:493.1 must be followed.

1. The opportunity to change from the current assigned route to the vacant route must be offered to tenured school bus operators in the order of seniority.

2. If no tenured operator chooses to change to the vacant route, the route shall be offered to a full-time probationary bus operator.

3. If no tenured or probationary operator chooses to change to the vacant route, a substitute bus operator shall be selected from a list of approved substitute school bus operators.

B. When filling school bus route vacancies for contracted owner-operator school buses, procedures for new owner-operator acquisition of the school bus are stipulated in R.S. 17:493.1.

1. The vacated route shall be offered first to any person meeting the requirements of the LEA who is willing to acquire the bus of the retiring operator.

2. The acquisition of the school bus by the new owner-operator must guarantee that the retiring owner-operator driver received full appraised value for the bus using regularly accepted appraisal methods to determine fair market value.

3. These requirements are applicable only when the bus owned by the retiring operator has been manufactured within a period of five years immediately prior to the operator's retirement and the operator is retiring due to a documented physical disability.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166, R.S. 17:493, and R.S. 17:500.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:633 (April 1999), amended LR 36:

Chapter 17. Compensation of School Bus Drivers

§1701. Salary Compensation Based on School Bus Routes

A. The term *route* shall apply to the combined total daily trips (or "runs") regularly assigned to the bus driver.

B. Bus routes are measured in terms of "one-way mileage." Paid one-way mileage for contract drivers begins when the first child is picked up and ends when the final destination or school is reached.

C. When one-way mileage differs in the afternoon from that of the morning route, the one-way mileage for the morning and afternoon is totaled and divided by two. The result is the average one-way mileage for that particular route.

D. The rate of compensation is determined by the length of the school bus for the first six miles, next six miles and over 12 miles as specified in R.S. 17:497.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166 and R.S. 17:497.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:633 (April 1999), amended LR 36:

§1703. Salary Compensation: Frozen Mileage

A. Mileage may be frozen at the current rate of compensation for contracted owner-operators of school bus drivers as mandated in R.S. 17:497.

B. Frozen mileage guarantees that the contract owner/operator cannot be penalized by a reduction of compensated mileage (except as may be requested by the owner/operator) for a period of seven years when a new bus is purchased or five years when a used bus not more than five model year old is purchased.

C. If route mileage is increased, operational mileage compensation must be increased accordingly, if route mileage is decreased because of circumstances beyond the control of the owner/operator, operational mileage compensation shall not be reduced below the mileage level indicated on the original School Bus Purchase Form.

D. If a driver requests and is granted less mileage than the frozen mileage, actual mileage shall be compensated.

E. Frozen mileage applies only when the owner/operator makes a purchase of a new or used bus not more than five model years old.

F. The transfer of a bus from spouse to spouse, acquisition as a gift, etc., other than a purchase does not afford frozen mileage to the person who acquires the bus.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166, and R.S. 17:497.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:634 (April 1999).

§1705. Alternative Transportation Driver Compensation

A. Procedures for reimbursement of drivers in LEA-approved vehicles who transport students with disabilities is further defined in Chapter 21, §2107 and §2109.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

Chapter 19. Transporting Students

§1901. Transporting Eligible Students

A. In accordance with Louisiana Revised Statute 17:158, each LEA shall provide free transportation for any student who attends a school of suitable grade approved by BESE if the student resides more than one mile from such school, and the school is within the jurisdictional boundaries of the LEA.

B. The distance shall be determined as extending from the student's driveway or entrance to the nearest public road, to the walking entrance of the school building. (The distance shall be measured by the most direct route and may be along roads and walkways.)

C. No person other than assigned students and authorized persons approved by the local Transportation Supervisor or other authorized school officials are allowed to board the bus.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:634 (April 1999), LR 36:

§1903. Transportation of Students Living Within One Mile of School of Attendance

A. BESE allows the LEA to transport students living within one-mile of the school they attend if there are "exceptional" or hazardous walking situations.

B. The transportation of these students requires special permission from BESE:

1. Approval of requests for the transportation of students living less than one mile from the school they attend will not be approved unless the request for such approval is accompanied by a plan or procedure to eliminate the exceptional conditions (if possible) by providing safe walking areas and conditions.

2. The plan must identify the problem, list proposed solutions, outline procedures to correct the problem, and include the time schedule for completion.

3. When an emergency exists, the State Superintendent of Education may authorize transportation, not to exceed 30 days.

4. The conditions must be reviewed for continued approval. All exceptional conditions shall be reviewed by June 30 of each school year by the local LEA to determine whether corrective actions can be made in order to relieve the need for this transportation.

C. R.S. 17:158 (A) allows 15 LEAs to transport within one mile if hazardous conditions exist, but at no cost to the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166, and R.S. 17:497.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

§1905. Transportation of Student in Foster Care

A. Each LEA shall establish a policy to ensure that a student who is in foster care pursuant to placement through the Department of Social Services (DSS) shall be allowed to remain enrolled in the public school in which the student was enrolled at the time he or she entered foster care, if DSS determines that remaining in the school is in the best interest of the student.

B. If the foster care placement is outside the jurisdictional boundaries of the school in which the student is enrolled, the governing authority of the school shall be responsible for providing free transportation for the student to and from a designated location which is within that school district and is located nearest to the student's residence.

1. The location must be determined to be appropriate by such governing authority and DSS.

2. DSS shall be responsible for providing the child's transportation between that location and the child's residence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166, and R.S. 17:238.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:635 (April 1999), amended LR 36:

Chapter 21. Transporting Students with Disabilities

§2101. Transporting Students with Disabilities

A. Public Law 93-112, Section 504, requires "that no individual, solely by reason of his handicap, be excluded from participating in, be denied the benefits of, or be

subjected to discrimination under any program or activity receiving federal financial assistance” and the Individuals with Disabilities Education Act (IDEA) requires a LEA to provide non-academic and extracurricular services and activities in a manner necessary to afford children with disabilities an equal opportunity for participation in those services and activities. The LEA shall provide transportation services to implement any Individualized Educational Plan (IEP) for a student with a disability whose residence falls within the jurisdiction of the LEA, as defined in Bulletin 1706, *Regulations for Implementation of the Children with Exceptionalities Act*. The LEA must incur the cost of providing services and specialized equipment.

B. All students with disabilities (regardless of age) are eligible for free appropriate public education (FAPE). Facilities, services and activities provided to students with disabilities must be comparable with those provided to non-disabled student, and students with these disabilities must have an equal opportunity for participation in any non-academic and extracurricular services and activities provided by a LEA.

C. LEAs must provide transportation services in such a manner to afford students with disabilities an equal opportunity for participation in those services.

D. LEA personnel involved in transporting students must be knowledgeable with the laws and regulations required for transporting students with disabilities.

E. LEA transportation staff must work closely with LEA personnel to ensure that services meet or exceed those required by law and current BESE policies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:635 (April 1999), amended LR 36:

§2103. Guidelines for Providing Transportation Service for Students with Disabilities

A. LEAs must comply with IDEA, Section 504, Louisiana statutes and regulations and policies set forth in the DOE bulletins governing educational services for students with disabilities.

B. LEA transportation staff must develop procedures to minimize conflicts and resolve issues that may arise in transporting students requiring additional services.

C. LEAs must provide school bus service for students with disabilities as indicated in the student’s IEP. The IEP may specify “curb to curb” or “door to door” services. When alternative modes of transportation are required, approval must be granted by the Special Education Supervisor and LEA transportation authority. Alternative arrangements must be stated in the IEP.

1. The term “curb-to-curb” implies that bus drivers and bus attendants are responsible for loading and unloading students at their home bus stops and at school loading/unloading areas. The term “door to door” implies that the bus driver and or bus attendant are responsible for loading and unloading students at that door and at school loading/unloading areas. This related service does not extend to the interior of the student’s home.

2. In determining whether to include transportation in a student’s IEP, the IEP team must consider how the student’s disability affects the student need for transportation. Factors such as the student’s ability to move

independently, ability to reason and understand potential safety hazards en route to the bus stop as a result of the student’s age or disability, nature and condition of the route, availability of public assistance, and access to private assistance.

3. If a student with a disability can use the same transportation as non-disabled students, then transportation is not likely to be a related service and the LEA may make the same transportation provisions for the student with a disability that it does for the general population.

4. Students with disabilities may not have transportation schedules which differ from non-disabled students. Students with disabilities must be transported on a schedule which allows them to receive a full instructional day as documented on the IEP.

5. Certain students may be picked up at a safe bus stop near (e.g., at the corner) their residences. Alternate arrangements can be made that are mutually agreeable to all parties, but must be handled on an individual basis and indicated in the IEP.

6. Parents must request approval from the school and the school bus driver when the child is going to be picked up or dropped off at a location different from the student’s residence. Prior approval from the LEA transportation office is required if the different location results in time conflicts, overloads, or an increase in the driver’s mileage. Final approval rests with the LEA.

7. Local procedures must be developed to specify whether bus drivers, bus attendants, classroom teachers, teacher assistants, or other staff is responsible for taking students to and from the school buses at the school site.

D. When attendance at a school outside the student’s geographic zone is mutually agreeable and determined to be part of the student’s FAPE, the home LEA has the responsibility to provide transportation, if transportation is also related to FAPE. In situations where the student attends an out-of district school based solely on personal preference and the home LEA has offered an opportunity for FAPE, transportation may not be required even in instances where the student may otherwise qualify for this service.

E. The LEA cannot discharge its obligation to transport a student with a disability who needs transportation as a related service by requiring parents, without their agreement, to provide the transportation themselves and receive mileage reimbursement. However, while the LEA cannot demand this arrangement, it is not unreasonable for the LEA to request such an arrangement.

F. LEAs must ensure that:

1. all school buses used to transport students with disabilities comply with current applicable Louisiana Revised Statutes, Louisiana State Department of Education Standards, and with all other standards as may be established by governing authorities;

2. specialized equipment used to transport students to educational sites complies with all Federal Motor Vehicle Safety Standards (FMVSS), where such standards are applicable;

3. appropriate safety measures are used in the transportation of students with disabilities, especially when extraordinary measures are required;

4. supervision of students is in compliance with LEA policies and the IEP;

5. students being transported spend only a reasonable amount of time on the bus. The locations of the residence and the school facility and the specific needs of the individual student will be determinant factors in length of travel time.

E. It is the responsibility of the LEA to employ and train qualified school bus drivers and substitute drivers as needed to transport eligible special education students. Bus attendants must be trained to assist in transporting students with disabilities when necessary and appropriate as a related service.

1. The need for a bus attendant is a decision of the LEA, unless the requirement is documented on the student's IEP.

2. Providing a bus attendant for any student with a disability shall be considered by the IEP team. This decision should be made on an individual basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:635 (April 1999), amended LR 36:

§2105. Transportation for Summer Programs

A. When the IEP Committee recommends an extended year program, the students are entitled to the related transportation service. Summer transportation will follow the same guidelines that are in effect during the school year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:635 (April 1999), amended LR 36:

§2107. Transportation of Students with Disabilities by Other than a School Bus

A. LEAs should meet the following requirements in providing transportation for students who cannot be transported by school buses or within the regular established school bus routing system, and must be transported in cars, vans, or other specially equipped vehicles:

1. Transportation routes will be established by the LEA. These routes must be well planned to ensure economy and efficiency. All existing transportation requirements of the LEA must be considered prior to establishing an additional route.

2. Drivers of vehicles on the special routes will neither be subject to provisions of R.S. 17:496 (minimum salary schedule) nor will they be eligible for tenure.

3. Vehicles used on these special routes (private cars, station wagons, vans, etc.) will be subject to safety inspections and carry the necessary insurance coverage required by the LEA.

4. LEAs will reimburse drivers of vehicles (private cars, station wagons, vans, etc.) approved by the LEA for such purposes at the current state approved rate for reimbursement of mileage on the basis of miles traveled for one round trip per vehicle for each day of attendance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:636 (April 1999), amended LR 35:645 (April 2009), LR 36:

§2109. Transportation of Residential (Boarding) Students

A. The transportation policy for the Special School District and the Board Special Schools shall be established separately by those entities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:636 (April 1999), amended LR 36:

§2111. Removals from Transportation Services

A. Transportation services cannot be terminated for students with disabilities without the approval of the LEA transportation staff and exceptional services staff in consultation with school officials, parents, and school bus driver and must be in accordance with Bulletin 1706 disciplinary provisions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:636 (April 1999), LR 36:

Chapter 23. Bus Body Standards for School Buses

§2301. Forward

A. All student transportation vehicles purchased on or after July 1, 1998, shall meet or exceed the requirements herein. The appropriate sections of these specifications apply to all school buses for student transportation in Louisiana which are purchased, owned, or operated by a LEA and to all school buses leased or contracted to a LEA by private owners for the transportation of students to and from school and all school-related activities.

B. Any part of these specifications may be changed at any time by addenda adopted by BESE in accordance with the Administrative Procedures Act. Changes will be made to comply with changing FMVSS or statutes of the Louisiana Legislature.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:643 (April 1999), amended LR 36:

§2303. Federal Motor Vehicle Safety Standards (FMVSS)

A. All school buses shall meet or exceed the minimum requirements of all applicable FMVSS as found in 49 CFR 571.

B. All school buses shall be equipped as required by applicable FMVSS.

C. In addition to FMVSS regulations, school buses used to transport students to and from school and school-related activities must meet the school bus body, chassis or equipment that meets the latest revised minimum standards for school buses adopted and recommended by the National Conference on School Transportation, sponsored by the National Council of Chief State School Officers, the

American Association of School Administrators, NEA, the Department of Rural Education, NEA, and the U.S. Office of Education. Copies of the current National Conference on School Transportation specifications can be obtained through the website: www.ncstonline.org.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:643 (April 1999), amended LR 36:

§2305. Definitions and of School Bus Types

A. School buses must meet both federal and state definitions.

1. Federal definition—school bus means a passenger motor vehicle designed to carry a driver and more than 10 passengers, which the Secretary of Transportation decides is likely to be used significantly to transport preprimary, primary, and secondary students to or from school or an event related to school.

2. State definition—school bus means every motor vehicle that complies with the color, equipment, and identification requirements required by law and is used to transport children to and from school or in connection with school activities, but not including buses operated by common carriers in urban transportation of school children.

B. School Bus Types

1. *Type A*—a conversion or body constructed and installed upon a van-type compact truck or front-section vehicle, with a gross vehicle weight rating of 10,000 pounds or less, designed for carrying more than 10 persons.

2. *Type B*—a conversion or body constructed and installed upon a van or front-section chassis, or stripped chassis, with a gross vehicle weight rating of more than 10,000 pounds, designed for carrying more than 10 persons. Part of the engine is beneath and/or behind the windshield and beside the driver's seat. The entrance door is behind the front wheels.

3. *Type C*—a body installed upon a flat back cowl chassis with a gross vehicle weight rating of more than 10,000 pounds, designed for carrying more than 10 persons. All of the engine is in front of the windshield and the entrance door is behind the front wheels.

4. *Type D*—a body installed upon a chassis, with the engine mounted in the front, midship, or rear, with a gross vehicle weight rating of more than 10,000 pounds, designed for carrying more than 10 persons. The engine may be behind the windshield and beside the driver's seat. It may be at the rear of the bus, behind the rear wheels, or midship between the front and rear axles. The entrance door is ahead of the front wheels.

C. No vehicle with rated capacity of more than 10 passengers shall be classified as a school bus and thereby used to transport students to and from school and school-related activities unless said vehicle originally was manufactured and certified as a school bus and maintained the certification as a school bus all in accordance with federal and state requirements throughout the life of the vehicle.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:644 (April 1999), amended LR 36:

Chapter 25. Purchase, Sale, Lease, and Repair of School Buses

§2501. Responsibility of Dealers and Manufacturers

A. The responsibility of compliance with school bus specifications rests with the vendors and manufacturers.

B. If any vendor or manufacturer sells school transportation equipment that does not conform to all these and all other applicable state and federal specifications, the vendor shall be required to make necessary conversions to bring the vehicle into compliance. All cost related to such alteration shall be borne by the vendor.

C. LEAs shall have the option of imposing additional specifications that exceed state and federal standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:644 (April 1999), amended LR 36:

§2503. Purchase of School Buses

A. All school bus vendors shall certify to the purchaser (LEA, contract, or individual), upon delivery that the school bus(es) sold for use by Louisiana school systems meet or exceed all standards specified herein and comply with the applicable FMVSS set forth by the United States Department of Transportation.

B. LEAs are authorized to voluntarily pool bids for school bus purchases for economical acquisition of school buses and related equipment and supplies.

C. It is mandatory that the seller of any new or used school bus shall complete a School Bus Purchase Form verifying that the purchased vehicle meets all state and federal school bus specifications applicable at the time of manufacture.

D. LEAs must keep current records of purchases of school buses. Information must be provided to the DOE upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166, and R.S. 17:494.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:644 (April 1999), amended LR 36:

§2505. Sale of School Buses

A. LEAs are authorized to purchase school buses and to resell such buses to any school bus operator employed by the LEA or with whom the LEA has contracted to provide transportation services for students.

B. The bus shall be used by the operator to transport students on the operator's assigned bus route. All mandates of Louisiana statutes must be met prior to the sale.

C. LEAs must keep current records of sales of school buses. Information shall be provided to the DOE upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:644 (April 1999), amended LR 36:

§2507. Lease of School Buses

A. LEAs may lease a school bus owned by any school bus operator employed by the LEA or with whom the LEA has contracted to provide transportation services for students from the school bus operator.

B. The school bus shall be used by the operator to transport students on the operator's assigned bus route.

C. Lease agreements must follow state regulations as described in R.S.17:158.7.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

§2509. Used School Buses

A. Any used school bus purchased for use in Louisiana by or for a school system shall meet current legal requirements of the Louisiana Revised Statutes for motor vehicles and shall meet Louisiana specifications for school buses that were in effect on the date the vehicle was manufactured. No vehicle with rated capacity of more than 10 passengers shall be classified as a school bus and thereby used to transport students to and from school and school-related activities unless said vehicle originally was manufactured and certified as a school bus and maintained the certification as a school bus all in accordance with federal and state requirements throughout the life of the vehicle.

B. All replacement school buses, at the time they are acquired by the owner, must be 10 or less model years old for tenured owners/operators and school districts and five or less model years old for non-tenured owners/operators. The number of years shall be reckoned from the date of the model year. (See *Calculating the Age of School Buses*, §3107.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:644 (April 1999), amended LR 26:639 (April 2000), LR 27:187 (February 2001), LR 36:

§2511. Life of a School Bus

A. School buses shall not exceed the age of 25 model years (See *Calculating the Age of School Buses*, §3107.) LEAs must be in compliance with this standard by January 2011.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

§2513. Insurance for School Buses

A. LEAs have the authority to enter into and consummate contracts for insurance covering loss of life or personal injury of the children while being transported to and from school and school related activities.

B. Insurance for District-Owned School Buses. All premiums for all insurance policies of public liability and property damage insurance applying to and covering school buses owned by LEAs shall be the obligation of and payable by, the board owning such buses.

C. LEAs are not prevented from paying the premiums for public liability and property damage insurance covering and applying to privately owned buses used for transportation of students on behalf of the LEA.

D. Insurance for Contracted Services. State law authorizes LEAs contracting for the use of privately owned school buses to procure contracts on a fleet or group basis for the owners who are insuring the vehicles.

E. The amounts required or to be required during each year to make the premium payments may be withheld from compensation due the owners in equal monthly installments.

F. Contracts must in compliance with state law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:159, R.S. 32:601, R.S. 32:604, and R.S. 45:162.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

§2515. Repair of School Buses

A. Any repairs or alterations to any bus that fall under the guidelines of this bulletin shall be made in accordance with all specifications contained herein and all applicable FMVSS.

B. At the time of purchase, the seller of any school bus must disclose to the purchaser, which components of the vehicle are subject to a manufacturer's or distributor's warranty agreement.

C. School bus warranty repair work, except for engine and transmission repair work, shall be performed by repair facilities authorized by the manufacturer or distributor which are not school bus dealers.

D. Manufacturers of school buses licensed by the Louisiana Motor Vehicle Commission are authorized to provide warranty and other repair or maintenance services to be performed at any location of a licensed motor vehicle dealer which holds a franchise from any affiliate or subsidiary of the school bus manufacturer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166, and R.S. 32:1261.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:644 (April 1999), amended LR 36:

§2517. Sanctions

A. Any school bus that does not meet the minimum specifications set forth in this bulletin must not be used until such time that the bus is in compliance with the rules of this bulletin.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:644 (April 1999), amended LR 36:

Chapter 27. Evaluation of the Student Transportation System

§2701. Criteria

A. Each LEA should have a plan for annually evaluating its student transportation operation. There are several criteria which can be applied to obtain some estimates of the operation's effectiveness. These criteria relate to such factors as safety, efficiency and economy.

B. Safety criteria should include, but is not limited to:

1. injuries to students, the driver and other highway users;
2. frequency and severity of property damage accidents in which buses are involved;
3. frequency and severity of moving traffic violations for which drivers are cited;
4. frequency and nature of complaints from parents, the motoring public, school administrators and students;
5. frequency and nature of vehicle breakdowns, road failures and other emergency situations involving buses; and
6. hazardous situations on bus routes.

C. Efficiency and economy criteria includes, but is not limited to:

1. Bus route operation within the framework of established school hours;
2. minimizing the actual time students are on the bus;
3. routes designed to achieve maximum utilization (i.e., full capacity within reason), and elimination of unnecessary mileage and duplication; and
4. annual review of all routes and routing procedures, including stop-times.

D. The LEA school transportation evaluation program must provide for periodic evaluation of progress along predetermined time schedules and a point-by-point comparison of the system's present program with state policies and standards to identify deficiencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:633 (April 1999), amended LR 36:

Chapter 29. Records and Reports

§2901. Records and Reports

A. School Bus Driver Records. Files on all school bus drivers, including substitutes and activity drivers, must be maintained by the LEA. The following documents must be included in these records:

1. driver data;
2. vehicle accident/incident records, including Employee Notification Forms;
3. complaints;
4. liability insurance policy verification for contract drivers;
5. documentation of completion of bus driver's training courses (preservice and inservice); and
6. medical examination reports.

B. School Bus Records. Files on all school buses must be maintained by the LEA. The following documents must be included in these records:

1. vehicle data; and
2. vehicle inspection and maintenance records.

C. School Bus Route Records. Files on all school bus routes must be maintained by the LEA. The following information and maps must be included in these records:

1. description of each driver's route;
2. location of driver's home or point of departure;
3. beginning point, individual stops, and final destinations of each route or daily trip or daily runs; and
4. school or schools being served.

D. Financial Data. The DOE and BESE shall develop procedures and forms for LEAs to report transportation data and for receiving state funding for transportation. Cost and expenditure data for student transportation facilities, equipment, and staff must be maintained. LEAs will be required to provide any or all of the following information to the DOE:

1. an annual report of publicly and privately owned buses, including names of drivers, vehicle data, number of daily trips, number of students, number of daily miles, and costs. Reporting forms or formats for electronic transmission of data will be provided by the DOE;

2. record of contract owners who are covered by applicable frozen mileage statutes (see Section 1703);

3. frozen mileage reports that indicate the route mileage approved by the LEA authority at the time the school bus is placed into service. Use of the school bus purchase form is required;

4. Records of all school buses bought and sold to public school bus drivers and/or LEAs must be maintained by the LEA.

E. School Bus Maintenance Records. Accurate maintenance records must be kept for all school buses, including those of contract drivers.

F. Certification of Passenger Instruction. Documentation and verification of Passenger Instruction must be maintained by the LEA.

G. School Bus Student Behavior Report. All school bus drivers are required to report student behavior problems on the school bus. All LEAs must make the School Bus Behavior Report available to all school bus drivers. Drivers must use the official *Student Behavior Report Form* to report inappropriate student behavior while on the school bus.

H. School Bus Accident Information. Statistical data and reports on all bus-related accidents must be maintained by the local transportation supervisor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:633 (April 1999), amended LR 36:

§2903. Uniform School Bus Accident Reporting Procedures

A. All school bus accidents, no matter how minor, shall be reported by the bus driver to the local Supervisor of Transportation, who shall ensure that all appropriate reporting procedures are followed. This reporting requirement applies to students who are injured while on board the bus, even if the bus is not in a collision or a near-collision. (Such accidents are called "on-board" accidents.) It applies whether or not bus passengers are injured or the bus is damaged as a result of the accident.

B. The uniform school bus accident report form shall be completed whether passengers are on board or not if the accident involves property damage, personal injury or fatality to:

1. occupants in the bus (driver, students, other passengers);
2. occupants of any other vehicle(s) involved in the accident; and
3. non-occupants of the school bus or other vehicle (e.g., student in the loading/unloading zone, pedestrian, bystander).

C. The school bus driver shall complete the form and submit it to the appropriate LEA authority for additional procedures. A written report of each accident must be maintained in the LEA. A written report of each accident shall be available upon request by the DOE or other reporting agencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:847 (May 1999), amended LR 36:

Chapter 31. Appendix

§3101. Definitions

Accident—any incident in which a school bus is involved that results in death, personal injury, and/or property damage, regardless of who was responsible. This applies whether the school bus was in motion, temporarily stopped, parked, being loaded, or unloaded and on public or private property.

Accident Reporting Form—form used to report the occurrence of any incident which involves death, personal injury and/or property damage regardless of who was responsible. This applies whether the school bus was in motion, temporarily stopped parked, being loaded, or unloaded and on public or private property. Use of the form promotes the compilation of accurate, uniform, and reliable information about school bus accidents so that problems and trends can be identified and effective safety programs can be developed.

Activity Bus Driver—a person meeting all licensing requirements and local, state and federal regulations to operate a vehicle used to transport students to and from school-related activities or on an “as-need” basis for the LEA.

Alternately Flashing Signal Lamps—a system of red or red and amber signal lamps mounted horizontally both front and rear, intended to identify a vehicle as a school bus and to inform other users of the highway that the bus is about to stop or is stopped to load or unload children.

Attendant (Aide)—a person assigned to assist one or more individual student(s) on a school bus or school vehicle.

BESE—Board of Elementary and Secondary Education

Body Fluids Cleanup Kit—package of materials including, but not limited to, latex gloves, disposal bag, and absorbent material, used to clean up spills of potentially infected bodily fluids, under OSHA’s Bloodborne Pathogens regulations and Universal Precautions practice.

Cancellation—a driver’s license is annulled because of some error or defect or because the licensee is no longer entitled to such license, but the cancellation of a license is without prejudice and application for a new license may be made at any time after such cancellation.

CFR—Code of Federal Regulations

Commercial Driver’s License (CDL)—the license required to operate a commercial motor vehicle.

Commercial Motor Vehicle—a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle meets one of the following requirements:

1. has a gross combination weight rating of twenty-six thousand one or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than ten thousand pounds;
2. has a gross vehicle weight rating of twenty-six thousand one or more pounds;
3. is designed to transport sixteen or more passengers, including the driver.

Controlled-Access Highway—every highway, street, or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the same except at such points only and in such manner as may be determined by the public authority having jurisdiction over such highway, street, or roadway.

Convicted or Conviction—includes the entry of a plea of guilty or nolo contendere to a felony offense.

Criminal Record Check—the investigation of a person’s criminal history through submission of fingerprints to state and/or federal authorities; also known as background check.

Crossing Control Arm—a device attached to the front bumper of a school bus that is activated during loading and unloading and designed to force the students to walk far enough away from the front of the bus to be seen by the driver.

Cross-Walk—

1. part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or, in absence of curbs, from the edges of the traversable roadway.

2. any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

Dealer—any person who is engaged in the sale and distribution of new motor vehicles or motor vehicle equipment.

DOE—Department of Education

Divided Highway—any highway divided into roadways by a median, physical barrier, or clearly indicated dividing section so constructed as to impede vehicular traffic.

Driver—every person who drives or is in actual physical control of a vehicle.

Driver’s License or License—any license secured from the Department of Public Safety and Corrections, Office of Motor Vehicles, in accordance with this Chapter to operate a motor vehicle on the highways of this state.

Emergency Evacuation Drill Verification Form (Form T-8)—form used to verify that emergency drill procedures have been taught to passengers and emergency drills were conducted. The form must be completed at the beginning of each semester and submitted to the district Transportation Office.

Employee Notification Form—form used by a school bus driver to report his/her non-compliance with provisions of the Commercial Motor Vehicle Safety Act of 1986.

Federal Motor Vehicle Safety Standards (FMVSS)—49 CFR 571, the regulations to which manufacturers of motor vehicles and equipment items must conform and certify compliance. These federal safety standards are regulations written in terms of minimum safety performance requirements.

Gross Weight—the weight of a vehicle and/or combination of vehicles without load on all axles including the steering axle plus the weight of any load thereon.

Highway—the entire width between the boundary lines of every way or place of whatever nature publicly maintained and open to the use of the public for the purpose of vehicular travel, including bridges, causeways, tunnels and ferries; synonymous with the word “street”.

Intersection—

1. The area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two highways which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict.

2. Where a highway includes two highways thirty feet or more apart, then every crossing of each highway of such divided highway by an intersecting highway shall be regarded as a separate intersection. In the event such intersecting highway also includes two highways thirty feet or more apart, then every crossing of two highways of such highways shall be regarded as a separate intersection.

3. The junction of an alley with a street or highway shall not constitute an intersection.

Interstate Highway—a fully controlled access highway which is a part of the National System of Interstate and Defense Highways.

Laned Roadway or Highway—a roadway or highway which is divided into two or more clearly marked lanes for vehicular traffic.

Length—the total longitudinal dimension of a single vehicle, a trailer, or a semi-trailer. Length of a trailer or semi-trailer is measured from the front of the cargo-carrying unit to its rear and includes load-holding devices thereon.

Load—a weight or quantity of anything resting upon something else regarded as its support.

Loading Zone—any area where students are boarding or leaving a school bus.

Manufacturer—any person engaged in the manufacturing or assembling of motor vehicles or items of motor vehicle equipment, including any person importing motor vehicle equipment for resale.

Motor Carrier—any person owning, controlling, managing, operating, or causing to be used or operated any commercial motor vehicle used in the transportation of persons or property over the public highways of this state.

Motor Vehicle—every vehicle which is self-propelled, and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails, but excluding a motorized bicycle. "Motor vehicle" shall also include a "low-speed vehicle" which is a four-wheeled, electric-powered vehicle with a maximum speed of not less than twenty miles per hour but not more than twenty-five miles per hour and is equipped with the minimum motor vehicle equipment appropriate for vehicle safety as required in 49 C.F.R. 571.500.

Multiple-Lane Highway—any highway with two or more clearly marked lanes for traffic in each direction.

NHTSA (National Highway Traffic Safety Administration)—the agency of the Executive branch of the United States Department of Transportation charged with writing and enforcing safety, theft resistance, and fuel economy standards for motor vehicles.

Operator—any person, other than a chauffeur, who drives or is in actual physical control of a motor vehicle upon a highway or who is exercising control over or steering a vehicle being towed by a motor vehicle.

Owner—a person who holds a legal title to a vehicle or in the event a vehicle is the subject of an agreement for the conditional sale, lease, or transfer of possession thereof with the right of purchase upon the performance of the conditions stated in the agreement, with the right of immediate possession in the vendee, lessee, or possessor.

Park or Parking—the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.

Parking Area—an area used by the public as a means of access to and egress from, and for the free parking of motor vehicles by patrons of a shopping center, business, factory, hospital, institution, or similar building or location.

Pedestrian—any person afoot.

Power Lift—a mechanized platform designed to provide access to a vehicle for an occupied mobility aid/wheelchair; also known as a wheelchair lift.

Private Road or Driveway—every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

Railroad—a carrier of persons or property upon cars, other than streetcars, operated upon stationary rails.

Railroad Crossing—the intersection of a highway, street or roadway and railroad tracks.

Railroad Sign or Signal—any sign, signal, or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train.

Residence District—the territory contiguous to a highway not comprising a business district, when the frontage on such a highway for a distance of three hundred feet or more is mainly occupied by dwellings or by dwellings and buildings in use for business.

Revocation—the driver's license to drive a motor vehicle on the highways is terminated and shall not be renewed, except that an application for a new license may be presented and acted upon by the Department of Public Safety and Corrections, Office of Motor Vehicles, after the expiration of at least one year after revocation.

Right of Way—the privilege of the immediate use of the highway.

Roadway—that portion of a highway improved, designed, or ordinarily used for vehicular traffic, exclusive of the berm or shoulder. A divided highway has two or more roadways.

Route—the term shall apply to the combined total daily trips regularly assigned to the bus driver.

Safe Riding Practices Classroom Instruction Form (Form T-7)—form used to verify that all students in a school have received instruction on safe school bus riding practices.

Safety Zone—the area or space officially set apart within a highway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

School Bus—Federal definition - school bus means a passenger motor vehicle designed to carry a driver and more than 10 passengers, which the Secretary of Transportation decides is likely to be used significantly to transport preprimary, primary, and secondary students to or from school or an event related to school.

State Definition—every motor vehicle that complies with the color, equipment, and identification requirements

required by law and is used to transport children to and from school or in connection with school activities, but not including buses operated by common carriers in urban transportation of school children.

1. "Type I school bus" means any school bus designed to carry more than sixteen students at one time.

2. "Type II school bus" means any school bus designed to carry sixteen or less students at one time.

School Bus Behavior Report Form—form used to inform parents/guardians of behavioral incidents on the school bus and subsequent disciplinary action taken by school officials. The form requires signature of the principal and allows for comment from the student and/or parent/guardian

School Bus Driver—the employee or contracted individual hired to operate a school bus over designated routes within an established time schedule, to transport students to and from school or school-related activities, perform daily inspections of a school bus and equipment; to fulfill requirements set by the LEA.

School Bus Operator Certification Program—the school bus driver certification program developed by the DOE and mandated by state law for all school bus drivers to be eligible to transport students to and from school or school-related activities.

School Bus Purchase Form (Form T-10)—form to be completed by the seller of any new or used school bus to verify the vehicle meets all Federal Motor Vehicles Safety Standards (FMVSS) and requirements set forth by the Louisiana Board of Elementary and Secondary Education.

Seat Belt—the manual restraint system installed by the manufacturer as required by Federal Motor Vehicle Standard No. 208 which became effective January 1, 1968.

Shoulder—the portion of the highway contiguous with the roadway for accommodation of stopped vehicles, for emergency use, and for lateral support of base and surface.

Sidewalk—that portion of a highway between the curb lines, or the lateral lines of a highway, and the adjacent property lines, intended for the use of pedestrians.

Specially Equipped School Bus—any school bus designed, equipped, or modified to accommodate students with disabilities.

Special Route—a route established for students with disabilities who cannot be transported by school buses or within the regular established school bus routing system, and must be transported in cars, vans, or other specially equipped vehicles.

Stand or Standing—the halting of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in receiving or discharging passengers.

State Maintained Highway—any highway in this state which is contained in the state highway system as defined by law or which is maintained by the Department of Transportation and Development.

Stop—the complete cessation from movement.

Street—the entire width between the boundary lines of every way or place of whatever nature publicly maintained and open to the use of the public for the purpose of vehicular travel, including bridges, causeways, tunnels, and ferries; synonymous with the word "highway".

Student and Family Verification Form—form used to verify that parents/guardians have read and reviewed with their child the rules and regulations for students riding buses. The form requires signatures of parent/guardian and student. The completed form is made part of the student's permanent record.

Suspension—the driver's license to drive a motor vehicle on the highways is temporarily withdrawn during the period of such suspension.

Tenured School Bus Driver—a driver who has successfully completed the three-year probationary period.

Through Highway—every highway or portion thereof on which vehicular traffic is given preferential right of way, and at the entrances to which vehicular traffic from intersecting highways is required by law to yield the right of way to vehicles on such through highway in obedience to either a stop sign or a yield sign, when such signs are erected as provided in this Chapter.

Traffic—pedestrians, ridden or herded animals, vehicles, and other conveyances either singly or together while using any highway for purposes of travel.

Traffic Control Device—all signs, signals, markings, and devices, not inconsistent with this Chapter, placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning, or guiding traffic.

Traffic Control Signal—a type of highway traffic signal, manually, electrically or mechanically operated, by which traffic is alternately directed to stop and permitted to proceed.

Transportation Vehicle—include LEA owned school buses, independently owned school buses, or other approved vehicles used for transporting passengers to and from school and school-related activities.

Trip—that segment of a route in which passengers are picked up at the home bus stop and all passengers are discharged at the school destination, or visa versa.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:641 (April 1999), amended LR 36:

§3103. Calculating the Age of the School Bus

A. Calculating the age of the school bus is to be made by excluding the calendar year and counting the preceding year as the first year and proceeding to count backwards.

B. For example, in 2009, a 2009 model would be zero years old. A 2004 model year school bus would be five years old.

C. *The following chart serves as a guide.*

Model Year	Calendar Years							
	2009	2010	2011	2012	2013	2014	2015	2016
2016								◆
2015							◆	1
2014						◆	1	2
2013					◆	1	2	3
2012				◆	1	2	3	4
2011			◆	1	2	3	4	5
2010		◆	1	2	3	4	5	6
2009	◆	1	2	3	4	5	6	7
2008	1	2	3	4	5	6	7	8
2007	2	3	4	5	6	7	8	9
2006	3	4	5	6	7	8	9	10
2005	4	5	6	7	8	9	10	11
2004	5	6	7	8	9	10	11	12
2003	6	7	8	9	10	11	12	13
2002	7	8	9	10	11	12	13	14
2001	8	9	10	11	12	13	14	15
2000	9	10	11	12	13	14	15	16
1999	10	11	12	13	14	15	16	17
1998	11	12	13	14	15	16	17	18
1997	12	13	14	15	16	17	18	19
1996	13	14	15	16	17	18	19	20
1995	14	15	16	17	18	19	20	21
1994	15	16	17	18	19	20	21	22
1993	16	17	18	19	20	21	22	23
1992	17	18	19	20	21	22	23	24
1991	18	19	20	21	22	23	24	25
1990	19	20	21	22	23	24	25	26
1989	20	21	22	23	24	25	26	27
1988	21	22	23	24	25	26	27	28
1987	22	23	24	25	26	27	28	29

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 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? Yes.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., May 9, 2010, to Nina A. Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Jeanette Vosburg
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 119—Louisiana School Transportation Specifications and Procedures

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed Bulletin 119—Louisiana School Transportation Specifications and Procedures replaces existing transportation bulletins (Bulletin 1191—School Transportation Handbook; Bulletin 1213—Minimum Standards for School Buses; Bulletin 1475—Operational and Vehicle Maintenance Procedures; and Bulletin 1886—Special Education Transportation Handbook).

There are no savings to the state or local governmental units as a result of this policy change.

The proposed policy change will result in an estimated cost of \$164.00 to the state due to expense associated with publication of the proposed policy change in the *Louisiana Register*. There will be no economic impact to local governmental units as a result of the proposed policy change.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed bulletin will not have any effect on revenue collections at the state or local governmental level.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed bulletin will create no costs or economic benefits to persons directly affected or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed bulletin will have no effect on competition or employment.

Beth Scioneaux
Deputy Superintendent
1003#038

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators—Assessment Requirements for a State Diploma (LAC 28:LXXIX.2111)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Nonpublic Bulletin 741—Louisiana Handbook for Nonpublic School Administrators*: §2111. Assessment Requirements for a State Diploma. This revision requires nonpublic schools awarding a state diploma to switch from the Graduation Exit Exam to the End-of-Course Tests as the assessment requirement for graduation. This change begins with the ninth grade class of 2010-2011. This policy revision is intended to help prevent dropouts and assist in helping students graduate on time.

Title 28

EDUCATION

Part LXXIX. Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators—Programs of Study

Chapter 21. Curriculum and Instruction

Subchapter C. Secondary Schools

§2111. Assessment Requirements for a State Diploma

A. Any approved nonpublic school may award a school diploma to any student who meets the state minimum high school graduation requirements.

B.1. Any approved nonpublic school that participates in the state Exit Testing Program shall award a state and/or school diploma to a student who successfully completes the state's minimum graduation requirements and meets the assessment requirements below.

a. Students entering the ninth grade prior to 2010-2011 must pass the English Language Arts and Mathematics components, and either the Science or Social Studies component of the Graduation Exit Examination.

b. For incoming freshmen in 2010-2011 and beyond, 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.

2. A student who attends a school that opts to participate in the state Exit Testing Program but who does not successfully complete the state's minimum graduation requirements and meet the assessment requirements shall not be eligible for either a state or a school diploma.

C.1. Any state-approved nonpublic school that wishes to award the state diploma to its students shall contact the state department for time lines and other administrative guidelines for administering the State Exit Testing Program.

2. Any nonpublic school that opts to participate in the state Exit Testing Program shall follow rules and regulations set by the State Board of Elementary and Secondary Education.

D. Any approved nonpublic school that does not choose to participate in the state Exit Testing Program may grant a school diploma, which shall carry the same privileges as one issued by a state-approved public school.

E. The awarding of high school diplomas shall in no way effect the school approval classifications of any school.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2351 (November 2003), amended LR 31:636 (March 2005), LR 31:3082 (December 2005), 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? Yes.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., May 9, 2010, to Nina A. Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Jeanette Vosburg
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 741 (Nonpublic)—Louisiana
Handbook for Nonpublic School Administrators—
Assessment Requirements for a State Diploma**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The revision to Section 2111 of *Nonpublic Bulletin 741: Louisiana Handbook for Nonpublic School Administrators* requires nonpublic schools awarding a state diploma to switch from the Graduation Exit Exam to the End-of-Course Tests as the assessment requirement for graduation. This change begins with the ninth grade class of 2010-2011. This change will not result in an increase in costs or savings to state or local governmental units.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no effect on revenue collections of state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

There will be no costs or economic benefits to schools or school districts.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

There will be no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1003#040

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook
for School Administrators
(LAC 28: CXV.337, 709, 1103, 1109, 1301 and 2313)

Editor's Note: This Notice of Intent is being repromulgated in order to correct citation errors. The original Notice of Intent may be viewed in the February 20, 2010 edition of the *Louisiana Register* on pages 344-346.

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 741—Louisiana Handbook for School Administrators*: §337. Written Policies and Procedures, §709. Transfer of Student Records, §1103. Compulsory Attendance, §1109. Assignment and Transfer of Students, §1301. Disciplinary Regulations, and §2313. Elementary Program of Studies. The revision to Section 1301 is required by Act 240 of the 2009 legislative session. It relates to awarding credit to students who are suspended or expelled. The change to Section 709 requires principals to provide records for transfer students. The change to Section 2313 required by Act 286 of the 2009 legislative session extends the requirement for 30 minutes of vigorous physical activity each day to students in the seventh and eighth grades. The changes to Sections 337 and 1109 relate to the placement of students in foster care and are required by Act 297 of the 2009 legislative session. The student shall be allowed to remain in the public school the child was

previously attending. If the foster care placement is outside the boundaries of the public school, the Department of Social Services (DSS) is responsible for providing transportation from the child's residence to a designated location where the school district may then transport the child to the school. DSS anticipates a small number of children may need to be transported, but the costs will be dependent upon the number of eligible students, the cost of the transportation, and the distance the students must be transported. The costs may be split between federal Title IV-E funding and state general fund dollars. If the children are eligible for the Title IV-E funding, there will be a 50 percent general fund match rate. The revision to Section 1103 is required by legislative action and allows excused absences up to five days per school year for visitation with a parent in the military who has been called to duty for, or is on leave from, overseas deployment to a combat zone.

Title 28

EDUCATION

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

Chapter 3. Operation and Administration

§337. Written Policies and Procedures

A. - C.18. ...

19. the school assignment of students in foster care (refer to §1109).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S. 17:81; R.S.17:240.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1261 (June 2005), amended LR 33:429 (March 2007), LR 35:1101 (June 2009), LR 36:

Chapter 7. Records and Reports

§709. Transfer of Student Records

A. The principal shall provide for the transfer of the education records, including special education records, of any current or former student at the school upon the written request of any authorized person on behalf of a public or nonpublic elementary or secondary school within or outside of the state of Louisiana, where the student has become enrolled or is seeking enrollment.

1. The transfer of such records, whether by mail or otherwise, shall occur not later than 10 business days from the date of receipt of the written request.

2. If a student has been expelled, the transferred records shall include the dates of the expulsion and the reasons for which the student was expelled.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:112; R.S. 17:221.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1270 (June 2005), amended LR 36:

Chapter 11. Student Services

§1103. Compulsory Attendance

A. - J.5. ...

6. visitation with a parent who is a member of the United States Armed Forces or the National Guard of a state and such parent has been called to duty for or is on leave from overseas deployment to a combat zone or combat support posting. Excused absences in this situation shall not exceed five school days per school year.

K. - N. ...

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:112; R.S. 17:221.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1270 (June 2005), amended LR 36:

§1109. Assignment and Transfer of Students

A. - B.2. ...

* * *

C. LEAs shall ensure that a student who is in foster care pursuant to placement through the Department of Social Services shall be allowed to remain enrolled in the public school in which the student was enrolled at the time he or she entered foster care if the Department of Social Services determines that remaining in such school is in the best interest of the student.

1. If the foster care placement is outside the jurisdictional boundaries of the public school in which the student is enrolled, the LEA shall be responsible for providing free transportation for the student to and from a designated location which is within that school district and is located nearest to the student's residence and is determined to be appropriate by the LEA and the Department of Social Services.

2. The Department of Social Services shall be responsible for providing the child's transportation between that location and the child's residence.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1274 (June 2005), amended LR 33:2353 (November 2007), LR 36:

Chapter 13. Discipline

§1301. Disciplinary Regulations

A. - F. ...

G. Students who are removed from the classroom for disruptive, dangerous, or unruly behavior or who are suspended for ten days or less shall be assigned school work missed and shall receive either full or partial credit for such work if it is completed satisfactorily and timely as determined by the principal or designee, upon the recommendation of the student's teacher. A student who is suspended for more than ten days or is expelled and receives educational services in an alternative school site, shall be assigned school work by a certified teacher and shall receive credit for school work if it is completed satisfactorily and timely as determined by the teacher. Such work shall be aligned with the curriculum used at the school from which the student was suspended or expelled.

H. - J. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1282 (June 2005), amended LR 36:

Chapter 23. Curriculum and Instruction

§2313. Elementary Program of Studies

A. - D.3.b. ...

E. Each public elementary school that includes any of the grades kindergarten through eight shall provide at least 30 minutes of quality, moderate to vigorous, organized physical activity each day for all students.

1. No later than September 1 of each year, each elementary school shall report to its school board on compliance with this requirement.

2. The LEA shall report to BESE on compliance no later than October 1.

F. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1289 (June 2005), amended LR 33:2353 (November 2007), LR 36:

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., April 11, 2010, to Nina A. Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Jeanette Vosburg
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Bulletin 741—Louisiana Handbook for School Administrators

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The revision to Section 1301 is required by Act 240 of the 2009 legislative session. It relates to awarding credit to students who are suspended or expelled. The change to Section 709 requires principals to provide records for transfer students. The change to Section 2313 required by Act 286 of the 2009 legislative session extends the requirement for 30 minutes of vigorous physical activity each day to students in the seventh and eighth grades. The changes to Sections 337 and 1109 relate to the placement of students in foster care and are required by Act 297 of the 2009 legislative session. The student shall be allowed to remain in the public school the child was previously attending. If the foster care placement is outside the boundaries of the public school, the Department of Social Services (DSS) is responsible for providing transportation from the child's residence to a designated location where the school district may then transport the child to the school. DSS anticipates a small number of children may need to be transported, but the costs will be dependent upon the number of eligible students, the cost of the transportation, and the distance the students must be transported. The costs may

be split between federal Title IV-E funding and state general fund dollars. If the children are eligible for the Title IV-E funding, there will be a 50 percent general fund match rate. The revision to Section 1103 is required by legislative action and allows excused absences up to five days per school year for visitation with a parent in the military who has been called to duty for, or is on leave from, overseas deployment to a combat zone.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no costs or economic benefits to schools or school districts.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1003#013

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Curriculum and Instruction (LAC 28: CXV. Chapter 23)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 741—Louisiana Handbook for School Administrators*: §2317. High Schools, §2318. The College and Career Diploma, §2319. The Career Diploma, §2341. English, §2347. Health Education, §2353. Mathematics, §2361. Science, and §2363. Social Studies. These revisions include the policy changes necessary for the implementation of the career diploma. These changes are the result of Acts 246 and 298 of the 2009 Louisiana legislative session. The changes also include additional requirements for students completing the Basic Core curriculum.

Title 28 EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 23. Curriculum and Instruction §2317. High Schools

A. High schools shall adhere to the curricular and time requirements established by the DOE and approved by BESE.

B. Exceptional students shall be afforded meaningful opportunities to participate in all areas of study as determined by the IEP Team during the development of the IEP.

C. The basic unit of credit shall be the Carnegie unit.

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

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

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

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

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

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

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

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

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

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1291 (June 2005), amended LR 36:

§2318. The College and Career Diploma

A. Curriculum Requirements

1. For incoming freshmen prior to 2008-2009, the 23 units required for graduation shall include 15 required units and 8 elective units; the elective units can be earned at technical colleges as provided in §2389.

2. For incoming freshmen in 2008-2009 and beyond, the 24 units required for graduation shall include 16 required units and 8 elective units for the Louisiana Basic Core Curriculum, or 21 required units and 3 elective units for the Louisiana Core 4 Curriculum; the elective units can be earned at technical colleges as provided in §2389. For

incoming freshmen in 2010-2011, students completing the basic core curriculum must complete a career area of concentration to earn a high school diploma.

3. Beginning with incoming freshmen in 2008-2009, all ninth graders in the college and career diploma pathway will be enrolled in the Louisiana Core 4 Curriculum.

a. After the student has attended high school for a minimum of two years as determined by the school, the student and the student's parent, guardian, or custodian may request that the student be exempt from completing the Louisiana Core 4 Curriculum.

b. The following conditions shall be satisfied for consideration of the exemption of a student from completing the Louisiana Core 4 Curriculum.

i. The student, the student's parent, guardian, or custodian and the school counselor (or other staff member who assists students in course selection) shall meet to discuss the student's progress and determine what is in the student's best interest for the continuation of his educational pursuit and future educational plan.

ii. During the meeting, the student's parent, guardian, or custodian shall determine whether the student will achieve greater educational benefits by continuing the Louisiana Core 4 Curriculum or completing the Louisiana Basic Core Curriculum.

iii. The student's parent, guardian, or custodian shall sign and file with the school a written statement asserting their consent to the student graduating without completing the Louisiana Core 4 Curriculum and acknowledging that one consequence of not completing the Louisiana Core 4 Curriculum may be ineligibility to enroll in into a Louisiana four-year public college or university. The statement will then be approved upon the signature of the principal or the principal's designee.

iv. The student, the student's parent, guardian, or custodian and the school counselor (or other staff member who assists students in course selection) shall jointly revise the individual graduation plan.

c. The student in the Louisiana Basic Core Curriculum may return to the Louisiana Core 4 Curriculum, in consultation with the student's parent, guardian, or custodian and the school counselor (or other staff member who assists students in course selection).

d. After a student who is 18 years of age or older has attended high school for two years, as determined by the school, the student may request to be exempt from completing the Louisiana Core 4 Curriculum by satisfying the conditions cited in Subparagraph 3.b with the exception of the requirement for the participation of the parent, guardian, or custodian, given that the parent/guardian has been notified.

B. Assessment Requirements

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 or, LAA 2, or the end-of-course tests. Students shall be offered 50 hours of remediation each year in each content area they do not pass. 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.

5. Prior to or upon the student's entering the tenth grade, all LEAs shall notify each student and his/her parents or guardians of the requirement of passing GEE, LAA 2, or the end-of-course tests

a. Upon their entering a school system, students transferring to any high school of an LEA shall be notified

by that system of the requirement of passing GEE, LAA 2, or the end-of-course tests.

C. Minimum Course Requirements

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

English	4 units
Shall be English I, II, and III, in consecutive order; and English IV or Business English or Senior Applications in English.	
Mathematics	3 units
(Effective for incoming freshmen 2005-2006 and beyond.) All students must complete one of the following: Algebra I (1 unit) or Algebra I-Pt. 1 and Algebra I-Pt. 2 (2 units) or Integrated Mathematics I (1 unit) The remaining unit(s) shall come from the following: Integrated Mathematics II, Integrated Mathematics III, Geometry, Algebra II, Financial Mathematics, Advanced Math—Pre-Calculus, Advanced Math—Functions and Statistics, Pre-Calculus, Calculus, Probability and Statistics, Math Essentials, and Discrete Mathematics. (Effective for incoming freshmen 1997-98 through 2004-2005) Shall be selected from the following courses and may include a maximum of 2 entry level courses (designated by E): Introductory Algebra/Geometry (E), Algebra I-Part 1 (E), Algebra I-Part 2, Integrated Mathematics I (E), Integrated Mathematics II, Integrated Mathematics III, Applied Mathematics I (E), Applied Mathematics II, Applied Mathematics III, Algebra I (E), Geometry, Algebra II, Financial Mathematics, Advanced Mathematics I, Advanced Mathematics II, Pre-Calculus, Calculus, Probability and Statistics, Math Essentials, and Discrete Mathematics	
Science	3 units
Shall be the following: 1 unit of Biology 1 unit from the following physical science cluster: Physical Science, Integrated Science, Chemistry I, Physics I, Physics of Technology I 1 unit from the following courses: Aerospace Science, Biology II, Chemistry II, Earth Science, Environmental Science, Physics II, Physics of Technology II, Agriscience II, an additional course from the physical science cluster, or a locally initiated science elective. Students may not take both Integrated Science and Physical Science Agriscience I is a prerequisite for Agriscience II and is an elective course.	
Social Studies	3 units
Shall be American History, 1/2 unit of Civics or AP American Government, 1/2 unit of Free Enterprise; and 1 of the following: World History, World Geography, Western Civilization, or AP European History.	
Health Education	1/2 unit
Physical Education	1 1/2 units
Shall be Physical Education I and Physical Education II, or Adapted Physical Education for eligible special education students. A maximum of 4 units of Physical Education may be used toward graduation. NOTE: The substitution of JROTC is permissible.	
Electives	8 units
TOTAL	23 units

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

English	4 units
Shall be English I, II, and III, and English IV or Senior Applications in English	
Mathematics	4 units
Algebra I (1 unit), Applied Algebra I (1 unit), or Algebra I-Pt. 1 and Algebra I-Pt. 2 (2 units) Geometry or Applied Geometry The remaining unit(s) shall come from the following: Algebra II, Financial Mathematics, Math Essentials, Advanced Math—Pre-Calculus, Advanced Math—Functions and Statistics, Pre-Calculus, Calculus, Probability and Statistics, Discrete Mathematics, or a locally initiated elective approved by BESE as a math substitute..	
Science	3 units
Shall be the following: 1 unit of Biology 1 unit from the following physical science cluster: Physical Science, Integrated Science, Chemistry I, Physics I, Physics of Technology I 1 unit from the following courses: Aerospace Science, Biology II, Chemistry II, Earth Science, Environmental Science, Physics II, Physics of Technology II, Agriscience II, Anatomy and Physiology, an additional course from the physical science cluster, or a locally initiated elective approved by BESE as a science substitute. <ul style="list-style-type: none"> • Students may not take both Integrated Science and Physical Science • Agriscience I is a prerequisite for Agriscience II and is an elective course. 	
Social Studies	3 units
Shall be American History, 1/2 unit of Civics or AP American Government, 1/2 unit of Free Enterprise; and 1 of the following: World History, World Geography, Western Civilization, or AP European History.	
Health Education	1/2 unit
JROTC I and II may be used to meet the Health Education requirement. Refer to §2347.	
Physical Education	1 1/2 units
Shall be Physical Education I and Physical Education II, or Adapted Physical Education for eligible special education students. A maximum of 4 units of Physical Education may be used toward graduation. NOTE: The substitution of JROTC is permissible.	
Education for Careers or Journey to Careers*	1 unit
Electives	7 units
Shall include the minimum courses required to complete a Career Area of Concentration*	
TOTAL *Take effect for incoming freshmen in 2010-2011 and beyond	24 units

3. For incoming freshmen in 2008-2009 and beyond who are completing the Louisiana Core 4 Curriculum, the minimum course requirements shall be the following.

English	4 units
Shall be English I, II, III, and English IV	
Mathematics	4 units
Algebra I, Applied Algebra I, or Algebra I-Pt. 2 Geometry or Applied Geometry Algebra II The remaining unit shall come from the following: Financial Mathematics, Math Essentials, Advanced Math—Pre-Calculus, Advanced Math—Functions and Statistics, Pre-Calculus, Calculus, Probability and Statistics, Discrete Mathematics, or a locally-initiated elective approved by BESE as a math substitute	

Science	4 units
<p>Shall be the following:</p> <p>1 unit of Biology</p> <p>1 unit of Chemistry</p> <p>2 units from the following courses:</p> <p>Physical Science, Integrated Science, Physics I, Physics of Technology I, Aerospace Science, Biology II, Chemistry II, Earth Science, Environmental Science, Physics II, Physics of Technology II, Agriscience II, Anatomy and Physiology, or a locally initiated elective approved by BESE as a science substitute.</p> <ul style="list-style-type: none"> • Students may not take both Integrated Science and Physical Science • Agriscience I is a prerequisite for Agriscience II and is an elective course. <p>A student completing a Career Area of Concentration may substitute one of the following BESE/Board of Regents approved IBC-related course from within the student's Area of Concentration for the fourth required science unit:</p> <p>Advanced Nutrition and Foods</p> <p>Food Services II</p> <p>Allied Health Services II</p> <p>Dental Assistant II</p> <p>Emergency Medical Technician-Basic (EMT-B)</p> <p>Health Science II</p> <p>Medical Assistant II</p> <p>Sports Medicine III</p> <p>Advanced Electricity/Electronics</p> <p>Process Technician II</p> <p>ABC Electrical II</p> <p>Computer Service Technology II</p> <p>Horticulture II</p> <p>Networking Basics</p> <p>Routers and Routing Basics</p> <p>Switching Basics and Intermediate Routing</p> <p>WAN Technologies</p> <p>Animal Science</p> <p>Biotechnology in Agriscience</p> <p>Environmental Studies in Agriscience</p> <p>Equine Science</p> <p>Forestry</p> <p>Horticulture</p> <p>Small Animal Care/Management</p> <p>Veterinary Assistant</p> <p>Oracle Academy Course: DB Programming with PL/SQL</p>	
Social Studies	4 units
<p>Shall be the following</p> <p>1/2 unit of Civics or AP American Government</p> <p>1/2 unit of Free Enterprise</p> <p>1 unit of American History</p> <p>1 unit from the following:</p> <p>World History, World Geography, Western Civilization, or AP European History</p> <p>1 unit from the following:</p> <p>World History, World Geography, Western Civilization, AP European History, Law Studies, Psychology, Sociology, Civics (second semester—1/2 credit) or African American Studies.</p> <p>NOTE: Students may take two half credit courses for the fourth required social studies unit.</p> <p>A student completing a Career and Technical Area of Concentration may substitute one of the following BESE/Board of Regents approved IBC-related course from within the student's Area of Concentration for the fourth required social studies unit:</p> <p>Advanced Child Development</p> <p>Early Childhood Education II</p> <p>Family and Consumer Sciences II</p> <p>ProStart II</p> <p>T & I Cooperative Education (TICE)</p> <p>Cooperative Agriculture Education</p> <p>Administrative Support Occupations</p> <p>Business Communication</p> <p>Cooperative Office Education</p> <p>Entrepreneurship - Business</p> <p>Lodging Management II</p> <p>Advertising and Sales Promotion</p> <p>Cooperative Marketing Education I</p>	

<p>Entrepreneurship – Marketing</p> <p>Marketing Management</p> <p>Marketing Research</p> <p>Principles of Marketing II</p> <p>Retail Marketing</p> <p>Tourism Marketing</p> <p>CTE Internship</p> <p>General Cooperative Education II</p> <p>STAR II</p>	
Health Education	1/2 unit
<p>JROTC I and II may be used to meet the Health Education requirement. Refer to §2347.</p>	
Physical Education	1 1/2 units
<p>Shall be Physical Education I and Physical Education II, or Adapted Physical Education for eligible special education students. A maximum of four units of Physical Education may be used toward graduation.</p> <p>NOTE: The substitution of JROTC is permissible.</p>	
Foreign Language	2 units
<p>Shall be 2 units in the same foreign language or 2 Speech courses</p>	
Arts	1 unit
<p>1 unit Fine Arts Survey or 1 unit of Art (§2333), Dance (§2337), Music (§2355), Theatre Arts (§2333), or Applied Arts.</p> <p>A student completing a Career and Technical Area of Concentration may substitute one of the following BESE/Board of Regents approved IBC-related course from within the student's area of concentration for the required applied arts unit:</p> <p>Advanced Clothing and Textiles</p> <p>ABC Carpentry II TE</p> <p>ABC Electrical II TE</p> <p>ABC Welding Technology II</p> <p>Advanced Metal Technology</p> <p>Advanced Technical Drafting</p> <p>Architectural Drafting</p> <p>ABC Carpentry II – T&I</p> <p>ABC Welding Technology II – T&I</p> <p>Cabinetmaking II</p> <p>Commercial Art II</p> <p>Cosmetology II</p> <p>Culinary Occupations II</p> <p>Custom Sewing II</p> <p>Graphic Arts II</p> <p>Photography II</p> <p>Television Production II</p> <p>Upholstery II</p> <p>Welding II</p> <p>ABC Carpentry In Agriscience</p> <p>ABC Electricity in Agriscience</p> <p>ABC Welding Technology Agriscience</p> <p>Agriscience Construction Technology</p> <p>Agriscience Power Equipment</p> <p>Floristry</p> <p>Landscape Design and Construction</p> <p>Introduction to Business Computer Applications</p> <p>Accounting II</p> <p>Business Computer Applications</p> <p>Computer Multimedia Presentations</p> <p>Desktop Publishing</p> <p>Keyboarding Applications</p> <p>Telecommunications</p> <p>Web Design I and II</p> <p>Word Processing</p> <p>Digital Media II</p>	
Electives	3 units
TOTAL	24 units

4. High School Area of Concentration

a. All high schools shall provide students the opportunity to complete an area of concentration with an academic focus and/or a career focus.

i. Incoming freshmen prior to 2008-2009 can complete an Academic Area of Concentration by completing the current course requirements for the Taylor Opportunity Program for Students (TOPS) Opportunity Award.

ii. Incoming freshmen in 2008-2009 and beyond can complete an Academic Area of Concentration by completing the course requirements for the LA Core 4 curriculum.

iii. To complete a career area of concentration, students shall meet the minimum requirements for graduation including four elective primary credits in the area of concentration and two related elective credits, including one computer/technology course. Areas of concentration are identified in the career options reporting system with each LEA designating the Career and Technical Education areas of concentration offered in their school system each year. The following computer/technology courses can be used to meet this requirement.

Course	Credit
Computer/Technology Literacy	1
Computer Applications or Business Computer Applications	1
Computer Architecture	1
Computer Science I, II	1 each
Computer Systems and Networking I, II	1 each
Desktop Publishing	1
Digital Graphics & Animation	1/2
Multimedia Presentations	1/2 or 1
Web Mastering or Web Design	1/2
Independent Study in Technology Applications	1
Word Processing	1
Telecommunications	1/2
Introduction to Business Computer Applications	1
Technology Education Computer Applications	1
Advanced Technical Drafting	1
Computer Electronics I, II	1 each
Database Programming with PL/SQL	1
Java Programming	1
Database Design and Programming	1/2
Digital Media I, II	1 each

5. Academic Endorsement

a. Graduating seniors who meet the requirements for a College and Career diploma and satisfy the following performance indicators shall be eligible for an academic endorsement to the College and Career diploma.

i. Students graduating prior to 2011-2012 shall complete an Academic Area of Concentration. Students graduating in 2011-2012 and beyond shall complete the following curriculum requirements.

English	4 units
English I, II, III, and IV	
Mathematics	4 units
Algebra I (1 unit) or Algebra I-Pt. 2 Geometry Algebra II The remaining unit shall come from the following: Advanced Mathematics I, Advanced Mathematics II, Pre-Calculus, Calculus, Probability and Statistics, or Discrete Mathematics	
Science	4 units
1 unit of Biology 1 unit of Chemistry 1 unit of advanced science from the following courses: Biology II, Chemistry II, Physics, or Physics II 1 additional science unit	

Social Studies	4 units
1/2 unit of Civics or AP American Government and Politics 1/2 unit of Free Enterprise 1 unit of American History 1 unit from the following: World History, World Geography, Western Civilization, or AP European History 1 unit from the following: World History, World Geography, Western Civilization, AP European History, Economics, Law Studies, Psychology, Sociology, or African American Studies.	
Health Education	1/2 unit
JROTC I and II may be used to meet the Health Education requirement. Refer to §2347.	
Physical Education	1 1/2 units
NOTE: The substitution of JROTC is permissible.	
Foreign Language	2 units
Shall be 2 units in the same foreign language	
Arts	1 unit
1 unit Fine Arts Survey or 1 unit of Art (§2333), Dance (§2337), Music (§2355), Theatre Arts (§2333), or Applied Arts.	
Electives	3 units
TOTAL	24 units

ii. Students shall pass all four components of GEE with a score of *Basic* or above, or one of the following combinations of scores with the English language arts score at *Basic* or above:

- (a). one *Approaching Basic*, one *Mastery* or *Advanced*, *Basic* or above in the remaining two; or
- (b). two *Approaching Basic*, two *Mastery* or above.

iii. Students shall complete one of the following requirements:

- (a). Senior Project;
- (b). one Carnegie unit in an AP course with a score of three or higher on the AP exam;
- (c). one Carnegie unit in an IB course with a score of four or higher on the IB exam; or
- (d). three college hours of non-remedial, credit in mathematics, social studies, science, foreign language, or English language arts.

iv. Students shall meet the current minimum grade-point average requirement for the TOPS Opportunity Award.

v. Students shall achieve an ACT Composite Score of at least 23 or the SAT equivalent.

6. Career/Technical Endorsement

a. Students who meet the requirements for a college and career diploma and satisfy the following performance indicators shall be eligible for a career/technical endorsement to the college and career diploma.

i. Students graduating prior to 2011-2012 shall meet the current course requirements for the TOPS Opportunity Award or the TOPS Tech Award. Students graduating in 2010-2011 and beyond shall meet the course requirements for the Louisiana Core 4 Curriculum.

ii. Students shall complete the career area of concentration.

iii. Students graduating prior to 2009-2010 shall pass the English language arts, mathematics, science, and social studies components of the GEE 21 at the *Approaching*

Basic level or above. Students graduating in 2009-2010 and beyond shall pass all four components of the GEE with a score of basic or above or one of the following combinations with the English language arts score at basic or above:

(a). one approaching basic, one mastery or advanced, and basic or above in the remaining two;

(b). two approaching basic, two mastery or above.

iv. Students shall complete a minimum of 90 work hours of work-based learning experience related to the student's area of concentration (as defined in the *LDE Diploma Endorsement Guidebook*) or senior project related to student's area of concentration with 20 hours of related work-based learning and mentoring and complete one of the following requirements:

(a). industry-based certification in student's area of concentration from the list of industry-based certifications approved by BESE; or

(b). three college hours in a career/technical area that articulate to a postsecondary institution, either by actually obtaining the credits and/or being waived from having to take such hours in student's area of concentration.

v. Students shall achieve a minimum GPA of 2.5.

vi. Students graduating prior to 2008-2009 shall achieve the current minimum ACT Composite Score (or SAT Equivalent) for the TOPS Opportunity Award or the TOPS Tech Award. Students graduating in 2008-2009 and beyond shall achieve a minimum ACT Composite Score (or SAT Equivalent) of 20 or the state ACT average (whichever is higher) or the Silver Level on the WorkKeys Assessment.

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 36:

§2319. The Career Diploma

A. Curriculum and Entrance Requirements

1. The 23 units required for the career diploma shall include 16 required academic credits and a sequence of 7 credits in career and technical education.

2. A student seeking to pursue a career diploma must meet one of the following conditions:

a. The student has met all the requirements for promotion to the ninth grade established by BESE and the LEA.

b. The student is at least 15 years of age or will attain the age of 15 during the next school year, scored at least the *Approaching Basic* level on the English language arts or mathematics component of the eighth grade LEAP test, and meets the criteria established by the pupil progression plan of the LEA where the student is enrolled to enter the ninth grade for the purpose of pursuing a career diploma.

i. Prior to entering the ninth grade, such student must complete a summer LEAP remediation program and take the retest in the subject area of any component of the eighth grade LEAP test on which the student scores at the *Unsatisfactory* level. Any such student who fails to

satisfactorily complete the LEAP summer remediation program or who scores *Unsatisfactory* on the mathematics or English language arts component of the eighth grade LEAP shall be required to successfully complete a remedial course for elective credit in the subject area of the component of the eighth grade LEAP test on which they scored at the *Unsatisfactory* level before pursuing other courses in the content area.

ii. The student must have achieved a minimum cumulative grade point average of 1.5 on a 4.0 scale for course work required for completion of the eighth grade.

iii. Acceptable Attendance Standards. Students must meet the state minimum attendance requirements to be eligible to receive grades.

iv. Acceptable Behavior Standards. Students must meet the behavior requirements in the pupil progression plan.

v. A student must participate in a dropout prevention and mentoring program approved by the BESE during his/her first year in high school. Acceptable programs include research based dropout prevention programs such as Jobs for America's Graduates Multi-Year Program, Graduation Coach Program, or the school district may submit a proven effective, research-based dropout prevention and mentoring program other than the two listed above to the DOE for approval by BESE. All programs must include the following components:

(a). an academic catch up component to address all the area(s) of student deficiency;

(b). an adult mentoring component with an emphasis on workforce awareness and readiness;

(c). a work awareness and work readiness skills component;

(d). a work-based learning component such as job shadowing/job exploration/paid internships.

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

B. Assessment Requirements

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 high school 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 who do not pass the GEE or, LAA 2 tests, or the end-of-course tests. Students shall be offered 50 hours of remediation each year in each content area they do not pass. Refer to *Bulletin 1566—Guidelines for Pupil Progression*,

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.

5. Prior to or upon the student's entering the ninth grade, all LEAs shall notify each student and his/her parents or guardians of the requirement of passing GEE, LAA 2, or the end-of-course tests.

a. Upon their entering a school system, students transferring to any high school of an LEA shall be notified by that system of the requirement of passing GEE, LAA 2, or the end-of-course tests.

C. Minimum Course Requirements

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

English	4 units
Shall be English I English II The remaining unit shall come from the following Technical Reading and Writing Business English Business Communications Using Research in Careers (1/2 credit) American Literature (1/2 credit) Film in America (1/2 credit) English III English IV Senior Applications in English A course developed by the LEA and approved by BESE	

Mathematics	4 units
Shall be One of the following: Algebra I (1 unit) or Algebra I-Pt. 1 and Algebra I-Pt. 2 (2 units) or Applied Algebra I (1 unit) The remaining units shall come from the following: Geometry or Applied Geometry Technical Math Medical Math Applications in Statistics and Probability Financial Math Math Essentials Algebra II Advanced Math—Pre-Calculus Discrete Mathematics Course(s) developed by the LEA and approved by BESE	
Science	3 units
Shall be Biology I 1 unit from the following physical science cluster: Physical Science Integrated Science Chemistry I ChemCom Physics I Physics of Technology I The remaining unit shall come from the following: Food Science Forensic Science Allied Health Science Basic Body Structure and Function Basic Physics with Applications Aerospace Science Earth Science Agriscience II Physics of Technology II Environmental Science Anatomy and Physiology Animal Science Biotechnology in Agriculture Environmental Studies in Agriculture Health Science II EMT—Basic an additional course from the physical science cluster Course(s) developed by the LEA and approved by BESE Note: Students may not take both Integrated Science and Physical Science Agriscience I is a prerequisite for Agriscience II and is an elective course.	
Social Studies	3 units
Shall be American History 1/2 unit of Civics 1/2 unit of Free Enterprise The remaining unit shall come from the following: Child Psychology and Parenthood Education Law Studies Psychology Sociology World History World Geography Western Civilization Economics American Government African American Studies Course developed by the LEA and approved by BESE	
Health Education	1/2 unit
JROTC I and II may be used to meet the Health Education requirement. Refer to §2347.	

Physical Education	1 1/2 units
Shall be Physical Education I and Physical Education II, or Adapted Physical Education for eligible special education students. A maximum of 4 units of Physical Education may be used toward graduation. NOTE: The substitution of JROTC is permissible.	
Career/Technical Education	7 units
Education for Careers or Journey to Careers Six credits required for a career Area of Concentration (see subparagraph b below)	
TOTAL	23 units

2. To complete a career area of concentration for the career diploma, students shall meet the minimum requirements for graduation including four elective primary credits in the career major and two related elective credits, including one computer/technology course. Areas of concentration are identified in the career options reporting system with each LEA designating the career and technical education areas of concentration offered in their school system each year. The following computer/technology applications courses can be used to meet this requirement.

Course	Credit
Computer/Technology Literacy	1
Computer Applications or Business Computer Applications	1
Computer Architecture	1
Computer Science I, II	1 each
Computer Systems and Networking I, II	1 each
Desktop Publishing	1
Digital Graphics & Animation	1/2
Multimedia Presentations	1/2 or 1
Web Mastering or Web Design	1/2
Independent Study in Technology Applications	1
Word Processing	1
Telecommunications	1/2
Introduction to Business Computer Applications	1
Technology Education Computer Applications	1
Advanced Technical Drafting	1
Computer Electronics I, II	1 each
Database Programming with PL/SQL	1
Java Programming	1
Database Design and Programming	1/2
Digital Media I, II	1 each

3. Courses developed by the LEAs and submitted to BESE for approval as substitutes for core course requirements must meet state content standards for the subject area at the ninth grade level or higher.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4; R. S. 17:183.1et seq.; R.S. 17: 395.

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§2341. English

A. English Requirements for the College and Career Diploma

1. Louisiana Core 4 Curriculum. Four units of English shall be required for graduation. They shall be English I, II, III, and IV.

2. Louisiana Basic Core Curriculum. For students completing the Basic Core Curriculum and for incoming freshmen prior to 2008-2009, four units of English shall be required for graduation. They shall be English I, II, and III, and English IV, or Business English (for incoming freshmen prior to 2008-2009), or Senior Applications in English.

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

Course Title(s)	Units
English I, II, III, and IV	1 each
Business English (for incoming freshmen prior to 2008-2009)	1
Senior Applications in English	1
Reading I (elective credit)	1
Reading II (elective credit)	1
English as a Second Language (ESL) I, II, III, and IV (elective credit)	1 each

B. English requirements for the Career Diploma

1. For students completing the Career Diploma, four units of English shall be required for graduation. They shall be English I, English II, and two units from the following: Technical Reading and Writing, Business English, Business Communications, Using Research in Careers (1/2 credit), American Literature (1/2 credit), Film in America (1/2 credit), English III, English IV, Senior Applications in English, and courses developed by the LEA and approved by BESE.

2. The English course offerings for the Career Diploma shall be as follows.

Course Title(s)	Units
English I, II, III, and IV	1 each
Senior Applications in English	1
Technical Reading and Writing	1
Business English	1
Business Communications	1
Using Research in Careers	½ unit
American Literature	½ unit
Film in America	½ unit
Reading I (elective credit)	1
Reading II (elective credit)	1
English as a Second Language (ESL) I, II, III, and IV (elective credit)	1 each
Course(s) developed by the LEA and approved by BESE	1

C. Students who score at the *Unsatisfactory* achievement level on the English language arts component of grade eight LEAP shall pass a high school remedial course in that content area before enrolling any English course in the Secondary Program of Studies for English meeting graduation requirements.

D. Only students who have limited English proficiency are permitted to enroll in English as a Second Language (ESL) courses.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1295 (June 2005), amended LR 33:2605 (December 2007), amended LR 36:

§2347. Health Education

A. The health education course offerings shall be as follows.

Course Title(s)	Units
Health Education	1/2

B. Cardiopulmonary resuscitation (CPR) shall be taught.

C. Health Education shall include instruction in adoption awareness. Adoption awareness shall include instruction on the benefits of adoption for families wishing to add a child, for potential adoptees, and for persons who are pregnant or who have a child for whom they are unable to care.

D. Health Education shall include at least thirty minutes of age appropriate classroom instruction relative to the state’s safe haven relinquishments law, Children’s Code Articles 1149 through 1160, which provides a mechanism whereby any parent may relinquish the care of an infant who is not more than thirty days old to the state in safety and anonymity, and without fear of prosecution

E. JROTC I and II may be used to meet the Health Education requirement provided the following requirements are met.

1. A minimum of 2000 minutes of instructional time shall be devoted Health Education in JROTC I and in JROTC II. Students must take both JROTC I and JROTC II to meet the Health Education requirement.

2. All of the standards and GLEs for Health shall be covered in JROTC I and JROTC II.

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

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 36:

§2353. Mathematics

A. Mathematics requirements for the College and Career Diploma.

1. Louisiana Core 4 Curriculum. Four units of math shall be required for graduation. They shall be the following:

a. 1 unit from the following courses: Algebra I, Applied Algebra I, or Algebra I-Pt. 2;

b. Geometry or Applied Geometry;

c. Algebra II;

d. 1 unit from the following: Financial Mathematics, Math Essentials, Advanced Math—Pre-Calculus, Advanced Math—Functions and Statistics, Pre-Calculus, Calculus, Probability and Statistics, Discrete Mathematics, or a locally-initiated elective approved by BESE as a math substitute.

2. Louisiana Basic Core Curriculum. Four units of math shall be required for graduation. They shall be the following:

a. Algebra I (1 unit), Applied Algebra I (1 unit), or Algebra I-Pt. 1 and Algebra I-Pt. 2 (2 units);

b. Geometry;

c. The remaining units shall come from the following: Algebra II, Financial Mathematics, Math

Essentials, Advanced Math-Pre-Calculus, Advanced Math-Functions and Statistics, Pre-Calculus, Calculus, Probability and Statistics, Discrete Mathematics, or a locally-initiated elective approved by BESE as a math substitute.

3. Effective for 2005-2006 to 2007-2008 incoming freshmen, three units of mathematics shall be required for graduation. All students must complete one of the following:

a. Algebra I (1 unit); or Algebra I-Pt. 1 and Algebra I-Pt. 2 (2 units); or

b. Integrated Mathematics I (1 unit);

c. The remaining unit(s) shall come from the following: Integrated Mathematics II, Integrated Mathematics III, Geometry, Algebra II, Financial Mathematics, Advanced Math-Pre-Calculus, Advanced Math-Functions and Statistics, Pre-Calculus, Calculus, Probability and Statistics, Math Essentials and Discrete Mathematics.

4. For incoming freshmen 1997-98 to 2004-2005, the three required mathematics courses shall be selected from the following courses and may include a maximum of two entry level courses (designated by E): Introductory Algebra/Geometry (E), Algebra I-Part 1 (E), Algebra I-Part 2, Integrated Mathematics I (E), Integrated Mathematics II, Integrated Mathematics III, Applied Mathematics I (E), Applied Mathematics II, Applied Mathematics III, Algebra I (E), Geometry, Algebra II, Financial Mathematics, Advanced Math-Pre-Calculus, Advanced Math-Functions and Statistics, Pre-Calculus, Calculus, Probability and Statistics, Math Essentials and Discrete Mathematics.

5. The mathematics course offerings for the College and Career Diploma shall be as follows.

Course Title(s)	Units
Advanced Math—Pre-Calculus	1
Advanced Math—Functions and Statistics	1
Algebra I, II	1 each
Applied Algebra I	1
Algebra I—Part 1	1
Algebra I—Part 2	1
Calculus	1
Discrete Mathematics	1
Financial Mathematics	1
Geometry	1
Applied Geometry	1
Integrated Mathematics I, II, III	1 each
Pre-Calculus	1
Probability and Statistics	1
Math Essentials	1

B. Mathematics requirements for the Career Diploma

1. For students completing the Career Diploma, four units of mathematics shall be required for graduation. They shall be the following:

a. Algebra I (1 unit), Applied Algebra I (1 unit), or Algebra I-Pt. 1 and Algebra I-Pt. 2 (2 units);

b. The remaining units shall be from the following: Technical Math, Medical Math, Applications in Statistics and Probability, Financial Math, Math Essentials, Algebra II, Advanced Math—Pre-Calculus, Discrete Mathematics, or course(s) developed by the LEA and approved by BESE.

2. The mathematics course offerings for the Career Diploma shall be as follows.

Course Title(s)	Units
Algebra I	1
Algebra I—Part 1	1
Algebra I—Part 2	1
Applied Algebra I	1
Geometry	1
Applied Geometry	1
Financial Mathematics	1
Technical Math	1
Medical Math	1
Applications in Statistics and Probability	1
Algebra II	1
Advanced Math—Pre-Calculus	1
Discrete Mathematics	1
Math Essentials	1
Course(s) developed by the LEA and approved by BESE	1

C. Students who score at the unsatisfactory achievement level on the mathematics component of grade eight LEAP shall pass a high school remedial course in mathematics before enrolling in any course in the Secondary Program of Studies for Mathematics.

D. Financial Mathematics may be taught by teachers certified in Business Education.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1296 (June 2005), amended LR 33:2605 (December 2007), LR 34:1609 (August 2008), LR 36:

§2361. Science

A. Science Requirements for the College and Career Diploma

1. Louisiana Core 4 Curriculum. Four units of science are required. They shall be the following:

- a. 1 unit of Biology;
- b. 1 unit of Chemistry;
- c. 2 units from the following courses: Physical Science, Integrated Science, Physics I, Physics of Technology I, Aerospace Science, Biology II, Chemistry II, Earth Science, Environmental Science, Physics II, Physics of Technology II, Agriscience II, Anatomy and Physiology, or a locally initiated elective approved by BESE as a science substitute;

d. A student completing a Career Area of Concentration may substitute one of the following BESE/Board of Regents approved IBC-related course from within the student's Area of Concentration for the fourth required science unit: Advanced Nutrition and Foods, Food Services II, Allied Health Services II, Dental Assistant II, Emergency Medical Technician-Basic (EMT-B), Health Science II, Medical Assistant II, Sports Medicine III, Advanced Electricity/Electronics, Process Technician II, ABC Electrical II, Computer Service Technology II, Horticulture II, Networking Basics, Routers and Routing Basics, Switching Basics and Intermediate Routing, WAN Technologies, Animal Science, Biotechnology in Agriscience, Environmental Studies in Agriscience, Equine Science, Forestry, Horticulture, Small Animal Care/Management, Veterinary Assistant, and Oracle Academy Course: DB Programming with PL/SQL.

2. Louisiana Basic Core Curriculum. For students completing the Basic Core Curriculum and for incoming freshmen prior to 2008-2009, three units of science shall be required for graduation. They shall be the following:

- a. 1 unit of Biology;
- b. 1 unit from the following physical science cluster:
 - i. Physical Science;
 - ii. Integrated Science;
 - iii. Chemistry I;
 - iv. Physics I;
 - v. Physics of Technology I;
- c. 1 unit from the following courses:
 - i. Aerospace Science;
 - ii. Biology II;
 - iii. Chemistry II;
 - iv. Earth Science;
 - v. Environmental Science;
 - vi. Physics II;
 - vii. Physics of Technology II;
 - viii. Agriscience II (See Subsection C below.);
 - ix. Anatomy and Physiology;
 - x. an additional course from the physical science cluster; or
 - xi. a locally initiated science elective approved by the DOE.

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

Course Title(s)	Units
Aerospace Science	1
Agriscience II	1
Anatomy and Physiology	1
Biology I, II	1 each
Chemistry I, II	1 each
Earth Science	1
Environmental Science	1
Integrated Science	1
Physical Science	1
Physics I, II	1 each
Physics of Technology I, II	1 each
Approved IBC-related courses for those students who meet the requirement	1 each

B. Science requirements for the Career Diploma

1. For students completing the Career Diploma, three units of science shall be required for graduation. They shall be:

- a. 1 unit of Biology;
- b. 1 unit from the following physical science cluster:
 - i. Physical Science;
 - ii. Integrated Science;
 - iii. Chemistry I;
 - iv. ChemCom;
 - v. Physics I;
 - vi. Physics of Technology I.
- c. The remaining unit shall come from the following:
 - i. Food Science;
 - ii. Forensic Science;
 - iii. Allied Health Science;
 - iv. Basic Body Structure and Function;

- v. Basic Physics with Applications;
- vi. Aerospace Science;
- vii. Earth Science;
- viii. Agriscience II;
- ix. Physics of Technology II;
- x. Environmental Science;
- xi. Anatomy and Physiology;
- xii. Animal Science;
- xiii. Biotechnology in Agriculture;
- xiv. Environmental Studies in Agriculture;
- xv. Health Science II;
- xvi. EMT—Basic;
- xv. An additional course from the physical science cluster;
- xvi. Course(s) developed by the LEA and approved by BESE.

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

Course Title(s)	Units
Aerospace Science	1
Agriscience II	1
Anatomy and Physiology	1
Biology	1
Chemistry	1
Earth Science	1
Environmental Science	1
Integrated Science	1
Physical Science	1
Physics	1
Physics of Technology I, II	1 each
Food Science	1
Forensic Science	1
Allied Health Science	1
Basic Body Structure and Function	1
Basic Physics with Applications	1
Animal Science	1
Biotechnology in Agriculture	1
Environmental Studies in Agriculture	1
Health Science II	1
EMT—Basic	1
Course(s) developed by the LEA and approved by BESE	1 each

C. Students may not take both Integrated Science and Physical Science.

D. Agriscience I is a prerequisite for Agriscience II and is an elective course.

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 31:1297 (June 2005), amended LR 33:2605 (December 2007), amended LR 36:

§2363. Social Studies

A. Social Studies Requirements for the College and Career Diploma

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

a. A student completing a Career Area of Concentration may substitute one of the following BESE/Board of Regents approved IBC-related course from within the student's Area of Concentration for the fourth

required social studies unit: Advanced Child Development, Early Childhood Education II, Family and Consumer Sciences II, ProStart II, T and I Cooperative Education (TICE), Cooperative Agriculture Education, Administrative Support Occupations, Business Communication, Cooperative Office Education, Entrepreneurship – Business, Lodging Management II, Advertising and Sales Promotion, Cooperative Marketing Education I, Entrepreneurship – Marketing, Marketing Management, Marketing Research, Principles of Marketing II, Retail Marketing, Tourism Marketing, CTE Internship, General Cooperative Education II, and STAR II.

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

3. The Social Studies course offerings for the college and career diploma shall be as follows.

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

B. Social Studies Requirements for the Career Diploma

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

2. The Social Studies course offerings for the career diploma shall be as follows.

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

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

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

- 1. income;
- 2. money management;

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

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1298 (June 2005), amended LR 31:3072 (December 2005), LR 33:431 (March 2007), LR 33:2606 (December 2007), amended LR 36:

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., May. 9, 2010, to Nina A. Ford, State Board of Elementary and Secondary Education, P. O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? Yes.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

Jeanette Vosburg
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 741—Louisiana Handbook for School Administrators—Curriculum and Instruction

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The revisions to Sections 2317, 2318, 2319, 2341, 2347, 2353, 2361, and 2363 in *Bulletin 741—Louisiana Handbook for School Administrators* include the policy changes necessary for the implementation of the career diploma. These changes are the result of Acts 246 and 298 of the 2009 Louisiana legislative session. The changes also include additional requirements for students completing the Basic Core curriculum. The implementation of the career diploma will cost \$200,000 in state funds to develop new courses for the career diploma. The costs to schools or school districts to implement these policy changes, if any, will depend on the programs the schools or districts choose to implement.
- 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 to schools or school districts to implement these policy changes, if any, will depend on the programs the schools or districts choose to implement.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1003#042

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Education
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, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 741—Louisiana Handbook for School Administrators: §2377*. General Career and Technical Education. The proposed amendment will add a new course offering, Consumer Finance and Banking, as a 1-credit course. The action is being proposed to update Career and Technical course offerings. In updating these course offerings our Career and Technical program of studies will provide the opportunity for students to participate in training that will give them an understanding of banking services.

**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
Consumer Finance and Banking	12	1
General Cooperative Education I	11-12	3
General Cooperative Education II	12	3
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

Course Title(s)	Recommended Grade Level	Units
STAR I	11-12	1
STAR II	12	1
Entrepreneurship	11-12	1
Journey to Careers	9	1/2-1
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

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 35:2319 (November 2009), LR 35:2748 (December 2009), 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., May 9, 2010, to Nina A. Ford, State Board of Elementary and Secondary Education, P. O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Jeanette Vosburg
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 741—Louisiana Handbook for School Administrators-General Career and Technical Education

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed revision will amend Career and Technical Education course offerings to include Consumer Finance and Banking. It is estimated that there will be no additional implementation costs to state governmental units except for an estimated \$336 for printing the Bulletin 741 amendment in the *Louisiana Register*. It is unknown at this time if there are any costs to local governmental units. The LEA may choose to offer the new course to students that may require updating course offerings or other counseling brochures. LEAs choosing to offer the new course may need to purchase items such as new textbooks, instructional materials or equipment. Each LEA will make its determination.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections by state/local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Secondary Career and Technical students will be the population affected by the rule change. Students will acquire knowledge and skills to carry out banking practices and procedures that will prepare them for employment in the banking industry.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Employers could have a larger, trainer and qualified pool from which to select employees.

Beth Scioneaux
Deputy Superintendent
1003#044

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Health Education
(LAC 28: CXV.2347)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to Bulletin 741—*Louisiana Handbook for School Administrators*: §2347. Health Education. The proposed policy change is the result of Act 284 of the 2009 Regular Session of the Legislature which requires each city, parish, or other local public school board provide each school year to high school students enrolled in Health Education at least 30 minutes of age and grade appropriate classroom instruction relative to the state's safe haven relinquishments law, Children's Code Articles 1149 through 1160, which provides a mechanism whereby any parent may relinquish the care of an infant who is not more than 30 days old to the state in safety and anonymity and without fear of prosecution.

Title 28 EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 23. Curriculum and Instruction §2347. Health Education

A. - C. ...

D. Each city, parish, or other local public school board shall provide each school year to high school students enrolled in Health Education at least thirty minutes of age and grade appropriate classroom instruction relative to the state's safe haven relinquishments law, Children's Code Articles 1149 through 1160, which provides a mechanism whereby any parent may relinquish the care of an infant who is not more than thirty days old to the state in safety and anonymity and without fear of prosecution.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1296 (June 2005), amended LR 33:817 (May 2007), 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? Yes.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? Yes.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., May 9, 2010, to Nina A. Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Jeanette Vosburg
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 741 Louisiana Handbook for School Administrators—Health Education

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed policy change to *Bulletin 741 Louisiana Handbook for School Administrators* is the result of Act 284 of the 2009 Regular Session of the Legislature which requires each city, parish, or other local public school board to provide each school year to high school students enrolled in Health Education at least thirty minutes of age- and grade-appropriate classroom instruction relative to the state's safe haven relinquishments law, which provides a mechanism whereby any parent may relinquish the care of an infant who is not more than thirty days old to the state in safety and anonymity and without fear of prosecution.

There is no estimated savings to the state or local governmental units as a result of this policy change.

The proposed policy change will result in a total estimated cost of \$164.00 to the state due to costs associated with publication of the proposed policy in the *Louisiana Register*.

The economic impact to local governmental units or local education agencies (LEAs) as a result of the proposed policy change cannot be measured. The impact is estimated to be minimal.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed policy change will have no effect on revenue collections at the state or local governmental level.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed policy change will result in no cost or economic benefit to persons directly affected or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed policy change will have no effect on competition or employment.

Beth Scioneaux
Deputy Superintendent
1003#043

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Individual Graduation Plan (LAC 28:CXV.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 741—Louisiana Handbook for School Administrators*: §901, Scheduling. This revision changes the name of the Five Year Plan to the Individual Graduation Plan as required by Act 257 of the 2009 Louisiana Legislative Session.

Title 28

EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 9. Scheduling

§901. Scheduling

A. The purpose of scheduling within available time frames and staff resources shall be to meet the educational needs of students.

1. A copy of the daily/weekly schedule of work providing for all subject areas in the curriculum shall be on file in the principal's office and shall be posted at all times.

B. Prior to student scheduling each year, each middle, junior, or high school shall provide the parent/guardian/legal custodian with a listing of course offerings, the content of each, and high school graduation requirements where appropriate.

1. By the end of the eighth grade, each student shall develop, with the input of his family, an individual graduation plan. Such a plan shall include a sequence of courses that is consistent with the student's stated goals for one year after graduation.

2. Each student's individual graduation plan shall be reviewed annually thereafter by the student, parents, and school advisor and revised as needed.

3. Every middle, junior, or high school shall require that the parent/guardian/legal custodian sign his/her child's schedule form and the individual graduation plan for students in grades 8-12.

C. Student scheduling shall be individually appropriate and flexible to allow entry into and exit from courses and course sequences that are available for meeting curricular requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:175; R.S. 17:183.2; R.S. 17:391.13; R.S. 17:401.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1271 (June 2005), 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? Yes.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., May 9, 2010, to Nina A. Ford, State Board of Elementary and Secondary Education, P. O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Jeanette Vosburg
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 741—Louisiana Handbook for School Administrators—Individual Graduation Plan

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The revisions to Section 901 in *Bulletin 741: Louisiana Handbook for School Administrators* changes the name of the Five Year Plan to the Individual Graduation Plan as required by Act 257 of the 2009 Louisiana legislative session. There will be no costs or savings to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no costs or economic benefits to persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1003#041

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Unsafe Schools (LAC 28:CXV.343)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 741—Louisiana Handbook for School Administrators*: §343, Unsafe Schools. The proposed revisions provide for use of the “year-end

cumulative student count” in determining a school’s status as persistently dangerous. The proposed policy will result in a more accurate count of student enrollment than current policy which utilizes the “October 1st student count.”

Title 28

EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 3. Operation and Administration

§343. Unsafe Schools

A. - B.4. ...

5. Schools must meet two of the following criteria for two consecutive school years to be identified as persistently dangerous. For purposes of these criteria, enrolled student body means the year-end cumulative student enrollment count, and firearm means a firearm as defined by the federal Gun-Free Schools Act.

a. One percent or more of the enrolled student body is expelled for possession of a firearm on school property, on a school bus, or for actual possession of a firearm at a school-sponsored event.

b. Four percent or more of the enrolled student body has been expelled for a crime of violence as defined by R.S. 14:2 occurring on school property, on a school bus or at a school-sponsored event.

B.5.c. - C. ...

AUTHORITY NOTE: Promulgated in accordance with 20 USCS 7912.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1263 (June 2005), 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? Yes.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., May 9, 2010, to Nina A. Ford, State Board of Elementary and Secondary Education, P. O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Jeanette Vosburg
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Bulletin 741—Louisiana Handbook for School Administrators—Unsafe Schools

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed revisions to *Bulletin 741—Louisiana Handbook for School Administrators, Section 343, Unsafe Schools* provide for use of the “year-end cumulative student count” in determining a school’s status as persistently dangerous. The proposed policy will result in a more accurate count of student enrollment than current policy which utilizes the “October 1st student count.”

There are no savings to the state or local governmental units as a result of this policy change.

The proposed policy change will result in an estimated cost of \$164.00 to the state due to expense associated with publication of the proposed policy change in the *Louisiana Register*. There will be no economic impact to local governmental units as a result of the proposed policy change.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed policy change will not have any effect on revenue collections at the state or local governmental level.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed policy change will create no costs or economic benefits to persons directly affected or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed policy change will have no effect on competition or employment.

Beth Scioneaux
Deputy Superintendent
1003#039

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act—Regulations for Students with Disabilities

(LAC 28:XLIII.151, 152, 153, 160, 230, 301, 512, 601, 603, 607, 705, 802, 803, and 905)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act, Subpart 1, Regulations for Students with Disabilities*. The proposed rule formally aligns the state special education regulations to conform to the supplemental regulations of IDEA (Individuals with Disabilities Act) 2008 and Act 303 of the 2009 Louisiana Legislature. The bulletin provides Louisiana educators, education administrators, and parents with current policies and procedures related to the provision of special education services for students with disabilities.

**Title 28
EDUCATION**

**Part XLIII. Bulletin 1706—Regulations for
Implementation of the Children with Exceptionalities
Act—Regulations for Students with Disabilities**

Chapter 1. State Eligibility

Subchapter J. State Complaint Procedures

**§151. Adoption of State Complaint Procedures and
Early Resolution Program**

A. General. The LDE adopts written procedures herein and in *Bulletin 1573—Complaint Management Procedures*, for:

1. the purpose of resolving any complaint alleging that a public agency has violated a requirement of Part B of the Act, including a complaint filed by an organization or individual from another state, that meets the requirements of §§151 through 153 by providing:

a. for the implementation of an early resolution process (ERP); and/or

b. the filing of a formal written complaint with the LDE.

B. The LDE shall widely disseminate to parents and other interested individuals, including parent training and information centers, protection and advocacy agencies, independent living centers, and other appropriate entities:

1. the state procedures under §§151 through 153 and *Bulletin 1573—Complaint Management Procedures*; and

2. the appropriate contact information for LEAs and other public agencies serving students.

C. Informal Complaints. It is the policy of the LDE to encourage and support prompt and effective resolution of any complaint described in §151.A.1 in the least adversarial manner possible. The LDE shall effect such policy to promote dispute prevention and the swift resolution of disputes by implementing an early resolution process.

1. Early Resolution Process (ERP)—an ongoing and systematic, informal dispute resolution process.

a. ERP shall include a systematic, local level process for the prompt and orderly resolution of complaints by each public educational agency, including public charter schools.

b. Each LEA in the state shall establish an internal ERP in accordance with standards outlined in *Bulletin 1573—Complaint Management Procedures*, which shall include:

i. the designation of a local ERP representative and notice of the name, address, telephone number; and

ii. other contact information for the LEA's designated ERP representative.

c. The implementation of the ERP by each LEA draws on the traditional model of parents and schools working cooperatively in the educational interest of the student to achieve their shared goal of meeting the educational needs of students with disabilities.

d. To promote the cooperative resolution of complaints at the local level, the LDE shall not be involved in the informal resolution process (ERP) implemented at the local level, but shall route to the public agency's ERP representative, verbal and other informal complaints or allegations received by the LDE.

2. Requesting ERP. A parent, adult student, individual, or organization shall initiate a request for ERP on one or

more issues described in §151.A.1 by contacting the local level ERP representative or the LDE's ERP Intake Coordinator(s).

a. Informal complaints to the LDE shall only be made through the LDE's Intake Coordinator(s) who shall refer the complaint to the ERP representative of the LEA immediately, if possible, but not later than two calendar days after receiving the complaint.

b. The LDE's Intake Coordinator(s) shall:

i. be the LDE's only designated individual(s) to perform complaint intake duties and responsibilities;

ii. not have a *juris doctorate* degree;

iii. have completed specific training in accepted methods and practices for recording information in a neutral and confidential manner; and

iv. perform duties consisting of receipt of informal complaints and request for ERP; providing local agency ERP contact information to the complainant(s); and referral of such informal complaint or ERP request to the local agency's ERP Representative in accordance with Subsection C of this Section.

3. Early Resolution Period. If a resolution of the informal complaint cannot be achieved within 15 calendar days of the public agency's receipt of the complaint, or an extended period agreed upon by the parties in writing, the LEA's ERP representative shall advise the complainant of the availability of other dispute resolution processes available through the LDE.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2046 (October 2008), amended LR 36:

§152. Formal Written Complaints Filing and Content Requirements

A. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2046 (October 2008), amended LR 36:

§153. Formal Written Complaint Procedures

A. - I. 9....

10. Implementation of any corrective actions required in the state's initial (pre-reconsideration) decision shall not be delayed pending the reconsideration process.

J. - K.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2046 (October 2008), amended LR 36:

Subchapter L. Additional Eligibility Requirements

§160. Participation in Assessments

A. ...

B. Accommodation Guidelines

1. The LDE's guidelines for providing appropriate accommodations are established in *Bulletin 118—Statewide Assessment Standards and Practices*, for the provision of appropriate accommodations. In case of district-wide assessment programs, the LEA shall establish those guidelines.

2. - 2.b. ...

C. Alternate Assessments

1. The LDE's guidelines to implement alternate assessments and guidelines for the participation of students with disabilities in alternate assessments for those students who cannot participate in regular assessments, even with accommodations, as indicated in their respective IEPs, as provided in Paragraph A of this Section, are detailed in *Bulletin 1530–Louisiana's IEP Handbook for Students with Exceptionalities*. In case of district-wide assessment programs, the LEA shall develop and implement those guidelines.

C.2. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2046 (October 2008), amended LR 36:

Chapter 2. Local Educational Agency Eligibility

§230. LEA Jurisdiction

A. Each LEA shall identify, locate, and evaluate each student suspected of having a disability (regardless of the severity of the disability), 3 through 21 years of age, residing within its jurisdiction.

B. Each LEA is responsible for making available a free appropriate public education to each eligible student with a disability, 3 through 21 years of age, who resides within its jurisdiction except those students enrolled by their parents in a private school program. This responsibility includes the provision and cost of any program on the continuum of services a student requires, including residential placement.

C. Each LEA is responsible for making available a free appropriate public education to each eligible student with a disability, 3 through 21 years of age, who are non-residents of the LEA but located within its jurisdiction for any reason, except for those students enrolled by their parents in a private school program. Funding for services for these students is established in this Section.

D. Jurisdiction is the right and obligation of an LEA to exercise authority over all students residing within its geographic area and over each student placed by the LEA in an educational program within the geographic area of another LEA or in an approved educational program out of the state.

1. For city/parish school systems, the geographic area is the boundary of the school district as defined in the Louisiana Revised Statutes.

2. For SSD, the geographic area is the boundary of the State-operated treatment and care residential facilities.

3. For a state board special school, the geographic area is the boundary of the educational facility.

4. For a charter school that is considered an LEA, the geographic area is the boundary of the educational facility.

5. If an LEA places a student in another LEA or an approved private school, the student so placed remains within the jurisdiction of the placing LEA. The responsibility for a FAPE remains with the placing LEA.

a. all students sent to a board special school by another LEA are considered "placed" by the sending LEA.

E. Students who are eligible to receive a free appropriate public education are described as follows.

1. LEAs shall make available a free public education to all students with disabilities located in their jurisdictions and reaching the age of three years, regardless of when the

birthday occurs during the school year; an IEP shall be in effect by the student's third birthday. If a student's third birthday occurs during the summer, the student's IEP team shall determine the date when services under the IEP will begin. At the discretion of the LEA and with parental approval, a FAPE may be provided to an eligible student before age three years if his or her third birthday occurs during the school year.

2. A student with a disability shall remain eligible for services until reaching age 22 unless the student has graduated from high school with a regular high school diploma. A student with a disability whose twenty-second birthday occurs during the course of the regular school year (as defined by the LEA) may be allowed to remain in school for the remainder of the school year.

3. LEAs are required to make available a free appropriate public education to students expelled, suspended or otherwise removed from their current educational placements for more than 10 school days in a school year, in accordance with these regulations.

4. A student with a disability who needs special education and related services shall remain eligible even though he or she is advancing from grade to grade.

F. Funding for public school special education and related services as provided by an LEA shall be as follows.

1. Each LEA shall provide special education and related services to students with exceptionalities who are located within its geographical boundaries, including students who are placed in a private residential facility or an intermediate care facility for the developmentally disabled for any reason by any individual or agency; however, the LEA shall pay the cost of such services only for students who are residents within the geographical boundaries of the LEA. Each LEA shall provide child find and evaluation services to nonresident students who are parentally placed in a private elementary or secondary school in the LEA's jurisdiction.

2. If an LEA provides special education and related services to a student with an exceptionality who is a resident of the state of Louisiana and is located within the geographical boundaries of an LEA but is not a resident thereof, including students who are placed in a private residential facility or an intermediate care facility for the developmentally disabled for any reason by any individual or agency, the responsibility for the student's special education and related service is divided between the student's LEA of residence and the LEA where the student is located as follows:

a. the LEA where the student is located is responsible for providing special education and related services to the student; and

b. the cost of special education and related services shall be reimbursed by the LEA within the boundaries in which the student resides or in which a student who attains majority resides.

3. If a student with an exceptionality is living in a private residential facility in this state but the student is not a resident of this state, the LEA providing special education and related services to that student shall be reimbursed by the residential facility for the cost of providing those services.

4. The state shall be responsible for funding the costs of special education and related services for students enrolled in the special school district and special schools, with the exception of daily transportation costs for day students at board special schools if the students are not placed by parent option. Those transportation costs remain the responsibility of the sending LEA.

5. The Department of Education and LEAs may, under policies established by the State Board of Elementary and Secondary Education, enter into purchase of service agreements or contracts with other public or non-public agencies to provide special education and related services.

6. This Section is not applicable to students who are adjudicated delinquent, or are members of a family in need of services by a court or is in the custody of the Office of Juvenile Justice as a result of any such adjudication and is assigned by the Office of Juvenile Justice to a community-based program or facility, pursuant to R.S. 17:100.1.

G. If a student's LEA of residence is required to fund a student's special education and related services while the student is located in another LEA in the State of Louisiana, the billing must be implemented as follows.

1. The LEA providing the special education and related services will claim the student on its student count for purposes of the Minimum Foundation Program (MFP) and any other available state or federal funding for which the student is eligible.

2. The LEA providing the special education and related services will determine the cost of the student's special education and related services by prorating all services among all participating students in each setting. Those costs include, but are not limited to, the following.

a. School bus transportation costs shall be the student's prorated share of the LEA's actual cost of the school bus, driver, and bus aide(s).

b. Classroom costs shall be the student's prorated share of the cost of the teacher, paraprofessional(s), and aide(s).

c. Related services costs shall be the hourly rate or a portion thereof, of a related service provider's salary or fee for the number of hours or minutes the student actually received services.

d. If the student does not qualify for a free breakfast or lunch pursuant to the United States Department of Agriculture free or reduced nutrition programs, the cost of any meals and snacks shall be the cost of the meals and snacks charged to all students.

e. The actual cost of any assistive technology or other required equipment, supplies, and supports can be billed to the LEA of residence.

f. Indirect costs cannot be included in the billings sent to the LEA of residence.

3. The LEA will subtract the total costs for the student, as enumerated herein, from the total state and federal funding generated by the student's enrollment. The difference may be billed to the student's LEA of residence.

4. Each LEA which intends to bill a non-resident student's Louisiana LEA of residence must send a written notification to the LEA of residence no later than 90 school days prior to sending a bill.

H. "Resident" as it applies to a student with a exceptionality for purposes of this Section shall mean any one of the following.

1. The student is a resident within the geographical boundaries of the local education agency in which the student's parent or parents have their legal residence, unless the parent or parents have relinquished custody of the student. In such case, the student is a resident within the geographical boundaries of the LEA in which the student's legal custodian or custodians have their legal residence.

2. If a student's parents are divorced, the student is a resident of the LEA in which the student's domiciliary or custodial parent has his or her legal residence.

3. If a student is in foster care, the student is a resident of the LEA in which the parent or parents with whom the student lived immediately prior to being placed into foster care have their legal residence.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

Chapter 3. Evaluations, Eligibility Determinations, Individualized Education Programs, and Educational Placements

Subchapter A. Parental Consent

§301. Parental Consent

A. - A.3.b. ...

B. Parental Consent for Services

1. - 2. ...

3. If the parent of a student fails to respond to a request for, or refuses to consent to the initial provision of special education and related services, the public agency:

a. may not use the procedures in Chapter 5 of these regulations (including the mediation procedures under §506 or the due process procedures under §§507 through 516) in order to obtain agreement or a ruling that the services may be provided to the student;

b. will not be considered to be in violation of the requirement to make FAPE available to the student because of the failure to provide the student with special education and related services for which the parent refuses to or fails to provide consent; and

c. is not required to convene an IEP Team meeting or develop an IEP under §320 and §324 for the student.

4. If, at any time subsequent to the initial provision of special education and related services, the parent of the student revokes consent in writing for the continued provision of special education and related services, the public agency:

a. may not continue to provide special education and related services to the student, but must provide prior written notice in accordance with §504 before ceasing the provision of special education and related services;

b. may not use the procedures in Chapter 5 of these regulations (including the mediation procedures under §506 or the due process procedures under §§507 through 516), in order to obtain agreement or a ruling that the services may be provided to the student;

c. will not be considered to be in violation of the requirement to make FAPE available to the student because

of the failure to provide the student with further special education and related services; and

d. is not required to convene an IEP Team meeting or develop an IEP under §320 and §324 for the student for further provision of special education and related services;

e. special education and related services may not be discontinued until prior written notice is sent;

f. if the parent revokes consent in writing for his/her student's receipt of special education services after the student is initially provided special education and related services, the public agency is not required to amend the student's education records to remove any references to the student's receipt of special education and related services because of the revocation of consent.

C. - D.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2046 (October 2008), amended LR 36:

Chapter 5. Procedural Safeguards

§512. Hearing Rights

A. General. Any party to a hearing conducted pursuant to §§507 through 513 or §§530 through 534 has the right to:

1. be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of students with disabilities, except that whether parties have the right to be represented by non-attorneys at due process hearings is determined under state law;

2. present evidence and confront, cross-examine, and compel the attendance of witnesses;

3. prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least five business days before the hearing;

4. obtain a written, or, at the option of the parents, electronic, verbatim record of the hearing at no cost; and

5. obtain written, or, at the option of the parents, electronic findings of fact and decisions at no cost.

B. - C.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2046 (October 2008), amended LR 36:

Chapter 6. Monitoring, Enforcement, Confidentiality, and Program Information

Subchapter A. Monitoring, Technical Assistance, and Enforcement

§601. State Monitoring and Enforcement

A. The LDE shall monitor the implementation of these regulations, enforce these regulations in accordance with §605 and *Bulletin 1922—Compliance Monitoring Procedures*, and annually report on performance under these regulations. The LDE shall:

1. monitor the implementation of this part;

2. make determinations annually about the performance of each LEA using the categories in §604.B.1;

3. enforce this Section, consistent with §605, using appropriate enforcement mechanisms identified in §605.A.1 (technical assistance), §605.A.3 (conditions on funding of an LEA), § 605.B.2.a (a corrective action plan or improvement

plan), §605.B.2.e (withholding funds, in whole or in part, by the LDE), and §605.C.2 (with holding funds, in whole or in part, by the LDE); and

4. Report annually on the performance of the state and of each LEA under this section, as provided in §603.B.1.b and B.2.

B. - D. 3. ...

E. In exercising its monitoring responsibilities under paragraph D of this section, the LDE must ensure that when it identifies noncompliance with the requirements of this part by LEAs, the noncompliance is corrected as soon as possible, and in no case later than one year after the LDE's identification of the noncompliance.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2046 (October 2008), amended LR 36:

§603. State Use of Targets and Reporting

A. ...

B. Public Reporting and Privacy

1. Public Report

a. Subject to Subparagraph B.1.b of this Section, the LDE shall:

i. report annually to the public on the performance of each LEA located in the state on the targets in the state's performance plan as soon as practicable but no later than 120 days following the state's submission of its annual performance report to the secretary under Paragraph B.2 of this Section; and

ii. make each of the following items available through public means: the state's performance plan, under §602; annual performance reports, under Paragraph B.2 of this Section; and the state's annual reports on the performance of each LEA located in the state, under Paragraph B.1.a.i of this Section. In doing so, the LDE must, at a minimum, post the plan and reports on the LDE website, and distribute the plan and reports to the media and through public agencies.

b. If the LDE, in meeting the requirements of Subparagraph B.1.a.i of this Section, collects performance data through state monitoring or sampling, the state shall include in its report under Clause B.1.a.i of this Section the most recently available performance data on each LEA, and the date the data were obtained.

2. State Performance Report. The LDE shall report annually to the secretary on the performance of the state under the state's performance plan.

3. Privacy. The LDE shall not report to the public or the secretary any information on performance that would result in the disclosure of personally identifiable information about individual students, or where the available data are insufficient to yield statistically reliable information.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2046 (October 2008), amended LR 36:

§607. Public Attention

A. If the LDE receives notice that the secretary is proposing to take or is taking an enforcement action pursuant to §603, the LDE must, by means of a public notice, take such actions as may be necessary to notify the

public within the state of the pendency of an action pursuant to §603, including, at a minimum, by posting the notice on the LDE's website and distributing the notice to the media and through public agencies.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

Chapter 7. Authorization, Allotment, Use of Funds, and Authorization of Appropriations

§705. Subgrants to LEAs

A. Subgrants Required. If the LDE receives a grant under §611 of the IDEA for any fiscal year, it shall distribute any funds the LDE does not reserve under §704 to LEAs (including public charter schools that operate as LEAs) in the state that have established their eligibility under §613 of the IDEA for use in accordance with Part B of the IDEA. Effective with funds that become available on July 1, 2009, the LDE must distribute funds to eligible LEAs, including public charter schools that operate as LEAs, even if the LEA is not serving any students with disabilities.

B. Allocations to LEAs. For each fiscal year for which funds are allocated to the LDE under §703, the LDE shall allocate funds as follows.

1. Base Payments. The LDE first shall award each LEA described in Subsection A of this Section the amount the LEA would have received under section 611 of the IDEA for fiscal year 1999, if the state had distributed 75 percent of its grant for that year under section 611(d) of the IDEA, as that section was then in effect.

2. Base Payment Adjustments. For any fiscal year after 1999:

a. if a new LEA is created, the LDE shall divide the base allocation determined under Paragraph B.1 of this Section for the LEAs that would have been responsible for serving students with disabilities now being served by the new LEA, among the new LEA and affected LEAs based on the relative numbers of students with disabilities ages 3 through 21 currently provided special education by each of the LEAs;

b. if one or more LEAs are combined into a single new LEA, the LDE shall combine the base allocations of the merged LEAs; and

c. if, for two or more LEAs, geographic boundaries or administrative responsibility for providing services to students with disabilities ages 3 through 21 change, the base allocations of affected LEAs shall be redistributed among affected LEAs based on the relative numbers of students with disabilities ages 3 through 21 currently provided special education by each affected LEA;

d. if an LEA received a base payment of zero in its first year of operation, the LDE must adjust the base payment for the first fiscal year after the first annual child count in which the LEA reports that it is serving any students with disabilities. The LDE must divide the base allocation determined under Paragraph B.1 of this Section for the LEAs that would have been responsible for serving students with disabilities now being served by the LEA, among the LEA and affected LEAs based on the relative numbers of students with disabilities ages 3 through 21, or ages 6 through 21 currently provided special education by each of the LEAs. This requirement takes effect with funds that become available on July 1, 2009.

3. Allocation of Remaining Funds. After making allocations under Paragraph B.1 of this Section, as adjusted by Paragraph B.2 of this Section, the LDE shall:

a. allocate 85 percent of any remaining funds to those LEAs on the basis of the relative numbers of students enrolled in public and private elementary schools and secondary schools within the LEA's jurisdiction; and

b. allocate 15 percent of those remaining funds to those LEAs in accordance with their relative numbers of students living in poverty, as determined by the LDE.

C. Reallocation of Funds. If the LDE determines that an LEA is adequately providing FAPE to all students with disabilities residing in the area served by that agency with state and local funds, the LDE may reallocate any portion of the funds under these regulations that are not needed by that LEA to provide FAPE, to other LEAs in the state that are not adequately providing special education and related services to all students with disabilities residing in the areas served by those other LEAs. The LDE may also retain those funds for use at the state level to the extent the LDE has not reserved the maximum amount of funds it is permitted to reserve for state-level activities pursuant to §704.

1. After the LDE distributes funds under this part to an eligible LEA that is not serving any students with disabilities, as provided in paragraph A. of this section, the LDE must determine, within a reasonable period of time prior to the end of the carryover period in 34 CFR 76.709, whether the LEA has obligated the funds. The LDE may reallocate any of those funds not obligated by the LEA to other LEAs in the state that are not adequately providing special education and related services to all students with disabilities residing in the areas served by those other LEAs. The LDE may also retain those funds for use at the state level to the extent the LDE has not reserved the maximum amount of funds it is permitted to reserve for State-level activities pursuant to §704.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2085 (October 2008), amended LR 36:

Chapter 8. Preschool Grants for Students with Disabilities and the Responsibilities of DHH and the LDE

§802. State Administration

A. For the purpose of administering §619 of IDEA (including the coordination of activities under Part B of the IDEA with, and providing technical assistance to, other programs that provide services to children with disabilities, the LDE may use not more than 20 percent of the maximum amount the LDE may reserve under §300.812 of the IDEA for any fiscal year.

B. Other State Level Activities

1. The LDE may reserve a portion of its allocation for other state level activities. The maximum amount that the state may reserve for other state level activities is governed by 34 CFR 300.812(b)(1) and (2).

2. Some portion of the funds reserved under Paragraph B.1 of this Section shall be used to carry out the following activities:

a. for support services (including establishing and implementing the mediation process required by §615(e) of IDEA);

b. for direct services for children eligible for services under §619 of IDEA;

c. to supplement other funds used to develop and implement a state-wide coordinated services system designed to improve results for children and families;

d. to provide early intervention services (which must include an educational component that promotes school readiness and incorporates preliteracy, language, and numeracy skills) in accordance with Part C of the Act to children with disabilities who are eligible for services under section 619 of the Act and who previously received services under Part C of the Act until such children enter, or are eligible under state law to enter kindergarten.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

§803. Subgrants to LEAs

A. Subgrants Required. If the LDE receives a grant under §619 of the IDEA for any fiscal year, it shall distribute any funds the LDE does not reserve under §802 to LEAs (including public charter schools that operate as LEAs) in the state that have established their eligibility under §613 of the IDEA. Effective with funds that become available on the July 1, 2009, the LDE must distribute funds to eligible LEAs, including public charter schools that operate as LEAs, even if the LEA is not serving any children with disabilities.

B. Allocations to LEAs. For each fiscal year for which funds are allocated to the LDE under §703, the LDE shall allocate funds as follows.

1. Base Payments. The LDE first shall award each LEA described in Paragraph A of this Section the amount the LEA would have received under §619 of the IDEA for fiscal year 1999, if the state had distributed 75 percent of its grant for that year under §619(c)(3) of the IDEA, as that section was then in effect.

2. Base Payment Adjustments. For any fiscal year after 1999:

a. if a new LEA is created, the LDE shall divide the base allocation determined under Paragraph B.1 of this section for the LEAs that would have been responsible for serving students with disabilities now being served by the new LEA, among the new LEA and affected LEAs based on the relative numbers of students with disabilities ages 3 through 5 currently provided special education by each of the LEAs;

b. if one or more LEAs are combined into a single new LEA, the LDE shall combine the base allocations of the merged LEAs;

c. if, for two or more LEAs, geographic boundaries or administrative responsibility for providing services to students with disabilities ages 3 through 5 change, the base allocations of affected LEAs shall be redistributed among affected LEAs based on the relative numbers of students with disabilities ages 3 through 5 currently provided special education by each affected LEA; and

d. if an LEA received a base payment of zero in its first year of operation, the LDE must adjust the base payment for the first fiscal year after the first annual child

count in which the LEA reports that it is serving any students with disabilities. The LDE must divide the base allocation determined under Paragraph B.1. of this Section for the LEAs that would have been responsible for serving students with disabilities now being served by the LEA, among the LEA and affected LEAs based on the relative numbers of students with disabilities ages 3 through 21, or ages 3 through 5 currently provided special education by each of the LEAs. This requirement takes effect with funds that become available on July 1, 2009.

C. Reallocation of Funds. If the LDE determines that an LEA is adequately providing FAPE to all students with disabilities ages 3 through 5 years residing in the area served by the LEA with State and local funds, the LDE may reallocate any portion of the funds under these regulations that are not needed by that LEA to provide FAPE to other LEAs in the State that are not adequately providing special education and related services to students with disabilities ages 3 through 5 residing in the areas served by those other LEAs. The LDE may also retain those funds for use at the State level to the extent the LDE has not reserved the maximum amount of funds it is permitted to reserve for state-level activities pursuant to §802.

1. After the LDE distributes funds to an eligible LEA that is not serving any students with disabilities ages 3 through 5, as provided in paragraph A. of this section, the LDE must determine, within a reasonable period of time prior to the end of the carry-over period in 34 CFR 76.709, whether the LEA has obligated the funds. The LDE may reallocate any of those funds not obligated by the LEA to other LEAs in the State that are not adequately providing special education and related services to all students with disabilities ages 3 through 5 residing in the areas served by those other LEAs. The LDE may also retain those funds for use at the State level to the extent the LDE has not reserved the maximum amount of funds it is permitted to reserve for state-level activities pursuant to §802.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

Chapter 9. General

Subchapter B. Definitions used in these Regulations

§905. Definitions

Adapted Physical Education—specially designed physical education for eligible students with disabilities.

Age of Majority—as defined in Louisiana, means 18 years of age.

Alternate Assessment—see *Bulletin 1530—Louisiana’s IEP Handbook* and *Bulletin 118—Statewide Assessment Standards and Practices*.

* * *

Consent—that:

1. the parent has been fully informed of all information relevant to the activity for which consent is sought, in his or her native language or other mode of communication;

2. the parent understands and agrees in writing to the carrying out of the activity for which his or her consent is sought; the consent describes that activity and lists the records (if any) that will be released and to whom; and

3.a. the parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time;

b. if a parent revokes consent, that revocation is not retroactive (i.e., does not negate an action that has occurred after the consent had been given and before the consent was revoked);

c. if the parent revokes consent in writing for his/her child's receipt of special education and related services, the public agency is not required to amend the student's education records to remove any references to the student's receipt of special education and related services because of the revocation.

* * *

Student with a Disability—

1. General

a. - b.i. ...

ii. If consistent with subparagraph 1.b in the definition of special education in this Section, the related service required by the student is considered special education rather than a related service under state standards, the student would be determined to be a student with a disability under subparagraph 1.a of this definition.

2. - 3.m. ...

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2086 (October 2008), 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? Yes.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., May 9, 2010 to Nina Ford, State Board of Elementary and Secondary Education, P.O. box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Jeanette Vosburg
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 1706—Regulations for
Implementation of the Children with Exceptionalities
Act—Regulations for Students with Disabilities**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule formally aligns the state special education regulations to conform to the supplemental regulations of IDEA (Individuals with Disabilities Education Act) of 2008 and Act 303 of the 2009 Louisiana Legislature. Certain school system's expenditures may increase by an indeterminable amount as a result of providing reimbursement for services for students with disabilities that are residents of their school system, but are receiving educational services in another school system and living in a residential facility. Overall, local school system expenditures will not increase statewide, but school systems will now be responsible for reimbursing neighboring school systems that educate students residing in a residential facility. The only state costs associated with this rule change are the preparation and printing of the document. The cost is projected to be approximately \$2,000. Publication can be accomplished via the Department's web site.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collection of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no costs or economic benefits to non-governmental groups affected by this rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated impact on competition and employment.

Beth Scioneaux
Deputy Superintendent
1003#045

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1929—Louisiana Accounting and Uniform Governmental Handbook (LAC 28:XLI.Chapters 1-13)

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 1929, Louisiana Accounting and Uniform Governmental Handbook. The proposed changes to Bulletin 1929 reflect the following:

1. Additions and changes related to financial reporting by the Department to the U. S. Department of Education.

2. Additions and changes to allow uniform reporting in both the Student Information System (SIS) and the Profile of Education Personnel (PEP) due to required reporting for Federal programs

3. Additions and changes to allow for required financial reporting per Act 310 of the 2009 Regular Legislative Session regarding weighted student funding

Title 28
EDUCATION

**Part XLI. Bulletin 1929—Louisiana Accounting
and Uniform Governmental Handbook**

Chapter 1. Purpose of Handbook

§101. Introduction

A. - C.4. ...

5. The guidelines should conform to generally accepted accounting principles. Governmental funds should be accounted for using the modified accrual basis of accounting; proprietary and fiduciary funds should be accounted for using the accrual basis.

C.6. - E.3. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:462 (March 2000), amended LR 36:

Chapter 3. The Account Classification Structure

§301. Explanation/General Information

A. - B.4.

5. *Balance Sheet Accounts*—these classifications correspond to those items normally appearing on the balance sheet in three areas: assets and other debits; liabilities and other credits; and fund balance.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:462 (March 2000), amended LR 36:

Chapter 5. Fund Classifications

**§501. Explanation/General Information/
Introduction/Overview**

A. Governmental accounting systems should be organized and operated on a fund basis. Unlike a private business, which is accounted for as a single entity, a governmental unit is accounted for through separate funds, each accounting for designated assets, liabilities and fund or other balances. Therefore, from an accounting and financial management viewpoint, a governmental unit is a combination of several distinctively different fiscal and accounting entities, each having a separate set of self-balancing accounts and functioning independently of other funds. Each fund must be so accounted for that the identity of its resources, obligations, revenues, expenditures, and fund balances is continually maintained.

B. ...

C. Funds used by governmental entities are classified into three broad categories: governmental, proprietary, and fiduciary.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:462 (March 2000), amended LR 36:

§503. Governmental Funds

A. Governmental Funds are funds through which most functions are typically financed. Governmental funds are accounting segregations of financial resources. Their measurement focus is on the determination of short-term financial position and on the changes in short-term financial position (sources, uses, and balances of financial resources), rather than on net income determination. To achieve this current financial resource focus, the modified accrual basis

of accounting is used. This measurement focus is unique in that generally only current expendable financial resources are accounted for in the governmental fund category. Capital assets, non-current assets, deferred charges and long-term debt are not accounted for within these funds. Within the governmental funds category are the five fund types described below.

1. The General Fund. This is the chief operating fund of the school district. It is used to account for all financial resources of the school district, except those required to be accounted for in another fund. A district may only have one general fund.

2. Special Revenue Funds. These funds are used to account for specific revenue sources that legally may be expended only for specific purposes. Special revenue funds are not used for amounts held in trust or for resources that will be used for major capital projects. Some examples of special revenue funds are:

a. Federal Revenue

i. NCLB Funds—all revenue related to the No Child Left Behind (NCLB) including all parts.

ii. Special Education Funds—all revenue relating to the Individuals with Disabilities Education Act (IDEA) and all related parts.

iii. Other Federal Revenue—used to account for all other federal revenue, including, for example, Adult Education, Career and Technical Education, and Headstart.

b. Other Revenue

i. School Food Service Funds—all revenue, federal, state, or local related to the Child Nutrition Programs including School Lunch, School Breakfast, After School Snacks, Catering, and Nutrition Education.

ii. ...

3. Capital Projects Funds. This fund is used to account for major capital acquisitions or construction. These funds are not used for construction financed by proprietary or trust funds. A separate Capital Projects Fund is usually established when the project exceeds a single fiscal year, when the financing sources are provided by more than one fund, or when the capital asset is financed by specifically designated resources.

4. Debt Service Funds. This fund is used to account for the accumulation of resources to pay the principal and interest on general long-term debt. A Debt Service Fund may be used for each obligation; however, it should be established only if legally required or if resources are being accumulated to meet future payments. When obligations are paid, on a current basis, by the General Fund or by a Special Fund, there is no need to create a Debt Service Fund unless legally required to do so.

5. Permanent Funds. This fund is used to account for resources that are legally restricted to the extent that only earnings, and not principal, may be used for purposes that support the school district's programs.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:463 (March 2000), amended LR 27:1684 (October 2001), amended LR 36:

§505. Proprietary Funds

A. A Proprietary Fund is used to account for activities that are similar to activities that may be performed by a commercial enterprise. The measurement focus is on the

determination of net income, financial position, and changes in financial position and therefore the basis of accounting is full accrual. This measurement focus and basis of accounting, similar to that found in the private sector, is based on the flow of economic resources; it requires the reporting of all assets and liabilities associated with a particular activity, including capital assets and long-term assets and liabilities. Within the proprietary fund category are two fund types.

1. - 1.b. ...

2. Internal Service Funds—used to account for the financing of goods or services provided by one department or agency to other departments or agencies within the governmental unit, or to other governmental units, on a cost-reimbursement basis. Thus, the objective of an Internal Service Fund is not to make profit, but rather to recover over a period of time the total cost of providing the goods or services. Examples include funds used to account for certain employee benefits, risk management and fleet or facility usage.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:463 (March 2000), amended LR 36:

§507. Fiduciary Funds

A. Fiduciary Funds are used to account for assets when a governmental unit is functioning either as a trustee or as an agent for another party; they are commonly referred to as trust and agency funds.

1. Trust Funds. These funds are used to account for assets held by a school district in a trustee capacity for others (e.g. members and beneficiaries of pension plans, external investment pools, or private purpose trust arrangements) and therefore cannot be used to support the school district's own programs. Trust funds are generally accounted for on the economic resources measurement focus and the accrual basis of accounting. Trust funds include pension trust funds, investment trust funds, and private purpose trust funds (as described below).

a. Pension Trust Funds. This fund is used to account for resources that are required to be held in trust for members and beneficiaries of defined benefit pension plans, defined contribution plans, other post employment benefit plans, or other benefit plans. Typically, these funds are used to account for local pension and other employee benefit funds that are provided by a school district in lieu of or in addition to any state retirement system.

b. Investment Trust Funds. This fund is used to account for the external portion (i.e., the portion that does not belong to the school district) of the investment pools operated by the school district.

c. Private Purpose Trust Funds. This fund is used to account for other trust arrangements under which the principal and income benefit individuals, private organizations or other governments.

2. Agency Funds. This account is used for funds that are held in a custodial capacity by a school district for individual, private organizations or other governments. Agency funds may include those used to account for student activities or taxes collected for another government.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:463 (March 2000), amended LR 36:

Chapter 6. Measurement Focus and Basis of Accounting

§601. Explanation/General Information/Introduction/Overview

A. The information provided in this section was extracted from the *Financial Accounting for Local and State School Systems: 2009 Edition*, released by the U.S. Department of Education.

B. Traditionally, the majority of governmental financial information has been maintained and reported in fund financial statements on the modified accrual basis of accounting (or the accrual basis for business-type activities). GASB Statement 34 established additional reporting (the government-wide statements) that represents a major shift in the focus and content of governmental financial statements. Collecting and reporting the additional financial information required by the government-wide statements adds to the complexity of financial reporting activities and has significant implications for the traditional focus and basis of accounting used in governmental financial statements.

C. The government-wide financial statements consist of a statement of net assets and a statement of activities and are prepared using the economic resources measurement focus and the accrual basis of accounting. Thus, revenues are recognized in the accounting period in which they are earned and become measurable, without regard to availability, and expenses are recognized in the period incurred, if measurable. (City, parish, and other local school systems annually submit audited basic financial statements which include government-wide and fund financial statements to the Louisiana Legislative Auditor's Office.)

D. Governmental fund financial statements are prepared using the current financial resources measurement focus and the modified accrual basis of accounting. Revenues are recognized in the accounting period in which they become available and measurable, and expenditures are recognized in the period in which the fund liability is incurred, if measurable, except for unmatured interest on general long-term debt, which should be recognized when due (GASB 2005a). Proprietary fund financial statements are prepared using the economic resources measurement focus and the accrual basis of accounting. (City, parish, and other local school systems are required to submit an Annual Financial Report (AFR) to the Department of Education each year. Table I of the AFR is based on fund financial statements.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

§603. Fund Financial Statements—Reporting of Expenditures/Expenses

A. Expenditures. GASB Codification Chapter 1600.116 defines expenditures as decreases in net financial resources. In governmental funds, the recognition of expenditures occurs in accordance with the modified accrual basis of accounting. Expenses incurred in proprietary funds are recognized using the accrual basis of accounting. Therefore, significant differences exist between the recognition of expenditures in governmental funds and the recognition of expenses in proprietary funds.

B. In governmental funds, expenditures are usually recognized in the accounting period in which the goods or services are received and the liability for payment is incurred. However, in instances in which current financial resources are not reduced as a result of the incurrence of a liability, an expenditure is not recorded. A common example is the liability for compensated absences (e.g., employee sick and vacation pay). Such liabilities result from current services received from employees; however, the payment of the liabilities usually does not occur until a future date. As a result, compensated absences relating to employees whose salaries are accounted for in governmental funds are not recorded as expenditures and liabilities of the fund until the due date for payment of the compensated absences. GASB Interpretation No. 6 clarifies the guidance for recognizing certain liabilities and expenditures in governmental funds, including general long-term indebtedness, such as compensated absences. The matured portion of long-term indebtedness, to the extent it is expected to be liquidated with expendable available financial resources, should be recorded as a fund liability and expenditure. The unmatured portion of the long-term indebtedness represents a general long-term liability to be presented in the government-wide financial statements.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

§605. Types of Expenditures and Accounting Treatments

A. The major types of expenditures are operating, capital, debt service and intergovernmental charges described as follows.

1. Operating expenditures for governmental agencies include a wide range of expenditures. Often, the largest portion relates to payroll and related employee benefits. The modified accrual basis of accounting requires that proper accruals be made for the amount of unpaid salaries and related benefits earned at year-end, because these liabilities will be paid early in the next reporting period. (The other types of operating expenditures should be accounted for in the same manner, with the recording of a liability when the goods or services are received and necessary accruals made at year-end.)

2. Capital expenditures relate to the acquisition of capital assets. Such expenditures may be recorded in the general fund, special revenue funds, or capital projects funds, depending on the source of funding. Purchases of personal property, such as furniture and equipment, are usually recorded as expenditures in the general fund if they are financed from operating budgets or in the general fund or special revenue funds if they are financed from grants. Major projects, such as the construction of a school building financed by the proceeds of debt, should be accounted for in a capital projects fund. Costs associated with acquiring capital assets in governmental funds are recorded as capital outlay expenditures when the liability is incurred, usually on receipt of the related asset.

3. Debt service expenditures represent the payment of principal and interest needed to service debt. Such payments are usually recorded as expenditures in the debt service fund on the due date. The general fund may also be used if a debt service fund is not required. The modified accrual basis of

accounting provides that accruals for interest are not usually allowed. When funds have been transferred to the debt service fund in anticipation of making debt service payments shortly after the end of the period (no more than 30 days), it is acceptable to accrue interest and maturing debt in the debt service fund in the year the transfer is made. This option is available only if monies are legally required to be set aside in a debt service fund and if used on a consistent basis.

4. Intergovernmental charges relate to the transfer of resources from one school district to another, to or from other local governments, or to or from the state. Examples of such charges include contracted instructional services between public schools, other local governments, or state-operated schools and certain transfers of resources associated with state and local funding (e.g., incremental costs associated with wealth redistribution). Such expenditures are accounted for in the general fund using the modified accrual basis of accounting. Payments between school districts and fiscal agents of cooperative services arrangements (e.g., joint instructional or servicing agreements) are also considered intergovernmental charges.

B. In addition, transfers result in the reduction of a fund's expendable resources, but they are not classified as expenditures. A transfer is a legally authorized movement of monies between funds in which one fund is responsible for the receipt of funds and another fund is responsible for the actual disbursement. In a transfer, the disbursing fund records the transaction as "other financing uses" of resources, and not as an operating expenditure, whereas the fund receiving the transfer does not record the receipts as revenue, but rather as "other financing sources" of funds.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

§607. Expenses

A. Expenses are defined as the outflows or expiration of assets or the incurrence of liabilities during a period, from providing or producing goods, rendering services, or carrying out other activities that constitute the entity's primary operations.

B. Proprietary funds recognize expenses using the accrual basis of accounting (i.e., when the related liability is incurred), without regard for the timing of the payment. This recognition criterion is consistent with the following guidelines discussed in Financial Accounting Standard Board (FASB) Statement No. 5. Although FASB Statements do not represent authoritative guidance for governments, the discussion is useful in classifying expense transactions within proprietary funds.

1. Associating cause and effect. Some expenses (such as the cost of goods sold) are recognized on recognition of revenues that result directly and jointly from the same transactions or other events as the expenses.

2. Systematic and rational allocation. Some expenses (such as depreciation and insurance) are allocated by systematic and rational procedures to the periods during which the related assets are expected to provide benefits.

3. Immediate Recognition. Many expenses (such as selling and administrative salaries) are recognized during the period in which cash is spent or liabilities are incurred for goods or services that are used up either simultaneously with acquisition or soon after.

C. As examples, the major types of governmental expenditures are accounted for differently in proprietary fund expenses as follows.

1. Capital. Capital asset acquisition in proprietary funds is accounted for using the flow of economic resources method. Amounts disbursed for the acquisition of capital assets are not recorded as an expense. Instead, the appropriate property, plant, or equipment asset account is debited on the purchase. Depreciation expense is recorded to reflect the allocation of the cost of the assets to operations over the service life of the asset.

2. Debt Service. Principal payments on debt do not represent expenses for proprietary funds but rather are recorded as a reduction of the obligation. Payments of interest represent expenses to be accounted for on the accrual basis of accounting. Accrual of interest at year-end is usually necessary to reflect the proper amount of expense for the period.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

§609. Government-wide Statements—Reporting of Expenditures

A. Governmental entities are required to present their government-wide financial statements on the accrual basis of accounting. Thus, the statement of activities reflects the expenses of the entity or the reporting period. Entities are required to report all expenses by activities and programs (by function), except certain indirect expenses, as explained below. GASB has defined direct expenses as those that are specifically associated with a service, program, or department and thus are clearly identifiable to a particular function. Direct expenses include both operating and non-operating expenses, including depreciation and amortization of assets.

B. Functions, such as general administration or data-processing services, may include indirect expenses of other functions. Governmental entities are not required to allocate indirect expenses to other functions, but may choose to do so. If indirect expenses are allocated, direct and indirect expenses should be presented in separate columns. A column totaling direct and indirect expenses may be presented, but is not required. Indirect expenses may be allocated to any of the primary government's functions. Although there are no standards for determining an allocation methodology, there should be a reasonable basis for expense allocations.

C. Depreciation and interest expense should be included in the statement of activities as follows.

1. Capital Assets that can be Specifically Identified with a Function. Depreciation should be included in the direct expenses of that function.

2. "Shared" Capital Assets. Depreciation should be prorated as a direct expense of the appropriate functions on some reasonable allocation basis.

3. Capital Assets that Essentially Serve all Functions. Depreciation is not required to be included in the direct expenses of the various functions, but may be reflected as a separate line captioned "unallocated depreciation" in the statement of activities or as part of the general government function. If an entity chooses to use a separate line in the statement of activities to report unallocated depreciation expense, it should clearly indicate in the footnotes to the

financial statements that this line item does not include direct depreciation expenses of the other functions. Because school buildings often serve multiple functions, many school districts report the depreciation as "unallocated depreciation" for these assets.

4. General Infrastructure Assets. Depreciation should not be allocated to the various functions, but should be reported as a direct expense of the function that the reporting government normally associates with capital outlays or as a separate line in the statement of activities.

5. Interest Expense. Interest on general long-term liabilities, including interest on capital leases or other vendor financing arrangements, should be considered an indirect expense. Interest on long-term debt should be included in direct expenses only when borrowing is essential to the creation or continuing existence of a program.

D. The difference between a "shared" capital asset and one that "essentially serves all functions" is the number of functions involved. As the number of functions increase, the ease, practicality, and usefulness of assigning depreciation to those functions decreases. Therefore, the depreciation of assets that serve many, or essentially all, functions is not required to be included in the direct expenses of those functions. A shared capital asset is generally used by only a few functions, and its use can be specifically identified to those functions.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36

Chapter 7. Classification of Revenues and Other Sources of Funds

§701. Revenue Codes

A. Revenue codes necessary for reporting to the National Center for Education Statistics are marked with an asterisk.

B. 1000 Revenue from Local Sources

1. 1100 Taxes Levied/Assessed by the School District—compulsory charges levied by the school system to finance services performed for the common benefit.

a. 1110* Ad Valorem Taxes - Gross—amounts levied by a school district on the taxable assessed value of real and personal property within the school district that, within legal limits, is the final authority in determining the amount to be raised for school purposes. By "gross," it is meant that the taxes are recorded at the amount actually collected by the tax collector before deduction for the assessor's compensation and/or deduction for amounts remitted to the various retirement systems in the state. Delinquent taxes are recorded in this account in the fiscal year received, whereas penalties and interest on ad valorem taxes should be included in account 1116. The deduction for assessor's compensation should be recorded as a debit to object 311, assessor fees, and the deduction for amounts remitted to the various retirement systems in the state should be recorded as a debit to object 313, pension fund, under function 2315.

i. 1111 Constitutional Tax—the tax that is permitted to be levied by a school system under authority of the 1974 constitution. This tax is in perpetuity; it is not subject to a vote of the electorate. The amount of millage that may be levied varies from school district to school district. This tax is a General Fund revenue.

ii. 1112 Renewable Taxes—taxes that the electorate has authorized the school system to levy for a specified period of time, not to exceed ten (10) years. At the end of the time period specified, the electorate must approve an extension by popular vote, not to exceed ten (10) years, for the tax to be levied again. These taxes may be either General Fund or Special Revenue Fund revenues, depending on their purpose and the manner in which the tax was imposed.

iii. 1113 Debt Service Taxes—taxes that the electorate have authorized the school system to levy for the retirement of general obligation long-term debt. The proceeds are normally placed in the Debt Service Fund.

iv. 1114 Up to 1 percent Collections on Non-School District Taxes for Teachers Retirement System of LA—The Sheriff and Ex-Officio Tax Collector of each parish is mandated by State law to remit 1 percent of the total qualifying taxes collected from all taxing bodies within the parish to the Teachers Retirement System of Louisiana for the credit of the parish school system. This amount may be obtained annually from the Tax Collector's office. It is recorded by debiting retirement expenditures and crediting this account. This tax is a General Fund revenue.

v. 1115 Property Taxes Collected as a Result of a Court Ordered Settlement—Revenues recognized in a year other than the year due, as a result of a court ordered settlement.

vi. 1116 Penalties and Interest on Property Taxes—Revenue from penalties for the payment of taxes after the due date and the interest charged on delinquent taxes.

vii. 1117 Taxes Collected Due to Tax Incremental Financing (TIF)—Revenues collected that are not available for use by the school district due to tax incremental financing (TIF). TIF financing is a development tool used by municipalities to stimulate private investment and development in areas by capturing the tax revenues generated by the development itself, and using these tax revenues to pay for improvements and infrastructure necessary to enable the development.

b. 1130* Sales and Use Taxes—Taxes assessed by the school system on the taxable sale and consumption of goods and services within the school district.

i. 1131 Sales and Use Taxes—Gross – Taxes assessed by the school system on the taxable sale and consumption of goods and services within the school district. By "gross" it is meant that the taxes are recorded at the amount actually collected before any deduction for the cost of collection. This tax may be a General Fund, Special Revenue Fund, or Debt Service Fund revenue. Delinquent taxes are recorded in this account, whereas penalties and interest on sales and use taxes should be included in account 1136.

ii. 1135 Sales and Use Taxes Collected as a Result of a Court Ordered Settlement – Revenues recognized in a year other than the year due, as a result of a court ordered settlement.

iii. 1136 Penalties and Interest on Sales and Use Taxes – Revenue from penalties for the payment of taxes after the due date and interest charged on the delinquent taxes.

iv. 1137 Taxes Collected Due to Tax Incremental Financing (TIF)—revenues collected that are not available for use by the school district due to tax incremental financing (TIF). TIF financing is a development tool used by municipalities to stimulate private investment and development in areas by capturing the tax revenues generated by the development itself, and using these tax revenues to pay for improvements and infrastructure necessary to enable the development.

2. 1200 Revenue from Local Governmental Units Other Than LEA's—revenue from the appropriations of another governmental unit. The LEA is not the final authority, within legal limits, in determining the amount of money to be received; the money is raised by taxes or other means that are not earmarked for school purposes. This classification could include revenue from townships, municipalities, parishes, etc.

3. 1300 Tuition—revenue from individuals, welfare agencies, private sources and other LEA's for education provided by the LEA.

a. 1310* Tuition from Individuals—amounts paid by students to attend classes. It is irrelevant whether the students reside inside or outside the parish. This revenue is normally a General Fund revenue.

b. 1311 Tuition from Individuals Excluding Summer School—amounts paid by students to attend classes other than Summer School. It is irrelevant whether the students reside inside or outside the parish.

c. 1312 Tuition from Individuals for Summer School—amounts paid by students to attend summer school classes. It is irrelevant whether the students reside inside or outside the parish.

d. 1320* Tuition from Other LEA's within the State—amounts paid by public school systems within the state of Louisiana for educational services rendered to students from that school system. This revenue is normally a General Fund revenue.

e. 1321* Tuition from Other LEA's outside the State—amounts paid by public school systems outside the State of Louisiana for educational services rendered to students from that state.

f. 1330* Tuition from Other Government Sources within the State—amounts paid by other government sources within the state of Louisiana for educational services rendered.

g. 1331* Tuition from Other Government Sources Outside the State—amounts paid by other government sources outside the state of Louisiana for educational services rendered.

h. 1390* Tuition from Other Private Sources (Other than Individual)—amounts paid by persons other than individuals and other local education agencies for tuition.

4. 1400 Transportation Fees—revenue from individuals, welfare agencies, private sources, or other LEA's for transporting students to and from school and school activities. Transportation funds received for non-public transportation are to be recorded in 3250 Non-Public Transportation.

a. 1410* Transportation Fees from Individuals—amounts paid by individual persons for

transportation services rendered by the school system. This fee is normally a General Fund revenue.

b. 1420* Transportation Fees from Other LEA's or Charter Schools within the State—amounts paid by other local education agencies for transportation services rendered by the school system. This fee is normally a General Fund revenue.

c. 1421* Transportation Fees from Other LEA's outside the State—amounts paid by public school systems outside the State of Louisiana for transportation services rendered to students from that state.

d. 1430* Transportation Fees from Other Government Sources within the State—amounts paid by other government sources within the state of Louisiana for transportation services rendered.

e. 1431* Transportation Fees from Other Government Sources outside the State—amounts paid by other government sources outside the state of Louisiana for transportation services rendered.

f. 1440* Transportation Fees from Other Private Sources (Other than Individuals)—amounts paid by persons other than individuals and other local education agencies for transportation services rendered by the school system.

5. 1500* Earnings on Investments—revenue from short-term and long-term investments. The revenue is credited to the fund that has provided the monies for the investments.

a. 1510 Interest on Investments—interest revenue on investments in United States treasury and agency obligations, notes, savings accounts, checking accounts, time certificates of deposit, mortgages, or other interest-bearing instruments.

b. 1530 Net Increase in the Fair Value of Investments—gains recognized from the sale of investments or changes in the fair value of investments. Gains represent the excess of sale proceeds (or fair value) over cost or any other basis of the date of sale (or valuation). All recognized investment gains may be accounted for by using this account; however, interest earnings from short-term investments may be credited to account 1510 (for tracking purposes only). For financial reporting purposes, GASB Statement 31 requires that all investment income, including the changes in fair value of investments, be reported as revenue in the operating statement.

c. 1531 Realized Gains (Losses) on Investments—gains or losses recognized from the sale of investments. Gains represent the excess of sale proceeds over cost or any other basis at the date of sale. Losses represent the excess of the cost or any other basis at the date of sale over sales value. For financial reporting purposes, the net of all realized and unrealized investment gains and losses should be reported as a single line in the financial statements; however, this account and the following account may be used for internal tracking purposes.

d. 1532 Unrealized Gains (Losses) on Investments—gains or losses recognized from changes in the value of investments. Gains represent the excess of fair value over cost or any other basis at the date of valuation. Losses represent the excess of the cost or any other basis at the date of valuation over fair value. For financial reporting purposes, the net of all realized and unrealized investment gains and losses should be reported as a single line in the

financial statements; however, this account and the previous account may be used for internal tracking purposes.

e. 1540 Earnings on Investment in Real Property—revenue received for renting or leasing, royalties, use charges and other income from real property held for investment purposes.

i. 1541 Earnings from 16th Section Property—amounts charged or received for the use or severance of natural resources from 16th Section properties owned by the school system, including leases under LRS 30:154. This revenue is normally a General Fund revenue.

ii. 1542 Earnings from Other Real Property—amounts charged or received for the use or severance of natural resources from lands other than 16th Section property owned by the school system, including leases under LRS 30:154. This revenue is normally a General Fund revenue.

6. 1600* Food Services—revenues collected by the School Food Service Department for dispensing food to students, adults, and other agencies. This revenue includes funds for "at cost" meals, paying students, contracted meals, and catering revenues.

a. 1610 Income from Meals—revenues collected by the School Food Service Department for meals served to students, adults, or visitors, contract meals, second meals to students, and "at cost" meals. Sales taxes collected on eligible meal purchases should not be recorded here, but instead be recorded on the balance sheet as sales taxes payable to the parish sales tax collector under object 411, intergovernmental accounts payable.

b. 1620 Income from Extra Meals—revenues collected by the School Food Service Department for extra servings, catering services, special functions, or sales of milk and juice.

7. 1700* District Activities—revenues resulting from co-curricular and extra-curricular activities controlled and administered by the school district. These revenues are not to be comingled with proceeds from student activities. An important distinction is that disbursing monies from the district activity funds requires approval by the school board, whereas disbursing monies from the student activity fund may be subject to approval by the student organization and its sponsor, rather than by the school board.

a. 1710 Admissions—revenue from patrons of a school-sponsored activity, such as a concert or a football game.

b. 1720 Bookstore Sales—revenue from sales by students or student-sponsored bookstores.

c. 1730 Student Organization Membership Dues and Fees—revenue from students for memberships in school clubs or organizations.

d. 1740 Fees—revenue from students for fees such as locker fees, towel fees, and equipment fees. Transportation fees are recorded under the appropriated account in the 1400 series.

e. 1750* Revenue from Enterprise Activities—revenue (gross) from vending machines, school stores, soft drink machines, and so on, not related to the regular food service program. These revenues are normally associated with activities at the campus level that generate incremental local revenues for campus use.

f. 1790 Other Activity Income—other revenue from school or district activities.

8. 1800* Revenue from Community Service Activities—revenues received from providing community service activities operated by the school system. This fee is a revenue to the fund to which expenditures of operation of the activity are charged.

9. 1900 Other Revenues from Local Sources—other revenue from local sources not classified above.

a. 1910* Rentals—fees charged for the use of school facilities or equipment. These fees are normally a General Fund revenue. Rental of property held for income purposes is not included here, but is recorded under account 1540.

b. 1920* Contributions and Donations From Private Sources—revenue associated with contributions and donations made by private organizations for which no repayment or special service to the contributor is expected. These organizations include, but are not limited to, educational foundations, PTA/PTO organizations, campus booster clubs, and private individuals. This code should be used to record on-behalf payments made by private organizations to school district personnel (e.g., stipends paid to teachers or other school district staff). The granting person may require that a special accounting be made of the use of the funds provided, a stipulation that may require the use of a Special Revenue Fund or a Trust Fund.

c. 1930* Gains or losses on the Sale of Capital Assets (Proprietary and Fiduciary Funds)—the amount of revenue over (under) the book value of the capital assets sold. For example, the gain of the sale would be the portion of the selling price received in excess of the depreciated value (book value) of the asset. This account is used in Proprietary and Fiduciary funds only. Revenue account 5300 is used for governmental funds.

i. 1931 Sale of Surplus Items/Capital Assets—amounts received by the LEA for the sale of land, buildings, improvements, furniture or equipment. This revenue is normally revenue to the fund which had originally purchased the capital assets.

ii. 1932 Insurance Proceeds from Losses—amounts received by the LEA from an insurance company to compensate for the fire, theft, or the casualty to capital assets. This revenue is normally revenue to the fund that had originally purchased the items.

d. 1935 Judgments—amounts received as a result of a court order or judgment in favor of the LEA. This revenue is normally a revenue to the fund that expended monies to rectify the claim or paid the associated legal fees relative to the action that gave rise to the favorable judgment.

e. 1940* Textbook Sales and Rentals—revenue received from the sale or rental of textbooks (also includes collections for lost or damaged textbooks). This revenue is normally a General Fund revenue.

f. 1950* Miscellaneous Revenues from Other LEA's—revenues received from other local education agencies other than for tuition and transportation services. These services could include data processing, purchasing, maintenance, cleaning, consulting and guidance. This revenue is normally a General Fund revenue.

g. 1960* Miscellaneous Revenues from Other Local Governments—revenues from services provided to other units of local government. These services could include nonstudent transportation, data-processing, purchasing, maintenance, cleaning, cash management and consulting. This fee is normally a General Fund revenue.

h. 1970 Revenues from Other Departments in the Agency—interfund charges for services rendered by one fund to another fund (i.e., departments within the agency) for services such as printing or data-processing. This account is only used with Internal Service funds. Revenue from private individuals, businesses, and associations for services provided should be coded to 1990 Miscellaneous Local Revenue.

i. 1990* Miscellaneous—revenues from other local sources that are not classified above. This revenue is normally a General Fund revenue.

i. 1991 Medicaid Reimbursement—reimbursement received from the Medicaid program for services rendered to qualifying students under the program. This revenue is normally a General Fund revenue.

ii. 1992 Kid Med—fees or reimbursements received for providing Early Periodic Screening, Diagnosis and Treatment (EPSDT) services to qualifying students. This revenue is normally a General Fund revenue.

iii. 1993 Refund of Prior Year's Expenditures—expenditures that occurred last year that are refunded this year. If the refund and the expenditure occurred in the current year, reduce this year's expenditures, as prescribed by GAAP. (E-rate should be netted against the expenditure if it was received in the same fiscal year; if it was received in a subsequent fiscal year, it should be coded here.)

iv. 1994 Local Revenue Transfers from Another LEA—local revenue transferred from the district of prior jurisdiction. This is typically used to report revenue transferred from an LEA to the Recovery School District or a Type 5 Charter School as required by the Minimum Foundation Program (MFP). Also included Type 2 Charter Schools for which the school district provides the local share contribution. (Type 2 Charters approved on or after July 1, 2008.) This is a general fund revenue.

v. 1999* Other Miscellaneous Revenues—revenues from local sources not classified above.

C. 3000* Revenue from State Sources

1. 3100 Unrestricted Grants-In-Aid—revenue recorded as grants by the LEA from state funds, which can be used for any legal purpose desired by the LEA without restriction. Separate accounts may be maintained for general grants-in-aid that are not related to specific revenue sources of the state and for those assigned to specific sources of revenue, as appropriate.

a. 3110 State Public School Fund—monies distributed to Louisiana public school systems under the Minimum Foundation Program (MFP). This revenue is a General Fund revenue.

b. 3115 State Public School Fund - Food Services—monies transferred from the Minimum Foundation Program (MFP) for food services operations. The Federal Government requires a match of state funds for

the school lunch program. This revenue is an Other Special Funds revenue.

c. 3120 16th Section Land Fund Interest—interest paid by the State to certain school systems due to the erroneous sale of 16th Section lands during the nineteenth century. The rate of interest is fixed at 4 percent per annum per LRS 41:641.

d. 3190 Other Unrestricted Revenues—other funds distributed by the State to the school systems; these funds are not dedicated, or required to be used for specific purposes. This revenue may be General Fund or Special Revenue Fund revenue.

2. 3200 Restricted Grants-in-Aid—revenue recorded as grants by the LEA from state funds; these funds must be used for a categorical or specific purpose. If such money is not completely used by the LEA, it must be returned, usually, to the State.

a. 3210 Special Education—amounts granted by the State; they are required to be used solely for special education purposes. This revenue may be General Fund or Special Revenue Fund revenue.

b. 3220 Education Support Fund—amounts granted under the 8(g) Mineral Trust Fund by the Board of Elementary and Secondary Education (B.E.S.E.) to be used for specific purposes stated in the grant application. This revenue may be General Fund or Special Revenue Fund revenue.

c. 3223 Sixteenth Section Land Funds (withdrawals)—revenue derived from Sixteenth Section indemnity lands. This revenue is held in trust by the Louisiana Department of Treasury for all school districts involved.

d. 3225 Adult Education—amounts granted by the State under LRS 17:14; it is required that the revenue be used solely for adult education purposes. This revenue may be General Fund or Special Revenue Fund revenue.

e. 3230 PIP—funds granted by the State to school systems for paying professional improvement program (PIP) salaries to qualifying teachers in the systems. This revenue is normally General Fund revenue.

f. 3240 LA-4—funds granted by the State that are required to be used to provide high quality early childhood educational experienced to four-year-old children who are considered to be “at risk” of achieving later academic success. This revenue may be General Fund or Special Revenue Fund revenue.

g. 3250 Non-Public Transportation—amounts granted by the State for which payment is made to the LEA upon receipt of an agreement between the LEA and the non-public school system to provide transportation of non-public students to non-public schools by the use of the LEA's transportation system. This revenue is normally a General Fund revenue.

h. 3255 Non-Public Textbook—amounts granted by the State to reimburse LEA's for purchases of textbooks on behalf of non-public schools. This revenue is normally a General Fund revenue.

i. 3290 Other Restricted Revenues—other restricted revenues received from the State, other than those described above; these funds must be used for a categorical or specific purpose.

3. 3800 Revenue in Lieu of Taxes—commitments or payments made out of general revenues by a state to the LEA in lieu of taxes it would have had to pay had its property or other tax base been subject to the taxation by the LEA on the same basis as privately owned property. It would include payment made for privately owned property that is not subject to taxation on the same basis as other privately owned property due to action by the State.

a. 3810 Revenue Sharing: Constitutional Tax—funds appropriated annually by the State Legislature to fulfill its constitutional obligation to compensate local school systems partially for tax revenue lost due to homestead exemptions on the constitutional Ad Valorem tax. This revenue is normally General Fund revenue.

b. 3815 Revenue Sharing: Other Taxes—funds appropriated annually by the State Legislature to fulfill its constitutional obligation to compensate local school systems partially for tax revenue lost due to homestead exemptions on Ad Valorem taxes other than the constitutional Ad Valorem tax. This revenue is normally revenue to the fund associated with the particular Ad Valorem tax.

c. 3820 Revenue Sharing: Excess Portion—a distribution made by the Tax Collector to qualifying taxing authorities with remaining State revenue-sharing funds after all other required distributions have been made. This revenue is normally General Fund revenue.

d. 3890 Other Revenue in Lieu of Taxes—other commitments or payments made by the State in lieu of taxes.

4. 3900* Revenue for/on Behalf of LEA—commitments or payments made by a state for the benefit of the LEA, or contributions of equipment or supplies. Such revenue includes the payment to a pension fund by the State on behalf of an LEA employee for services rendered to the LEA and a contribution of capital assets by a State unit to the LEA.

a. 3910 Employer's Contribution to Teachers Retirement—direct payments made by the State to the Teachers Retirement System for persons receiving PIP salaries. It is recorded by debiting retirement expenditures and crediting this account. This revenue is a General Fund Revenue.

b. 3990 Other Revenue for/on Behalf of the LEA—other commitments or payments made by the State for the benefit of the LEA.

D. 4000 Revenue from Federal Sources

1. 4100* Unrestricted Grants-in-Aid Direct from the Federal Government—revenues direct from the Federal Government as grants to the LEA; this revenue can be used for any legal purpose desired by the LEA, without restriction.

a. 4110 Impact Aid Fund—amounts paid directly by the Federal Government to the LEA to supplement the education of children from families stationed at military bases who attend the LEA's public schools under P. L. 81-874. This revenue is normally a General Fund Revenue.

b. 4190 Other Unrestricted Grants—Direct—other revenues direct from the Federal Government other than those programs described above.

2. 4200* Unrestricted Grants-in-Aid from the Federal Government Through the State—revenues from the Federal Government through the State as grants that can be used for any legal purpose desired by the LEA, without restriction.

a. 4210 Flood Control—amounts received from the Federal Government and distributed by the State to the LEA for flood control.

b. 4290 Other Unrestricted Grants through State—other revenues received from the Federal Government through the State other than those classified above.

3. 4300* Restricted Grant-in-Aid Direct from the Federal Government—revenue direct from the Federal Government as grants to the LEA; the revenue may be used for a categorical or specific purpose. If such money is not completely used by the LEA, it usually is returned to the governmental unit.

a. 4310 Federally Affected Areas—Capital Outlay (P. L. 81-815)—amounts paid directly by the Federal Government to the LEA for purchase of capital assets under provisions of P. L. 81-815. This revenue is normally a Special Revenue Fund revenue, since an accounting must be made to demonstrate appropriate use of the proceeds received.

b. 4330 JROTC—amount paid directly to the LEA for operation of a Junior Reserve Officer Training Corps (JROTC) program at schools in the district. This is revenue to the fund that pays the expenditures of the JROTC program.

c. 4340 Headstart Program—amount paid directly to the LEA for operation of the Headstart program in the district. This is revenue to the fund that pays the expenditures of the Headstart program.

d. 4390 Other Restricted Grants—direct funds received from the Federal Government other than those shown above.

4. 4500* Restricted Grants-in-Aid from the Federal Government through the State—revenues from the Federal Government through the State as grants to the LEA; this revenue must be used for a categorical or specific purpose.

a. 4510 Career and Technical Education—federal funds granted to the local education agency and administered by the State under the Carl D. Perkins Vocational Act Education Program. These monies are reimbursement type grants.

b. 4515 School Food Service—all federal funds administered by the State and granted to the School Food Service Department for subsidies for all student meals in the National School Lunch and School Breakfast Programs, Summer Food Service Program, Child and Adult Care Food Program, and the Nutrition, Education, and Training Program. This revenue also includes funds from the Cash in Lieu of Commodities Program. The value of USDA commodities received should be recorded in 4220 Value of USDA Commodities.

c. 4520 Adult Basic Education—all federal funds administered by the State and granted to the LEA for purposes of providing Adult Basic Education (ABE).

d. 4530 Special Education—all federal funds administered by the State and granted to the LEA for students identified as being mentally or physically disabled.

i. 4531 IDEA, Part B—federal funds administered by the State and granted to the LEA to provide special education and related services to children ages 3 to 21 years old with disabilities in accordance with the

Individuals with Disabilities Education Act (IDEA). This revenue is generally a Special Revenue Fund revenue.

ii. 4532 IDEA, Preschool—federal funds administered by the State and granted to the LEA to provide special education and related services to preschool children ages 3 to 5 years old with disabilities in accordance with the Individuals with Disabilities Education Act (IDEA). This revenue is generally a Special Revenue Fund revenue.

iii. 4534 IDEA, Part C—Infant/Toddler—federal funds administered by the State and granted to the LEA to serve infants and toddlers through age 2 with developmental delays or who have diagnosed physical or mental conditions with high probabilities of resulting in developmental delays under the Individuals with Disabilities Education Act (IDEA). This revenue is generally a Special Revenue Fund revenue.

iv. 4535 Other Special Education Programs—all other federally funded program grants administered by the State and granted to the LEA for special education purposes, other than those described above. This revenue is generally a Special Revenue Fund revenue.

e. 4540 No Child Left Behind (NCLB)—federal funds administered by the State and granted to the LEA for programs for economically and educationally deprived school children.

i. 4541 Title I Grants to Local Educational Agencies—federal funds administered by the State to schools with high numbers or percentages of economically and educationally deprived children to help ensure that all children meet challenging State academic content and student academic achievement standards; the funds supplement rather than supplant activities that are state or locally mandated. This revenue is normally a Special Revenue Fund revenue.

ii. 4542 Title I, Part C, Migrant Education Basic State Grant Program—federal funds administered by the State to provide programs to meet the special education needs of children of migratory agricultural workers and migratory fishers, needs that have resulted from their migratory lifestyles or history. This revenue is normally a Special Revenue Fund revenue.

iii. 4544 Title IV, Part A – Safe and Drug Free Schools and Communities State Grants—federal funds administered by the State to support programs that prevent violence in and around schools; that prevent the illegal use of alcohol, tobacco, and other drugs; that involve parents and communities; and that are coordinated with related Federal, State, school and community efforts and resources to foster a safe and drug-free learning environment that supports student academic achievement. This revenue is normally a Special Revenue Fund revenue.

iv. 4545 Title II, Part A—improving Teacher Quality State—Grants—Federal funds administered by the State increase academic achievement by improving teacher and principal quality. This revenue is normally a Special Revenue Fund revenue.

v. 4547 Title III, Part A—English Language Acquisition Grant—Federal funds administered by the State to help ensure that children, who are limited English proficient, develop high levels of academic attainment in English. This revenue is normally a Special Revenue Fund revenue.

vii. 4548 Title IV, Part B—Century Community Learning Centers—federal funds administered by the State to provide opportunities for academic enrichment to help students in grades K through 12, particularly students who attend low-performing schools, to meet state and local student academic achievement standard. This revenue is normally a Special Revenue Fund revenue.

viii. 4549 Title IV, Part B—Rural Education Achievement Program (REAP)—federal funds administered by the State to assist small, high-poverty rural school districts meet the mandates of No Child Left Behind. This revenue is normally a Special Revenue Fund revenue.

f. 4550 Title I, Part A—School Improvement 1003(a) and 1003(g)—Federal funds administered by the State to address the needs of schools in improvement, corrective action, and restructuring, in order to improve student achievement. This revenue is normally a Special Revenue Fund revenue.

i. 4551 Title II, Part D—Federal funds administered by the State to improve student achievement through the use of technology in elementary and secondary schools by helping all students become technologically literate by the end of the eighth grade and, through the integration of technology with both teacher training and curriculum development, establishing research-based instructional methods that can be widely implemented. This revenue is normally a Special Revenue Fund revenue.

ii. 4559 Other NCLB Programs—all other Federally funded program grants administered by the State and granted to the LEA under No Child Left Behind, other than those described above. This revenue is normally a Special Revenue Fund revenue.

g. 4560 Job Training Partnership Act (JTPA)—federal funds administered by the State under the Job Training Partnership Act Program. This revenue is generally a Special Revenue Fund revenue.

h. 4580 FEMA Disaster Relief—federal funds administered by the State to provide financial assistance to an LEA for repairs and/or rebuilding necessary after a natural disaster.

i. 4590 Other Restricted Grants through State—federal funds administered by the State other than those shown above.

5. 4800 Revenue in Lieu of Taxes—commitments or payments made out of general revenues by the Federal Government to the LEA in lieu of taxes it would have had to pay had its property or other tax base been subject to taxation by the LEA on the same basis as privately owned property or other tax base. Such revenue would include payment made for privately owned property that is not subject to taxation on the same basis as other privately owned property because of action by the Federal Governmental unit.

a. 4810 Loss of Taxes Because of Federal Housing Projects—federal payments in lieu of taxes made directly to the LEA because of the existence of a Federally-funded housing project in the district, the location of which causes a loss of Ad Valorem tax revenue. This revenue is normally pro-rated to the funds that record the affected Ad Valorem tax revenues.

b. 4820 Sale of Timber, etc., on Federal Forest Reserves—federal payments in lieu of taxes made directly to the LEA because of the existence of a federal forest reserve in the district and for which the Federal Government has agreed to share a portion of the revenues derived from the sale of timber or other products contained thereon. This revenue is normally a General Fund Revenue.

c. 4890 Other Revenue in Lieu of Taxes—other revenue in lieu of taxes made directly to the LEA, other than those described above.

6. 4900 Revenue for/on Behalf of the LEA—commitments or payments made by the Federal Government for the benefit of the LEA, or contributions of equipment or supplies. Such revenue includes a contribution of capital assets by a Federal governmental unit to the LEA and foods donated by the Federal Government to the LEA. Separate accounts should be maintained to identify the specific nature of the revenue item.

a. 4910 Nonfood Assistance—federal assistance received in terms of non-cash and non-food type items granted directly to the LEA. This revenue is recorded by debiting the appropriate expenditure account that would have been charged had the LEA purchased the particular item and by crediting this account.

b. 4920 Value of USDA Commodities—federal assistance received by the School Food Service Department in terms of the stated value of United States Department of Agriculture commodities. This revenue is recorded by debiting the appropriate food account and by crediting this account.

c. 4990 Other Revenues for/on Behalf of the LEA—other commitments or payments made by the Federal Government for the benefit of the LEA or contributions of equipment or supplies, other than those described above.

E. 5000* Other Sources of Funds

1. 5100 Issuance of Bonds—the proceeds from the sale of bonds.

a. 5110* Bond Principal—used to record the face amount of bonds sold. This revenue is normally accounted for in the fund that will expend the proceeds from the debt issuance (e.g., Capital Projects Funds).

b. 5120 Accrued Interest and Premium on Bonds Sold—amounts received for accrued interest from the sale of bonds and/or that portion of the sales price of bonds in excess of their par value. This revenue is normally credited to the fund that is responsible for payment of the principal and interest on the debt and is recorded at the time of the sale.

2. 5200 Fund Transfers In—used to classify operating transfers from other funds of the district. These funds will not have to be replaced.

a. 5210 Transfer of Indirect Costs—amounts of indirect costs transferred from federal grants, usually to the General Fund.

b. 5220 Operating Transfers In—interfund transfers made by the LEA from one fund to another that does not carry a corresponding obligation on the receiving fund to repay the amount to the paying fund. This account is credited by the receiving fund, while the paying fund debits Operating Transfers Out in the Other Uses of Funds Section.

3. 5300 Proceeds from the Disposal of Real or Personal Property—proceeds from the disposal of school property or compensation for the loss of real or personal property. Any gain or loss on the disposal of property for Proprietary or Fiduciary funds is recorded in account 1930.

4. 5400 Loans Proceeds—proceeds from loans greater than 12 months. Usually reported in the fund in which expenditures of proceeds are made.

5. 5500 Capital Lease Proceeds—proceeds from capital leases

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:000464 (March 2000), amended LR 36:

Chapter 9. Classification of Expenditures and Other Uses of Funds

§901. Object Codes

A. Object codes necessary for reporting to the National Center for Education Statistics are marked with an asterisk.

B. This classification is used to describe the service or commodity obtained as the result of a specific expenditure. There are nine major object categories, each of which is further subdivided. Listed below are definitions of the object classes and selected sub-object categories.

C. 100* Salaries—amounts paid to both permanent and temporary LEA employees, including personnel substituting for those in permanent positions. This expenditure includes gross salary for personal services rendered while on the payroll of the LEA's.

1. 110 Salaries of Regular Employees—full-time, part-time, and prorated portions of the costs for work performed by permanent employees of the LEA.

a. 111 Officials/Administrators/Managers—these are occupations requiring administrative personnel who set broad policies, exercise overall responsibility for execution of these policies, or direct individual departments or special phases of the school system. Included in this category are superintendents of schools; assistant, deputy and associate superintendents; instructional coordinators, supervisors and directors; principals and assistant principals; and school business officials.

b. 112 Teachers—staff members assigned the professional activities of instructing pupils in courses in classroom situations for which daily-pupil attendance figures for the school system are kept. Included in this category are music, band, physical education, home economics, librarians, special education, etc.

c. 113 Therapists/Specialists/Counselors—staff members responsible for teaching or advising pupils with regard to their abilities and aptitudes, educational and occupational opportunities, personal and social adjustments. Included in this category are speech therapists, occupational therapists, physical therapists, guidance counselors, psychologists, social workers, assessment teachers/diagnosticians, and instructional specialists.

d. 114 Clerical/Secretarial—these are occupations requiring skills and training in all clerical-type work including activities such as preparing, transcribing, systematizing, or preserving written communication and reports, or operating such mechanical equipment as bookkeeping machines, typewriters and tabulating machines. Included in this category are bookkeepers, messengers,

office machines operators, clerk-typist, stenographers, statistical clerks, dispatchers, and payroll clerks.

e. 115 Para-Professionals/Aides—staff members working with students under the direct supervision of a classroom teacher or under the direct supervision of a staff member performing professional-educational-teaching assignments or assisting in the transportation of students on a regular schedule. Included in this category are teacher aides, library aides, bus aides, etc.

f. 116 Service Workers—staff members performing a specialized service; included in this category are cafeteria workers, bus drivers, school security guards, custodians, etc.

g. 117 Skilled Crafts—occupations in which workers perform jobs that require special manual skill and a thorough and comprehensive knowledge of the process involved in the work, which is acquired through on-the-job training and experience or through apprenticeship or other formal training programs. Included in this category are mechanics, electricians, heavy equipment operators, carpenters, etc.

h. 118 Degreed Professionals—occupations requiring a high degree of knowledge and skills acquired through at least a baccalaureate degree or its equivalent. This classification normally includes nurses, architects, lawyers, accountants, etc.

i. 119 Other Salaries—other staff members other than those classified above.

2. 120 Salaries of Temporary Employees—full-time, part-time, and prorated portions of the costs for work performed by employees of the LEA who are hired on a temporary or substitute basis.

a. 121 Acting Employee—the cost of work performed by a person who is temporarily taking over the duties or position of a regular employee.

b. 122 Seasonal Employee—the cost of work performed by a person who is hired on a temporary basis usually not more than five months which is affected by or dependent on a certain time of year.

c. 123 Substitute Teacher—the cost of work performed by a person who is hired in place of a teacher. (This substitute replaces a teacher coded to object 112.)

d. 124 Substitute Employee, Other Than Teacher—the cost of work performed by a person who is hired in place of a regular employee (other than a teacher coded to object 112).

e. 129 Other Temporary Employee—temporary employees, other than those classified above.

3. 130 Salaries for Extra Work Performed—amounts paid to employees of the LEA in either temporary or permanent positions for work performed in addition to the normal work period (including overtime) for which the employee is compensated under regular salaries and temporary salaries above. The terms of such payment for overtime are a matter of State and local regulations and interpretation.

4. 140 Salaries for Sabbatical Leave—amounts paid by the LEA to employees on sabbatical leave.

5. 150 Stipend Pay—a one-time payment or allowance to regular employees to attend workshops or in service training programs.

6. 155 Non-Public Stipend Pay—a one-time payment or allowance to non-public instructional employees to attend

workshops or in service training programs according to specific grant regulations.

D. 200* Employee Benefits—amounts paid by the LEA on behalf of employees; these amounts are not included in the gross salary, but are in addition to that amount. Such payments are fringe benefit payments and, while not paid directly to employees, are, nevertheless, part of the cost of personal services. Such amounts must be distributed to each function according to the employee's assignment.

1. 210 Group Insurance—employer's share for current employees of any insurance plan. Group insurance for retirees should be reported under object code 270: Health Benefits.

2. 220 FICA Contributions—employer's share of Social Security payroll taxes collected under authority of the Federal Insurance Contributions Act (FICA) paid by the LEA.

3. 225 Medicare Contributions—employer's share of Medicare paid by the LEA.

4. 230 Retirement Contribution—employer's share of any State or local employee retirement system paid by the LEA, including the amount paid for employees assigned to federal programs.

a. 231 Louisiana Teachers' Retirement System Contributions (TRSL)

b. 233 Louisiana School Employees' Retirement System Contributions (LSERS)

c. 239 Other Retirement Contributions

5. 240 Educational Reimbursement—amounts reimbursed by the LEA to any employee (or university on behalf of an employee) qualifying for the reimbursement of educational expenditures based upon LEA policy. (Includes tuition, textbooks, testing fees and certification fees.) (Used with function 2200 Instructional Staff Services and 2800 Central Services.)

6. 245 Non-Public Educational Reimbursement—amounts reimbursed by the LEA to non-public employees (or university on behalf of a non-public employee) qualifying for the reimbursement of educational expenditures based upon specific grant regulations. (Includes tuition, textbooks, testing fees and certification fees.)

7. 250 Unemployment Compensation—amounts paid by the LEA to provide unemployment benefits for its employees.

8. 260 Worker's Compensation—amounts paid by the LEA to provide worker's compensation insurance and/or benefits for its employees. Salary payments for employees on worker's compensations should be charged to this code.

9. 270 Retiree Health Benefits—amounts paid by the LEA to provide health benefits for employees now retired and for whom benefits are paid.

10. 280 Severance Pay—amounts of unused leave paid by the LEA to its employees upon their retirement.

a. 281 Sick Leave Severance—amount of unused sick leave paid by the LEA to its employees upon their retirement.

b. 282 Annual Leave Severance—amount of annual leave paid by the LEA to its employees upon their retirement.

11. 290 Other Employee Benefits—employee benefits other than those classified above.

E. 300* Purchased Professional and Technical Services—services which, by their nature, can be performed only by persons or firms with specialized skills and knowledge. While a product may or may not result from the transaction, the primary reason for the purchase is the service provided.

1. 310 Purchased Official/Administrative Services—services in support of the various policy-making and managerial activities of the LEA. Included are management consulting activities oriented to general governance or business and financial management of the LEA: school management support activities; election and tax assessing and collecting services. (Usually used with functions 2300 General Administration, 2400 School Administration, 2500 Business Services, and 2800 Central Services.)

a. 311 Assessor Fees—money paid to the tax assessor, who assesses property for taxation.

b. 312 Sheriff Fees—money paid to the local sheriff, who is charged with the collection and remittance of property taxes to the LEA.

c. 313 Pension Fund—monies deducted from the proceeds of property taxes for the payment of all pensions into the Pension Accumulation Fund (L.R.S 17:696).

d. 314 Sales Tax Collection Fees—money paid to another individual or other governmental body charged with the collection and remittance of sales and use taxes.

e. 315 State Tax Commission Fees—money paid to the Louisiana Tax Commission pursuant to a judgment upheld by the courts against a company that files suit to contest the correctness or legality of any final determination of its assessed valuations for taxation. The fee is an amount equal to 10 percent of the proceeds received (R.S. 47:1856f)

f. 316 Election Fees—money paid to other governmental agencies for expenses related to the election of school board members, as well as elections for the purpose of collecting tax revenues.

g. 317 Management Consultants—money paid to an individual or firm to study and evaluate the activities of the school system.

h. 319 Other Fees—official and administrative services, other than those classified above.

2. 320 Purchased Educational Services—services supporting the instructional program and its administration. Included would be curriculum improvement services, counseling and guidance services, library and media support, educational testing services and contracted instructional services. Also included would be payments to speakers to make presentations at workshops and in service training programs. This object code is usually used with functions 1000 Instruction, 2100 Pupil Support Services, and 2200 Instructional Staff Services.

3. 330 Other Purchased Professional Services—professional services which support the operation of the LEA, other than educational services. Included are medical doctors, lawyers, architects, auditors, accountants, therapists, audiologists, dieticians, editors, negotiations specialists, systems analysts, planners, and the like.

a. 331 Occupational/Physical Therapist Services—professional services contracted or paid by the LEA for treatment of an injury by physical activity, rather than with drugs, or for the treatment of mental ailments by work designed to divert the mind.

b. 332 Legal Services—professional services contracted or paid by the LEA to defend itself against lawsuits and to assist the LEA's in conforming with the law.

c. 333 Audit/Accounting Services—professional services contracted or paid by the LEA to examine and check the financial operations of the school system, as well as to provide assistance in keeping, analyzing and explaining accounts.

d. 334 Architect/Engineering Services—professional services contracted or paid by the LEA to design buildings, to draw up the plans, and generally to supervise the construction.

e. 335 Medical Services—Professional services contracted or paid by the LEA to provide medical services such as a physical for employees or for students that want to participate in athletics or to provide medical services in a school health clinic. Includes physicians, dentists, nurse practitioners, health unit, medical clinics, etc.

f. 339 Other Professional Services—professional services other than those classified above.

4. 340 Purchased Technical Services—services to the LEA which are not regarded as professional, but which require basic scientific knowledge, manual skills, or both. Included are data processing services, software support services, banking services, purchasing and warehousing services, graphic arts and the like. This object code is used usually with functions 1000 Instruction and 2000 Support Services.

F. 400* Purchased Property Services—services purchased to operate, repair, maintain, and rent property owned or used by the LEA. These services are performed by persons other than LEA employees. While a product may or may not result from the transaction, the primary reason for the purchase is the service provided.

1. 410 Utility Services—expenditures for utility services other than energy services supplied by public or private organizations. Water and sewerage are included here. Telephone and internet services are not included here, but are classified under object 530 Communications. This object code is used with only function 2600 Operations and Maintenance of Plant Services.

a. 411 Water/Sewerage—expenditures for water/sewerage utility services from a private or public utility company.

2. 420 Cleaning Services—services purchased to clean buildings (apart from services provided by LEA employees). This object code is used with only function 2600 Operations and Maintenance of Plant Services.

a. 421 Disposal Services—expenditures for garbage pickup and handling not provided by LEA personnel.

b. 423 Custodial Services—expenditures to an outside contractor for custodial services.

c. 424 Lawn Care—expenditures for lawn and grounds upkeep, minor landscaping, nursery services and the like not provided by LEA personnel.

3. 430 Repairs and Maintenance Services—expenditures for repairs and maintenance services not provided directly by LEA personnel. This expenditure includes contracts and agreements covering the upkeep of buildings, upkeep of equipment, including computers and related technology, and portable building relocation expenses. Costs for renovating and remodeling are not

included here but are classified under object 450 Construction Services.

4. 440 Rentals—costs for renting or leasing land, buildings, equipment, and vehicles.

a. 441 Renting Land and Buildings—expenditures for leasing or renting land and buildings for both temporary and long-range use by the LEA. This object code is used with function 2600 Operations and Maintenance of Plant Services or other appropriate programs.

b. 442 Rental of Equipment and Vehicles—expenditures for leasing or renting equipment or vehicles for both temporary and long-range use by the LEA. This expenditure includes bus and other vehicle rental when operated by a local LEA, lease-purchase arrangements, and similar rental agreements. This object code is usually used with function 1000 Instruction or 2000 Support Services.

5. 450* Construction Services—expenditures for constructing, renovating and remodeling paid to contractors. This object code includes the installation of new telephone lines or cable to provide internet access. This object is used only with function—4000 Facilities Acquisition and Construction Services.

6. 490 Other Purchased Property Services—purchased property services that are not classified above. Costs for telephone and internet services are not included here, but are included in object 530 Communications. This object code is used usually with function 2600 Operations and Maintenance of Plant Services.

G. 500* Other Purchased Services—amounts paid for services rendered by organizations or personnel not on the payroll of the LEA (separate from professional and technical services or property services). While a product may or may not result from the transaction, the primary reason for the purchase is the service provided.

1. 510 Student Transportation Services—expenditures for transporting children to and from school and other activities, including field trips. This object code is used only with function 2700 Student Transportation Services.

a. 511* Student Transportation Purchased from Another LEA within the State—amounts paid to other LEAs within the state for transporting children to and from school and school-related events. Expenditures for the rental of buses that are operated by personnel on the LEA payroll are not recorded here, but under object code 442 Rental of Equipment and Vehicles.

b. 512* Student Transportation Purchased from Another LEA Outside the State—payments to other LEAs outside the State for transporting children to and from school and school-related events.

c. 513 Payments in Lieu of Transportation—payments to individuals who transport themselves or their own children or for reimbursement of transportation expenses on public carriers.

d. 519 Student Transportation Purchased from other Sources—payments to persons or agencies other than LEAs for transporting children to and from school and school-related events, including field trips.

2. 520 Insurance (Other than Employee Benefits)—expenditures for all types of insurance coverage, including property, liability, and fidelity. Insurance for group health should be recorded under object 200 Employee Benefits.

a. 521 Liability Insurance—insurance that pays and renders service on behalf of the LEA for loss arising out of its responsibility, due to negligence, to others as imposed by law or assumed by contract.

b. 522 Property Insurance—insurance that indemnifies the LEA with an interest in physical property for its loss or the loss of its income producing ability.

c. 523 Fleet Insurance—insurance that protects the LEA against any physical damage to its vehicles, property damage, liability and/or other coverages.

d. 524 Errors and Omissions Insurance—professional liability insurance that protects the LEA against legal liability resulting from negligence, errors and omissions, and other aspects of rendering or failing to render professional service. It does not cover fraudulent, dishonest or criminal acts.

e. 525 Faithful Performance Bonds—a bond that will reimburse the LEA for loss up to the amount of the bond, sustained by the LEA by reason of any dishonest act of an employee or employees covered by the bond.

f. 529 Other Insurance—payments for insurance other than those classified above.

3. 530 Communications (Telephone, Internet and Postage)—expenditure for services provided by persons or businesses to assist in transmitting and receiving messages or information. This category includes cellular telephone and voice communication services, telephone and voicemail; data communications services to establish or maintain computer-based communications, networking and internet services; video communications services to establish or maintain one-way or two-way video communications via satellite, cable, or other devices; postal communications services to establish or maintain postage machine rentals, and postage, express delivery services, or couriers. Includes licenses and fees for services such as subscriptions to research materials over the Internet. Expenditures for software, both “downloaded” and “off-the-shelf” should be coded to object 615 or 735. (Usually used with functions 2200 Instructional Staff Services, 2300 General Administration, 2400 School Administration, 2500 Business Services, or 2600 Operations and Maintenance of Plant Services.)

4. 540 Advertising and Public Notices—expenditures for announcements in professional publications, newspapers or broadcasts over radio, television and the internet. These expenditures include advertising for such purposes as personnel recruitment, legal ads (i.e., Board Minutes), new and used equipment, sale of property, etc. Costs for professional advertising or public relations services should be charged to object 330 Other Purchased Professional Services.

5. 550 Printing and Binding—expenditures for job printing and binding, usually according to specifications of the LEA. This expenditure includes designing and printing forms and posters as well as printing and binding LEA publications. These payments are usually made to service providers outside of the LEA.

6. 560 Tuition—expenditures to reimburse other educational agencies for providing instructional services for students residing within the legal boundaries of the paying LEA including exam or certification fees required for admissions, course credit or certification and online course

fees. This object code is used only with function 1000 Instruction.

a. 561* Tuition to Other-In-State LEA's—tuition paid to other LEAs within the State.

b. 562* Tuition to Other LEA's Outside the State—tuition paid to other LEAs outside the State.

c. 563* Tuition to Private Sources—tuition paid to private schools.

d. 564* Tuition to Educational Service Agencies Other Than an LEA Within the State—tuition paid to educational service providers other than an LEA within the state. Includes providers such as a college or university, career and technical school, cosmetology school, or other specialized school that provides education or training for students to obtain course credits.

e. 565* Tuition to Educational Service Agencies Other Than an LEA outside the State—tuition paid to educational service providers other than an LEA outside the state. Includes providers such as a college or university, career, and technical school, cosmetology school, or other specialized school that provides education or training for students to obtain course credits.

f. 566* Tuition to Charter Schools—tuition paid to charter schools for services provided in accordance with the established charter for that school.

g. 567* Tuition to School Districts for Voucher Payments—tuition paid to school districts for students using a state or local voucher program.

h. 569* Other Tuition—tuition paid to other governmental organizations as reimbursement for providing specialized instructional services to students residing within the boundaries of the paying LEA.

7. 570 Food Service Management—expenditures for the operation of a local food service facility by other than employees of the LEA. Included are contracted services, such as food preparation, associated with the food service operation. Direct expenditures by the LEA for food, supplies, labor and equipment would be charged to the appropriate object codes. This object code is used only with function 3100 Food Service Operations.

8. 580 Travel—expenditures for transportation, meals, hotel, registration fees and other expenses associated with staff travel for the LEA according to district policy. Payments for per diem in lieu of reimbursements for subsistence (room and board) also are charged here. This object code is used with all functions except 5000 Other Sources of Funds.

a. 581 Mileage Allowance—a sum of money granted at stated intervals for travel expenses in lieu of reimbursement for actual travel expenses.

b. 582 Travel Expense Reimbursement—a sum of money paid for travel expenses at a specified amount per mile plus actual reimbursement for meals, hotel and other expenses including registration fees according to district policy.

c. 583 Operational Allowance—a sum of money granted to those individuals at stated intervals for the operation and maintenance of a vehicle.

9. 585 Non-Public Travel Expense Reimbursement—a sum of money paid for travel expenses of non-public employees at a specified amount per mile plus actual reimbursement for meals, hotel and other expenses,

including registration fees according to district policy and grant regulations.

10. 590 Miscellaneous Purchased Services—expenditures for purchased services not otherwise classified in the 300 Purchased Professional and Technical Services, 400 Purchased Property Services, or 500 Other Purchased Services series of objects. This object code is used with all functions, except 5000 Other Sources of Funds.

a. 595 Interagency Purchased Services—any inter-district payments other than tuition or transportation should be classified here. This code identifies other payments for services made between a school district and other governmental entities. (Used primarily with function 2000.)

b. 596* Services Purchased from Another LEA Within the State—payments to another LEA within the state for services rendered, other than tuition and transportation fees. Examples of such services are data processing, purchasing, nursing and guidance. When a question arises as to whether to code such payments to the 300 series of object code, purchased professional and technical services, or to this code, 596 should be used so that all inter-district payments can be eliminated when consolidating reports from multiple LEA's at state and federal levels. This code is used only with function 2000 Support Services.

c. 597* Services Purchased from Another LEA outside the State—payments to another LEA outside the state for services rendered, other than tuition and transportation fees. Examples of such services are data processing, purchasing, nursing and guidance. When a question arises as to whether to code such payments to the 300 series of object codes or to this code, 597 Services Purchased from Another LEA within the State should be used so that all inter-district payments can be eliminated when consolidating reports at the federal level. This object code is used only with function 2000 Support Services.

H. 600* Supplies—amounts paid for items that are consumed, worn out, or deteriorated through use; or for items that lose their identity through fabrication or incorporation into different or more complex units or substances. Refer to Appendix D for the criteria for distinguishing between a supply and an equipment item.

1. 610 Materials and Supplies—expenditures for all supplies (other than those listed below) for the operation of an LEA, including freight and cartage. A more thorough classification of supply expenditures is achieved by identifying the object with the function: for example, audiovisual supplies or classroom teaching supplies. This object code is used with all functions except 5000 Sources of Funds.

2. 615 Supplies-Technology Related—technology-related supplies includes supplies that are typically used in conjunction with technology-related hardware or software. Some examples are CDs, monitor stands, ink cartridges and storage media. (Equipment that has a cost lower than the school district's capitalization threshold should be coded here. Equipment that has a cost higher than the school district's capitalizations threshold should be coded to object 734. Software with a unit cost greater than the district's capitalization threshold should be coded to object 735.)

3. 620 Energy—expenditures for energy, including gas, oil, coal, gasoline, and services received from public or private utility companies.

a. 621 Natural Gas—expenditures for gas utility services from a private or public utility company. This object code is used with functions 2600 Operations and Maintenance of Plant Services, and 3100 Food Services Operations.

b. 622 Electricity—expenditures for electric utility services from a private or public utility company. This object code is used usually with functions 2600 Operations and Maintenance of Plant Services and 3100 Food Services Operations.

c. 626 Fuel—expenditures for gasoline and diesel purchased in bulk or periodically from a gasoline service station. This object code is used usually with functions 2600 Operations and Maintenance of Plant Services and 2700 Student Transportation Services.

d. 629 Other—expenditures for energy that cannot be classified in one of the foregoing categories.

4. 630 Food—expenditures for food used in the school food service program. This object code is used with only function 3100 Food Services Operations. Food used in instructional programs is charged under object code 610 Materials and Supplies.

a. 631 Purchased Food—food that is purchased from vendors rather than food received from the U.S. Department of Agriculture.

b. 632 Commodities—food that is passed through the State Department of Agriculture from the U.S. Department of Agriculture.

5. 640 Books and Periodicals—expenditures for books, textbooks and periodicals prescribed and available for general use, including reference books. This category includes the cost of workbooks, textbook binding or repairs, as well as textbooks that are purchased to be resold or rented. Also recorded here are the costs of binding or other repairs to school library books. This object code is used with all functions except 5000 Other Use of Funds.

a. 641 Library Books—a collection of books systematically arranged for reading or reference.

b. 642 Textbooks—books giving instructions in the principles of a subject of study or any book used as the basis or partial basis of a course of study.

c. 643 Workbooks—books for the use of students. They contains questions and exercises based on a textbook or course of study.

d. 644 Periodicals—publications appearing at regular intervals of more than one day, as a weekly magazine.

I. 700* Property—expenditures for acquiring capital assets, including land or existing buildings; improvements of grounds; initial equipment; additional equipment; and replacement of equipment. (Primarily reported in Table III of the AFR.)

1. 710* Land and Improvements—expenditures for the purchase of land and the improvements thereon. Purchases of air rights, mineral rights and the like are included here. Also included are special assessments against the LEA for capital improvements such as streets, curbs and drains. Not included here, but generally charged to object codes 450 Construction Services or 340 Purchased Technical Services as appropriate, are expenditures for improving sites and adjacent ways after acquisition by the LEA. This object

code is used with only functions 4100 Site Acquisition services and 4200 Site Improvement Services.

2. 720* Buildings—expenditures for acquiring existing buildings. Included are expenditures for installment or lease payments (except interest) that have a terminal date and that result in the acquisition of buildings, except payments to public school-housing authorities or similar agencies. This object code is used with only function 4500 Building Acquisition and Construction Services. Expenditures for the contracted construction of buildings, for major permanent structural alterations, and for the initial or additional installation of heating and ventilating systems, fire protection systems, and other service systems in existing buildings are recorded under object code 450 Construction Services. Buildings built and alterations performed by the LEAs own staff are charged to object code 100 Salaries, 200 Employee Benefits, 610 Materials and Supplies, and 730 Equipment, as appropriate.

3. 730* Equipment—expenditures for initial, additional, and replacement items of equipment, such as machinery, furniture and fixtures, computers and vehicles. Refer to the criteria for distinguishing between a supply and an equipment item.

a. 731 Machinery—expenditures for equipment usually composed of a complex combination of parts (excluding vehicles). An example would be a lathe, drill press, or printing press.

b. 732 Vehicles—expenditures for equipment used to transport persons or objects. Examples are automobiles, trucks, buses, station wagons, and vans.

c. 733 Furniture and Fixtures—expenditures for equipment used for sitting; as a support for writing and work activities; and as storage space for material items. This object code is used with all functions, except 5000 Other Use of Funds.

d. 734 Technology Related Hardware—expenditures for technology-related equipment and technology infrastructure. These costs include those associated with the purchase of network equipment, servers, PCs, printers, other peripherals, and devices. Equipment that has a cost lower than the school district's capitalization threshold should be coded to supplies. (Used with all functions, but primarily used with 2840.)

e. 735 Technology Software—expenditures for purchased software used for educational or administrative purposes that exceed the capitalization threshold of \$5000. Purchases of multi-year software licenses should be considered on a per-year cost when applying this threshold. Software costs that are below the district's capitalization threshold should be coded to supplies (object 615). (Used with all functions, but primarily used with 2840.)

f. 739 Other Equipment—expenditures for all other equipment not classified elsewhere in the 730 Equipment.

4. 740 Depreciation—the portion of the cost of a capital asset that is charged as an expense during a particular period. In accounting for depreciation, the cost of a capital asset, less any salvage value, is apportioned over the estimated service life of such an asset, and each period is charged with a portion of such cost. Through this process, the cost of the asset is ultimately charged off as an expense.

5. 750 Intangible Assets—expenditures for acquiring intangible assets. Intangible assets include easements (the right to use land for a specific purpose), land use rights, patents, and trademarks.

6. 760* Infrastructure – Expenditures for purchased infrastructure assets by the school district. These items include water/sewer systems, roads, bridges, and other assets that have significantly longer useful lives than other capital assets. (Used with functions 4000 only but primarily with functions 4200 and 4700.)

J. 800 Debt Service and Miscellaneous—amounts paid for goods and services not otherwise classified above.

1. 810* Dues and Fees—expenditures or assessments for membership in professional or other organizations or payments to a paying agent for services rendered. (Used with functions 1000 Instruction and 2000 Support Services.)

2. 820 Judgments Against the LEA—expenditures from current funds for all judgments (except as indicated below) against the LEA that are not covered by liability insurance, but are of a type that might have been covered by insurance. Only amounts paid as the result of court decisions are recorded here. Judgments against the LEA resulting from failure to pay bills or debt service are recorded under the appropriate expenditure accounts, as though the bills or debt service had been paid when due. This object code is used with function 2300 General Administration.

3. 830 Debt-Related Expenditure/Expenses—expenditures for interest on bonds or notes. (Used with function 2500 Business Services and 5100 Debt Service.)

a. 831* Redemption of Principal – Expenditures to retire bonds (including current and advance refunding) and long-term loans. (Used only with functions 5100.)

b. 832* Interest—expenditures for interest on bonds or notes, including lease purchase arrangements. (Used only with functions 5100.)

c. 833 Bond Issuance and Other Debt-Related Costs—expenses in connection with bond and other debt issuance costs, including lease-purchase debt issuance costs. Include both amortized and unamortized costs. Included are amortized deferred gain and loss amounts in connection with the defeasance of bonds. This code is used in proprietary and fiduciary funds only, as well as in the government-wide financial statements. (Used only with function 5100.)

d. 834 Amortization of Premium and Discount on Issuance of Bonds—expenses amortized as debt premium and/or discount in connection with the issuance of debt. This account is used in proprietary and fiduciary funds only.

e. 835 Interest on Short-Term Debt—expenditures for interest on short-term debt or anticipation notes. (Used only with function 2510 Fiscal Services.)

4. 890 Miscellaneous Expenditures—amounts expended for goods or services not properly classified in one of the objects included above.

5. 895 Miscellaneous Non-Public Expenditures—amounts expended for goods or services for non-public employees not properly classified in one of the objects included above.

K. 900 Other Uses of Funds—this series of object codes is used to classify transactions that are not properly recorded as expenditures to the LEA, but require control and reporting by the school district.

1. 915 Payments to Escrow Agents for Defeasance of Debt—funds transferred to an escrow agent to be held in trust for the repayment of refinanced bonds. (Use only with function 5100.)

2. 925 Discount on Issuance of Bonds—proceeds from that portion of the sale of bonds below their par value. The discount represents an adjustment of the interest rate and will be amortized using expenditure object account 834. (Use only with function 5100.)

3. 930 Interfund Transactions—transactions between funds that should not be classified as an expenditure. This object code is used with all functions.

a. 931 Residual Fund Transfers—nonrecurring or non-routine transfers between funds: for example, the transfer of residual balances of discontinued funds to the General Fund or Debt Service Fund.

b. 932 Operating Transfers Out—transactions that withdraw money from one fund to another without recourse: for example, legally authorized transfers from a fund receiving revenue to the fund through which the resources are to be expended.

c. 933 Indirect Costs—the transfer of funds from Federal, state or local grant programs (according to grant regulations) to the General Fund for those indirect costs which are not readily identifiable, but are, nevertheless, incurred for the joint benefit of those activities and other activities and programs of the organization.

4. 940 Local Revenue Transfers Out—the transfer of local revenue to another LEA as required through the Minimum Foundation Program (MFP). Typically used to record a local revenue transfer to a charter school from the district of prior jurisdiction.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:468 (March 2000), amended LR 36:

§903. Function Codes

A. Function codes necessary for reporting to the National Center for Education Statistics are marked with an asterisk.

B. The function describes the activity for which a service or material object is acquired. The functions of an LEA are classified into five broad areas: Instruction, Support Services, Operation of Non-Instructional Services, Facilities Acquisition and Construction, and Debt Service/Other Outlays. Functions are further broken down into subfunctions and areas of responsibility.

C. 1000* Instruction—activities dealing directly with the interaction between teachers and students. Teaching may be provided for students in a school classroom, in another location such as a home or hospital, and in other learning situations such as those involving co-curricular activities. It may also be provided through some other approved medium such as television, radio, computer, internet, multimedia telephone and correspondence, that is delivered inside or outside the classroom or in other teacher-student settings. Included here are the activities of aides or classroom assistants of any type (clerks, graders, teaching machines, etc.) who assist in the instructional process. If proration of expenditures is not possible for department chairpersons who also teach, include department chairpersons who also

teach in instruction. Full-time department chairperson's expenditures should be included only in function 2490. Functions and subfunctions must be used with the appropriate fund type to properly identify the expenditure activity.

1. 1100 Regular Programs, Elementary and Secondary—activities that provide students in grades K-12 with learning experiences to prepare them for activities as citizens, family members, and non career and technical workers.

a. 1105 Kindergarten—the activities associated with children for the year immediately preceding the first grade. (Pre-kindergarten programs should be include in function 1530.)

b. 1110 Elementary—the activities associated with children from first grade through and including the eighth grade.

c. 1130 Secondary—the activities associated with children from the ninth grade through and including the twelfth grade.

2. 1200 Special Education Programs—specially designed instruction to meet the unique needs and abilities of disabled or gifted children during regular school day, extended day, and summer school.

a. 1210 Special Education—specifically designed instruction provided at no cost to the parents that meets the unique needs of a student with a disability. Special education includes instruction in the classroom, in the home, in hospitals, institutions and other settings, physical education, travel, training and career and technical education.

i. 1211 Special Education: Classroom Teacher—provides instruction to students with disabilities in a core academic subject.

ii. 1212 Special Education: Support Classroom Teacher—provides direct assistance to students with disabilities (e.g., tutoring, reinforcement of content provided in the general education setting) in segregated settings (e.g., resource class setting, self-contained classroom), but the students with disabilities receive their instruction on core academics subjects from a NCLB highly qualified general education teacher.

iii. 1213 Special Education: Paraprofessional Training Unit Teacher—provides instructional support; must work under the direct supervision of a highly qualified teacher.

iv. 1214 Special Education: Adaptive Physical Education Teacher—provides students' fitness, gross motor, and perceptual motor activities so that students can reach their fullest potential through physical activity.

v. 1215 Special Education: Work Study Coordinator/Job Coach—serves as an employment training specialist in the educational setting and is responsible for planning and conducting special education work and study programs for students with disabilities who are transitioning into the work force. Job coaches specialize in helping workers with disabilities perform the tasks of their jobs successfully, including providing intensive monitoring, training, assessment, and support workers with special needs and facilitating healthy working relationships between management and co-workers.

- vi. 1216 Special Education: Pre-School Classroom Teacher—provides preschool activities and instruction to students with disabilities.
 - b. 1220 Gifted and Talented—students, children, or youth who give evidence of high achievement capability in areas such as intellectual, creative, artistic, or leadership capacity, or in specific academic fields, and who need services or activities not ordinarily provided by the school in order to fully develop those capabilities.
3. 1300 Career and Technical Education Programs—activities that provide students with the opportunity to develop the knowledge, skills and attitudes needed for employment in an occupational area.
- a. 1310 Agriculture—activities that enable students to acquire the background, knowledge, and skills necessary to enter a wide range of agriculturally related occupations.
 - b. 1340 Family and Consumer Sciences—activities that enable students to acquire knowledge and develop understanding, attitudes, and skills relevant to personal, home, and family life, and to emerging related occupations.
 - c. 1350 Trade and Industry—activities that develop a students' understanding about all aspects of industry and technology. These aspects include experimenting, designing, constructing, and evaluating; using tools, machines, materials; and using processes that may help individuals make informed and meaningful occupational choices, or that may prepare them to enter advanced trade and industrial or technical educational programs.
 - d. 1360 Business and Administration—activities that prepare students for careers in business-related areas such as administrative support, accounting, management and supervision.
 - e. 1370 Health Science—activities that enable students to acquire the background, knowledge and skills necessary for careers in health-related fields, such as nursing, pharmacy and emergency care.
 - f. 1390 Other Career and Technical Programs—other activities that provide students with the opportunity to develop the knowledge, skills, and attitudes needed for employment in a variety of occupational areas, including, but not limited to, Marketing, Technology, Oracle Internet Academy, Finance Academy, Travel and Tourism Academy and Information Technology Academy.
4. 1400 Other Instructional Programs—elementary and secondary: activities that provide students in grades K-12 with learning experiences not included in 1100 Regular Programs.
- a. 1410 Co-Curricular Activities—school sponsored activities, under the guidance and supervision of the LEA staff, designed to provide students such experiences as motivation, enjoyment, and improvement of skills. Co-curricular activities normally supplement the regular instructional program and include such activities as band, chorus, choir, speech and debate. Also included are student-financed and managed activities, such as chess club, senior prom, Future Farmers of America, senior class, etc.
 - b. 1420 Athletics—school sponsored activities, under the guidance and supervision of LEA staff that provide opportunities for students to pursue various aspects of physical education. Athletics normally involve competition between schools and frequently involve offsetting gate receipts or fees.
 - c. 1440 Driver Education Programs—activities that provide students with instruction in learning to drive an automobile.
 - d. 1450 JROTC—activities that provide students learning experiences related to the Junior Reserve Officer Training Corps (JROTC) program.
 - e. 1460 After School Programs—programs that offer a variety of learning recreational, social and enrichment activities in a structured environment, taking place before-school, after-school, evenings, weekends, holidays and summertime. After school is meant to be an all-inclusive term for youth development programming that occurs in a setting when students are not in school. These settings include: center-based, school-based and other formal before and after-school arrangements for students, as well as summer programming.
 - f. 1470 Summer School Programs—activities during the summer to enable students to schedule courses to enrich their experiences, to take new subjects, and to enable students who have failed in subjects to remove deficiencies. LEAs are required to provide summer schools for LEAP remediation. They may also provide remediation for the GEE or credit recovery during the summer. Summer schools must be approved by the Louisiana Department of Education.
 - g. 1480 Alternative School Programs – Activities for students assigned to alternative campuses, centers, or classrooms designed to improve behavior and/or provide an enhanced learning experience. Typically, alternative education programs are designed to meet the needs of students that cannot be addressed in a traditional classroom setting.
 - h. 1490 Other—activities that provide students with learning experiences not included above.
5. 1500 Special Programs—activities primarily for students having special needs. These programs include pre-kindergarten, culturally different students with learning disabilities, bilingual students, and special programs for other types of students.
- a. 1510 No Child Left Behind (NCLB)—activities for economically and educationally deprived students whose background is so different from that of most other students that they need additional opportunities beyond those provided in the regular educational program.
 - b. 1520 English Language Acquisition Group (Title III)—activities for students from homes in which the English language is not the primary language spoken.
 - c. 1530 Pre-Kindergarten Programs—activities associated with children of any age span below kindergarten.
 - d. 1531 Head Start Program—activities associated with children attending Head Start programs in the local school districts.
6. 1600 Adult Education and Literacy Programs—activities that will enable adults to acquire the basic skills necessary to function in today's society so that they can benefit from the completion of secondary school, enhanced family life, attaining citizenship and participating in job training and retraining programs.
7. 1700 Community/Junior College Education Programs—deleted; maintained only for historical purposes

D. 2000 Support Services—support services provide administrative, technical (such as guidance and health), and logistical support to facilitate and enhance instruction. These services exist as adjuncts for fulfilling the objectives of instruction, community services and enterprise programs, rather than as entities within themselves.

1. 2100* Pupil Support Services—activities designed to assess and improve the well-being of students and to supplement the teaching process.

a. 2110 Attendance Social Work Services—activities designed to improve student attendance at school that attempt to prevent or solve student problems involving the home, the school, and the community.

i. 2111 Supervision of Attendance and Social Work Services—activities associated with directing, managing and supervising attendance and social work.

ii. 2112 Attendance Services—activities such as promptly identifying nonattendance patterns, promoting improved attitudes toward attendance, analyzing causes of nonattendance, acting early on nonattendance problems, and enforcing compulsory attendance laws. Specific activities may include truancy and local law enforcement services.

iii. 2113 Social Work Services—activities such as investigating and diagnosing student problems arising out of the home, school, or community; providing casework and group work services for the child, parent, or both; interpreting the problems of students for other staff members; and promoting modification of the circumstances surrounding the individual student and related to his or her problem.

iv. 2114 Student Records Services—activities of acquiring and maintaining records of school attendance, location of home, family characteristics, and census data. Portions of these records become a part of each student's cumulative record, which is sorted and stored for teacher and guidance information. Pertinent statistical reports are prepared under this function, as well.

v. 2119 Other Attendance and Social Work Services—attendance and social work services other than those described above.

b. 2120 Guidance Services—activities involving counseling with students and parents; consulting with other staff members on learning problems; evaluating the abilities of students; assisting students as they make their own educational and career plans and choices; assisting students in personal and social development; providing referral assistance; and working with other staff members in planning and conducting guidance programs for students.

i. 2121 Supervision of Guidance Services—activities associated with directing, managing and supervising guidance services.

ii. 2122 Counseling Services—activities concerned with the relationship among one or more counselors and one or more students as counselees, among students and students, and among counselors and other staff members. These activities are designed to help the student understand his or her educational, personal, and occupational strengths and limitations; relate his or her abilities, emotions, and aptitudes to educational and career opportunities; utilize his or her abilities in formulating realistic plans; and achieve satisfying personal and social development.

iii. 2123 Appraisal Services—activities that assess student characteristics, which are used in administration, instruction, and guidance, and that assist the student in assessing his or her purposes and progress in career and personality development.

iv. 2124 Information Services—activities for disseminating educational, occupational, and personal social information to help acquaint students with the curriculum and with educational and career and technical opportunities and requirements. Such information might be provided directly to students through activities such as group or individual guidance, or it might be provided indirectly to students, through staff members or parents.

v. 2125 Record Maintenance Services—activities for compiling, maintaining, and interpreting cumulative records of individual students, including systematic consideration of such factors as home and family background, physical and medical status, standardized test results, personal and social development, and school performance.

vi. 2126 Placement Services—activities that help place students in appropriate situations while they are in school. These placements could be educational situations, part-time employment while they are in school, and appropriate educational and occupational situations after they leave school. These activities also help ease the student's transition from one educational experience to another. The transition may require, for example, admissions counseling, referral services, assistance with records, and follow-up communications with employers.

vii. 2129 Other Guidance services—guidance services that cannot be classified above.

c. 2130 Health Services—physical and mental health services that are not direct instruction. Included are activities that provide students with appropriate medical, dental, and nursing services.

i. 2131 Supervision of Health Services—activities associated with directing and managing health services.

ii. 2132 Medical Services—activities concerned with the physical and mental health of students, such as health appraisals, including screening for vision, communicable diseases, and hearing deficiencies; screening for psychiatric services, periodic health examinations; emergency injury and illness care; and communications with parents and medical officials.

iii. 2133 Dental Services—activities associated with dental screening, dental care, and orthodontic activities.

iv. 2134 Nursing Services—activities associated with nursing, such as health inspection, treatment of minor injuries, and referrals for other health services.

v. 2139 Other Health Services—health services not classified above.

d. 2140 Psychological and Educational Assessment Services—activities concerned with administering psychological tests and interpreting the results; gathering and interpreting information about student behavior; working with other staff members in planning school programs to meet the special needs of students as indicated by psychological tests and behavioral evaluation; and planning and managing a program of psychological services,

including psychological counseling for students, staff and parents.

i. 2141 Supervision of Psychological Services—directing, managing and supervising the activities associated with psychological services.

ii. 2142 Psychological Testing Services—activities concerned with administering psychological tests, standardized tests, and inventory assessments. These tests measure ability, aptitude, achievement, interests and personality. Activities also include the interpretation of these tests for students, school personnel, and parents.

iii. 2143 Psychological Counseling Services—activities that take place between a school psychologist and one or more students as counselees in which the students are helped to perceive, clarify, and solve problems of adjustment and interpersonal relationships.

iv. 2144 Psychotherapy Services—activities that provide a therapeutic relationship between a qualified mental health professional and one or more students, in which the students are helped to perceive, clarify, and solve emotional problems.

v. 2145 Educational Diagnostic Services—activities that identify and design interventions that address the academic and behavior needs of struggling students. Other activities include administering and interpreting assessments that will assist in identifying educational strengths and weaknesses of students who may be in need of special education services.

vi. 2149 Other Psychological Services—other activities associated with psychological services not classified above.

e. 2150 Speech Pathology and Audiology Services—activities that identify, assess, and treat children with speech, hearing, and language impairments.

i. 2151 Supervision of Speech Pathology and Audiology Services—activities associated with directing, managing and supervising Speech Pathology and Audiology services.

ii. 2152 Speech Pathology/Therapy Services—activities that identify children with speech and language disorders; diagnose and appraise specific speech and language disorders; refer problems for medical or other professional attention necessary to treat speech and language disorders; provide required speech treatment services; and counsel and guide children, parents, and teachers, as appropriate.

iii. 2153 Audiology Services—activities that identify children with hearing loss; determine the range, nature, and degree of hearing function; refer problems for medical or other professional attention appropriate to treat impaired hearing; treat language impairment; involve auditory training, speech reading (lip-reading), and speech conversation; create and administer programs of hearing conservation; and counsel children, parents, and teachers as appropriate.

iv. 2154 Interpretive Services—provides language interpretation and translation services to deaf and hard of hearing students.

v. 2159 Other Speech Pathology and Audiology Services—other activities associated with Speech Pathology and Audiology services not classified above.

f. 2160 Occupational Therapy-Related Services—services provided by a qualified occupational therapist to develop and enhance the independent physical functioning of students with disabilities. Occupational therapy services provided by schools are for educational purposes to enable a student with a disability to progress on his or her Individualized Education Program (IEP).

i. 2161 Occupational Therapist—assists students who have conditions that are mentally, physically, developmentally, or emotionally disabling. Occupational Therapists assist students to develop, recover, or maintain daily living and work skills.

g. 2165 Therapy—treatment of illness or disability.

i. 2166 Physical Therapy—services provided by a qualified physical therapist to develop and enhance the physical functioning of students with disabilities so the student can receive FAPE. Physical therapy services provided by schools are for education purposes to enable a student with a disability to progress on his/her IEP.

ii. 2167 Recreational Therapy—provides therapy to remediate functional activities, provide leisure education, for learning the skills related to leisure involvement, and help the child participate in recreation.

iii. 2168 Rehabilitation Therapy—services provided by qualified personnel in individual or group sessions that focus specifically on career development, employment preparation, achieving independence, and integration in the workplace and community of a student with a disability.

iv. 2169 Orientation and Mobility—services provided to blind and visually impaired students.

h. 2170 Support of Individual Special Needs Students—pupil Support activities designed to improve the well-being of the special needs student and facilitate the student's ability to participate and receive services within his/her prescribed educational program. (e.g., special education child-specific paraprofessional)

i. 2180 Parental/Family Involvement—activities providing opportunities for parents/guardians to learn about the intellectual and developmental needs of their children at all ages and to participate constructively in their children's education. (Includes activities associated with the education of migrant and homeless children and youth, such as Homeless Liaison.)

j. 2190 Other Pupil Support Services—other support services to students not classified elsewhere in 2100 Pupil Support.

2. 2200* Instructional Staff Services—activities associated with assisting the instructional staff with the content and process of providing learning experiences for students.

a. 2210 Improvement of Instructional Services—activities associated with directing, managing and supervising the improvement of instructional services.

i. 2211 Regular Education, Elementary/Secondary Programs—activities associated with directing, managing and supervising the improvement of instruction in grades K-12.

ii. 2212 Special Education Programs—activities associated with directing, managing and supervising the improvement of instruction for students identified as being mentally or physically disabled.

iii. 2213 Gifted and Talented—activities associated with directing, managing and supervising the improvement of instruction for students identified as being mentally gifted or talented.

iv. 2214 Other Special Programs—activities associated with directing, managing and supervising the improvement of instruction for students in special programs: NCLB Programs, Bilingual Programs, and Headstart/Early Childhood Programs.

v. 2215 Career and Technical Education—activities associated with directing, managing and supervising the improvement of instruction for students in the career and technical education programs.

vi. 2216 Adult/Continuing Education—activities associated with directing, managing and supervising the improvement of instruction for students in the adult or continuing education programs.

vii. 2219 Other Education Programs—activities associated with directing, managing and supervising the improvement of instruction for students in other programs not identified above.

b. 2220 Instruction and Curriculum Development Services—activities that aid teachers in developing the curriculum, preparing and utilizing special curriculum materials, and understanding and appreciating the various techniques that stimulate and motivate students.

c. 2230 Instructional Staff Training Services—activities associated with the professional development and training of instructional personnel. These include activities as in-service training, workshops, conferences, demonstrations, and courses for college credit (tuition reimbursement), and other activities related to the ongoing growth and development of instructional personnel. Training that supports the use of technology for instructions should be included in this code. The incremental costs associated with providing substitute teachers in the classroom (while regular teachers attend training) should be captured from this function code. All costs should be charged to this code, regardless of whether training services are provided internally or purchased from external vendors.

i. 2231 Regular Education-Elementary/Secondary Programs—activities associated with the professional development and training of instructional personnel in grades K-12.

ii. 2232 Special Education Programs—activities associated with the professional development and training of instructional personnel for students identified as being mentally or physically disabled.

iii. 2233 Gifted and Talented—activities associated with the professional development and training of instructional personnel for students identified as being mentally gifted or talented.

iv. 2234 Other Special Programs—activities associated with the professional development and training of instructional personnel for students in special programs: NCLB Programs, Bilingual Programs, and Early Childhood Programs.

v. 2235 Career and Technical Education—activities associated with the professional development and training of instructional personnel for students in the career and technical education programs.

vi. 2236 Adult/Continuing Education—activities associated with the professional development and training of instructional personnel for students in the adult or continuing education programs.

vii. 2237 Non-Public Programs—activities associated with the professional development and training of instructional personnel for students in non-public education programs.

viii. 2239 Other Education Programs—activities associated with the professional development and training of instructional personnel for students in other programs, not identified above.

d. 2240 Other Improvement of Instruction Services—activities for improving instruction other than those classified above.

e. 2250 Library/Media Services—activities concerned with the use of all teaching and learning resources, including hardware and content materials. Educational media are defined as any devices, content materials, methods, or experiences used for teaching and learning purposes. These materials include printed and nonprinted sensory materials.

i. 2251 Supervision of Educational Media Services—activities concerned with directing, managing and supervising educational media services.

ii. 2252 School Library/Media Services—activities such as selecting, acquiring, preparing, cataloging, and circulating books and other printed materials; planning the use of the library by students, teachers and other members of the instructional staff; and guiding individuals in their use of library books, reference guides and materials, catalog materials, special collections and other materials, whether maintained separately or as a part of an instructional materials center. These activities include developing and acquiring library materials and operating library facilities. Textbooks are not charged to this function, but rather to function 1000 Instruction.

iii. 2259 Other Educational Media Services—educational media services other than those classified above.

f. 2290 Other Instructional Staff Services—services supporting the instructional staff not properly classified elsewhere in 2200 Instructional Staff Services.

3. 2300* General Administration—activities concerned with establishing and administering policy for operating the LEA. These activities do not include the chief business official here, but include in 2500 Business Services.

a. 2310 Board of Education Services—activities of the elected body that has been created according to State law and vested with responsibilities for educational activities in a given administrative unit.

i. 2311 Supervision of Board of Education Services—activities concerned with directing and managing the general operation of the Board of Education. These include the activities of the members of the Board of Education, but does not include any special activities defined in the other areas of responsibility described below. They also include any activities of the district performed in support of the school district meeting. Also charged here are:

(a) the legal activities in interpretation of the laws and statutes and general liability situations,

(b). the activities of external auditors.

ii. 2312 Board Secretary/Clerk Services—activities required to perform the duties of the secretary or clerk of the Board of Education.

iii. 2313 Board Treasurer Services—activities required to perform the duties of treasurer of the Board of Education.

iv. 2314 Election Services—services rendered in connection with any school system election, including elections of officers and bond elections.

v. 2315 Tax Assessment and Collection Services—services rendered in connection with tax assessment and collection.

vi. 2316 Staff Relations and Negotiations Services—activities concerned with staff relations systemwide and the responsibilities for contractual negotiations with both instructional and non-instructional personnel.

vii. 2319 Other Board of Education Services—board of Education services that cannot be classified under the preceding areas of responsibility.

b. 2320 Executive Administrative Services—activities associated with the overall general administration of or executive responsibility for the entire LEA.

i. 2321 Office of Superintendent Services—activities performed by the superintendent in generally directing and managing all affairs of the LEA. These activities include all personnel and materials in the office of the chief executive officer.

ii. 2322 Community Relations Services—activities and programs developed and operated systemwide for improving school/community relations.

iii. 2323 State and Federal Relations Services—activities associated with developing and maintaining good relationships with State and Federal officials. The activities associated with grant procurement are included.

iv. 2324 Office of Assistant Superintendent Services—activities performed by deputy, associate, and assistant superintendents in assisting the superintendent in generally directing and managing all affairs of the LEA. Activities of the offices of the deputy superintendent should be charged here, unless the activities can be placed properly into a service area. In this case, they would be charged to service area direction in that service area.

v. 2329 Other Executive Administration Services—other general administrative services that cannot be recorded under the preceding functions.

4. 2400* School Administration—activities concerned with the overall administrative responsibility for a school.

a. 2410 Office of the Principal Services—activities concerned with directing and managing the operation of a particular school. They include the activities performed by the principal while he/she supervises all operations of the school, evaluates the staff members of the school, assigns duties to staff members, supervises and maintains the records of the school, and coordinates school instructional activities with those of the LEA. These activities also include the work of the clerical staff in support of the teaching and administrative duties.

b. 2420 Office of the Assistant Principal Services—activities performed by assistant principals and other assistants concerned with directing and managing the operation of a particular school under the supervision of the principal.

c. 2430 School Chief Executive Officer Services—activities concerned with the oversight of all school administrative, operational and business functions of the school including, but not limited to, the supervision of school administrative personnel such as principals, assistant principals, etc. (Used primarily for charter schools.)

c. 2490 Other School Administration Services—other school administrative services that cannot be recorded under the previous functions including graduation expenses and full-time department chairpersons. (Includes costs associated with the Southern Association Accreditation fees.)

5. 2500* Business Services—activities concerned with paying, transporting, exchanging, and maintaining goods and services for the LEA. Included are the fiscal and internal services necessary for operating the LEA.

a. 2510 Fiscal Services—activities concerned with the fiscal operations of the LEA. This function includes budgeting, receiving and disbursing, financial and property accounting, payroll, inventory control, internal auditing, investments and managing funds.

i. 2511 Supervising Fiscal Services—activities concerned with directing, managing and supervising the fiscal services area. They include the activities of the assistant superintendent, director, or school business official who directs and manages fiscal activities.

ii. 2512 Budgeting Services—activities concerned with supervising budget planning, formulation, control and analysis.

iii. 2513 Receiving and Disbursing Funds Services—fiscal activities including interest on short term loans not included in debt service, current audit of receipts, pre-audit of requisitions and purchase orders to determine whether the amounts are within the budgetary allowances and to determine that such disbursements are lawful expenditures of the school or LEA. Also includes the management of school funds.

iv. 2514 Payroll Services—activities concerned with periodically paying individuals entitled to remuneration for services rendered. Payments are also made for such payroll-associated costs as federal income tax withholding, retirement, and social security.

v. 2515 Financial Accounting Services—activities concerned with maintaining records of the financial operations and transactions of the school system. They include such activities as accounting and interpreting financial transactions and account records.

vi. 2516 Internal Auditing Services—activities concerned with verifying the account records, which includes evaluating the adequacy of the internal control system, verifying and safeguarding assets, reviewing the reliability of the accounting and reporting systems, and ascertaining compliance with established policies and procedures.

vii. 2517 Property Accounting Services—activities concerned with preparing and maintaining current inventory

records of land, building, and equipment. These records are used in equipment control and facilities planning.

viii. 2519 Other Fiscal Services—fiscal services that cannot be classified under the preceding functions.

b. 2520 Purchasing Services—activities concerned with purchasing supplies, furniture, equipment, and materials used in schools or school system operations.

c. 2530 Warehousing and Distributing Services—activities concerned with receiving, storing, and distributing supplies, furniture, equipment, materials, and mail.

i. 2535 Warehouse Inventory Adjustment—activities involving adjustments to inventories reported on a consumption basis, in object code 610 Materials and Supplies, 630 Food, or 730 Equipment, or for lost or stolen equipment.

d. 2540 Printing, Publishing, and Duplicating Services—activities concerned with printing and publishing administrative publications such as annual reports, school directories, and manuals.

e. 2590 Other Business Services—other business support services not classified elsewhere in 2500 Business Services.

6. 2600* Operations and Maintenance of Plant Services—activities concerned with keeping the physical plant open, comfortable, and safe for use, and keeping the grounds, buildings, and equipment in effective working condition and state of repair. These activities include the activities of maintaining safety in buildings, on the grounds, and in the vicinity of schools.

a. 2610 Supervision of Operation and Maintenance of Plant Services—activities involved in directing, managing and supervising the operation and maintenance of school plant facilities.

b. 2620 Operation and Maintenance of Buildings—activities concerned with keeping buildings clean and ready for daily use. They include operating the lighting and HVAC systems, minor repairs, and preventative maintenance. Also included are the costs of building rental and property insurance.

c. 2630 Care and Upkeep of Grounds—activities involved in maintaining and improving the land, (but not the buildings). These include landscaping, grounds maintenance and the like.

d. 2640 Care and Upkeep of Equipment—activities involved in maintaining equipment owned or used by the LEA. They include such activities as servicing and repairing furniture, machines, and movable equipment.

e. 2650 Vehicle Operation and Maintenance Services (other than student transportation vehicles)—activities involved in maintaining general purpose vehicles such as trucks, tractors, graders, and staff vehicles. These activities are considered regular or preventive maintenance: i.e., repairing vehicles; replacing vehicle parts; and cleaning, painting, greasing, fueling, and inspecting vehicles for safety.

f. 2660 Safety and Security—activities concerned with maintaining a safe and secure environment for students and staff.

i. 2661 Safety—activities concerned with maintaining a safe environment for students and staff, whether they are in transit to or from school, on a campus or

administrative facility, or participating in school-sponsored events. These include costs associated with installing and monitoring school fire alarm systems and providing school crossing guards as well as other costs incurred in an effort to ensure the basic safety of students and staff. Costs associated with in-service training related to school safety, drug and violence prevention training, and alternative schools are not accounted for under this function.

ii. 2662 Security—activities concerned with maintaining a secure environment for students and staff, whether they are in transit to or from school, on a campus or administrative facility, or participating in school-sponsored events. These include costs associated with security plan development and implementation, installation of security monitoring devices (e.g., cameras, metal detectors), security personnel (e.g., campus police, security guards) purchase of security vehicles and communications equipment, and related costs. Costs associated with in-service training related to school safety, drug and violence prevention training, and alternative schools should not be accounted for under this function code.

g. 2690 Other Operation and Maintenance of Plant Services—operations and maintenance of plant services that cannot be classified elsewhere in 2600 Operation and Maintenance of Plant Services.

7. 2700* Student Transportation Services—activities concerned with conveying students to and from school, as provided by State and Federal law. This function includes trips between home and school, and trips to school activities, including field trips.

a. 2710 Supervision of Student Transportation Services—activities pertaining to directing and managing student transportation services.

b. 2720 Regular Transportation—activities involving the transportation of regular education students.

i. 2721 Vehicle Operation—activities involved in operating vehicles for student transportation, from the time the vehicles leave the point of storage until they return to the point of storage. These activities include driving buses or other student transportation vehicles.

ii. 2722 Monitoring Services—activities concerned with supervising students in the process of being transported between home and school, and between school and school activities. Such supervision can occur while students are in transit, while they are being loaded and unloaded, and while the supervisor is directing traffic at the loading stations.

iii. 2723 Vehicle Servicing and Maintenance—activities involved in maintaining student transportation vehicles. It includes repairing vehicle parts; replacing vehicle parts; and cleaning, painting, fueling, and inspecting vehicles for safety.

c. 2730 Special Needs Transportation—activities involving the transportation of mentally and physically disabled students.

i. 2731 Vehicle Operation—activities involved in operating vehicles for student transportation, from the time the vehicles leave the point of storage until they return to the point of storage. These activities include driving buses or other student transportation vehicles.

ii. 2732 Monitoring Services—activities concerned with supervising students in the process of being

transported between home and school, and between school and school activities. Such supervision can occur while students are in transit, which they are being loaded and unloaded, and while the supervisor is directing traffic at the loading stations.

iii. 2733 Vehicle Servicing and Maintenance—activities involved in maintaining student transportation vehicles. These include repairing vehicle parts; replacing vehicle parts; and cleaning, painting, fueling, and inspecting vehicles for safety.

d. 2790 Other Student Transportation Services—student transportation services that cannot be classified elsewhere in 2700 Student Transportation Services.

8. 2800* Central Services—activities, other than general administration, that support each of the other instructional and supporting services programs. These activities include planning, research, development, evaluation, information, staff, and administrative technology services.

a. 2810 Planning, Research, Development, and Evaluation Services—activities associated with conducting and managing programs of planning, research development, and evaluation for a school system on a system-wide basis.

i. Planning Services—activities concerned with selecting or identifying the overall, long-range goals and priorities of the organization or program. They also involve formulating various courses of action needed to achieve these goals. This process is done by identifying needs and relative costs and benefits of each course of action.

ii. Research Services—activities concerned with the systematic study and investigation of the various aspects of education, undertaken to establish facts and principles.

iii. Development Services—activities in the deliberate evolving process of improving educational programs such as using the products of research.

iv. Evaluation Services—activities concerned with ascertaining or judging the value or amount of an action or an outcome. This evaluation is conducted through the careful appraisal of previously specified data in light of the particular situation and the goals previously established.

b. 2820 Information Services—activities concerned with writing, editing, and preparation of other materials necessary to disseminate educational and administrative information to students, staff, managers, and the general public through direct mailing, the various news media, or personal contact.

i. 2821 Supervision of Information Services—activities concerned with directing, managing and supervising information services.

ii. 2822 Internal Information Services—activities concerned with writing, editing, and providing administrative information to students and staff.

iii. 2823 Public Information Services—activities concerned with writing, editing, and preparation of other materials necessary to disseminate educational and administrative information to the public through various news media or personal contact.

iv. 2824 Management Information Services—activities concerned with writing, editing, and preparation of other materials necessary to disseminate to management the information needed to make logical

decisions about the operation of the LEA and information needed to make logical decisions about the community, state, and nation.

v. 2829 Other Information Services—activities concerned with function 2820 Information Services not classified above.

c. 2830 Personnel/Human Resource Services—activities concerned with maintaining efficient personnel for the school system. It includes such activities as recruitment and placement, non-instructional staff training, staff transfers, in-service training, health services, and staff accounting.

i. 2831 Personnel/Human Resource Director—activities concerned with directing, managing and supervising staff services. (Only Personnel/Human Resource Directors should be reported here.

ii. 2832 Recruitment and Placement—activities concerned with employing and assigning personnel for the LEA. (Personnel Directors should be reported in function 2831.)

iii. 2833 Personnel/Human Resource Information—services rendered in connection with the systematic recording and summarizing of information relating to staff members employed by the LEA.

iv. 2834 Non-Instructional Personnel/Human Resource Training—activities associated with the professional development and training of non-instructional personnel. These include such activities as in-service training, seminars and conferences, continuing professional education, courses for college credit (tuition reimbursement), and other activities related to the ongoing growth and development of non-instructional personnel. The incremental costs associated with providing temporary employees to perform job duties while regular employees attend training should be captured in this function code. All costs should be charged to this code, regardless of whether training services are provided internally or purchased from external vendors.

v. 2835 Health Services—activities concerned with medical, dental, and nursing services provided for school district employees. Included are physical examinations, referrals, and emergency care.

vi. 2839 Other Personnel/Human Resource Services—personnel services that cannot be classified under the preceding functions.

d. 2840 Administrative Technology Services—activities concerned with supporting the school district's information technology systems, including supporting, administrative networks, maintaining administrative information systems and processing data for administrative and managerial purposes. These activities include expenditures for internal technology support, as well as support provided by external vendors using operating funds. These activities include costs associated with the administration and supervision of technology personnel, systems planning and analysis, systems application development, systems operations, network support services, hardware maintenance and support services, and other technology-related costs.

i. 2841 Technology Service Supervision and Administration—activities concerned with directing, managing and supervising data processing services.

ii. 2842 Systems Analysis and Planning—activities concerned with searching for and evaluating alternatives for achieving defined objectives, based on judgment and, wherever possible, on quantitative methods. Where applicable, these activities pertain to the development of data processing procedures or application to electronic data processing equipment.

iii. 2843 Systems Application Development—activities concerned with the preparation of a logical sequence of operations to be performed, either manually or electronically, in solving problems or processing data. These activities also involve preparing coded instructions and data for such sequences.

iv. 2844 Systems Operations—activities concerned with scheduling, maintaining, and producing data. These activities include operating business machines, data preparation devices, and data processing machines.

v. 2845 Network Support—activities concerned with network support services.

vi. 2846 Hardware Maintenance and Support—activities concerned with hardware maintenance and support services.

vii. 2847 Professional Development Costs for Administrative Technology Personnel—activities concerned with the professional development of administrative technology personnel.

viii. 2849 Other Technology Services—activities concerned with function 2840 Administrative Technology Services not described above.

e. 2890 Other Central Service Services—activities concerned with function 2800 Central Service Services, not described above.

9. 2900* Other Support Services—all other support services not classified elsewhere in the 2000 series, Support Services.

E. 3000 Operation of Non-instructional Services—activities concerned with providing non-instructional services to students, staff or the community.

1. 3100* Food Services Operations—activities concerned with providing food to students and staff in a school or LEA to meet the nutritional needs of children as defined in USDA child nutrition regulations. Activities may include the operation of breakfast, lunch, snacks, catering, and nutrition education.

i. 3110 Food Service District Office—activities associated with the overall general administration of the Child Nutrition Programs. (School Breakfast, School Lunch, After School Snacks, Catering and Nutrition Education.)

ii. 3111 Office of the District Supervisor—activities concerned with the directing and managing of the food service operations of all schools in the district. These activities include all personnel and materials in the district office.

iii. 3112 Office of the Assistant Supervisor—activities performed to assist the district supervisor in managing all food service activities of the LEA.

iv. 3120 Food Service Sites—activities concerned with food service operations for a school.

v. 3121 Office of the Site Manager—activities concerned with the directing and managing the food service operations of a particular school.

vi. 3122 Office of the Assistant Site Manager—activities performed by the assistant site manager concerned with directing and managing the food service operations of a particular school.

2. 3200* Enterprise Operations—activities that are financed and operated in a manner similar to private business enterprises in which the stated intent is that the costs are financed or recovered primarily through user charges. Food services should not be charged here, but rather to function 3100 Food Services Operations. One example could be the LEA bookstore.

3. 3300* Community Services Operations—activities concerned with providing community services to students, staff or other community participants. Examples of this function would be offering parental training or operating a community swimming pool, a recreation program for the elderly, or a child care center for working mothers.

F. 4000* Facilities Acquisition and Construction Services—activities concerned with acquiring land and buildings, remodeling buildings, constructing buildings and additions to buildings, initially installing or extending service systems and other built-in equipment, and improving sites.

1. 4100 Land Acquisition—activities concerned with initially acquiring and improving land.

2. 4200 Land and Site Improvement—activities concerned with making permanent improvements to land, such as grading, fill and environmental remediation. Also includes activities concerned with making nonpermanent improvements or enhancements to building sites. These improvements include fencing, walkways, tunnels, and temporary landscaping.

3. 4300 Architecture and Engineering Services—the activities of architects and engineers related to acquiring and improving sites and improving buildings. Charges are made to this function for only those preliminary activities that may or may not result in additions to the LEA's property. Also include activities concerned with preparing and interpreting descriptions of specific space requirements for the various learning experiences of students to be accommodated in a building. These specifications are interpreted to the architects and engineers in the early stages of blueprint development. Otherwise, charge these services to 4100 Land Acquisition, 4200 Land Improvement, 4500 Building Acquisition and Construction, or 4600 Building Improvement, as appropriate.

4. 4500 Building Acquisition and Construction—activities concerned with buying or constructing buildings.

5. 4600 Building Improvements—activities concerned with building additions and with installing or extending service systems and other built-in equipment (i.e., includes roof replacement, wiring and plumbing, HVAC system; does not include painting).

6. 4700 Sixteenth Section Land Improvements—activities concerned with making improvements to sixteenth section lands. These activities may include re-seeding the land with trees, adding soil, cutting drainage canals, etc.

7. 4900 Other Facilities Acquisition and Construction Services—facilities acquisition and construction activities that cannot be classified above.

G. 5000 Debt Service and Other Uses of Funds—a number of outlays of governmental funds are not properly classified as expenditures, but still require budgetary or accounting control. These include debt service payments (principal and interest) and certain transfers of monies from one fund to another. These accounts are not used with the proprietary funds.

1. 5100* Debt Service—activities related to servicing the debt of the LEA, including payments of both principal and interest. Normally, only long-term debt service (obligations exceeding one year) is recorded here. Interest on current loans (repayable within one year of receiving the obligation) is charged to function 2513 Receiving and Disbursing Funds Services. The receipt and payment of principal on those loans is handled as an adjustment to the balance sheet account 451 Loans Payable.

2. 5200 Fund Transfers—transactions that withdraw money from one fund and place it in another without recourse. Fund transfers budgeted to another functional activity, such as food service or transportation, are coded to the appropriate function and the object code 930 Interfund Transactions. Unless State law prohibits, revenues should be allocated to the appropriate funds when received, rather than accepted in the general fund and later transferred.

a. Interfund Loans are not recorded here, but are handled through the balance sheet accounts 131 Interfund Loans Receivable and 401 Interfund Loans Payable in the funds affected. When expenditures are made for replacement of damaged or stolen equipment, the expenditure should appear as 700 Property under the appropriate function.

3. 5300 Local Revenue Transfers to Another LEA—local revenue transfers to another LEA as required through the Minimum Foundation Program (MFP). Typically used to record a local revenue transfer to the Recovery School District or a Charter school from the district of prior jurisdiction.

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

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Chapter 11. Classification of Balance Sheet Accounts

§1101. Assets and Other Debit Codes

A. - B.11. ...

12. 122 Allowance for Uncollectable Taxes (Credit)—that portion of taxes receivable it is estimated will not be collected. The account is shown on the balance sheet as a deduction from the taxes receivable account in order to arrive at the net taxes receivable. Separate accounts may be maintained on the basis of tax roll year, delinquent taxes, or both.

13. - 16. ...

17. 152 Allowance for Uncollectible Loans (Credit)—the portion of loans receivable that it is estimated will not be collected. The account is shown on the balance sheet as a deduction from the other loans receivable account.

18. ...

19. 154 Allowance for Uncollectible Accounts Receivable (Credit)—a provision for that portion of accounts receivable that it is estimated will not be collected. The account is shown on the balance sheet as a deduction from the other accounts receivable account.

20. - 22. ...

23. 181 Prepaid Expenses—expenses paid for benefits not yet received. Prepaid expenses differ from deferred charges in that they are spread over a shorter period of time than deferred charges and are regularly recurring costs of operation. Examples of prepaid expenses are prepaid rent, prepaid interest, and unexpired insurance premiums.

24. ...

25. 192 Deferred Expenditures/Expenses—certain disbursements that are made in one period but are more accurately reflected as an expenditure/expense in the next fiscal period.

26. 194 Premium and Discount on Issuance of Bonds—represents amounts to be amortized as debt premium/discount in connection with the issuance of bonds.

27. 199 Other Current Assets—current assets not provided for elsewhere.

28. 211 Land and Land Improvements—a capital asset account that reflects the acquisition value of land owned by an LEA. If land is purchased, this account includes the purchase price and costs, such as legal fees, filling and excavation costs, and other associated improvement costs incurred to put the land in condition for its intended use. If land is acquired by gift, the account reflects its appraised value at the time of acquisition.

29. 221 Site Improvements—a capital asset account that reflects the acquisition value of permanent improvements, other than buildings, which add value to land. Examples of such improvements are fences, retaining walls, sidewalks, pavements, gutters, tunnels and bridges. If the improvements are purchased or constructed, this account contains the purchase or contract price. If improvements are obtained by gift, it reflects the appraised value at the time of acquisition.

a. Site improvements are improvements that have a limited useful life. Because these improvements decrease in their value/usefulness over time, it is appropriate to depreciate these assets. Therefore, all capitalized site improvements should be depreciated over their expected useful life.

30. 222 Accumulated Depreciation on Site Improvements—accumulated amounts for depreciation of land improvements.

31. 231 Building and Building Improvements—a capital asset account that reflects the acquisition value of permanent structures used to house persons and property owned by the LEA. If buildings are purchased or constructed, this account includes not only the purchase or contract price of all permanent buildings, but also the fixtures attached to and forming a permanent part of such buildings. This account includes all building improvements. If buildings are acquired by gift, the account reflects their appraised value at the time of acquisition.

32. 232 Accumulated Depreciation on Buildings and Building Improvements—accumulated amounts for depreciation of buildings and building improvements.

33. 241 Machinery and Equipment—tangible property of a more or less permanent nature, other than land, buildings, or improvements thereto, which is useful in carrying on operations. Examples are machinery, tools, trucks, cars, buses, furniture and furnishings. Definition—Supplies vs. Equipment provides criteria to

distinguish whether a purchase is a supply or a piece of machinery or equipment.

34. 242 Accumulated Depreciation on Machinery and Equipment—accumulated amounts for depreciation of machinery and equipment.

35. 251 Works of Art and Historical Treasures—individual items or collections of items that are of artistic or cultural importance.

36. 252 Accumulated Depreciation on Works of Art and Historical Collections—accumulated amounts for the depreciation (as applicable) of works of art and historical treasures.

37. 261 Infrastructure—a capital asset, network, or subsystem that has a useful life that is significantly longer than those of other capital assets. These assets may include water/sewer systems, roads, bridges, tunnels, and other similar assets.

38. 262 Accumulated Depreciation on Infrastructure—accumulated amounts for the depreciation of infrastructure assets.

39. 271 Construction in Progress—the cost of construction work undertaken, but not yet completed.

40. 303 Amount Available in Debt Service Funds—an account in the general long-term debt account group. It designates the amount of fund balance available in the debt service fund for the retirement of long-term debt.

41. 304 Amount to be Provided for Retirement of General Long-Term Debt—an account in the general long-term debt account group. It designates the amount to be provided from taxes or other revenue to retire long-term debt.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:481 (March 2000), amended LR 36:

§1103. Liabilities and Other Credit Codes

A. - B.7. ...

8. 432 Construction Contracts Payable-Retainage—liabilities on account of construction contracts for that portion of the work that has been completed but on which part of the liability has not been paid, pending final inspection, or the lapse of a specified time period, or both. The unpaid amount is usually a stated percentage of the contract price.

9. - 10. ...

11. 442 Bonds Payable-Current—bonds that have not reached or passed their maturity date, but which are due within one year or less. This account is used only in proprietary or fiduciary funds, as well as in the government-wide financial statements.

12. 443 Unamortized Premiums on Issuance of Bonds—an account that represents that portion of the excess of bond proceeds over par value and that remains to be amortized over the remaining life of such bonds. This account is used only in proprietary or fiduciary funds, as well as in the government-wide financial statements.

13. 451 Loans Payable—short-term obligations representing amounts borrowed for short periods of time, usually evidenced by notes payable or warrants payable.

14. Lease Obligations-Current—capital lease obligations that are due within one year.

15. 455 Interest Payable—interest due within one year.

16. 461 Accrued Salaries and Benefits—salary and fringe benefit costs incurred during the current accounting period; these costs are not payable until a subsequent accounting period.

17. 471 Payroll Deductions and Withholdings—amounts deducted from employee salaries for withholding taxes and other purposes. District-paid benefit amounts payable also are included. A separate liability account may be used for each type of benefit.

18. 472 Compensated Absences-Currents—compensated absences that will be paid within one year.

19. 473 Accrued Annual Requirement Contribution Liability—a liability arising from payments not made to pension funds. This amount represents any difference between the actuarially determined annual required contribution and actual payments made to the pension fund.

20. 481 Deferred Revenues—a liability account that represents revenues collected before they become due.

21. 491 Deposits Payable—liability for deposits received as a prerequisite to providing or receiving services, goods, or both.

22. 492 Due to Fiscal Agent—amounts due to fiscal agents, such as commercial banks, for serving an LEA's matured indebtedness.

23. 499 Other Current Liabilities—other current liabilities not provided for elsewhere.

C. Long-Term Liabilities—debt with a maturity of more than one year. These accounts should be used only with proprietary and fiduciary funds, as well as at the entity-wide level of reporting.

1. 511 Bonds Payable—bonds (includes general obligation, asset-backed, or revenue backed) that have not reached or passed their maturity date and that are not due within one year.

2. 512 Accreted Interest—an account that represents interest that is accrued on deep discount bonds. This account should be used by school districts that issue capital appreciation bonds. Such bonds are usually issued at a deep discount from the face value, and no interest payment is made until maturity. Under full accrual accounting, the district is required to accrete the interest on the bonds over the life of the bonds. Accretion is the process of systematically increasing the carrying amount of the bond to its estimated value of the maturity date of the bond. To calculate accreted interest, the district should impute the effective interest rate, using the present value, the face value (or the future value), and the period of the bond, and multiply the effective interest rate by the book value of the debt at the end of the period. Accreted interest is usually recorded as an addition to the outstanding debt liability.

3. 513 Unamortized Gains/Losses on Debt Refundings—an account that represents the difference between the reacquisition price and the net carrying amount of old debt when a current or advance refunding of debt occurs. This account should be used only when defeasance of debt occurs for proprietary funds. The unamortized loss amount should be deferred and amortized as a component of interest expense in a systematic and rational manner over the remaining life of the old debt or the life of the new debt, whichever is shorter. On the balance sheet, this deferred amount should be reported as a deduction from or an addition to the new debt liability.

4. 521 Loans Payable—an unconditional written promise signed by the maker to pay a certain sum of money one year or more after the issuance date.

5. 531 Lease Obligations—amounts remaining to be paid on lease purchase agreements.

6. 541 Unfunded Pension Liabilities—the amount of the actuarial deficiency on a locally operated pension plan to be contributed by the LEA on behalf of present employees.

7. 551 Compensated Absences—amounts remaining beyond the period of one year to be paid on compensated absences balances.

8. 561 Arbitrage Rebate Liability—liabilities arising from arbitrage rebates to the Internal Revenue Service (IRS) from bond financing.

9. 590 Other Long-Term Liabilities—other long-term liabilities not provided for elsewhere.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:482 (March 2000), amended LR 36:

§1105. Fund Balance Codes

A. These accounts identify the excess of a fund over its liabilities. Portions of that balance may be reserved for future use. (Per GASB 54, fund balance codes 790 through 798 are required for financial statements for periods beginning after June 15, 2010; codes used prior to fiscal year 2010-11 will be maintained for historical purposes.)

1. 711 Investment in Capital Assets, Net of Related Debt—this account is used to record the net asset component invested in capital assets, net of related debt, which represents total capital less accumulated depreciation less directly related to capital assets. This account is to be used in proprietary funds only.

2. - 3. ...

4. 751 Reserve for Inventories—a reserve representing that portion of a fund balance segregated to indicate that assets equal to the amount of the reserve are tied up in inventories and are, therefore, not available for appropriation. The use of this account is optional unless the purchase method of accounting for inventory is used.

5. 752 Reserve for Prepaid Items—a reserve representing that portion of a fund balance segregated to indicate that assets equal to the amount of the reserve are tied up on prepaid expenses and are, therefore, not available for appropriation. The use of this account is optional.

6. 753 Reserve for Encumbrances—a reserve representing that portion of a fund balance segregated to provide for unliquidated encumbrances, including those automatically carried over from prior years by law. Separate accounts may be maintained for current and prior-year encumbrances.

7. 760 Reserved-Fund Balance—a reserve representing that portion of a fund balance segregated to indicate that assets equal to the amount of the reserve are obligated and are, therefore, not available for appropriation. This would include funds that have met the availability criteria, as well as any other provider provisions that may be required, but have not yet been expended. It is recommended that a separate reserve be established for each special purpose. One example of a special purpose would be restricted Federal programs.

8. 770 Unreserved - Undesignated Fund Balance—the excess of the assets of a fund over its liabilities and fund reserves.

9. 780 Unreserved - Designated Fund Balance—a designation that portion of the fund balance segregated to indicate that assets equal to the amount of the designation have been earmarked by the governing board or senior management for a bona fide purpose in the future, such as general contingencies or for equipment replacement.

10. 790 Nonspendable—amounts that are not in a spendable form (such as inventories and prepaid items) and other amounts that are legally or contractually required to be maintained intact (such as principal of a permanent fund).

11. 795 Spendable: Restricted—amounts constrained to specific purposes by their providers such as grantors, bondholders, and higher levels of government, through constitutional provisions, or by enabling legislation.

12. 796 Spendable: Committed—amounts constrained to specific purposes by a government itself, using its highest level of decision-making authority; to be reported as committed, amounts cannot be used for any other purpose unless the government takes the same highest-level actions to remove or change the constraint.

13. 797 Spendable: Assigned—amounts a government intends to use for a specific purpose; intent can be expressed by the governing body or by an official or body to which the governing body delegates the authority.

14. 798 Spendable: Unassigned—amounts that are available for any purpose; these amounts are reported only in the general fund.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:483 (March 2000), amended LR 27:1684 (October 2001), repromulgated LR 34:1388 (July 2008), amended LR 36:

§1107. Definition—Supplies vs. Equipment

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

d. It is equal to or greater than \$5,000 per unit cost in value. (The increase of the property threshold amount to \$5,000 was advertised in the Louisiana Register and adopted as rule in the April 20, 2008 issue.)

NOTE: The unit cost of \$5,000 does not apply to any program funded with 8g monies.

3. Food is always considered a supply. Software costs that are below the district's capitalization threshold should be coded to supplies. Expenditures for software that exceed the district's capitalization threshold should be coded to equipment.

B. School districts maintain rigorous accountability for their property whether it is capitalized or not. For accountability and internal control purposes, many items of property that do not meet the districts' capitalization threshold must be inventoried. Thus, the Department of Education recommends maintaining inventory and tracking items that do not meet the equipment criteria if needed for insurance purposes and/or the item has "street value." For instance, districts might inventory DVD players and computers for internal control purposes but not capitalize them due to their low cost.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:610 (April 2008), repromulgated LR 34:1388 (July 2008), amended LR 36:

Chapter 13. Personnel Requirements

§1301. Minimum Requirements for Lead School Business Administrator/Chief Financial Officer Business Manager (Local School Districts and Charter Schools)

- A. Repealed.
- B. - F. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:434 (March 2007), 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? Yes.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., May 9, 2010, to Nina A. Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Jeanette Vosburg
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 1929—Louisiana Accounting and Uniform Governmental Handbook

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed revisions in policy are related to changes in financial reporting by the state Department of Education to the U.S. Department of Education, and changes to allow for financial reporting per Act 310 of the 2009 Regular Legislative Session regarding weighted student funding. There will be no implementation costs to state governmental units. Implementation costs to local school systems are indeterminable, and will vary by district depending on the changes necessary to accounting systems to accommodate the revisions. These should be one-time expenditures.

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 desired impact is greater fiscal transparency as a result of more accurate and consistent fiscal reporting by school districts. The revisions will provide the Department of Education with the financial data in a manner that allows for accurate reporting in data collections required by the federal government.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1003#046

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality Office of the Secretary

Gasoline Handling
(LAC 33:III.2131)(AQ309)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air regulations, LAC 33:III.2131 (Log #AQ309).

This Rule will clarify the applicability of Section 2131 of LAC 33:III. Section 2131 regulates control requirements for gasoline handling facilities. Parishes exempt from the gasoline handling requirements of this Section by Subsection A of the Section are nevertheless subject to 40 CFR Part 63, Subpart CCCCC. This will be a revision to the State Implementation Plan (SIP). This Rule will make the Louisiana Administrative Code at least as stringent in the gasoline handling area as the federal regulations. The basis and rationale for this Rule are to mirror the federal regulations. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33 ENVIRONMENTAL QUALITY Part III. Air

Chapter 21. Control of Emission of Organic Compounds Subchapter F. Gasoline Handling

§2131. Filling of Gasoline Storage Vessels

A. Applicability. This regulation is applicable to each gasoline handling facility in the parishes of Bossier, Caddo, Beauregard, Calcasieu, Livingston, Pointe Coupee, East Baton Rouge, West Baton Rouge, Iberville, Lafayette, St. Mary, Ascension, St. James, St. John the Baptist, St. Charles, Lafourche, Jefferson, Orleans, St. Bernard, and Grant. Any parish to which this regulation does not apply remains subject to the requirements of 40 CFR 63, Subpart CCCCC.

B. Control Requirements. No person shall cause or allow the transfer of gasoline from any delivery vessel into any stationary storage container unless such container is equipped with a submerged fill pipe and unless the displaced vapor emissions from submerged filling of the container are processed by a vapor recovery system that reduces such emissions by at least 90 percent.

C. Approved Vapor Balance System. When a vapor balance system is used to comply with the above vapor recovery system control requirement, the balance system will be assumed to meet the specified control requirement if the following conditions are met.

1. A vapor-tight return line having an internal cross-sectional area at least one-half that of the liquid line is connected before gasoline is transferred into the storage container. No gasoline leaks exist anywhere in the liquid transfer system. Inspection for visible liquid leaks, visible fumes, or odors resulting from gasoline dispensing operations shall be conducted by the owner or the operator of the gasoline outlet and the owner or the operator of the tank truck. Gasoline loading or unloading through the affected transfer lines shall be discontinued immediately when a leak is observed and shall not be resumed until the observed leak is repaired.

2. The only atmospheric emission during gasoline transfer into the storage container is through the storage container pressure-vacuum valve.

3. The delivery vessel is kept vapor-tight at all times with vapor recovery equipment. The delivery vessel must be in compliance with LAC 33:III.2137. The vapor-laden delivery vessel may only be refilled at bulk gasoline plants complying with LAC 33:III.2133 or bulk gasoline terminals complying with LAC 33:III.2135.

D. Alternate Vapor Balance Systems. Other vapor balance arrangements may be accepted if proof of the emission level required in Subsection B of this Section is provided to the administrative authority. Approval of any alternate vapor balance system shall not be valid unless it is received from the administrative authority in writing.

E. Exemptions. The following are exempt from the requirements of Subsection B of this Section:

1. transfers made to storage tanks with a capacity greater than 40,000 gallons (151,400 liters) and equipped with controls as required by LAC 33:III.2103 of these regulations;

2. any gasoline outlet in the parish of Ascension, Calcasieu, East Baton Rouge, Iberville, Livingston, Pointe Coupee or West Baton Rouge whose throughput is less than 120,000 gallons (454,200 liters) per year, or any gasoline outlet in the parish of Beauregard, Bossier, Caddo, Grant, Jefferson, Lafayette, Lafourche, Orleans, St. Bernard, St. Charles, St. James, St. John the Baptist, or St. Mary whose throughput is less than 500,000 gallons (1,892,700 liters) per year. Once the rolling 30-day average throughput exceeds 10,000 gallons for a facility in the parish of Ascension, Calcasieu, East Baton Rouge, Iberville, Livingston, Pointe Coupee, or West Baton Rouge, or 42,000 gallons for a facility in the parish of Beauregard, Bossier, Caddo, Grant, Jefferson, Lafayette, Lafourche, Orleans, St. Bernard, St.

Charles, St. James, St. John the Baptist, or St. Mary, that facility becomes an affected facility, and does not revert to an exempted facility when the throughput drops back below the throughput exemption level;

3. tanks with a capacity of 2,000 gallons or less installed before January 1, 1979, and new tanks with a capacity of 250 gallons or less installed after December 31, 1978; and

4. tanks having a capacity of less than 550 gallons used exclusively for the fueling of farm implements and having a submerged fill line.

F. Compliance. Compliance with this Section shall be determined by applying the following test methods, as appropriate:

1. Test Method 27 (40 CFR Part 60, Appendix A, as incorporated by reference at LAC 33:III.3003) for determination of vapor tightness of gasoline delivery tanks using pressure-vacuum test;

2. Guideline report EPA-450/2-78-051, Appendix B, Gasoline Vapor Leak Detection Procedure by Combustible Gas Detector;

3. Test Method 21 (40 CFR Part 60, Appendix A, as incorporated by reference at LAC 33:III.3003) for determination of volatile organic compound leaks.

G. Recordkeeping. The owner or operator of any operation that is involved with storing gasoline in any stationary container and required to comply with this Section shall maintain records to verify compliance with this Section. The records shall be maintained for at least two years and shall include, but not be limited to, the following:

1. the date of delivery of each shipment of gasoline, and the certificate number and date of certification of each delivery vehicle that delivers a shipment. Any owner or operator subject to this Section shall not accept delivery of gasoline from any gasoline tank truck that does not comply with LAC 33:III.2137.A.2;

[Note: All gasoline tank trucks must have a sticker displayed on each tank indicating the identification number of the tank and the date each tank last passed the pressure and vacuum test described in LAC 33:III.2137.A.1. Each tank must be certified annually and the sticker must be displayed near the Department of Transportation certification plate. Any repairs necessary to pass the specified requirements must be made within 15 days of failure.]

2. the date and a description of any malfunction, repair, replacement or modification of control systems or control equipment required to be used in the transfer of gasoline from the gasoline tank truck to a stationary storage tank. If the problem is with equipment on the tank truck, the name of the owner or operator of the tank truck, the truck identification number, the date the problem occurred, and the driver's name shall be recorded as part of the description; and

3. records of any testing requested by the administrative authority to prove compliance with this Section or any testing done by the owner or operator on a voluntary basis.

H. Implementation Schedule. Facilities must be in compliance with this Section within six months after becoming an affected facility.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 16:609 (July 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:654 (July 1991), LR 18:1123 (October 1992), LR 19:1564 (December 1993), LR 22:1212 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:193 (February 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 36:

Family Impact Statement

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Public Comments

All interested persons are invited to submit written comments on the proposed regulations. Persons commenting should reference these proposed regulations by AQ309. Such comments must be received no later than May 5, 2010, at 4:30 p.m., and should be sent to Donald Trahan, Attorney Supervisor, Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3398 or by e-mail to donald.trahan@la.gov. Copies of these proposed regulations can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ309. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

Public Hearing

A public hearing will be held on April 28, 2010, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Donald Trahan at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

These proposed regulations are available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Herman Robinson, CPM
Executive Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Gasoline Handling

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated implementation costs (savings) to state or local governmental units as a result of the proposed rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections of state or local governmental units resulting from the proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The estimated costs to facilities that do not already have the required control equipment are approximately \$12,000 per facility. This cost will not be incurred until a facility's monthly gasoline throughput exceeds 100,000 gallons per month. There should be no impact to the parishes of Bossier, Caddo, Beauregard, Calcasieu, Livingston, Pointe Coupee, East Baton Rouge, West Baton Rouge, Iberville, Lafayette, St. Mary, Ascension, St. James, St. John the Baptist, St. Charles, Lafourche, Jefferson, Orleans, St. Bernard, and Grant because the required control equipment is already in place in these parishes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition or employment as a result of the proposed rule. The proposed rule results from a federal law that applies nationwide.

Herman Robinson, CPM
Executive Counsel
1003#052

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality Office of the Secretary

HW Tanks—Secondary Containment Requirements
and 90 Day Turnover of Hazardous Waste
(LAC 33:V.109, 1109, 1901, 1907, 1909 and 4437)(HW106)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Hazardous Waste regulations, LAC 33:V.109, 1109, 1901, 1907, 1909.D and E, and 4437.D (Log #HW106).

This Rule sets standards for the use of concrete as an external secondary containment system for hazardous waste tanks. It provides an approval process for using unlined/uncoated concrete as an external liner system under specific circumstances. The Rule also clarifies and adds an additional subsection to compliment the requirement of LAC 33:V.1909.D relating to the subject "accumulation time" exemption from hazardous waste permitting requirements by using a flow-through calculation in certain situations to provide clear standards in the regulation that will provide protection for the state's environment. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials Subpart 1. Department of Environmental Quality— Hazardous Waste

Chapter 1. General Provisions and Definitions

§109. Definitions

For all purposes of these rules and regulations, the terms defined in this Chapter shall have the following meanings, unless the context of use clearly indicates otherwise.

* * *

Batch Tank—a device meeting the definition of *tank* in this Section that receives a batch (or batches) of hazardous waste on a one-time or intermittent basis.

* * *

Continuous-Flow Tank—a device meeting the definition of *tank* in this Section that receives hazardous waste on an ongoing, continuous basis.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790, 791 (November 1988), LR 15:378 (May 1989), LR 15:737 (September 1989), LR 16:218, 220 (March 1990), LR 16:399 (May 1990), LR 16:614 (July 1990), LR 16:683 (August 1990), LR 17:362 (April 1991), LR 17:478 (May 1991), LR 18:723 (July 1992), LR 18:1375 (December 1992), repromulgated by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 19:626 (May 1993), amended LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:814 (September 1996), LR 23:564 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:655 (April 1998), LR 24:1101 (June 1998), LR 24:1688 (September 1998), LR 25:433 (March 1999), repromulgated LR 25:853 (May 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:269 (February 2000), LR 26:2465 (November 2000), LR 27:291 (March 2001), LR 27:708 (May 2001), LR 28:999 (May 2002), LR 28:1191 (June 2002), LR 29:318 (March 2003); amended by the Office of the Secretary, Legal Affairs Division, LR 31:2452 (October 2005), LR 31:3116 (December 2005), LR 32:606 (April 2006), LR 32:822 (May 2006), LR 33:1625 (August 2007), LR 33:2098 (October 2007), LR 34:71 (January 2008), LR 34:615 (April 2008), LR 34:1009 (June 2008), LR 34:1894 (September 2008), LR 34:2396 (November 2008), LR 36:

Chapter 11. Generators

Subchapter A. General

§1109. Pre-Transport Requirements

A. - D. ...

E. Accumulation Time

1. - 1.a.i. ...

ii. in tanks and the generator complies with the applicable requirements of LAC 33:V. 1901.D; and/or

E.1.a.iii. - F.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 13:433 (August 1987), LR 16:47 (January 1990), LR 16:220 (March 1990), LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 18:1256 (November 1992), LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1693 (September 1998), LR 25:437 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1466 (August 1999), LR 26:277 (February 2000), LR 26:2470 (November 2000), LR 27:293 (March 2001), LR 27:709, 716 (May 2001), LR 27:1014 (July 2001), LR 30:1673 (August 2004), amended by the Office of Environmental Assessment, LR 31:1571 (July 2005), amended by the Office of the

Secretary, Legal Affairs Division, LR 32:823 (May 2006), LR 33:2102 (October 2007), LR 34:622 (April 2008), LR 36:

Chapter 19. Tanks

§1901. Applicability

A. - C. ...

D. Tanks meeting the requirements for the accumulation time exclusion of LAC 33:V.305.C and 1109.E.1 are subject to the requirements of LAC 33:V.1903.A, 1905.B-H, 1907.A, 1907.B-K, 1909, 1911, 1913, 1915.D, 1917, 1919, and 1921.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:651 (November 1987), LR 16:614 (July 1990), LR 18:1375 (December 1992), LR 22:819 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1107 (June 1998), amended by the Office of the Secretary, Legal Affairs Division, LR 34:1013 (June 2008), LR 36:

§1907. Containment and Detection of Releases

A. - D. ...

E. In addition to the requirements of Subsections B-D of this Section, secondary containment systems must satisfy the following requirements.

1. External liner systems must be:

a. - b. ...

c. free of cracks or gaps;

d. designed and installed to surround the tank completely and to cover all surrounding earth likely to come into contact with the waste if the waste is released from the tank(s);

e. impermeable to the extent that it will prevent lateral as well as vertical migration of waste into the environment (this is not intended to address releases to the air); and

f. if concrete is used as an external liner system:

i. the liner system must be:

(a). provided with a coating or lining that is compatible with the stored waste and meets the requirements of Subparagraph E.1.d.e of this Section except as specified in Clause E.1.f.ii and Subsection J of this Section;

(b). constructed with chemical-resistant water stops in place at all joints (if any), in liner systems installed after [date of promulgation] and in liner systems undergoing significant modification after [date of promulgation]; and

(c). constructed with chemical-resistant joint sealants at all joints and cracks (if any).

ii. the owner or operator of a tank equipped with an uncoated/unlined concrete external liner system may demonstrate compliance with Subclause E.1.f.i.(a) of this Section by submitting the information described in Subsection J of this Section for review and obtaining written approval by the Office of Environmental Services.

2. Vault systems must be:

a. - c. ...

d. constructed with chemical-resistant joint sealants at all joints and cracks (if any), in vault systems installed after [date of promulgation] and in vault systems undergoing significant modification after [date of promulgation];

e. provided with an impermeable interior coating or lining that is compatible with the stored waste and that will prevent migration of waste into the concrete;

f. provided with a means to protect against the formation of and ignition of vapors within the vault, if the waste being stored or treated:

i. meets any of the definitions of ignitable waste under LAC 33:V.4903.B; or

ii. meets the definition of reactive waste under LAC 33:V.4903.D, and may form an ignitable or explosive vapor; and

g. provided with an exterior moisture barrier or be otherwise designed or operated to prevent migration of moisture into the vault if the vault is subject to hydraulic pressure.

E.3. - I.5. ...

J. Unlined/Uncoated Concrete Liner Systems—Demonstration of Sufficiency Process

1. Submittals to the Office of Environmental Services intended to secure its approval of uncoated/unlined concrete liner systems, as provided for in Clause E.1.f.ii of this Section, must contain documentation regarding the information described below.

a. The owner or operator must provide detailed information on the uncoated/unlined external liner, including, but not limited to:

i. the design and installation specifications for any concrete joints, including water stops;

ii. the characteristics of any joint sealant used, including its compatibility with the waste stored in the tank system; and

iii. the characteristics of the concrete mix used, the design and construction specifications of the concrete liner and secondary containment system, and any American Concrete Institute or other applicable standards used.

b. The owner or operator must also provide the following information:

i. the physical and chemical characteristics of the waste in the tank system, including its potential for migration and its compatibility with the unlined/uncoated concrete external liner system;

ii. the persistence and permanence of the potential adverse effects from a release of the waste constituents to the environment;

iii. the risk to human health and the environment posed by a potential release of the waste constituents contained in the tank to the soil or groundwater;

iv. any factor that specifically influences the potential mobility of the waste contained in the tank and its potential to migrate through the unlined/uncoated concrete external liner system to the environment;

v. any additional protections afforded by the design and construction of the tank system, such as tank liners, lined piping, welded flanges, double bottoms, and/or elevation of the tank above the unlined/uncoated concrete external liner; and

vi. any other information requested by the administrative authority.

2. Submittals may also contain other documentation demonstrating that an unlined/uncoated concrete external liner system is appropriate, such as documentation regarding the following:

a. any natural or man-made hydrogeological characteristic of the facility and surrounding land that

affords a barrier to the migration of waste into the environment;

b. any applicable regulation or permit requirement, or standard, such as, for example:

i. any schedule of more frequent than normal internal inspection of the tank pursuant to appropriate standards (e.g. American Petroleum Institute (API), American Society of Mechanical Engineers (ASME), etc.);

ii. any schedule of more frequent than normal external inspection of the tank pursuant to appropriate standards (e.g. API, ASME, etc.);

iii. any certification by a registered professional engineers regarding the permeability of the concrete that comprises the concrete liner system; and

c. the cost of installing and maintaining an impermeable coating or lining versus the potential benefits to be derived therefrom.

3. In deciding whether to approve the use of an unlined/uncoated concrete external liner system in lieu of the requirements of Subclause E.1.f.i.(a) of this Section:

a. the administrative authority shall consider each submittal on its own merits;

b. the stringency of the administrative authority's requirements may vary depending on the tank's contents (e.g., the concentration or type of material involved); and

c. the administrative authority shall approve the use of an unlined/uncoated concrete external liner system if it reasonably determines that the unlined/uncoated concrete external liner system:

i. will prevent lateral and vertical migration of waste into the environment; or

ii. is otherwise appropriate based on the potential risk to human health and the environment.

4. Within 30 days after receipt of an administratively complete submittal pursuant to this Subsection, the department shall provide written acknowledgment to the owner or operator that the submittal is under consideration. Subclause E.1.f.i.(a) of this Section shall not apply to the concrete external liner system while the administrative authority considers the owner's or operator's submittal. The administrative authority shall notify the owner or operator in writing of the administrative authority's approval or disapproval of the proposed use of an unlined/uncoated concrete external liner system. If the administrative authority does not approve the use of an unlined/uncoated concrete external liner system, it shall give the owner or operator a reasonable period of time to provide an appropriate coating or lining for the concrete external liner system, or another acceptable means of secondary containment.

5. If the use of an unlined/uncoated concrete external liner system is approved:

a. the owner or operator shall maintain on-site:

i. the written approval received from the administrative authority, or a legible copy thereof; and

ii. documentation sufficient to establish that any conditions upon which that approval was based are being fulfilled; and

b. the owner or operator shall provide written notification to the Office of Environmental Services of any change in the tank system, the service of the tank system, the concrete external liner system, the waste stored in the tank(s), or the information submitted by the owner or

operator pursuant to Paragraph 1 or 2 of this Subsection that could result in a significant increase in the risk to human health or the environment posed by a potential release of waste constituents contained in the tank(s). Such notice shall be provided within fifteen days of the owner's or operator's discovery of any such change. The department thereafter may require the submittal of additional information by the owner or operator, and/or revoke the approval for the owner's or operator's continued use of the unlined/uncoated concrete external liner system.

K. Effective Date/Due Date

1. Subparagraph E.1.f of this Section shall be effective:

a. one year from [date of promulgation], for tanks meeting the requirements for the accumulation time exclusion of LAC 33:V.305.C.2 and 1109.E.1; and

b. 180 days from [date of promulgation], for tanks subject to permitting.

2. Submittals under Subsection J of this Section shall be due:

a. within one year from [date of promulgation], for tanks existing prior to this date and that meet the requirements for the accumulation time exclusion of LAC 33:V.305.C.2 and 1109.E.1;

b. within 180 days from [date of promulgation], for tanks existing prior to this date and that are subject to permitting;

c. prior to tank installation, for tanks and/or tank systems installed after [date of promulgation] that meet the requirements for the accumulation time exclusion of LAC 33:V.305.C and 1109.E.1;

d. contemporaneously with the submittal of the permit application, for new tanks and/or tank systems that are installed after [date of promulgation] and are subject to permitting; and

e. within such reasonable period of time as shall be established by the administrative authority upon request by the owner or operator, for any tank that is installed or undergoes a change in service within one year of [date of promulgation].

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:651 (November 1987), LR 14:790 (November 1988), LR 16:614 (July 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2475 (November 2000), amended by the Office of Environmental Assessment, LR 31:1572 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2107 (October 2007), LR 34:624 (April 2008), LR 34:995 (June 2008), LR 34:1896 (September 2008), LR 36:

§1909. General Operating Requirements

A. - C. ...

D. Owners or operators must provide documentation, maintained on-site, that batch tanks subject to the accumulation time exclusion of LAC 33:V.1109.E have been emptied and cleaned of all residues and/or sludges at least once in each 90-day period.

1. A batch tank is deemed emptied and cleaned for the purposes of this Subsection if it has been emptied to the maximum extent practicable and:

1.a. - 2. ...

E. Owners or operators must provide documentation, maintained on-site, that continuous-flow tanks subject to the accumulation time exclusion of LAC 33:V.1109.E have been emptied at least once in each 90-day period.

1. A continuous-flow tank is deemed emptied if the owner or operator can demonstrate, via a mass balance approach and appropriate documentation or methodology, that hazardous waste has not been stored therein for more than 90 days. The key parameters in the mass balance approach are the volume of the tank (e.g., 6,000 gallons), the daily throughput of the hazardous waste (e.g., 300 gallons per day), and the time period the hazardous waste "resides" in the tank. In this example, the hazardous waste would have a residence time of 20 days ((6,000 gallons/300 gallons per day) = 20 days) and would meet the requirements of LAC 33:V.1109.E since the hazardous waste has been in the tank for less than 90 days.

2. The documentation or methodology that is used by the owner or operator to confirm a continuous-flow tank's compliance with Paragraph E.1 of this Section must be reasonable and easily discernible to the department.

3. A continuous-flow tank in which a significant amount of residue or sludge is accumulated may not qualify for the exclusion of LAC 33:V.1109.E. Therefore, the owner or operator of a continuous-flow tank for which that exclusion is claimed must ensure that significant accumulation of residue or sludge does not occur in the tank by satisfying the requirements either of Subsection D of this Section (in which case the words "continuous-flow tank" shall be substituted for the words "batch tank" in each instance where "batch tank" appears in that Subsection), or of Paragraph E.4 of this Section.

4. The owner or operator must provide documentation, maintained on-site, establishing that significant accumulations of residue or sludge do not occur within the tank; i.e., almost all residues or sludges in the tank at the beginning of the 90-day period have been removed (or displaced by incoming waste or newly-formed residues or sludges) by the end of the 90th day. The determination of what constitutes "significant accumulation of residue or sludge" shall be made on a case-by-case basis. However, no significant accumulation of residues or solids shall be deemed to have occurred if the residues or sludges that accumulate in the tank constitute less than 5 percent by volume of the total tank capacity. To the extent that there is no significant accumulation of residue or sludge in the tank, the one-year storage prohibition under LAC 33:V.2205 shall not apply to any residue or sludge contained therein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:651 (November 1987), LR 16:614 (July 1990), amended by the

Office of Environmental Assessment, Environmental Planning Division, LR 25:1804 (October 1999), amended by the Office of the Secretary, Legal Affairs Division, LR 36:

Chapter 43. Interim Status

Subchapter I. Tanks

§4437. Containment and Detection of Releases

A. - D. ...

E. In addition to the requirements of Subsections B-D of this Section, secondary containment systems must satisfy the following requirements.

1. External liner systems must be:

a. - b. ...

c. free of cracks or gaps;

d. designed and installed to completely surround the tank and cover all surrounding earth likely to come into contact with the waste if released from the tank(s);

e. impermeable to the extent that it will prevent lateral as well as vertical migration of waste into the environment (this is not intended to address releases to the air); and

f. if concrete is used as an external liner system:

i. the liner system must be:

(a). provided with a coating or lining that is compatible with the stored waste and meets the requirements of Subparagraph E.1.d.-e. of this Section, except as specified in Clause E.1.f.ii and Subsection J of this Section;

(b). constructed with chemical-resistant water stops in place at all joints (if any), in liner systems installed after [date of promulgation] and in liner systems undergoing significant upgrade after [date of promulgation]; and

(c). constructed with chemical-resistant joint sealants at all joints and cracks (if any);

ii. the owner or operator of a tank equipped with an uncoated/unlined concrete external liner system may demonstrate compliance with Subclause E.1.f.i.(a) of this Section by submitting the information described in Subsection J of this Section for review and obtaining written approval by the Office of Environmental Services.

2. Vault systems must be:

a. - c. ...

d. constructed with chemical-resistant joint sealants at all joints and cracks (if any), in vault systems installed after [date of promulgation] and in vault systems undergoing significant upgrade after [date of promulgation];

e. provided with an impermeable interior coating or lining that is compatible with the stored waste and that will prevent migration of waste into the concrete;

f. provided with a means to protect against the formation of and ignition of vapors within the vault, if the waste being stored or treated:

i. meets any of the definitions of ignitable waste under LAC 33:V.4903.B; or

ii. meets the definition of reactive waste under LAC 33:V.4903.D, and may form an ignitable or explosive vapor; and

g. provided with an exterior moisture barrier or be otherwise designed or operated to prevent migration of moisture into the vault if the vault is subject to hydraulic pressure.

E.3. - I.4. ...

J. Unlined/Uncoated Concrete Liner Systems—Demonstration of Sufficiency Process.

1. Submittals to the Office of Environmental Services intended to secure its approval of uncoated/ unlined concrete liner systems, as provided for in Clause E.1.f.ii of this Section, must contain documentation regarding the information described below.

a. The owner or operator must provide detailed information on the uncoated/unlined external liner, including, but not limited to:

i. the design and installation specifications for any concrete joints, including water stops;

ii. the characteristics of any joint sealant used, including its compatibility with the waste stored in the tank system; and

iii. the characteristics of the concrete mix used, the design and construction specifications of the concrete liner and secondary containment system, and any American Concrete Institute or other applicable standards used.

b. The owner or operator must also provide the following information:

i. the physical and chemical characteristics of the waste in the tank system, including its potential for migration and its compatibility with the unlined/uncoated concrete external liner system;

ii. the persistence and permanence of the potential adverse effects from a release of the waste constituents to the environment;

iii. the risk to human health and the environment posed by a potential release of the waste constituents contained in the tank to the soil or groundwater;

iv. any factors that specifically influence the potential mobility of the waste contained in the tank and its potential to migrate through the unlined/uncoated concrete external liner system to the environment;

v. any additional protections afforded by the design and construction of the tank system; such as tank liners, lined piping, welded flanges, double bottoms, and/or elevation of the tank above the unlined/uncoated concrete external liner; and

vi. any other information requested by the administrative authority.

2. The submittal may also contain other documentation demonstrating that an unlined/uncoated concrete external liner system is appropriate, such as documentation regarding the following:

a. any natural or man-made hydrogeological characteristic of the facility and surrounding land that affords a barrier to the migration of waste into the environment;

b. any applicable regulation or permit requirement, or standard, such as, for example:

i. any schedule of more frequent than normal internal inspection of the tank pursuant to appropriate standards (e.g. American Petroleum Institute (API), American Society of Mechanical Engineers (ASME), etc.);

ii. any schedule of more frequent than normal external inspection of the tank pursuant to appropriate standards (e.g. API, ASME, etc.);

iii. any certification by a registered professional engineers regarding the permeability of the concrete that comprises the concrete liner system; and

c. the cost of installing and maintaining an impermeable coating or lining versus the potential benefits to be derived therefrom.

3. In deciding whether to approve the use of an unlined/uncoated concrete external liner system in lieu of the requirements of Subclause E.1.f.i.(a) of this Section:

a. the administrative authority shall consider each submittal on its own merits;

b. the stringency of the administrative authority's requirements may vary depending on the tank's contents (e.g., the concentration or type of material involved); and

c. the administrative authority shall approve the use of an unlined/uncoated concrete external liner system if it reasonably determines that the unlined/uncoated concrete external liner system:

i. will prevent lateral and vertical migration of waste into the environment; or

ii. is otherwise appropriate based on the potential risk to human health and the environment.

4. Within thirty days after receipt of an administratively complete submittal pursuant to Subsection, the department shall provide written acknowledgment to the owner or operator that the submittal is under consideration. Subclause E.1.f.i.(a) of this Section shall not apply to the concrete external liner system while the administrative authority considers the owner's or operator's submittal. The administrative authority shall notify the owner or operator in writing of the administrative authority's approval or disapproval of the proposed use of an unlined/uncoated concrete external liner system. If the administrative authority does not approve the use of an unlined/uncoated concrete external liner system, it shall give the owner or operator a reasonable period of time to provide an appropriate coating or lining for the concrete external liner system, or another acceptable means of secondary containment.

5. If the use of an unlined/uncoated concrete external liner system is approved:

a. the owner or operator shall maintain on-site:

i. the written approval received from the administrative authority, or a legible copy thereof; and

ii. documentation sufficient to establish that any conditions upon which that approval was based are being fulfilled; and

b. the owner or operator shall provide written notification to the Office of Environmental Services of any change in the tank system, the service of the tank system, the concrete external liner system, the waste stored in the tank(s), or the information submitted by the owner or operator pursuant to Paragraph 1 or 2 of this Section that could result in a significant increase in the risk to human health or the environment posed by a potential release of the waste constituents contained in the tank(s). Such notice shall be provided within 15 days of the owner's or operator's discovery of any such change. The department thereafter may require the submittal of additional information by the owner or operator, and/or revoke the approval for the owner's or operator's continued use of the unlined/uncoated concrete external liner system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:651 (November 1987), LR 14:790 (November 1988), LR 16:614 (July 1990), LR 18:723 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2507 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2482 (October 2005), LR 33:2134 (October 2007), LR 34:1004 (June 2008), LR 34:1899 (September 2008), LR 36:

Family Impact Statement

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Public Comments

All interested persons are invited to submit written comments on these proposed regulations. Persons commenting should reference this proposed regulation by HW106. Such comments must be received no later than May 5, 2010, at 4:30 p.m., and should be sent to Donald Trahan, Attorney Supervisor, Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3398 or by e-mail to donald.trahan@la.gov. Copies of these proposed regulations can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of HW106. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

Public Hearing

A public hearing will be held on April 28, 2010, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Donald Trahan at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

These proposed regulations are available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Herman Robinson, CPM
Executive Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: HW Tanks—Secondary Containment Requirements and 90 Day Turnover of Hazardous Waste

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Implementation of this rule will not result in a cost or savings to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenues of state or local governments.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The petrochemical industry will be directly affected by the proposed rule. The proposed rule allows an alternative procedure which they can voluntarily participate in to avoid some of the cost of current regulation. Facility operators choosing to utilize the alternative process for secondary containment tank coatings could achieve savings estimated at \$250,000 to \$1 million dollars per tank depending on the surface square footage of the containment area, and the number and size of tanks in the containment area. Maintenance of these coatings is also very expensive, approximately \$100,000 minimum per maintenance cycle, and would also impact the savings to the facility that participates in the alternative process.

Facilities choosing to utilize continuous-flow tank procedures for the less than 90 day storage tanks could see a savings of \$80,000- \$120,000 per tank per year in maintenance cost with a higher level of savings in regards to safety of personnel that are required to enter the tanks to perform clean-out procedures of the tank.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment as a result of the proposed rule.

Herman Robinson, CPM
Executive Counsel
1003#051

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

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

Organic Solvents and Solvent Degreasers
(LAC 33:III.111 and 2123)(AQ307)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air regulations, LAC 33:III.111 and 2123 (Log #AQ307).

The Rule will update and add new emission limitation and control technique efficiency requirements for organic solvent and solvent degreaser volatile organic compound (VOC) emissions. It will also add definitions to the general provisions to clarify letterpress and lithographic printing process terms. This action is required by the Clean Air Act (CAA) which provides that state implementation plans (SIPs) for ozone nonattainment areas include "reasonably available control measures" (RACT), including "reasonably available control technology" (RACT), for sources of emissions. The CAA provides that for certain nonattainment areas, states must revise their SIPs to include RACT for sources of volatile organic compound (VOC) emissions covered by a control technique guidelines (CTG) document issued after November 15, 1990, and prior to the area's date of attainment. Since EPA has issued new control technique guidelines, the state regulations need to be revised to reflect EPA's new guidelines. The basis and rationale for this rule are to mirror the control technique guidelines issued by the EPA. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report

regarding environmental/health benefits and social/economic costs is required.

**Title 33
ENVIRONMENTAL QUALITY**

Part III. Air

Chapter 1. General Provisions

§111. Definitions

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

* * *

Coldset Printing—a web offset printing process in which ink is allowed to dry naturally through absorption and evaporation.

* * *

Flexible Package Printing Facility—a facility that uses either rotogravure printing or flexographic printing processes on flexible packaging.

Flexible Packaging—any package or part of a package the shape of which can be readily changed, including, but not limited to, bags, pouches, liners, and wraps utilizing paper, plastic, film, aluminum foil, metalized or coated paper or film, or any combination of these materials.

* * *

Fountain Solution—a solution used on an offset lithographic press to keep the ink from adhering to the non-image areas of the offset lithographic plate.

* * *

Heatset Dryer—a hot air dryer used in heatset lithography to heat the printed substrate and to promote the evaporation of the ink oils.

Heatset Web Offset Lithographic Printing—a type of web offset lithographic printing process where heat is applied via a drying oven to set and dry the ink.

* * *

Letterpress Printing—relief printing of text and/or images using a press with a "type-high bed," in which a reversed, raised surface is inked and then pressed into a sheet of paper to obtain a positive, right-reading image.

* * *

Miscellaneous Metal Parts and Products Coating—the coating of miscellaneous metal parts and products in the following categories:

a. - e. ...

f. fabricated metal products (metal-covered doors, frames, etc.);

g. any other category of coated metal products except:

i. those on the specified list in LAC 33:III.2123.C. Table 1, Items 1-6, and 13-17 of surface coating processes, which are included in the Standard Industrial Classification Code major group 33 (primary metal industries), major group 34 (fabricated metal products), major group 35 (nonelectrical machinery), major group 36 (electrical machinery), major group 37 (transportation equipment), major group 38 (miscellaneous instruments), and major group 39 (miscellaneous manufacturing industries);

ii. coating operations covered under 40 CFR 63, Subpart GG – National Emissions Standards for Aerospace Manufacturing and Rework Facilities; and

iii. the surface coating of metal parts and products performed on-site at installations owned or operated by the armed forces of the United States (including the Coast Guard, and the National Guard of any state) or the National Aeronautics and Space Administration, or the surface coating of military munitions manufactured by or for the armed forces of the United States.

Offset Lithographic Printing—an indirect printing method in which ink is transferred from the lithographic plate to a rubber-covered intermediate “blanket” cylinder, and then from the blanket cylinder to the paper or other printing substrate.

Sheet-Fed Printing—a process in which individual sheets of paper or other substrates are fed into the press.

Web Printing—a process where a continuous roll of paper or other substrate is fed into the press, and rewound or cut to size after printing.

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

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

**Chapter 21. Control of Emission of Organic Compounds
Subchapter B. Surface Coatings**

§2123. Organic Solvents

A. Except as provided in Subsections B and C of this Section, any emissions of volatile organic compounds resulting from the application of surface coatings of more than 15 pounds (6.8 kilograms) per day, or an equivalent level of 2.7 tons per 12-month rolling period, shall control emissions of volatile organic compounds through the use of low solvent coatings, as provided in Subsection C of this Section, or, where feasible, by incorporating one or more of the following control methods:

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

C. Surface Coating Industries. No person may cause, suffer, allow, or permit volatile organic compound (VOC) emissions from the surface coating of any materials affected by this Subsection to exceed the emission limits as specified in this Section.

Extreme High Gloss	2.8	0.340		
Extreme Performance	2.8	0.340		
Heat Resistant	2.8	0.340		
Metallic	2.8	0.340		
Pretreatment Coatings	2.8	0.340		
Solar Absorbent	2.8	0.340		
2. Surface Coating of Cans				
Sheet Basecoat (Exterior and Interior) and Over-Varnish: Two-Piece Can Exterior (Basecoat and Over-Varnish)	2.8	0.34		
Two and Three-Piece Can Interior Body Spray, Two-Piece Can Exterior End (Spray or Roll Coat)	4.2	0.51		
Three-Piece Can Side-Seam Spray	5.5	0.66		
End Sealing Compound	3.7	0.44		
3. Surface Coating of Coils				
Prime and Topcoat or Single Coat Operation	2.6	0.31		
4. Surface Coating of Fabrics				
Fabric Facility	2.9	0.35		
Vinyl Coating Line (Except Plasticol Coatings)	3.8	0.45		
5. Surface Coating—Magnet Wire Coating				
Coating Line	1.7	0.20		
6. Surface Coating of Metal Furniture				
General, One Component (Baked/Air Dried)	2.3 / 2.3	0.275 / 0.275		
General, Multi-Component (Baked/Air Dried)	2.3 / 2.8	0.275 / 0.340		
Extreme High Gloss (Baked/Air Dried)	3.0 / 2.8	0.360 / 0.340		
Extreme Performance	3.0	0.360		
Heat Resistant	3.0	0.360		
Metallic	3.0	0.360		
Pretreatment Coatings	3.0	0.360		
Solar Absorbent	3.0	0.360		
Affected Facility	Daily Weighted Average VOC Emission Limitation			
	Lbs. per Gal. of Coating as applied (minus water and exempt solvent)		Kgs. per Liter of Coating as applied (minus water and exempt solvent)	
		Lbs. per Gal. of Solids		Kgs. per Liter of Solids
	7. Surface Coating of Miscellaneous Metal Parts and Products			
	General, One Component or Multi-Component (Baked/Air Dried)	2.3 / 2.8	4.52 / 3.35	0.28 / 0.34
Camouflage	3.5	6.67	0.42	0.80
Electric Insulating Varnish	3.5	6.67	0.42	0.80
Etching Filler	3.5	6.67	0.42	0.80
Extreme High Gloss (Baked/Air Dried)	3.0 / 3.5	6.67 / 5.06	0.36 / 0.42	0.80 / 0.61
Extreme Performance (Baked/Air Dried)	3.0 / 3.5	6.67 / 5.06	0.36 / 0.42	0.80 / 0.61

Affected Facility	Daily Weighted Average VOC Emission Limitation	
	Lbs. per Gal. of Coating as applied (minus water and exempt solvent)	Kgs. per Liter of Coating as applied (minus water and exempt solvent)
1. Large Appliance Coating Industry		
General, One Component	2.3	0.275
General, Multi-Component (Baked/Air Dried)	2.3 / 2.8	0.275 / 0.340

Heat Resistant (Baked/Air Dried)	3.0 / 3.5	6.67 / 5.06	0.36 / 0.42	0.80 / 0.61
High Performance Architectural	3.5	5.06	0.42	0.61
High Temperature	3.5	6.67	0.42	0.80
Metallic	3.5	6.67	0.42	0.80
Military Specification (Baked/Air Dried)	2.3 / 2.8	4.52 / 3.35	0.28 / 0.34	0.54 / 0.40
Mold Seal	3.5	6.67	0.42	0.80
Pan Baking	3.5	6.67	0.42	0.80
Prefabricated Architectural, One Component or Multi-Component (Baked/Air Dried)	2.3 / 3.5	6.67 / 3.35	0.28 / 0.42	0.80 / 0.80
Pretreatment Coatings	3.5	6.67	0.42	0.80
Repair and Touch Up (Baked/Air Dried)	3.0 / 3.5	Does not apply	0.36 / 0.42	Does not apply
Silicone Release	3.5	6.67	0.42	0.80
Solar Absorbent (Baked/Air Dried)	3.0 / 3.5	6.67 / 5.06	0.36 / 0.42	0.80 / 0.80
Vacuum Metalizing	3.5	6.67	0.42	0.80
Drum Coating, New, Exterior	2.8	4.52	0.34	0.54
Drum Coating, New, Interior	3.5	6.67	0.42	0.80
Drum Coating, Reconditioned, Exterior	3.5	6.67	0.42	0.80
Drum Coating, Reconditioned, Interior	4.2	9.78	0.50	1.17
Powder Coating	0.4	Does not apply	0.05	Does not apply
8. Surface Coating of Miscellaneous Plastic Parts and Products				
General, One Component	2.3	3.35	0.28	0.40
General, Multi-Component	3.5	6.67	0.42	0.80
Electric Dissipating Coatings and Shock-Free Coatings	6.7	74.7	0.80	8.96
Extreme Performance	3.5 (2-pack coatings)	6.67 (2-pack coatings)	0.42 (2-pack coatings)	0.80 (2-pack coatings)
Metallic	3.5	6.67	0.42	0.80
Military Specification	2.8 (1 pack) 3.5 (2 pack)	4.52 (1 pack) 6.67 (2 pack)	0.34 (1 pack) 0.42 (2 pack)	0.54 (1 pack) 0.80 (2 pack)
Mold Seal	6.3	43.7	0.76	5.24
Multi-Colored Coatings	5.7	25.3	0.68	3.04
Optical Coatings	6.7	74.7	0.80	8.96
Vacuum Metalizing	6.7	74.7	0.80	8.96
9. Surface Coating of Automotive/Transportation Plastic Parts				
a. High Bake Coatings—Interior and Exterior Parts				
Flexible Primer	4.5	11.58	0.54	1.39
Non-Flexible Primer	3.5	6.67	0.42	0.80
Base Coat	4.3	10.34	0.52	1.24
Clear Coat	4.0	8.76	0.48	1.05
Non-Base Coat/Clear Coat	4.3	10.34	0.52	1.24
b. Low Bake/Air Dried Coatings—Exterior Parts				
Primer	4.8	13.80	0.58	1.66
Base Coat	5.0	15.59	0.60	1.87
Clear Coat	4.5	11.58	0.54	1.39
Non-Base Coat/Clear Coat	5.0	15.59	0.60	1.87
c. Low Bake/Air Dried Coatings—Interior Parts				
	5.0	15.59	0.60	1.87

d. Touch Up and Repair Coatings	5.2	17.72	0.62	2.13
For red, yellow, and black auto coatings, except touch up and repair coatings, the limit is determined by multiplying the appropriate limit in Item 9 of this Table by 1.15.				
10. Surface Coating of Business Machine Plastic Parts				
Primer	2.9	4.80	0.35	0.57
Topcoat	2.9	4.80	0.35	0.57
Texture Coat	2.9	4.80	0.35	0.57
Fog Coat	2.2	3.14	0.26	0.38
Touch Up and Repair	2.9	4.80	0.35	0.57
11. Surface Coating of Pleasure Craft				
Extreme High Gloss Topcoat	4.1	9.2	0.49	1.10
High Gloss Topcoat	3.5	6.7	0.42	0.80
Pretreatment Wash Primer	6.5	55.6	0.78	6.67
Finish Primer/Surfacer	3.5	6.7	0.42	0.80
High Build Primer Surfacer	2.8	4.6	0.34	0.55
Aluminum Substrate Antifoulant Coating	4.7	12.8	0.56	1.53
Other Substrate Antifoulant Coating	2.8	4.4	0.33	0.53
All Other Pleasure Craft Surface Coatings (for Metal or Plastic)	3.5	6.7	0.42	0.80
Affected Facility	Daily Weighted Average VOC Emission Limitation			
	Lbs. per Gal. of Coating as applied (minus water and exempt solvent)		Kgs. per Liter of Coating as applied (minus water and exempt solvent)	
12. Surface Coating of Motor Vehicle Materials				
Motor Vehicle Cavity Wax	5.4		0.65	
Motor Vehicle Sealer	5.4		0.65	
Motor Vehicle Deadener	5.4		0.65	
Motor Vehicle Gaskets/Gasket-Sealing Material	1.7		0.20	
Motor Vehicle Underbody Coating	5.4		0.65	
Motor Vehicle Trunk Interior Coating	5.4		0.65	
Motor Vehicle Bedliner	1.7		0.20	
Motor Vehicle Lubricating Wax/Compound	5.8		0.70	
The limits in Items 7-12 of this Table do not apply to operations covered in Items 1-6 or 13-17 herein, or to aerosol coatings, architectural coatings, or automobile refinish coatings.				
13. Factory Surface Coatings of Flat Wood Paneling with VOC Emissions Greater Than 15 Pounds Per Day Before Controls				
All Inks, Coatings, and Adhesives	2.1		0.25	
14. Surface Coatings for Marine Vessels and Oilfield Tubulars and Ancillary Oilfield Equipment				
a. Except as otherwise provided in this Section, a person shall not apply a marine coating with a VOC content in excess of the following limits:				
Baked Coatings	3.5		0.42	
Air-Dried, Single-Component Alkyd or Vinyl Flat or Semi-Gloss Finish Coatings	3.5		0.42	
Two Component Coatings	3.5		0.42	

b. Except for the parishes of Ascension, Calcasieu, East Baton Rouge, Iberville, Livingston, Pointe Coupee, and West Baton Rouge, in which the VOC limitations in Item 14.a of this Table may not be exceeded, specialty marine coatings and coatings on oilfield tubulars and ancillary oilfield equipment with a VOC content not in excess of the following limits may be applied:

Heat Resistant	3.5	0.42
Metallic Heat Resistant	4.42	0.53
High Temperature (Fed. Spec. TT-P-28)	5.41	0.65
Pre-Treatment Wash Primer	6.5	0.78
Underwater Weapon	3.5	0.42
Elastomeric Adhesives With 15 Percent by Weight Natural or Synthetic Rubber	6.08	0.73
Solvent-Based Inorganic Zinc Primer	5.41	0.65
Pre-Construction and Interior Primer	3.5	0.42
Exterior Epoxy Primer	3.5	0.42
Navigational Aids	3.5	0.42
Sealant for Wire-Sprayed Aluminum	5.4	0.648
Special Marking	4.08	0.49
Tack Coat (Epoxies)	5.08	0.61
Low Activation Interior Coating	4.08	0.49
Repair and Maintenance Thermoplastic	5.41	0.65
Extreme High Gloss Coating	4.08	0.49
Antenna Coating	4.42	0.53
Antifoulant	3.66	0.44
High Gloss Alkyd	3.5	0.42
Anchor Chain Asphalt Varnish (Fed. Spec. TT-V-51)	5.2	0.62
Wood Spar Varnish (Fed. Spec. TT-V-119)	4.1	0.492
Dull Black Finish Coating (DOD-P-15146)	3.7	0.444
Tank Coating (DOD-P-23236)	3.5	0.42
Potable Water Tank Coating (DOD-P-23236)	3.7	0.444
Flight Deck Markings (DOD-C-24667)	4.2	0.504
Vinyl Acrylic Top Coat	5.4	0.648
Antifoulant Applied to Aluminum Hulls	4.5	0.55
Affected Facility	Daily Weighted Average VOC Emission Limitation	
	Kgs. VOC/Kgs. Solids (Lbs. VOC/Lbs. Solids)	Kgs. VOC/Kgs. Coating (Lbs. VOC/Lbs. Coating)
15. Surface Coating of Paper, Film, Foil, Pressure-Sensitive Tape, and Labels		
Paper, Film, and Foil	0.40	0.08
Pressure-Sensitive Tape and Labels	0.20	0.067

Affected Facility	Daily Weighted Average VOC Emission Limitation		
	Lbs. per Gal. of Deposited Solids (minus water and exempt solvent)	Kgs. per Liter of Deposited Solids (minus water and exempt solvent)	
16. Surface Coating of Assembly Line Automobiles and Light Duty Trucks			
Primer-Surfacer Operations (Including Application Area, Flashoff Area, and Oven)	12	1.44	
Topcoat Operations (Including Application Area, Flashoff Area and Oven)	12	1.44	
Final Repair Operations (Including Flashoff Area and Oven)	4.8	0.58	
Combined Primer-Surfacer and Topcoat Operations	12	1.44	
Electrodeposition Primer Operations (Including Application Area, Spray/Rinse Stations, and Curing Oven)	When Solids Turnover Ratio is $R_T \geq 0.16$	When $0.040 \leq R_T < 0.160$	When $R_T < 0.040$
	0.084 kgs./liter (0.7 lbs./gal.) coating solids applied	$0.084 \times 350^{0.160-R_T}$ kgs./liter ($0.084 \times 350^{0.160-R_T} \times 8.34$ lbs./gal.) coating solids applied	No VOC emission limit
Affected Facility	Daily Weighted Average VOC Emission Limitation		
	Lbs. VOC per Gal. of Adhesive or Adhesive Primer (minus water and exempt compounds)	Grams VOC per Liter of Adhesive or Adhesive Primer (minus water and exempt compounds)	
17. General and Specialty Adhesive Application Processes			
a. General Adhesive Application Process			
Reinforced Plastic Composite	1.7	200	
Flexible Vinyl	2.1	250	
Metal	0.3	30	
Porous Material (Except Wood)	1.0	120	
Rubber	2.1	250	
Wood	0.3	30	
Other Substrates	2.1	250	
b. Specialty Adhesive Application Processes			
Ceramic Tile Installation	1.1	130	
Contact Adhesive	2.1	250	
Cove Base Installation	1.3	150	
Floor Covering Installation (Indoor)	1.3	150	
Floor Covering Installation (Outdoor)	2.1	250	
Floor Covering Installation (Perimeter Bonded Sheet Vinyl)	5.5	660	
Metal to Urethane/Rubber Molding or Casting	7.1	850	

Motor Vehicle Adhesive	2.1	250
Motor Vehicle Weather Strip Adhesive	6.3	750
Multipurpose Construction	1.7	200
Plastic Solvent Welding (ABS)	3.3	400
Plastic Solvent Welding (Except ABS)	4.2	500
Sheet Rubber Lining Installation	7.1	850
Single-Ply-Roof Membrane Installation/Repair (Except EPDM)	2.1	250
Structural Glazing	0.8	100
Thin Metal Laminating	6.5	780
Tire Repair	0.8	100
Waterproof Resorcinol Glue Application	1.4	170
c. Adhesive Primer Application Processes		
Motor Vehicle Glass Bonding Primer	7.5	900
Plastic Solvent Welding Adhesive Primer	5.4	650
Single-Ply Roof Membrane Adhesive Primer	2.1	250
Other Adhesive Primer	2.1	250
18. Fiberglass Boat Manufacturing Materials		
All fiberglass boat manufacturing operations shall comply with all requirements of 40 CFR Part 63, Subpart VVVV, as incorporated by reference in LAC 33:III.5122, if total VOC emissions from all fiberglass boat manufacturing operations are more than 15 pounds (6.8 kilograms) per day.		

D. Control Techniques

1. If add-on controls such as incinerators or vapor recovery systems are used to comply with the emission limitation requirements, in terms of pounds per gallon of solids as applied (determined in accordance with Paragraph D.8 of this Section), the volatile organic compound capture and abatement system shall be at least 80 percent efficient overall (85 percent for industrial cleaning solvents, and miscellaneous industrial adhesive operations; and 90 percent for factory surface coating of flat wood paneling, surface coating of metal furniture, large appliance coating, surface coating of miscellaneous metal parts and products, surface coating of miscellaneous plastic parts and products, surface coating of automotive/transportation plastic parts, surface coating of business machine plastic parts, surface coating of pleasure craft, surface coating of paper, film, foil, pressure-sensitive tape, and labels, and surface coating of motor vehicle materials). All surface coating facilities shall submit to the Office of Environmental Services, for approval, design data for each capture system and emission control device that is proposed for use. The effectiveness of the capture system (i.e., capture efficiency) shall be determined using the procedure specified in Paragraph E.6 of this Section.

2. - 3. ...

4. Compliance with the emission limits established in Table 1.d, Item 16 of Subsection C of this Section shall be determined in accordance with EPA's "Protocol for Determining the Daily Volatile Organic Compound Emission Rate of Automobile and Light Duty Truck Topcoat Operations", EPA 453/R-08-002, September, 2008.

5. ...

6. Surface coating facilities on any property in Ascension, Calcasieu, East Baton Rouge, Iberville, Livingston, Pointe Coupee, and West Baton Rouge parishes that when controlled have a potential to emit, at maximum production, a combined weight (total from the property) of VOCs less than 10 tons in any consecutive 12 calendar months are exempt from the provisions of Subsection C of this Section. Surface coating facilities on any property in parishes other than Ascension, Calcasieu, East Baton Rouge, Iberville, Livingston, Pointe Coupee, and West Baton Rouge that when uncontrolled have a potential to emit a combined weight of VOCs less than 100 pounds (45 kilograms) in any consecutive 24-hour period or 10 tons in any consecutive 12 calendar months are exempt from the provisions of Subsection C of this Section. Any surface coating facility with VOC emissions of less than or equal to 15 pounds (6.8 kilograms) per day is exempt from the provisions of Table 1, Items 1, 7, and 15 of Subsection C of this Section.

7. - 9. ...

10. Control techniques for use of industrial cleaning solvents include:

- a. covering open containers and used applicators;
- b. minimizing air circulation around cleaning operations;
- c. properly disposing of used solvent and shop towels;
- d. implementing equipment practices that minimize emissions (e.g., keeping arts cleaners covered, maintaining cleaning equipment to repair solvent leaks, etc.); and
- e. employing cleaning material with a VOC content limit of 50 grams VOC per liter (0.42 lb./gal.), or a composite vapor pressure of 8 millimeters of mercury at 20 degrees Celsius.

11. Cleaning operations in the course of the following categories are excluded from the requirements of Paragraph D.10 of this Section:

- a. aerospace coating;
- b. wood furniture coating;
- c. application of coatings in shipbuilding and ship repair;
- d. flexible packaging printing;
- e. lithographic printing;
- f. letterpress printing;
- g. flat wood paneling coating;
- h. large appliance coating;
- i. metal furniture coating;
- j. paper, film and foil coating;
- k. plastic parts coating;
- l. miscellaneous metals parts coating;
- m. fiberglass boat manufacturing;

n. application of miscellaneous industrial adhesives; and

o. auto and light-duty truck assembly coating.

12. VOC content and vapor pressure limits applicable in cleaning activities in fiberglass boat manufacturing are as follows:

a. VOC cleaning solvents for routine application equipment cleaning shall contain no more than 5 percent VOC by weight, or have a composite vapor pressure of no more than 0.50 millimeters of mercury at 20 degrees Celsius.

b. Non-VOC solvents shall be used to remove cured resin and gel coat from application equipment.

13. The following are the only allowable adhesive application methods:

a. electrostatic spray;

b. HVLP spray;

c. flow coat;

d. roll coat or hand application, including non-spray application methods similar to hand application or mechanically powered caulking gun, brush, or direct hand application;

e. dip coat (including electrodeposition);

f. airless spray;

g. air-assisted airless spray; and

h. other adhesive application methods capable of achieving a transfer efficiency equivalent to or better than that achieved by HVLP spraying.

E. - F.4. ...

G. Mandatory Work Practices for Surface Coating. The owner/operator of any facility performing factory surface coating shall comply with the following mandatory work practices:

G.1. - I. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 16:119 (February 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:654 (July 1991), LR 18:1122 (October 1992), LR 22:340 (May 1996), LR 22:1212 (December 1996), LR 23:1678 (December 1997), LR 24:23 (January 1998), LR 24:1285 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1240 (July 1999), LR 26:2453 (November 2000), LR 28:1765 (August 2002), LR 30:746 (April 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2440 (October 2005), LR 33:2086 (October 2007), LR 35:1102 (June 2009), LR 36:

Family Impact Statement

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference these proposed regulations by AQ307. Such comments must be received no later than May 5, 2010, at 4:30 p.m., and should be sent to Donald Trahan, Attorney Supervisor, Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225)

219-3398 or by e-mail to donald.trahan@la.gov. Copies of these proposed regulations can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ307. These regulations are available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

Public Comments

A public hearing will be held on April 28, 2010, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Donald Trahan at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

This proposed regulations are available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Herman Robinson, CPM
Executive Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Organic Solvents and Solvent Degreasers

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

No implementation costs or savings to state or local governmental units are anticipated as a result of the proposed rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No increase or decrease in revenues is anticipated from the proposed action.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

No persons or non-governmental groups will incur significant costs or realize economic benefits from the proposed action. The solvents needed to achieve these emission limits are available at competitive costs.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no impact on competition or employment in the public or private sector as a result of the proposed action.

Herman Robinson, CPM
Executive Counsel
1003#053

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

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

Reportable Quantity for Brine from Solution Mining
(LAC 33:I.3905 and 3931)(OS085)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Office of the Secretary regulations, LAC33:I.3905 & 3931.B (Log #OS085).

This Rule will provide a new definition for brine from solution mining of salt from underground deposits, which was previously a subset of the definition of produced water. New standards will then be able to be set for reporting spillage of such brine. The environmental hazards associated with brine from solution mining are much lower than those associated with produced water from oilfield operations or underground storage of hydrocarbons. The reportable quantity for brine from solution mining will be 5000 pounds for unauthorized discharges to make the reportable quantity consistent with EPA guidance and the reportable quantities for other similar substances. The basis and rationale for this rule is the proportionate regulation of the affected industries while maintaining the appropriate protection to human health and the environment. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33

ENVIRONMENTAL QUALITY

Part I. Office of the Secretary

Subpart 2. Notification

**Chapter 39. Notification Regulations and Procedures for
Unauthorized Discharges**

Subchapter A. General

§3905. Definitions

A. The following terms as used in these regulations, unless the context otherwise requires or unless redefined by a particular part hereof, shall have the following meanings.

Brine from Solution Mining—liquids and suspended particulate matter that are obtained by processing fluids brought to the surface in conjunction with the solution mining of brine.

Produced Water—includes liquids and suspended particulate matter that are obtained by processing fluids brought to the surface in conjunction with the recovery of oil and gas from underground geologic formations or with underground storage of hydrocarbons.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025(J), 30:2060(H), 30:2076(D), 30:2183(I), 30:2204(A) and 30:2373(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), amended LR 19:1022 (August 1993), LR 20:182 (February

1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2442 (November 2000), amended by the Office of Secretary, Legal Affairs Division, LR 33:2080 (October 2007), LR 33:2627 (December 2007), LR 36:

**Subchapter E. Reportable Quantities for Notification of
Unauthorized Discharges**

§3931. Reportable Quantity List for Pollutants

A. - A.2.b. ...

B. Modifications or Additions. The following table contains modifications to the federal reportable quantity lists incorporated by reference in Subsection A of this Section, as well as reportable quantities for additional pollutants. If a pollutant is listed with more than one reportable quantity, the lower value reportable quantity shall be used.

Pollutant	Synonym	CAS No. ¹	RCRA ² Waste Number	Pounds
[See Prior Text in Acetaldehyde through Barium compounds]				
Brine from Solution Mining				5000
[See Prior Text in n-Butyl alcohol through Methyl ethyl ketone]				

[See Prior Text in Footnotes *No reporting of releases through #RQ for the state]

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025(J), 2060(H), 2076(D), 2183(I), 2194(C), 2204(A), and 2373(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), amended LR 19:1022 (August 1993), LR 20:183 (February 1994), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:944 (September 1995), LR 22:341 (May 1996), amended by the Office of the Secretary, LR 24:1288 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 29:698 (May 2003), LR 30:751 (April 2004), LR 30:1669 (August 2004), amended by the Office of Environmental Assessment, LR 31:919 (April 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:603 (April 2006), LR 32:2248 (December 2006), LR 33:640 (April 2007), LR 33:2628 (December 2007), LR 34:69 (January 2008), LR 34:866 (May 2008), repromulgated LR 34:981 (June 2008), amended LR 35:1106 (June 2009), LR 36:

Family Impact Statement

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Public Comments

All interested persons are invited to submit written comments on the proposed regulations. Persons commenting should reference these proposed regulations by OS085. Such comments must be received no later than May 5, 2010, at 4:30 p.m., and should be sent to Donald Trahan, Attorney Supervisor, Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3398 or by e-mail to donald.trahan@la.gov. Copies of these proposed regulations can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of OS085. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

Public Hearing

A public hearing will be held on April 28, 2010, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Donald Trahan at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Herman Robinson, CPM
Executive Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Reportable Quantity for Brine from Solution Mining

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed revision should require no implementation costs, as notifications systems are already in place to address facility self-reporting in the event of an unauthorized discharge.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed revision will have no effect on state or local revenue collections. Self-reporting of unauthorized releases is not fee-related.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Affected organizations include primarily industrial facilities that use high chloride-content waters, drawn from natural underground salt deposits, in the production of chlorine. No significant effect is anticipated, as these organizations already have procedures in place to address existing notification requirements related to the unauthorized release of other pollutants.

The proposed rule would change the reportable quantity of brine dischargers from solution mining to 5000 pounds instead of 1 barrel as under the produced water requirements.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition or employment are anticipated, as this proposal is merely a clarification of existing regulations.

Herman Robinson, CPM
Executive Counsel
1003#050

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Division of Administration Office of Financial Institutions

Non-Depository Records Retention (LAC 10:XVII.901)

Under the authority of the Administrative Procedure Act, R.S. 49:950 et seq., and in accordance with R.S. 6:121, 6:414, 6:1014, 6:1085, 9:3554, 9:3556.1, 9:3572.7, 9:3574.10, 9:3578.8, and 37:1807, the Commissioner of the Office of Financial Institutions gives notice of intent to amend LAC10:XI.901, regarding records retention schedules, providing for a record retention schedule for all non-depository persons subject to the supervision of the commissioner. This proposed Rule significantly streamlines the existing record retention rule by deleting references therein to certain persons that are no longer under the commissioner's jurisdiction and clarifying coverage by the said schedule for persons regulated by him pursuant to the Louisiana S.A.F.E. Residential Mortgage Lending Act, R.S. 6:1081 et seq. The proposed amendment and Rule will have no known effect on family formation, stability, and autonomy as set forth in R.S. 49:972.

Title 10

FINANCIAL INSTITUTIONS, CONSUMER CREDIT, INVESTMENT SECURITIES AND UCC

Part XVII. Miscellaneous Provisions

Chapter 9. Records Retention

§901. Non-Depository Records Retention

A. ...

B. For purposes of this rule, non-depository persons refers to any individual, corporation, limited liability company, partnership or other entity, other than those considered by the commissioner to be depository institutions, such as banks, savings associations, credit unions and savings banks, or those persons under his jurisdiction pursuant to the Louisiana Securities Law. Non-depository includes, but is not limited to, residential mortgage lenders, brokers, and originators, bond for deed escrow agents, check cashers, licensed lenders, loan brokers, and pawnbrokers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121, 6:414, 6:1014, 6:1085, 9:3554, 9:3556.1, 9:3572.7, 9:3574.10, 9:3578.8, and 37:1807.

HISTORICAL NOTE: Promulgated by the Office of Financial Institutions, LR 27:1512 (September 2001), repromulgated LR 27:1690 (October 2001), amended LR 36:

Family Impact Statement

The proposed amendments should not have any known or foreseeable impact on any family as defined by R.S. 49:972 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 children;

6. 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 comments until 4:30 p.m., April 20, 2010, to Susan Rouprich, General Counsel, P.O. Box 94095, Baton Rouge, LA 70804-9095 or by hand delivery to 8660 United Plaza Blvd, 2nd Floor, Baton Rouge, La. 70809.

John Ducrest
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **Non-Depository Records Retention**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no implementation costs or savings to state or local governmental units associated with this proposal. The proposed rule amends the existing Records Retention Rule by identifying entities covered by the rule and deleting references to certain entities that are no longer under the Commissioner's jurisdiction.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This proposed rule will have no impact on the revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no fiscal impact on any persons or groups covered by the proposed rule

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule will have no impact on competition or employment

John Ducrest
Commissioner
1003#028

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor Used Motor Vehicle Commission

Used Motor Vehicles (LAC 46:V.Chapters 27, 29, and 35)

Notice is hereby given in accordance with the provision of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 32:783(E), that the Louisiana Used Motor Vehicle Commission proposes to amend LAC 46:V.Chapters 27, 29 and 35 in order to implement recent amendments made in the 2007 and 2009 Legislative Sessions.

Specifically, the proposed changes will eliminate the buyer's identification card requirements as repealed and amended by Act 257 of the 2007 Legislative Session, and the changes will implement the transfer of the licensing and regulation of the recreational products to the Louisiana Motor Vehicle Commission. This Rule will provide for the new name of the commission in which it will be changed

from the Recreational and Used Motor Vehicle Commission to the Used Motor Vehicle Commission.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part V. Automotive Industry

Subpart 2. Used Motor Vehicles

Chapter 27. The Used Motor Vehicle Commission

§2701. Meetings of the Commission

A. The Commission shall meet at its office in Baton Rouge, Louisiana on a date and time to be fixed by the Commission.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:783(E)(1) and R.S. 42:5.D.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 15:258 (April 1989), LR 15:1058 (December 1989) LR 18:1116 (October 1992), LR 24:1682 (September 1998), LR 25:1792 (October 1999), amended by the Office of the Governor, Used Motor Vehicle and Parts Commission, LR 28:2351 (November 2002), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:1633 (August 2007), amended by the Office of the Governor, Used Motor Vehicle Commission, LR 36:

§2703. Quorum of the Commission

A. The quorum of the Commission shall be established in accordance with those set for public bodies, R.S. 42:4.2(A)(3), as a majority of total membership.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:783(A).

HISTORICAL NOTE: Promulgated by Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 15:258 (April 1989), LR 24:1682 (September 1998), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:1633 (August 2007), amended by the Office of the Governor, Used Motor Vehicle Commission, LR 36:

§2705. Executive Director

A. The Executive Director of the Louisiana Used Motor Vehicle Commission shall be in charge of the commission's office and shall conduct and direct the activities thereof in the manner as directed by the commission. The employees of the commission shall report to the executive director.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:783(D).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:1633 (August 2007), amended by the Office of the Governor, Used Motor Vehicle Commission, LR 36:

§2707. Correspondence with the Commission

A. ...

B. Louisiana Used Motor Vehicle Commission forms, applications and dealer aids are recognized as the commission official forms for licensing and communication.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:783(E).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985), amended by the Office of the Governor,

Recreational and Used Motor Vehicle Commission, LR 33:1633 (August 2007), amended by the Office of the Governor, Used Motor Vehicle Commission, LR 36:

§2709. Official Seal

A. The official seal of the Louisiana Used Motor Vehicle Commission shall be as follows. The outline of the state of Louisiana with a small star denoting the approximate location of Baton Rouge, which name appears to the left of the star. It shall be bordered by the inscription, Louisiana Used Motor Vehicle Commission.

B. The executive director shall be the custodian of the official seal and shall affix the imprint or the facsimile thereof to all license certificates issued by the Louisiana Used Motor Vehicle Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:783(D)(4).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:1633 (August 2007), amended by the Office of the Governor, Used Motor Vehicle Commission, LR 36:

Chapter 29. Licenses to be Issued by the Louisiana Used Motor Vehicle Commission

§2901. Dealers to be Licensed

A. - C. ...

D. Repealed.

E. Brokers of used motor vehicles, used parts, are considered to be dealers and must comply with licensing regulations contained therein.

F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:784.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985), amended by Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 24:1682 (September 1998), amended by the Office of the Governor, Used Motor Vehicle and Parts Commission LR 30:436 (March 2004), repromulgated LR 30:792 (April 2004), LR 30:1477 (July 2004), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:1633 (August 2007), amended by the Office of the Governor, Used Motor Vehicle Commission, LR 36:

§2903. Dealer Licenses

A. - F. ...

G. - G.6. Repealed.

H. - K. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:784.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 15:258 (April 1989), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:1634 (August 2007), amended by the Office of the Governor, Used Motor Vehicle Commission, LR 36:

Chapter 31. License for Salesman

§3101. Qualifications and Eligibility for Licensure

A. - B. ...

C. Upon termination of employment, the salesman license will be returned by the dealer to the office of the Used Motor Vehicle Commission within 10 days.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:781(33).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1063 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 15:258 (April 1989), LR 25:245 (February 1999), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 30:2481 (November 2004), LR 33:1635 (August 2007), amended by the Office of the Governor, Used Motor Vehicle Commission, LR 36:

Chapter 35. Buyer Identification Card

§3501. Buyer Identification Card Required

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:762.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1064 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 15:259 (April 1989), LR 15:1058 (December 1989), repealed by the Office of the Governor, Used Motor Vehicle Commission, LR 36:

§3503. Qualifications and Eligibility for Buyer Identification Card

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:808.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1064 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 15:259 (April 1989), LR 15:1058 (December 1989), amended by the Office of the Governor, Used Motor Vehicle and Parts Commission, LR 28:1588 (July 2002), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 30:2481 (November 2004), LR 33:1635 (August 2007), repealed by the Office of the Governor, Used Motor Vehicle Commission, LR 36:

Chapter 44. Educational Seminar

§4401. Required Attendance

A. On or after January 1, 2005, every applicant for a license issued by the Used Motor Vehicle Commission except those excluded by statute must attend a four-hour educational seminar approved and conducted by the Used Motor Vehicle Commission.

1. The seminar will be conducted by employees of the Louisiana Used Motor Vehicle Commission and will be held at such place to be determined by the commission upon reasonable notice.

2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:791(B) (3), 802 (D), 811 (B).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Used Motor Vehicle and Parts Commission, LR 28:2351 (November 2002), amended LR 30:436 (March 2004), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:1637 (August 2007), amended by the Office of the Governor, Used Motor Vehicle Commission, LR 36:

§4405. Educational Program

A. The educational seminar will consist of information pertaining to the Used Motor Vehicle Commission, Department of Revenue, Office of Motor Vehicles, Wildlife

and Fisheries, Motor Vehicle Commission and Attorney General's Office. The items to be reviewed are as follows:

1. LUMVC—background of the agency, laws, rules and regulations, license requirements, area of responsibility, complaint procedures, and non-delivery of titles;

2. - 6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:791(B)(3), 802(D), 811(B).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Used Motor Vehicle and Parts Commission, LR 28:2352 (November 2002), repromulgated LR 28:2511 (December 2002), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:1637 (August 2007), amended by the Office of the Governor, Used Motor Vehicle Commission, LR 36:

Family Impact Statement

This proposed Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49.972.

Public Comments

Interested persons may submit comments until 4:30 p.m., April 10, 2010, to Kimberly Baron, 3132 Valley Creek Drive, Baton Rouge, LA 70808.

Derek Parnell
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Used Motor Vehicles

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated costs or savings to state or local governmental units. The proposed rule changes are necessary due to Act 403 of the 2009 Legislative Session which transferred authority for recreational products from the Louisiana Recreational and Used Motor Vehicle Commission to the Louisiana Motor Vehicle Commission, and changed the name of the Louisiana Recreational and Used Motor Vehicle Commission to the Louisiana Used Motor Vehicle Commission.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes will have no effect on revenue collections of any 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 cost and/or economic benefit to any person or non-governmental group.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes will have no effect on competition and employment.

Derek Parnell
Executive Director
1003#029

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Board of Examiners of Psychologists

Supervision of Assistants Psychologists
(LAC 46:LXIII.1101)

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 LAC 46:LXIII.1101.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXIII. Psychologists

Chapter 11. Supervision of Assistants to Psychologists

§1101. Conditions for Utilization of Assistants

A. An assistant providing psychological services must be under the general and continuing professional supervision of a licensed psychologist. General supervision means the procedure is furnished under the psychologist's overall direction and control, but the psychologist's presence is not required during the performance of the procedure. Under general supervision, the training of the nonpsychologist personnel who actually performs the diagnostic procedure and the maintenance of the necessary equipment and supplies are the continuing responsibility of the psychologist.

B. In order to maintain ultimate legal and professional responsibility for the welfare of every client, a licensed psychologist must be vested with functional authority over the psychological services provided by assistants.

C. - E. ...

F. Public announcement of fees and services and contact with lay or professional public shall not be offered in the name of the assistant.

G. Billing for psychological services shall not be in the name of an assistant.

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 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 Rule related to the utilization of assistants by 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 Dr., Bldg. 8-B, Baton Rouge, LA 70810. All comments must be submitted by 12 noon, April 10, 2010.

Jaime T. Monic
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Supervision of Assistants Psychologists

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The estimated implementation cost for this rule totals \$252 in FY09-10 and only applies to the Board of Examiners of Psychologists. Those costs are related to publishing the proposed and final rule in the Louisiana Register.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No impact on state or local governmental revenue collections is anticipated.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

No impact on costs or economic benefits to affected persons or non-governmental groups is anticipated. This amendment is in the interest of public protection, where it provides a clear definition of the requirement for supervision as mandated under R.S. 37:2365.C. There are approximately 650 licensed psychologists regulated by this Board, the majority of which utilize assistants in their practice. No added requirements are being imposed on the licensee by this proposed amendment.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition and employment is anticipated.

Jamie T. Monic
Executive Director
1003#009

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Board of Medical Examiners

Licensure and Certification; Practice; Administrative Provisions (LAC 46:XLV.402, 449, 6504, 8301-8311)

In accordance with the provisions of the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., and the Louisiana Medical Practice Act, R.S. 37:1261-1292, notice is hereby given that the Louisiana State Board of Medical Examiners (board) intends to amend §§402 and 449 of its rules governing Licensure and Certification of Physicians, adopt §6504 governing Physician Practice, and repeal Chapter 83, relative to Administrative Provisions. The proposed amendments would facilitate issuance of licensure pending completion of criminal history record information; provide for on-line satisfaction of the board's Physician Orientation Program in certain instances; exclude the need for dispensing registration for physicians conducting certain clinical research, and repeal no longer applicable

administrative provisions relating to Investigation of Information and Records Relating to Physician Impairment.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLV. Medical Professions

Subpart 2. License and Certification

Chapter 3. Physicians

Subchapter H. Restricted Licensure, Permits

§402. Provisional Temporary Permit Pending Results of Criminal History Record Information

A. - B.2 ...

C. The board may, in its discretion:

1. extend or renew for one or more additional 90-day periods, a provisional temporary permit issued hereunder which has expired pursuant to §402.B.1, in favor of an applicant who holds a provisional temporary permit issued under this Section who has submitted or attempted to submit fingerprints and all other required information and paid all applicable fees and costs attendant thereto but whose criminal history record information has not been received from the bureau or the FBI within 90 days from issuance of such provisional temporary permit; or

2. issue the license or permit applied for to an individual holding a temporary permit under this Section whose fingerprints are rejected by the bureau or the FBI provided, however, that such individual shall submit such additional sets of fingerprints as may be required for the board to receive criminal history record information or as otherwise deemed appropriate by the board.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1275 and R.S. 37:1277, R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 27:843 (June 2001), amended LR 33:1344 (July 2007), amended LR 36:

Subchapter K. Continuing Medical Education

§449. CME Requirement for Initial Renewal of License

A. - D. ...

E. A physician who at the time of the initial renewal of medical licensure resides and practices medicine exclusively outside of Louisiana or who has held an unrestricted license to practice medicine in any state for at least 10 years may, in lieu of personal attendance, satisfy the mandatory requirements of Subsection A. of this Section by successfully completing the board's orientation program on-line in a manner specified by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1270(A)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 26:697 (April 2000), amended LR 27:850 (June 2001), amended LR 36:

Subpart 3. Practice

Chapter 65. Dispensation of Medications

Subchapter A. General Provisions

§6504. Clinical Trials

A. *Clinical Trial Research*—for purposes of this Chapter, means a clinical study conducted by a physician in accordance with United States Food and Drug Administration protocols involving an investigational drug, which is not a controlled substance, and is supplied to participants at no cost.

B. A dispensing registration shall not be required for a physician engaged in clinical trial research.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, 37:1201.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 36:

Subpart 4. Administrative Provisions

Chapter 83. Investigation of Information and Records Relating to Physician Impairment

§8301. Scope of Chapter

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(1), (6) and 37:1278(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 15:269 (April 1989), repealed LR 36:

§8303. Definitions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(1), (6) and 37:1278(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 15:269 (April 1989), repealed LR 36:

§8305. Statement of Policy and Intent

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(1), (6) and 37:1278(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 15:269 (April 1989), repealed LR 36:

§8307. Basis for Obtaining Medical Information and Records

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(1), (6) and 37:1278(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 15:269 (April 1989), repealed LR 36:

§8309. Procedure for Obtaining Medical Information and Records

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(1), (6) and 37:1278(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 15:269 (April 1989), repealed LR 36:

§8311. Confidentiality of Medical Information and Records

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(1), (6) and 37:1278(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 15:270 (April 1989), repealed LR 36:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of the proposed amendments on the family has been considered. It is not anticipated that the proposed amendments will have any impact on family, formation, stability or autonomy, as described in R.S. 49:972.

Public Comments

Interested persons may submit written data, views, arguments, information or comments on the proposed rule

amendment to Rita Arceneaux, Confidential Executive Assistant, Louisiana State Board of Medical Examiners, at Post Office Box 30250, New Orleans, Louisiana, 70190-0250, (504) 568-6820, Ex. 242. She is responsible for responding to inquiries. Written comments will be accepted until 4:00 p.m., on April 20, 2010.

Robert L. Marier, M.D.
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Licensure and Certification; Practice; Administrative Provisions

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Other than notice/rule publication costs estimated at a combined total of \$410 which will be absorbed within the board's budget during FY 2010, it is not anticipated that the proposed rule amendments will result in any additional costs or savings to the board or any other state or local governmental unit.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is not anticipated that the proposed rule amendments will have any material effect on the board's revenue collections or those of any other state or governmental unit.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed amendment to §402 would facilitate issuance of licensure pending completion of criminal history record information; the adoption of §6504 would clarify the board's view that a physician conducting certain clinical trial research need not register with the board as a dispensing physician, and Chapter 83, which has long been made inapplicable by federal and state law and regulations relating to medical records and patient confidentiality, is being repealed. It is not anticipated that these proposed rule amendments will have any material effect on costs, paperwork or workload of applicants, licensees or governmental groups. The board believes that a small number of physicians would be impacted by the proposed amendment of §449. In particular, as a prerequisite to the renewal of a physician's medical license for the first time, each physician is required to attend an orientation program, which is presented by the board at no charge, to familiarize and educate new licensees with the Board's function and with laws and rules that govern their practice. Currently, physicians practicing out-of-state must comply with this requirement only upon returning to this state to reside or practice. The proposed amendment to §449 would require that these physicians (est. @ 15 annually) satisfy the requirement, rather than defer it, by completing the board's on-line orientation program (@ 1 hour), thereby increasing the time physicians who practice out-of-state spend satisfying the continuing medical education requirement in proportion to the time it takes to complete the program. At the same time, physicians who have held a license in another state for at least ten years, who relocate to this state to practice (est. @ 20 annually), would be permitted to complete the orientation program on-line, rather than by personal attendance (@ 4.5 hours) as is currently required, as a prerequisite to first-time licensure renewal. As to these physicians the proposed amendment would reduce the time spent to satisfy the continuing medical education requirement in proportion to the difference in time between completing the program on-line completion rather than by personal attendance. Although the board is not in a position to estimate the costs or savings to

affected physicians who practice out-of-state or who relocate to this state to practice, because the board's on-line program may be taken at any time, it is not anticipated that implementation of the proposed amendment to §449 will have a material impact on revenue, paperwork or workload of affected physicians.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that the proposed rule amendments will have any material impact on competition or employment in either the public or private sector.

Robert L. Marier, M.D.
Executive Director
1003#073

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Bureau of Health Services Financing and

Office for Citizens with Developmental Disabilities

Home and Community-Based Services Waivers New Opportunities Waiver Reimbursement Rate Reduction (LAC 50:XXI.14301)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities propose to amend LAC 50:XXI.14301 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 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 proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:950 et seq.

As a result of a budgetary shortfall 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). The department promulgated an Emergency Rule 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 (*Louisiana Register*, Volume 35, Number 12). This proposed Rule is being promulgated to continue the provisions of the December 20, 2009 Emergency Rule.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXI. Home and Community Based Services

Waivers

Subpart 11. New Opportunities Waiver

Chapter 143. Reimbursement

§14301. Reimbursement Methodology

A. – 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.

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), 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 may have an adverse impact on family functioning, stability and autonomy as described in R.S. 49:972 in the event that provider participation in the Medicaid Program is diminished as a result of reduced reimbursement rates.

Public Comments

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, April 28, 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: Home and Community-Based Services Waivers New Opportunities—Waiver Reimbursement Rate Reduction

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in estimated programmatic savings to the state of \$1,690,643 for FY 09-10, \$3,097,593 for FY 10-11, and \$4,229,620 for FY 11-12. 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. The numbers reflected above are based on the current Federal Medical Assistance Percentage (FMAP) as allowed in the American Recovery and Reinvestment Act of 2009 (81.48%). Additional federal funds are projected to be available in the current year through December 2010. To the extent that DHH utilizes federal match, up to the allowable match for the eligibility period (through December 2010), state general fund match could be reduced. In January of FY 10-11, the FMAP is anticipated to drop to 63.61%. In the event of this decrease, the state general funds will increase to the federally required match.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately \$7,438,796 for FY 09-10, \$8,186,900 for FY 10-11, and \$7,393,408 for FY 11-12. It is anticipated that \$205 will be expended in FY 09-10 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on the current Federal Medical Assistance Percentage (FMAP) as allowed in the American Recovery and Reinvestment Act of 2009 (81.48%). Additional federal funds are projected to be available in the current year through December 2010. To the extent that DHH utilizes federal match, up to the allowable match for the eligibility period (through December 2010), state general fund match could be reduced. In January of FY 10-11, the FMAP is anticipated to drop to 63.61%. In the event of this decrease, the state general funds will increase to the federally required match.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule is being promulgated to continue the provisions of the August 4, 2009 and December 20, 2009 emergency rules which amended the provisions governing the reimbursement methodology for the New Opportunities Waiver (NOW) to further reduce the reimbursement rates (approximately 8,912 recipients). It is anticipated that implementation of this proposed rule will decrease program expenditures in the Medicaid Program by approximately \$9,129,849 for FY 09-10, \$11,284,493 for FY 10-11 and \$11,623,028 for FY 11-12.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition. However, we anticipate that the implementation may have a negative effect on employment as it will reduce the payments made for waiver services. The reduction in payments may adversely impact the financial standing of waiver service providers and could possibly cause a reduction in employment opportunities.

Don Gregory
Medicaid Director
1003#113

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 Reimbursement Reduction (LAC 50:XIII.10301)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend 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 proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:950, et seq.

As a result of a budgetary shortfall 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). The department promulgated an Emergency Rule 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 (*Louisiana Register*, Volume 35, Number 12). This proposed Rule is being promulgated to continue the provisions of the December 20, 2009 Emergency Rule.

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:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule may have an adverse impact on family functioning, stability and autonomy as described in R.S. 49:972 in the event that provider participation in the Medicaid Program is diminished as a result of reduced reimbursement rates.

Public Comments

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box

91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, April 28, 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: Home Health Program—Durable Medical Equipment—Reimbursement Reduction

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in estimated programmatic savings to the state of approximately \$11,648 for FY 09-10, \$22,858 for FY 10-11 and \$31,211 for FY 11-12. 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. The numbers reflected above are based on the current Federal Medical Assistance Percentage (FMAP) as allowed in the American Recovery and Reinvestment Act of 2009 (81.48%). Additional federal funds are projected to be available in the current year through December 2010. To the extent that DHH utilizes federal match, up to the allowable match for the eligibility period (through December 2010), state general fund match could be reduced. In January of FY 10-11, the FMAP is anticipated to drop to 63.61%. In the event of this decrease, the state general funds will increase to the federally required match.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately \$51,945 for FY 09-10, \$60,413 for FY 10-11 and \$54,558 for FY 11-12. It is anticipated that \$205 will be expended in FY 09-10 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on the current Federal Medical Assistance Percentage (FMAP) as allowed in the American Recovery and Reinvestment Act of 2009 (81.48%). Additional federal funds are projected to be available in the current year through December 2010. To the extent that DHH utilizes federal match, up to the allowable match for the eligibility period (through December 2010), state general fund match could be reduced. In January of FY 10-11, the FMAP is anticipated to drop to 63.61%. In the event of this decrease, the state general funds will increase to the federally required match.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule is being promulgated to continue the provisions of the December 20, 2009 emergency rule which

reduced the reimbursement rates paid for medical equipment, supplies and appliances (approximately 11,417 recipients). It is anticipated that implementation of this proposed rule will reduce program expenditures in the Medicaid Program by approximately \$64,003 for FY 09-10, \$83,271 for FY 10-11 and \$85,769 for FY 11-12.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition. However, it is anticipated that implementation of this proposed rule may have a negative effect on employment as it will reduce the reimbursements made for durable medical equipment. The reduction in payments may adversely impact the financial standing of providers and could possibly cause a reduction in employment opportunities.

Don Gregory
Medicaid Director
1003#085

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Bureau of Health Services Financing

Laboratory and Radiology Services
Reimbursement Rate Reduction
(LAC 50:XIX.4329 and 4334-4337)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:XIX.4329 and §§4334-4337 in the Medical Assistance Program as authorized by R.S. 36:254, 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 proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:950 et seq.

As a result of a budgetary shortfall in state fiscal year 2009, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated Emergency Rules which reduced the reimbursement rates paid for laboratory and radiology services (*Louisiana Register*, Volume 35, Number 3) and clarified the reimbursement methodology for radiation therapy centers (*Louisiana Register*, Volume 35, Number 6). These provisions were published as a final Rule on September 20, 2009 (*Louisiana Register*, Volume 35, Number 9).

As a result of a budgetary shortfall in state fiscal year 2010, the department determined that it was necessary to promulgate an Emergency Rule to amend the provisions governing the reimbursement methodology for laboratory and radiology services to further reduce the reimbursement rates (*Louisiana Register*, Volume 35, Number 8). The department promulgated an Emergency Rule to amend the provisions of the August 4, 2009 Emergency Rule to revise the formatting of LAC 50:XIX.4329 and §§4334-4337 as a

result of the promulgation of the September 20, 2009 final Rule (*Louisiana Register*, Volume 35, Number 11). This proposed Rule is being promulgated to continue the provisions of the November 20, 2009 Emergency Rule.

Title 50

PUBLIC HEALTH-MEDICAL ASSISTANCE

Part XIX. Other Services

Subpart 3. Laboratory and Radiology

Chapter 43. Billing and Reimbursement

Subchapter B. Reimbursement

§4329. Laboratory Services (Physicians and Independent Laboratories)

A. - F. ...

G. Effective for dates of service on or after August 4, 2009, the reimbursement rates for laboratory services shall be reduced by 4.7 percent of the fee amounts on file as of August 3, 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 28:1025 (May 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1897 (September 2009), LR 36:

§4334. Radiology Services

A. - E. ...

F. Effective for dates of service on or after August 4, 2009, the reimbursement rates for radiology services shall be reduced by 4.7 percent of the fee amounts on file as of August 3, 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 35:1897 (September 2009), amended LR 36:

§4335. Portable Radiology Services

A. - C. ...

D. Effective for dates of service on or after August 4, 2009, the reimbursement rates for portable radiology services shall be reduced by 4.7 percent of the fee amounts on file as of August 3, 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 30:1026 (May 2004), amended LR 35:1898 (September 2009), LR 36:

§4337. Radiation Therapy Centers

A. - C. ...

D. Effective for dates of service on or after August 4, 2009, the reimbursement rates for radiology services provided by radiation therapy centers shall be reduced by 4.7 percent of the fee amounts on file as of August 3, 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 35:1898 (September 2009), amended 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 may have an adverse impact on family functioning, stability and autonomy as described in R.S.

49:972 in the event that provider participation in the Medicaid Program is diminished as a result of reduced reimbursement rates.

Public Comments

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821—9030. He is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, April 28, 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: Laboratory and Radiology Services Reimbursement Rate Reduction

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in an estimated programmatic savings to the state of \$746,675 for FY 09-10, \$1,382,087 for FY 10-11, and \$1,887,175 for FY 11-12. 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. The numbers reflected above are based on the current Federal Medical Assistance Percentage (FMAP) as allowed in the American Recovery and Reinvestment Act of 2009 (81.48%). Additional federal funds are projected to be available in the current year through December 2010. To the extent that DHH utilizes federal match, up to the allowable match for the eligibility period (through December 2010), state general fund match could be reduced. In January of FY 10-11, the FMAP is anticipated to drop to 63.61%. In the event of this decrease, the state general funds will increase to the federally required match.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will decrease federal revenue collections by approximately \$3,285,743 for FY 09-10, \$3,652,838 for FY 10-11, and \$3,298,797 for FY 11-12. It is anticipated that \$205 will be expended in FY 09-10 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on the current Federal Medical Assistance Percentage (FMAP) as allowed in the American Recovery and Reinvestment Act of 2009 (81.48%). Additional federal funds are projected to be available in the current year through December 2010. To the extent that DHH utilizes federal match, up to the allowable match for the eligibility period (through December 2010), state general fund match could be reduced. In January of FY 10-11, the FMAP is

anticipated to drop to 63.61%. In the event of this decrease, the state general funds will increase to the federally required match.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule proposes to continue the provisions of the November 20, 2009 emergency rule which amended the provisions of the August 4, 2009 emergency rule which reduced the reimbursement rates for laboratory and radiology services (approximately 4,460,000 units of service). It is anticipated that implementation of this proposed rule will decrease expenditures for laboratory and radiology services by approximately \$4,032,828 for FY 09-10, \$5,034,925 for FY 10-11 and \$5,185,972 for FY 11-12.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition. However, we anticipate that the implementation may have a negative effect on employment as it will reduce the payments made to providers of laboratory and radiology services. The reduction in payments may adversely impact the financial standing of providers and could possibly cause a reduction in employment opportunities.

Don Gregory
Medicaid Director
1003#086

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Bureau of Health Services Financing

Medical Transportation Program Emergency Ambulance Services Reimbursement Rate Reduction (LAC 50:XXVII.325)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:XXVII.325 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 proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for 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 proposed Rule is being promulgated to continue the provisions of the September 20, 2009 Emergency Rule.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXVII. Medical Transportation Program

Chapter 3. Emergency Medical Transportation

Subchapter B. Ground Transportation

§325. Reimbursement

A. - 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 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 may have an adverse impact on family functioning, stability and autonomy as described in R.S. 49:972 in the event that provider participation in the Medicaid Program is diminished as a result of reduced reimbursement rates.

Public Comments

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821—9030. He is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, April 28, 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: Medical Transportation Program Emergency Ambulance Services Reimbursement Rate Reduction

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in an estimated savings to the state of \$117,141 for FY 09-10, \$217,147 for FY 10-11, and \$296,505 for FY 11-12. 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. The numbers reflected above are based on the current Federal Medical Assistance Percentage (FMAP) as allowed in the American Recovery and Reinvestment Act of 2009 (81.48%). Additional federal funds are projected to be available in the current year through December 2010. To the extent that DHH utilizes federal match, up to the allowable match for the eligibility period (through December 2010), state general fund match could be reduced. In January of FY 10-11, the FMAP is anticipated to drop to 63.61%. In the event of this decrease, the state general funds will increase to the federally required match.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will decrease federal revenue collections by approximately \$516,069 for FY 09-10, \$573,918 for FY 10-11, and \$518,292 for FY 11-12. It is anticipated that \$205 will be expended in FY 09-10 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on the current Federal Medical Assistance Percentage (FMAP) as allowed in the American Recovery and Reinvestment Act of 2009 (81.48%). Additional federal funds are projected to be available in the current year through December 2010. To the extent that DHH utilizes federal match, up to the allowable match for the eligibility period (through December 2010), state general fund match could be reduced. In January of FY 10-11, the FMAP is anticipated to drop to 63.61%. In the event of this decrease, the state general funds will increase to the federally required match.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule proposes to continue the provisions of the September 20, 2009 emergency rule which amended the provisions of the August 4, 2009 emergency rule which

reduced the reimbursement rates for emergency medical transportation services (Approximately 72,000 units of service). It is anticipated that implementation of this proposed rule will decrease expenditures for emergency medical transportation services by approximately \$633,620 for FY 09-10, \$791,065 for FY 10-11 and \$814,797 for FY 11-12.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition. However, we anticipate that the implementation may have a negative effect on employment as it will reduce the payments made to providers. The reduction in payments may adversely impact the financial standing of providers and could possibly cause a reduction in employment opportunities.

Don Gregory
Medicaid Director
1003#087

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Bureau of Health Services Financing

Mental Health Rehabilitation Program Service Limitations and Reimbursement Rate Reduction (LAC 50:XV.401-405 and 901)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt LAC 50:XV.401-405 and to amend §901 in the Medical Assistance Program as authorized by R.S. 36:254, 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 proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:950 et seq.

As a result of a budgetary shortfall 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 mental health rehabilitation services to reduce the reimbursement rates (*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 bureau determined that it was necessary to further reduce the reimbursement rates paid for mental health rehabilitation services and to establish service limitations (*Louisiana Register*, Volume 35, Number 8). The department promulgated an Emergency Rule to amend the provisions of the August 4, 2009 Emergency Rule to revise the formatting of LAC 50:XV.401-405 and §901 as a result of the promulgation of the September 20, 2009 final Rule governing the reimbursement methodology for mental health rehabilitation services (*Louisiana Register*, Volume 35,

Number 11). The department subsequently promulgated an Emergency Rule to amend the provisions of the November 20, 2009 Emergency Rule to implement an exception to the service limits when supported by medical necessity (*Louisiana Register*, Volume 36, Number 3). This proposed Rule is being promulgated to continue the provisions of the March 20, 2010 Emergency Rule.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 1. Mental Health Rehabilitation

Chapter 3. Covered Services and Staffing Requirements

Subchapter D. Service Limitations

§401. Individual Daily Service Limits

A. Individual daily service limits shall be placed on the following services.

1. Individual, Family or Group Counseling (any modifier). The maximum number of units provided on any given date of service shall not exceed eight units (2 hours).

2. Psychosocial Skills Training. The maximum number of units provided on any given date of service shall not exceed 12 units (3 hours).

3. Community Supports. The maximum number of units provided on any given date of service shall not exceed 12 units (3 hours).

4. Assessment. The maximum number of units provided for an initial assessment shall not exceed six units (1.5 hours).

5. Reassessment. The maximum number of units provided for a reassessment shall not exceed three units (0.75 hours).

B. Medicaid will not reimburse services in excess of these limits.

1. Exceptions may be made on a case-by-case basis for special circumstances or crisis situations with documentation of medical necessity. Requests to exceed the established limits are subject to review and approval by the department.

C. Service limitations shall not apply to Early and Periodic Screening, Diagnostic and Treatment (EPSDT) recipients when supported by medical necessity.

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:

§403. Combined Daily Service Limits

A. Daily service limits shall be placed on the combination of counseling, psychosocial skills training and community support services. The maximum units of service for a combination of these services shall not exceed a total of 16 units (4 hours) on any given date of service.

1. The individual daily service limits in §401 are applicable to the services that are being combined.

B. Medicaid will not reimburse services in excess of these limits.

1. Exceptions may be made on a case-by-case basis for special circumstances or crisis situations with documentation of medical necessity. Requests to exceed the established limits are subject to review and approval by the department.

C. Service limitations shall not apply to EPSDT recipients when supported by medical necessity.

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: §405. **Combined Weekly Service Limits**

A. Weekly service limits shall be placed on the combination of counseling, psychosocial skills training and community support services. The maximum units of service for a combination of these services shall not exceed a total of 80 units (20 hours) in any given calendar week (Sunday through Saturday).

1. The individual and combined daily service limits in §401 and §403 are applicable to these services.

B. Medicaid will not reimburse services in excess of these limits.

1. Exceptions may be made on a case-by-case basis for special circumstances or crisis situations with documentation of medical necessity. Requests to exceed the established limits are subject to review and approval by the department.

C. Service limitations shall not apply to EPSDT recipients when supported by medical necessity.

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:

Chapter 9. Reimbursement

§901. Reimbursement Methodology

A. - C. ...

D. Effective for dates of service on or after August 4, 2009, the reimbursement rates for the following MHR services shall be reduced by 1.23 percent of the fee amounts on file as of August 3, 2009:

1. counseling;
2. oral medication administration;
3. psychosocial skills training;
4. community supports; and
5. injections.

E. Effective for dates of service on or after August 4, 2009, the reimbursement rates for parent/family intervention (intensive) services shall be reduced by 17.6 percent of the fee amounts on file as of August 3, 2009.

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

HISTORICAL NOTE: Promulgate by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1091 (May 2005), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1899 (September 2009), amended LR 36:

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

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule may have an adverse impact on family functioning, stability and autonomy as described in R.S. 49:972 in the event that provider participation in the

Medicaid Program is diminished as a result of reduced reimbursement rates.

Public Comments

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, April 28, 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: Mental Health Rehabilitation Program Service Limitations and Reimbursement Rate Reduction

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in estimated programmatic savings to the state of approximately \$194,468 for FY 09-10, \$346,394 for FY 10-11 and \$472,986 for FY 11-12. It is anticipated that \$574 (\$287 SGF and \$287 FED) will be expended in FY 09-10 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on the current Federal Medical Assistance Percentage (FMAP) as allowed in the American Recovery and Reinvestment Act of 2009 (81.48%). Additional federal funds are projected to be available in the current year through December 2010. To the extent that DHH utilizes federal match, up to the allowable match for the eligibility period (through December 2010), state general fund match could be reduced. In January of FY 10-11, the FMAP is anticipated to drop to 63.61%. In the event of this decrease, the state general funds will increase to the federally required match.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately \$856,550 for FY 09-10, \$915,516 for FY 10-11 and \$826,782 for FY 11-12. It is anticipated that \$287 will be expended in FY 09-10 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on the current Federal Medical Assistance Percentage (FMAP) as allowed in the American Recovery and Reinvestment Act of 2009 (81.48%). Additional federal funds are projected to be available in the current year through December 2010. To the extent that DHH utilizes federal match, up to the allowable match for the eligibility period (through December 2010), state general fund match could be reduced. In January of FY 10-11, the FMAP is anticipated to drop to 63.61%. In the event of this decrease, the state general funds will increase to the federally required match.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule is being promulgated to continue the provisions of the November 20, 2009 emergency rule which amended the August 4, 2009 emergency rule which reduced the reimbursement rates paid for mental health rehabilitation (MHR) services (approximately 1,266 recipients per year) and established service limitations. It is anticipated that implementation of this proposed rule will reduce program expenditures in the Mental Health Rehabilitation Program by approximately \$1,051,592 for FY 09-10, \$1,261,910 for FY 10-11 and \$1,299,768 for FY 11-12.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition. However, we anticipate that the implementation may have a negative effect on employment as it will reduce the payments made for mental health rehabilitation services. The reduction in payments may adversely impact the financial standing of MHR providers and could possibly cause a reduction in employment opportunities.

Don Gregory
Medicaid Director
1003#088

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

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

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:XV.25701 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 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 proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:950, et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing adopted provisions governing the coverage and reimbursement of multi-systemic therapy (MST) for youth with serious emotional/behavioral disturbances who are at risk of out-of-home placement or returning home from out-of-home placement as a result of the emotional/behavioral disturbance (*Louisiana Register*, Volume 35, Number 2). As a result of a budgetary shortfall,

the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for multi-systemic therapy to reduce the reimbursement rates (*Louisiana Register*, Volume 35, Number 8). This proposed Rule is being promulgated to continue the provisions of the August 4, 2009 Emergency Rule.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 17. Multi-Systemic Therapy

Chapter 257. Reimbursement

§25701. Reimbursement Methodology

A. - A.2. ...

B. Effective for dates of service on or after August 4, 2009, the reimbursement rates for multi-systemic therapy services will be reduced by 5.17 percent of the rates on file as of August 3, 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 35:245 (February 2009), amended 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 may have an adverse impact on family functioning, stability and autonomy as described in R.S. 49:972 in the event that provider participation in the Medicaid Program is diminished as a result of reduced reimbursement rates.

Public Comments

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, April 28, 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: Multi-Systemic Therapy Reimbursement
Rate Reduction**

**NOTICE OF INTENT
Department of Health and Hospitals
Bureau of Health Services Financing**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will result in estimated programmatic savings to the state of approximately \$90,594 for FY 09-10, \$151,082 for FY 10-11 and \$206,296 for FY 11-12. 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. The numbers reflected above are based on the current Federal Medical Assistance Percentage (FMAP) as allowed in the American Recovery and Reinvestment Act of 2009 (81.48%). Additional federal funds are projected to be available in the current year through December 2010. To the extent that DHH utilizes federal match, up to the allowable match for the eligibility period (through December 2010), state general fund match could be reduced. In January of FY 10-11, the FMAP is anticipated to drop to 63.61%. In the event of this decrease, the state general funds will increase to the federally required match.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately \$398,990 for FY 09-10, \$399,309 for FY 10-11 and \$360,607 for FY 11-12. It is anticipated that \$123 will be expended in FY 09-10 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on the current Federal Medical Assistance Percentage (FMAP) as allowed in the American Recovery and Reinvestment Act of 2009 (81.48%). Additional federal funds are projected to be available in the current year through December 2010. To the extent that DHH utilizes federal match, up to the allowable match for the eligibility period (through December 2010), state general fund match could be reduced. In January of FY 10-11, the FMAP is anticipated to drop to 63.61%. In the event of this decrease, the state general funds will increase to the federally required match.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

This proposed rule is being promulgated to continue the provisions of the August 4, 2009 emergency rule governing the reimbursement methodology for multi-systemic therapy (MST) which reduced the reimbursement rates (approximately 267,180 units of service per year). It is anticipated that implementation of this proposed rule will reduce program expenditures in the Medicaid Program by approximately \$489,830 for FY 09-10, \$550,391 for FY 10-11 and \$566,903 for FY 11-12.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

It is anticipated that the implementation of this proposed rule will not have an effect on competition. However, it is anticipated that implementation of this proposed rule may have a negative effect on employment as it will reduce the payments made for MST services. The reduction in payments may adversely impact the financial standing of MST providers and could possibly cause a reduction in employment opportunities.

Outpatient Hospital Services
Non-Rural, Non-State Hospitals
Reimbursement Rate Reduction
(LAC:V.5313, 5513, 5713, 5913, and 6115)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:V.5313, §5513, §5713, §5913, and §6115 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 proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

As a result of a budgetary shortfall in state fiscal year 2009, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule to reduce the reimbursement paid to non-rural, non-state hospitals for outpatient services (*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 determined that it was necessary to further reduce the reimbursement rates paid to non-rural, non-state hospitals for outpatient services (*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 bureau determined that it was necessary to repeal the provisions of the May 1, 2009 Emergency Rule and to amend the reimbursement methodology for non-rural, non-state hospitals to adjust the reimbursement rates for outpatient services (*Louisiana Register*, Volume 35, Number 8). The department promulgated an Emergency Rule to amend the provisions of the August 4, 2009 Emergency Rule to revise the formatting of LAC 50:V.5313, §5513, §5713, §5913 and §6115 as a result of the promulgation of the September 20, 2009 final Rule (*Louisiana Register*, Volume 35, Number 11). This proposed Rule is being promulgated to continue the provisions of the November 20, 2009 Emergency Rule.

Don Gregory
Medicaid Director
1003#089

Robert E. Hosse
Staff Director
Legislative Fiscal Office

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospitals

Subpart 5. Outpatient Hospitals

Chapter 53. Outpatient Surgery

Subchapter B. Reimbursement Methodology

§5313. Non-Rural, Non-State Hospitals

A. ...

B. Effective for dates of service on or after August 4, 2009, the reimbursement paid to non-rural, non-state hospitals for outpatient surgery shall be reduced by 5.65 percent of the fee schedule on file as of August 3, 2009.

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

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

Chapter 55. Clinic Services

Subchapter B. Reimbursement Methodology

§5513. Non-Rural, Non-State Hospitals

A. ...

B. Effective for dates of service on or after August 4, 2009, the reimbursement paid to non-rural, non-state hospitals for outpatient clinic services shall be reduced by 5.65 percent of the fee schedule on file as of August 3, 2009.

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

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

Chapter 57. Laboratory Services

Subchapter B. Reimbursement Methodology

§5713. Non-Rural, Non-State Hospitals

A. ...

B. Effective for dates of service on or after August 4, 2009, the reimbursement paid to non-rural, non-state hospitals for outpatient laboratory services shall be reduced by 5.65 percent of the fee schedule on file as of August 3, 2009.

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

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

Chapter 59. Rehabilitation Services

Subchapter B. Reimbursement Methodology

§5913. Non-Rural, Non-State Hospitals

A. ...

B. Effective for dates of service on or after August 4, 2009, the reimbursement paid to non-rural, non-state hospitals for outpatient rehabilitation services provided to recipients over the age of three years shall be reduced by 5.65 percent of the fee schedule on file as of August 3, 2009.

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

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

Chapter 61. Other Outpatient Hospital Services

Subchapter B. Reimbursement Methodology

§6115. Non-Rural, Non-State Hospitals

A. ...

B. Effective for dates of service on or after August 4, 2009, the reimbursement paid to non-rural, non-state

hospitals for outpatient hospital services other than clinical diagnostic laboratory services, outpatient surgeries, rehabilitation services and outpatient hospital facility fees shall be reduced by 5.65 percent of the rates effective as of August 3, 2009. Final reimbursement shall be at 78.48 percent of allowable cost through the cost settlement process.

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

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

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

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule may have an adverse impact on family functioning, stability and autonomy as described in R.S. 49:972 in the event that provider participation in the Medicaid Program is diminished as a result of reduced reimbursement rates.

Public Comments

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Wednesday, April 28, 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: Outpatient Hospital Services—Non-Rural, Non-State Hospitals—Reimbursement Rate Reduction

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in an estimated savings to the state of \$1,735,271 for FY 09-10, \$3,277,758 for FY 10-11, and \$4,475,626 for FY 11-12. It is anticipated that \$492 (\$246 SGF and \$246 FED) will be expended in FY 09-10 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on the current Federal Medical Assistance Percentage (FMAP) as allowed in the American Recovery and Reinvestment Act of 2009 (81.48%). Additional federal funds are projected to be available in the current year through December 2010. To the extent that DHH utilizes federal match, up to the allowable match for the eligibility period (through December 2010), state

general fund match could be reduced. In January of FY 10-11, the FMAP is anticipated to drop to 63.61%. In the event of this decrease, the state general funds will increase to the federally required match.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will decrease federal revenue collections by approximately \$7,635,277 for FY 09-10, \$8,663,072 for FY 10-11, and \$7,823,429 for FY 11-12. It is anticipated that \$246 will be expended in FY 09-10 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on the current Federal Medical Assistance Percentage (FMAP) as allowed in the American Recovery and Reinvestment Act of 2009 (81.48%). Additional federal funds are projected to be available in the current year through December 2010. To the extent that DHH utilizes federal match, up to the allowable match for the eligibility period (through December 2010), state general fund match could be reduced. In January of FY 10-11, the FMAP is anticipated to drop to 63.61%. In the event of this decrease, the state general funds will increase to the federally required match.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule proposes to continue the provisions of the November 20, 2009 emergency rule which amended the provisions of the August 4, 2009 emergency rule which amended the reimbursement methodology for non-rural, non-state hospitals to adjust the reimbursement rates for outpatient services. It is anticipated that implementation of this proposed rule will decrease expenditures for outpatient hospital services by approximately \$9,371,040 for FY 09-10, \$11,940,830 for FY 10-11 and \$12,299,055 for FY 11-12.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition. However, we anticipate that the implementation may have a negative effect on employment as it will reduce the payments made to providers of outpatient hospital services. The reduction in payments may adversely impact the financial standing of providers and could possibly cause a reduction in employment opportunities.

Don Gregory
Medicaid Director
1003#090

Robert E. Hosse
Staff Director
Legislative Fiscal
Office

NOTICE OF INTENT

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

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

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services propose to amend LAC 50:XV.12917 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 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 proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq.

As a result of a budgetary shortfall 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 of Aging and Adult Services promulgated an Emergency Rule to amend the provisions governing the reimbursement methodology for long-term personal care services (LT-PCS) to reduce the reimbursement rates (*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 determined that it was necessary to further reduce the reimbursement rates paid for LT-PCS. (*Louisiana Register*, Volume 35, Number 8). The department subsequently promulgated an Emergency Rule to amend the provisions of the August 4, 2009 Emergency Rule to revise the formatting of LAC 50:XV.12917 as a result of the promulgation of the September 20, 2009 final Rule governing the reimbursement methodology for long-term personal care services (*Louisiana Register*, Volume 35, Number 11). This proposed Rule is being promulgated to continue the provisions of the November 20, 2009 Emergency Rule.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 9. Personal Care Services

Chapter 129. Long-Term Care

§12917. Reimbursement Methodology

A. – D. ...

E. Effective for dates of service on or after August 4, 2009, the reimbursement rate for long-term personal care services shall be reduced by 4.8 percent of the rate on file as of August 3, 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 29:913 (June 2003), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:253 (February 2008), LR 34:2581 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:1901 (September 2009), LR 36:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule may have an adverse impact on family functioning, stability and autonomy as described in R.S. 49:972 in the event that provider participation in the Medicaid Program is diminished as a result of reduced reimbursement rates.

Public Comments

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, April 28, 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: Personal Care Services—Long-Term Reimbursement Rate Reduction

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in estimated programmatic savings to the state of approximately \$2,681,553 for FY 09-10, \$4,912,842 for FY 10-11 and \$6,708,258 for FY 11-12. 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. The numbers reflected above are based on the current Federal Medical Assistance Percentage (FMAP) as allowed in the American Recovery and Reinvestment Act of 2009 (81.48%). Additional federal funds are projected to be available in the current year through December 2010. To the extent that DHH utilizes federal match, up to the allowable match for the eligibility period (through December 2010), state general fund match could be reduced. In January of FY 10-11, the FMAP is anticipated to drop to 63.61%. In the event of this decrease, the state general funds will increase to the federally required match.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately \$11,798,234 for FY 09-10, \$12,984,580 for FY 10-11 and \$11,726,087 for FY 11-12. It is anticipated that \$164 will be expended in FY 09-10 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on the current Federal Medical Assistance Percentage (FMAP) as allowed in the American Recovery and Reinvestment Act of 2009 (81.48%). Additional federal funds are projected to be available in the current year through December 2010. To the extent that DHH utilizes federal match, up to the allowable match for the eligibility period (through December 2010), state general fund match could be reduced. In January of FY 10-11, the FMAP is anticipated to drop to 63.61%. In the event of this decrease, the state general funds will increase to the federally required match.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule is being promulgated to continue the provisions of the November 20, 2009 emergency rule which amended the provisions of the August 4, 2009 Emergency Rule which amended the reimbursement methodology for long-term personal care services to further reduce the reimbursement rates (approximately 10,847 recipients). It is anticipated that implementation of this proposed rule will reduce program expenditures in the Medicaid Program by approximately \$14,480,115 for FY 09-10, \$17,897,422 for FY 10-11 and \$18,434,345 for FY 11-12.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition. However, it is anticipated that implementation of this proposed rule may have a negative effect on employment as it will reduce the payments made for long-term personal care services. The reduction in payments may adversely impact the financial standing of LT-PCS providers and could possibly cause a reduction in employment opportunities.

Don Gregory
Medicaid Director
1003#091

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Bureau of Health Services Financing

Professional Services Program—Anesthesia Services Reimbursement Rate Reduction (LAC 50:IX.15111 and 15131-15135)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to repeal LAC 50:IX.15111 and to adopt §§15131-15135 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 proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq.

As a result of a budgetary shortfall in the medical assistance programs in state fiscal year 2009, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule to amend the provisions governing the reimbursement methodology for anesthesia services to reduce the reimbursement rates paid to certified registered nurse anesthetists (CRNAs) for services rendered to Medicaid recipients (*Louisiana Register*, Volume 35, Number 3). 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 determined that it was necessary to amend the provisions governing anesthesia services to further reduce the reimbursement rates paid to CRNAs (*Louisiana Register*, Volume 35, Number 5). As a result of the legislature allocating additional funds to lessen the impact of state fiscal year 2010 budget reductions, the department determined that it was necessary to repeal the provisions of the May 1, 2009 Emergency Rule (*Louisiana Register*, Volume 35, Number 8) and amended the reimbursement methodology for anesthesia services to reduce the reimbursement rates paid to physicians (*Louisiana Register*, Volume 35, Number 8). The department promulgated an Emergency Rule to amend the provisions of the August 4, 2009 Emergency Rule to incorporate exclusions to the rate reduction for maternity-related anesthesia services and anesthesia services rendered to recipients under the age of 16. This Emergency Rule also revised the formatting of LAC 50:IX.15111 as a result of the promulgation of the September 20, 2009 final Rule governing the reimbursement methodology for anesthesia services (*Louisiana Register*, Volume 35, Number 11). The department promulgated an Emergency Rule governing anesthesia services in order to revise the formula-based reimbursement methodology for services rendered by physicians and CRNAs (*Louisiana Register*, Volume 36, Number 1). This Emergency Rule also repromulgated the provisions governing anesthesia services, in their entirety, in Subchapter D of LAC 50:IX.Chapter 151 in order to reorganize these provisions in a clear and concise manner in the *Louisiana Administrative Code*. The department amended the November 20, 2009 Emergency Rule in order to incorporate the provisions of the January 22, 2010 Emergency Rule which reorganized the provisions governing anesthesia services in the LAC (*Louisiana Register*, Volume 36, Number 3). This proposed Rule is being promulgated to continue the provisions of the March 20, 2010 Emergency Rule.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part IX. Professional Services Program

Subpart 15. Reimbursement

Chapter 151. Reimbursement Methodology

Subchapter D. Anesthesia Services

§15111. Anesthesia Services

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1902 (September 2009), repealed LR 36:

§15131. General Provisions

A. The most appropriate procedure codes and modifiers shall be used when billing for surgical anesthesia procedures and/or other services performed under the professional licensure of the physician (anesthesiologist or other specialty) or certified registered nurse anesthetist (CRNA).

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:

§15133. Formula-Based Reimbursement

A. Reimbursement is based on formulas related to a percentage of the 2009 Louisiana Medicare Region 99 allowable.

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:

§15135. Flat Fee Reimbursement

A. Reimbursement for maternity related anesthesia services is a flat fee, except for general anesthesia related to a vaginal delivery which is reimbursed according to a formula.

B. Other anesthesia services that are performed under the professional licensure of the physician (anesthesiologist or other specialty) or CRNA are reimbursed a flat fee based on the appropriate procedure code.

C. Effective for dates of service on or after February 26, 2009, the reimbursement rates paid to CRNAs will be reduced by 3.5 percent of the reimbursement as of February 25, 2009.

D. Effective for dates of service on or after August 4, 2009, the reimbursement rates paid for anesthesia services that are performed under the professional licensure of a physician (anesthesiologist or other specialty) shall be reduced by 3.5 percent of the rates in effect on August 3, 2009.

1. Effective for dates of service on or after November 20, 2009, maternity-related anesthesia services and anesthesia services rendered to recipients under the age of 16 shall be exempt from the August 4, 2009 rate reduction on anesthesia services performed by a physician (anesthesiologist or other specialty).

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 may have an adverse impact on family functioning, stability and autonomy as described in R.S. 49:972 in the event that provider participation in the Medicaid Program is diminished as a result of reduced reimbursement rates.

Public Comments

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, April 28, 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

Don Gregory
Medicaid Director
1003#092

Robert E. Hosse
Staff Director
Legislative Fiscal Office

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Professional Services Program
Anesthesia Services Reimbursement Rate Reduction**

NOTICE OF INTENT

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

Professional Services Program—Physician Services
Reimbursement Rate Reduction
(LAC 50:IX.15103, 15111-15113)

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in estimated programmatic savings to the state of approximately \$120,820 for FY 09-10, \$221,865 for FY 10-11 and \$302,946 for FY 11-12. It is anticipated that \$574 (\$287 SGF and \$287 FED) will be expended in FY 09-10 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on the current Federal Medical Assistance Percentage (FMAP) as allowed in the American Recovery and Reinvestment Act of 2009 (81.48%). Additional federal funds are projected to be available in the current year through December 2010. To the extent that DHH utilizes federal match, up to the allowable match for the eligibility period (through December 2010), state general fund match could be reduced. In January of FY 10-11, the FMAP is anticipated to drop to 63.61%. In the event of this decrease, the state general funds will increase to the federally required match.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately \$532,530 for FY 09-10, \$586,385 for FY 10-11 and \$529,552 for FY 11-12. It is anticipated that \$287 will be expended in FY 09-10 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on the current Federal Medical Assistance Percentage (FMAP) as allowed in the American Recovery and Reinvestment Act of 2009 (81.48%). Additional federal funds are projected to be available in the current year through December 2010. To the extent that DHH utilizes federal match, up to the allowable match for the eligibility period (through December 2010), state general fund match could be reduced. In January of FY 10-11, the FMAP is anticipated to drop to 63.61%. In the event of this decrease, the state general funds will increase to the federally required match.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule is being promulgated to continue the provisions of the March 20, 2010 emergency rule which amended the November 20, 2009 emergency rule which reduced the reimbursement rates for anesthesia services (approximately 136,647 services per year). It is anticipated that implementation of this proposed rule will reduce program expenditures in the Professional Services Program by approximately \$653,924 for FY 09-10, \$808,250 for FY 10-11 and \$832,498 for FY 11-12.

V. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition. However, it is anticipated that implementation of this proposed rule may have

a negative effect on employment as it will reduce the payments for anesthesia services. The reduction in payments may adversely impact the financial standing of providers and could possibly cause a reduction in employment opportunities.

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to repeal LAC 50:IX.15103 and to adopt §§15111-15113 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 proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:950 et seq.

In compliance with Act 18 of the 2007 Regular Session of the Louisiana Legislature, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for physician services to adjust the reimbursement rates. In addition, the bureau repealed the provisions contained in the following rules governing the reimbursement methodology for physician services: December 20, 2000; May 20, 2001; August 20, 2002; and February 20, 2007 (*Louisiana Register*, Volume 34, Number 8). As a result of a budgetary shortfall, the department promulgated an Emergency Rule to adjust the reimbursement rates paid for physician services (*Louisiana Register*, Volume 35, Number 8). The August 4, 2009 Emergency Rule was amended to incorporate exclusions to the rate reduction for prenatal evaluation and management, and delivery services rendered by physicians (*Louisiana Register*, Volume 35, Number 11). In January 2010, the department promulgated an Emergency Rule to further reduce the reimbursement rates paid for physician services (*Louisiana Register*, Volume 36, Number 1). This Emergency Rule also repromulgated the provisions governing physician services, in their entirety, in Subchapter B of LAC 50:IX.Chapter 151 in order to reorganize these provisions in a clear and concise manner in the *Louisiana Administrative Code* (LAC). The department amended the November 20, 2009 Emergency Rule in order to incorporate the provisions of the January 22, 2010 Emergency Rule which reorganized the provisions governing physician

services in the LAC (*Louisiana Register*, Volume 36, Number 3). This proposed Rule is being promulgated to continue the provisions of the March 20, 2010 Emergency Rule.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part IX. Professional Services Program

Subpart 15. Reimbursement

Chapter 151. Reimbursement Methodology

Subchapter B. Physician Services

§15103. Physician Services

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 34:1629 (August 2008), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

§15111. General Provisions (Reserved)

§15113. Reimbursement

A. The reimbursement rates for physician services shall be based on a percentage of the Louisiana Medicare Region 99 allowable for a specified year.

B. Effective for dates of service on or after October 15, 2007, the reimbursement for selected physician services shall be 90 percent of the 2007 Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount, unless otherwise stipulated.

1. The reimbursement shall remain the same for those services that are currently being reimbursed at a rate that is between 90 percent and 120 percent of the 2007 Louisiana Medicare Region 99 allowable.

2. For those services that are currently reimbursed at a rate above 120 percent of the 2007 Louisiana Medicare Region 99 allowable, effective for dates of service on or after October 15, 2007, the reimbursement for these services shall be reduced to 120 percent of the 2007 Louisiana Medicare Region 99 allowable.

C. Effective for dates of service on or after January 1, 2008, the reimbursement for selected physician services shall be 90 percent of the 2008 Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount, unless otherwise stipulated.

1. The reimbursement shall remain the same for those services that are currently being reimbursed at a rate that is between 90 percent and 120 percent of the 2008 Louisiana Medicare Region 99 allowable.

2. For those services that are currently reimbursed at a rate above 120 percent of the 2008 Louisiana Medicare Region 99 allowable, effective for dates of service on or after January 1, 2008, the reimbursement for these services shall be reduced to 120 percent of the 2008 Louisiana Medicare Region 99 allowable.

D. Effective for dates of service on or after August 4, 2009, the reimbursement for all physician services rendered to recipients 16 years of age or older shall be reduced to 80 percent of the 2009 Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount.

1. For those services that are currently reimbursed at a rate below 80 percent of the Louisiana Medicare Region 99 allowable, effective for dates of service on or after August 4, 2009, the reimbursement for these services shall be

increased to 80 percent of the Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount.

2. The following physician services are excluded from the rate adjustment:

- a. preventive medicine evaluation and management;
- b. immunizations;
- c. family planning services; and
- d. select orthopedic reparative services.

3. Effective for dates of service on or after November 20, 2009, the following physician services are excluded from the rate adjustment:

- a. prenatal evaluation and management; and
- b. delivery 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 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 may have an adverse impact on family functioning, stability and autonomy as described in R.S. 49:972 in the event that provider participation in the Medicaid Program is diminished as a result of reduced reimbursement rates.

Public Comments

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821—9030. He is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, April 28, 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: Professional Services Program Physician Services Reimbursement Rate Reduction

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in an estimated savings to the state of \$2,717,658 for FY 09-10, \$5,029,581 for FY 10-11, and \$6,867,659 for FY 11-12. It is anticipated that \$656 (\$328 SGF and \$328 FED) will be expended in FY 09-10 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on the current Federal Medical Assistance Percentage (FMAP) as

allowed in the American Recovery and Reinvestment Act of 2009 (81.48%). Additional federal funds are projected to be available in the current year through December 2010. To the extent that DHH utilizes federal match, up to the allowable match for the eligibility period (through December 2010), state general fund match could be reduced. In January of FY 10-11, the FMAP is anticipated to drop to 63.61%. In the event of this decrease, the state general funds will increase to the federally required match.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will decrease federal revenue collections by approximately \$11,957,634 for FY 09-10, \$13,293,118 for FY 10-11, and \$12,004,721 for FY 11-12. It is anticipated that \$328 will be expended in FY 09-10 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on the current Federal Medical Assistance Percentage (FMAP) as allowed in the American Recovery and Reinvestment Act of 2009 (81.48%). Additional federal funds are projected to be available in the current year through December 2010. To the extent that DHH utilizes federal match, up to the allowable match for the eligibility period (through December 2010), state general fund match could be reduced. In January of FY 10-11, the FMAP is anticipated to drop to 63.61%. In the event of this decrease, the state general funds will increase to the federally required match.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule proposes to continue the provisions of the March 20, 2010 emergency rule which amended the provisions of the November 20, 2009 emergency rule which adjusted the reimbursement rates paid for physician services (approximately 11,000 physicians). It is anticipated that implementation of this proposed rule will decrease expenditures for physician services by approximately \$14,675,948 for FY 09-10, \$18,322,699 for FY 10-11 and \$18,872,380 for FY 11-12.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition. However, it is anticipated that implementation of this proposed rule may have a negative effect on employment as it will reduce the payments made to providers of physician services. The reduction in payments may adversely impact the financial standing of providers and could possibly cause a reduction in employment opportunities.

Don Gregory
Medicaid Director
1003#093

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Bureau of Health Services Financing

Prosthetics and Orthotics
Reimbursement Rate Reduction
(LAC 50:XVII.501)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:XVII.501 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 proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:950 et seq.

As a result of a budgetary shortfall in state fiscal year 2009, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule to amend the provisions governing the reimbursement methodology for prosthetic and orthotic devices to reduce the reimbursement rates (*Louisiana Register*, Volume 35, Number 3). 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 March 7, 2009 Emergency Rule to further reduce the reimbursement rates paid for prosthetic and orthotic devices (*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 promulgated Emergency Rules to repeal the provisions of the May 1, 2009 Emergency Rule (*Louisiana Register*, Volume 35, Number 8) and to amend the reimbursement methodology for prosthetics and orthotics to adjust the reimbursement rates (*Louisiana Register*, Volume 35, Number 8). The department promulgated an Emergency Rule to amend the provisions of the August 4, 2009 Emergency Rule to revise the formatting of LAC 50:XVII.501 as a result of the promulgation of the September 20, 2009 final Rule (*Louisiana Register*, Volume 35, Number 11). This proposed Rule is being promulgated to continue the provisions of the November 20, 2009 Emergency Rule.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XVII. Prosthetics and Orthotics

Subpart 1. General Provisions

Chapter 5. Reimbursement

§501. Reimbursement Methodology

A. - D.1. ...

E. Effective for dates of service on or after August 4, 2009, the reimbursement for prosthetic and orthotic devices for recipients 21 years of age and older shall be reduced by 4 percent of the fee amounts on file as of August 3, 2009.

1. The rate reduction shall not apply to items that do not appear on the fee schedule and are individually priced.

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 31:1597 (July 2005), amended LR 34:881 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1903 (September 2009), 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 may have an adverse impact on family functioning, stability and autonomy as described in R.S. 49:972 in the event that provider participation in the Medicaid Program is diminished as a result of reduced reimbursement rates.

Public Comments

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821—9030. He is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, April 28, 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

Don Gregory
Medicaid Director
1003#094

Robert E. Hosse
Staff Director
Legislative Fiscal Office

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Prosthetics and Orthotics Reimbursement Rate Reduction

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in an estimated savings to the state of \$23,119 for FY 09-10, \$45,376 for FY 10-11, and \$61,959 for FY 11-12. 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. The numbers reflected above are based on the current Federal Medical Assistance Percentage (FMAP) as allowed in the American Recovery and Reinvestment Act of 2009 (81.48%). Additional federal funds are projected to be available in the current year through December 2010. To the extent that DHH utilizes federal match, up to the allowable match for the eligibility period (through December 2010), state general fund match could be reduced. In January of FY 10-11, the FMAP is anticipated to drop to 63.61%. In the event of this decrease, the state general funds will increase to the federally required match.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will decrease federal revenue collections by approximately \$102,270 for FY 09-10, \$119,928 for FY 10-11, and \$108,305 for FY 11-12. It is anticipated that \$164 will be expended in FY 09-10 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on the current Federal Medical Assistance

Percentage (FMAP) as allowed in the American Recovery and Reinvestment Act of 2009 (81.48%). Additional federal funds are projected to be available in the current year through December 2010. To the extent that DHH utilizes federal match, up to the allowable match for the eligibility period (through December 2010), state general fund match could be reduced. In January of FY 10-11, the FMAP is anticipated to drop to 63.61%. In the event of this decrease, the state general funds will increase to the federally required match.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule proposes to continue the provisions of the November 20, 2009 emergency rule which amended the provisions of the August 4, 2009 emergency rule which adjusted the reimbursement rates for prosthetics and orthotics (approximately 15,000 units per year). It is anticipated that implementation of this proposed rule will decrease expenditures for prosthetic and orthotic services by approximately \$125,717 for FY 09-10, \$165,304 for FY 10-11 and \$170,264 for FY 11-12.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition. However, it is anticipated that implementation of this proposed rule may have a negative effect on competition and employment as it will reduce the payments made to providers of prosthetic and orthotic services. The reduction in payments may adversely impact the financial standing of providers and could possibly cause a reduction in employment opportunities.

NOTICE OF INTENT

Department of Natural Resources Office of Conservation

Pit Closure Techniques and Onsite Disposal of E&P Waste (LAC 43:XIX.313)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and Title 30 of the Louisiana Revised Statutes of 1950 (R.S. 30:4 et seq.), the Louisiana Office of Conservation hereby gives notice of its intent to amend LAC 43:XIX Subpart 1 (Statewide Order No. 29-B) Chapter 3 (Pollution Control—Onsite Storage, Treatment and Disposal of Exploration and Production Waste (E&P Waste) Generated from the Drilling and Production of Oil and Gas Wells (Oilfield Pit Regulations)).

The recent development of the Haynesville Shale in North Louisiana is made possible through the use of multi-stage hydraulic fracture stimulation technology. This technology requires the use of large quantities of fluids which are primarily composed of freshwater taken from either surface water reservoirs or groundwater aquifers. The intense development of the Haynesville Shale has placed additional strain on the already limited freshwater aquifer resources of the region.

The intent of the amendment is to conserve these freshwater aquifer resources by expanding the limited use of Exploration and Production Waste as a substitute for the fluids required to perform fracture stimulation operations on

the Haynesville Shale. The proposed amendment uses sound waste minimization principles along with conservative waste management requirements to promote groundwater resource management and conservation while protecting public health and the environment.

Specifically, the current rule is being amended to eliminate the one-time usage limitation on E&P Waste and change the landowner affidavit requirement to an operator affidavit requirement. It is hoped that this added flexibility, requested by members of the regulated community, will further reduce demands for the area's limited freshwater aquifer resources.

**Title 43
NATURAL RESOURCES**

**Part XIX. Office of Conservation—General Operations
Subpart 1. Statewide Order No. 29-B**

**Chapter 3. Pollution Control—Onsite Storage,
Treatment and Disposal of Exploration
and Production Waste (E&P Waste)
Generated from the Drilling and
Production of Oil and Gas Wells (Oilfield
Pit Regulations)**

**§313. Pit Closure Techniques and Onsite Disposal of
E&P Waste**

A. - J.1.b.ii. ...

c. The types and volumes of E&P Waste generated for temporary use along with the well name and well serial number of the receiving wellsite must be reported on Form ENG-16 (Oilfield Waste Disposition) for the originating well and/or Form UIC-28 (Exploration and Production Waste Shipping Control Ticket) and/or other appropriate forms specified by the Commissioner depending on the waste types involved.

d. An affidavit must be provided by the operator which attests that the operator has authority to store and use E&P waste from an offsite location at the receiving wellsite. The affidavit must be in a format acceptable to the Commissioner and attached to Form ENG-16 (Oilfield Waste Disposition) for the originating well and/or Form UIC-28 (Exploration and Production Waste Shipping Control Ticket) and/or other appropriate forms specified by the Commissioner depending on the waste types involved.

e. E&P Waste intended for temporary use must be stored at the receiving wellsite in an above ground storage tank or a lined production pit which conforms to the liner requirements and operational provisions of LAC 43:XIX.307.A.

2. The Commissioner of Conservation, the Secretary of the Department of Natural Resources, and the State of Louisiana shall be held harmless from and indemnified for any and all liabilities arising from temporary use of E&P Waste pursuant to this subsection, and the operator of record and the surface owner shall execute agreements as the commissioner requires for this purpose.

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

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2804 (December 2000), amended LR 33:1659 (August 2007), 35:2464 (November 2009), LR 36:

Family Impact Statement

In accordance with R.S. 49:972, the following statements are submitted after consideration of the impact of the

proposed rule amendment at LAC 43:XIX.313, Pit Closure Techniques and Onsite Disposal of E&P Waste on family as defined therein.

1. The proposed rule amendment will have no effect on the stability of the family.

2. The proposed rule amendment will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The proposed rule amendment will have no effect on the functioning of the family.

4. The proposed rule amendment will have no effect on family earnings and family budget.

5. The proposed rule amendment will have no effect on the behavior and personal responsibility of children.

6. Family or local government are not required to perform any function contained in the proposed rule amendment.

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference "Proposed Amendment of LAC 43:XIX.313." Such comments must be received no later than Friday, April 9, 2010, at 4:30 p.m., and should be sent to Mr. Chris Sandoz, Office of Conservation, Engineering Division, P.O. Box 94275, Baton Rouge, LA 70804-9275; hand delivered to 617 North Third Street, 9th Floor, Baton Rouge, LA 70802; by email to chris.sandoz@la.gov; or by fax to (225) 342-2584.

Public Hearing

A public hearing will be held on Tuesday, April 27, 2010 at 9:00 a.m. in the LaSalle Building, LaBelle Hearing Room, 617 N. Third Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. If accommodations are required under the Americans With Disabilities Act, please advise the Office of Conservation, Engineering Division at P.O. Box 94275, Baton Rouge, LA 70804-9275 in writing within 10 working days of the hearing date. Two hours of free parking are allowed in the Welcome Center parking garage with a validated parking ticket.

This proposed regulation is available on the Internet at <http://dnr.louisiana.gov/cons/conserv.ssi> and is available for inspection at the following DNR office locations from 8 a.m. until 4:30 p.m.: 617 N. Third Street, Ninth Floor, Baton Rouge, LA 70802; Brandywine III, Suite 220, 825 Kaliste Saloom Road, Lafayette, LA 70508; State Office Building, Suite 668, 1525 Fairfield Avenue, Shreveport, LA 71101; 122 St. John Street, Room 228, Monroe, LA 71201.

James H. Welsh
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Pit Closure Techniques and Onsite
Disposal of E&P Waste**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There are no implementation costs or savings to state or local government units anticipated due to the proposed rule amendments.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no effect on revenue collections of state or local government units anticipated due to the proposed rule amendments.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The primary group impacted by these rule changes will be Exploration and Production (E&P) companies. There is no anticipated cost increase associated with the proposed amendment and all required documentation will be provided on existing paperwork.

The amendment may result in some additional cost savings for certain E&P companies with high levels of activity in the Haynesville Shale Area. A typical multi-stage fracture stimulation requires between 144,000 to 168,000 barrels of water. Between 20 percent and 30 percent or 28,800 or 50,400 barrels of this water flows back from the well after the fracturing operation and is subject to disposal under the currently promulgated regulation. Under the proposed regulation, this "flowback" water is made available for use in additional Haynesville Shale hydraulic fracturing operations.

This change results in potential disposal cost savings of between \$57,600.00 and \$100,800.00 per stimulation assuming \$2.00 per barrel disposal costs. Additional incremental savings of approximately \$0.50 per barrel are derived primarily from a reduction in the cost of transporting the "flowback" E&P waste between neighboring well sites. This equates to incremental transportation savings of between \$14,400.00 to \$25,200.00 per stimulation. The resulting total potential cost savings are estimated to be between \$72,000.00 and \$126,000.00 per stimulation.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment.

Gary P. Ross
Assistant Commissioner
1003#067

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Corrections Services**

**Public Information Program and Media Access
(LAC 22:I.339)**

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 339 Public Information Program and Media Access.

Title 22

**CORRECTIONS, CRIMINAL JUSTICE AND LAW
ENFORCEMENT**

Part I. Corrections

Chapter 3. Adult Services

§339. Public Information Program and Media Access

A. Purpose—to state the general guidelines regarding department policies aimed at maintaining informative relationships with the public, the media and other agencies.

B. Applicability—deputy secretary, undersecretary, chief of operations, regional wardens, wardens, Director of Probation and Parole, Director of Prison Enterprises and

Communications Director. Each unit head shall develop procedures to facilitate interaction with the public, the media, and other agencies and is responsible for ensuring that appropriate unit written policy and procedures are in place to comply with the provisions of this regulation and to inform employees and offenders of its contents.

C. Policy. It is the secretary's policy to maintain a cooperative and responsible relationship with and to inform the public, media and other agencies concerning department operations, accomplishments, challenges and critical incidents. News media inquiries shall be responded to in an accurate and timely manner, consistent with the security and privacy interests of the department, its staff and offenders. All legitimate news media organizations shall be allowed reasonable access to the state's correctional facilities unless security considerations dictate otherwise.

D. Definitions

Commercial Production—freelance photographers, writers and film makers who intend to sell their work product (including uncommitted documentaries) for profit to other companies.

Credentials—for purposes of identification, both photo identification, such as a valid driver's license, and identification (ID) card issued by the reporter's place of employment shall be required. In the absence of employee ID cards, the department reserves the right to verify all identification and to refuse admittance when such identification is found to be suspect.

Designated Spokesperson—an individual employee that has been given permission to speak to the media on behalf of the department, institution, or Probation and Parole Office. These persons are granted permission to speak to the media by the unit head.

News Media—any accredited agency that gathers and reports news for a general circulation newspaper, news magazine, national or international news service or radio/television news program. This includes newspapers, publications, television/radio stations and internet news services. Authors or freelance journalists who are researching and/or writing articles about corrections or criminal justice must provide credentials to verify their association with a legitimate news/media organization.

News Release—a written statement concerning an issue, event or situation for which the department wishes to make a permanent record-for widespread dissemination.

E. Release of Information

1. The secretary shall have discretion to grant or deny an interview request.

2. Information regarding non-restrictive departmental operations, policies, procedures, etc. shall be released through the communications director.

3. The unit head or designee shall be responsible for releasing information pertaining to their respective unit. Designated spokespersons shall be knowledgeable of issues and departmental policy and shall ensure the accuracy of information prior to release.

a. The communications director shall advise and assist the unit head in matters relating to national and international news media requests. Any contact from a national or international news representative shall be reported to the communications director prior to the release of any information.

b. Additionally, if a local reporter's inquiry involves an issue that is currently newsworthy and receiving media attention or affects the entire department, the communications director shall be contacted prior to the release of any information.

4. The reporting of unusual occurrences shall be made in accordance with established policy and procedures. In addition, the secretary, chief of operations and communications director shall be made aware as soon as possible of any incidents involving offenders under the supervision of the Division of Probation and Parole.

5. Unless specifically assigned to do so by the unit head, other departmental employees shall not make statements on behalf of the unit or the department. Staff shall refer all media inquiries to the unit head or designee.

F. Release of Data

1. In conjunction with the secretary and communications director, and pursuant to Paragraph G.4 regarding critical incidents, units will proactively communicate with the news media regarding escapes, incidents of serious violence, riots, or other disturbances which result in fatalities, major injuries, major property damage or any other serious disruption of prison operations.

2. Upon request from a news media representative, information regarding an offender shall be released in accordance with established policy and procedures.

3. Information regarding psychiatric, medical or juvenile criminal histories of offenders cannot be released. Additionally, pursuant to R.S. 46:1844(W)(1)(a), the name, address or identity of crime victims who, at the time of the commission of the offense were minors under 18 years of age, or who were victims of sex offenses, regardless of the date of commission of the offense, cannot be disclosed.

G. General Procedures

1. Unit procedures shall address emergency and non-emergency responses to the news media and include, at a minimum, the following:

- a. identification of areas in the unit that are accessible to news media representatives;
- b. contact person for routine requests for information;
- c. identification of data and information protected by federal or state privacy laws, or federal and state freedom of information laws;
- d. special events coverage;
- e. news release policy; and
- f. designated staff authorized to speak with the news media (which shall be submitted to the communications director each time the staff list is updated).

2. All staff shall be responsive to inquiries from the public and local, state and federal agencies by providing prompt, complete responses to all correspondence and other requests.

3. Inquiries from legislative and executive bodies shall be referred to authorized staff as designated by the secretary or unit head.

4. Routine news releases shall be sent to local media outlets. In the case of critical incidents, news releases shall be approved by the secretary and distributed by the communications director as soon as possible to known news organizations throughout the state via fax, e-mail, etc. Each

unit shall maintain a file of information released to the media within the past year.

H. General Population and Offender Interviews

1. The unit head or designee shall facilitate interview requests. News media wishing to interview an offender shall submit a request to the unit head indicating whom they want to interview and the nature of the story. The request shall be submitted on official letterhead. Such requests must be made within a reasonable time frame, considering the scope of the story and the unit's ability to adequately prepare for the visit.

2. In general, interviews pertaining to an offender's involvement in facility programming (education, vocational, faith-based, treatment, etc.) shall be granted. Interview requests that would focus on the details of the offender's crime shall not be granted, as the department must be cognizant of the effect of such an interview on crime victims and their families.

3. Offenders may be eligible to be interviewed by the media under the following conditions:

a. assigned to general population (not to include initial reception unless a pressing need request is approved by the secretary);

b. required to sign an offender media release form. Because interviews are voluntary, the offender has the right to refuse to be interviewed, photographed or recorded by the media. The written release or decision not to be interviewed shall be filed in the offender's master prison record;

c. receive no compensation or anything of value (monetary or through enhanced status) in exchange for, or as a result of, the interview.

4. In general, interviews with offenders housed in maximum custody areas for behavior problems and/or poor conduct records and offenders convicted of sexual offenses are strongly discouraged.

5. The communications director shall be notified of any media request for an offender interview on the day the request is made and prior to the commencement of the interview. The unit head shall give timely notice to the secretary, chief of operations and communications director of any significant or potentially controversial event.

6. The warden may deny any offender interview request based on security, medical or other administrative reason including the following:

a. the news media representative or news organization which is represented does not agree to the conditions established by the department and the warden;

b. the news media representative or news organization has, in the past 12 months, failed to abide by any required conditions;

c. the offender is physically or mentally unable to participate;

d. the interview, in the opinion of the warden, would endanger the health or safety of the interviewer, media crew, facility, offender, or could cause serious unrest or disrupt the operation of the facility;

e. the offender is involved in a pending court action.

7. Telephone interviews with an offender are prohibited.

NOTE: Exceptions may be authorized by the warden or designee.

I. Rules for Media in Prisons

1. All media representative must have prior approval to visit an institution.
2. Live broadcasts by television or radio (other than KLSP) are prohibited within correctional facilities, unless specifically authorized by the secretary.
3. Interviews shall take place on prison grounds in an area outside of offender living areas.
4. Interviews shall take place in view of a departmental employee for the safety of the media representative. The warden or designee reserves the right to terminate any interview or coverage within the facility should a disturbance or disruption occur.
5. All media visitors shall be provided with an escorting staff member for the duration of the visit.
6. Interviews may be recorded by video, audio, notes or other methods with prior approval of the warden and the offender to be interviewed.
7. Only one media organization may be allowed to interview an offender at any given time. News conferences are not permitted for offenders.
8. A media representative shall give written approval to allow the department the opportunity to respond to any allegations which might be published or broadcast prior to distribution.
9. The warden may suspend all media visits during an institutional crisis or critical incident. The warden or designee shall periodically brief all media on the situation. A media briefing center may be established at a remote location.
10. Failure by a news media representative to comply with the rules of this regulation constitutes grounds for denying the representative and/or the representative's agency permission to conduct the interview or any other interviews for a 12-month period.

J. Death Row and Executions

1. Death Row offenders must have their attorney's written approval prior to an interview, photograph and/or audio or video recording.
2. Media access preceding and following an execution shall be in accordance with established policy and procedures.

K. Procedures for Commercial Productions or Non-News Media

1. Unit access by independent filmmakers, writers for non-news magazines and others may be permitted by special advance arrangement and with the approval of the secretary and unit head.
2. All commercial production staff are required to make a written request to the unit head for access. Written requests shall include, at a minimum, the following information, as applicable:
 - a. name, job title and employer of person requesting visit (if freelance, the organization represented);
 - b. topic of story, where it will be used and for what purpose;
 - c. name of individual(s) to be interviewed;
 - d. date and time of arrival and anticipated duration;
 - e. name of all persons accompanying requestor;
 - f. if applicable, a hold harmless clause: "I recognize a visit to a correctional facility may present certain risks/hazards. I agree to assume all ordinary and/or usual

risks to my personal safety inherent in a visit to an institution of this type."

3. Written requests shall be forwarded to the secretary for final review prior to project commencement.

4. All commercial productions are required to read, understand and sign a commercial production location agreement form upon their arrival at the unit. The unit head or designee may require review of the material prior to distribution solely to insure that it comports with the agreement.

L. Exceptions

1. The secretary or designee may make exceptions to specific sections of this regulation. Requests for exceptions, and the reasons therefore, shall be directed to the secretary for consideration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:950 and American Correctional Association (ACA) Standards 2-CO-1A-25 through 27-1 (Administration of Correctional Agencies) 4-4019 through 4-4021 (Adult Correctional Institutions).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 25:1260 (July 1999), amended LR 31:1100 (May 2005), repromulgated LR 31:1343 (June 2005), 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 April 8, 2010.

James M. Le Blanc
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Public Information Program and Media Access

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 rule change updates the Department of Corrections guidelines regarding its relationship with the public, media and other agencies.

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 benefit to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment as a result of this technical amendment.

Thomas E. Bickham, III
Undersecretary
1003#063

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections Gaming Control Board

Licensees, Permittees; Loans and Restrictions
(LAC 42:III.2521, 2522, 2523, 2524, 2525, and 2526;
VII.2521, 2523, and 2524; IX.2521, 2522, 2523,
and 2524; and XIII.2521, 2523, and 2524)

Title 42

LOUISIANA GAMING

Part III. Gaming Control Board

Chapters 4-24. Reserved

Chapter 25. Transfers of Interest in the Casino Operator, Licensees, and Permittees; Loans and Restrictions

§2521. Financial Transaction; Incurring Debt

A. No licensee, casino operator, casino manager or an affiliate shall enter into a debt transaction except in accordance with these regulations.

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 36:

§2522. Definitions

Affiliate—a person that directly or indirectly through one or more intermediary or holding company, controls, or is controlled by, or is under common control with the licensee, casino operator or casino manager and is involved in gaming activities in this state or involved in the ownership of property in this state upon which gaming activities are conducted.

Debt Transaction—a transaction in which the licensee, casino operator, casino manager or an affiliate incurs debt, including, but not limited to the following:

1. loans, lines of credit or similar financing;
2. public and private debt offerings; or
3. any transaction that provides guarantees, grants a form of security or encumbers assets of the licensee, casino operator or casino manager or an affiliate.

Publicly Traded Company—any person, other than an individual, that:

1. has one or more voting securities registered under Section 12 of the Securities and Exchange Act of 1934, as amended;
2. is an issuer of securities subject to Section 15(d) of the Securities and Exchange Act of 1934, as amended; or
3. has one or more classes of securities exempted from the registration requirements of section 5 of the Securities Act of 1933, as amended, solely by reason of an exemption contained in section 3(a)(10), 3(a)(11), or 3(c) of the Securities Act of 1933, as amended.

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 36:

§2523. Notice of Debt Transaction; Board

A. Except as provided in §2525, whenever a licensee, casino operator, casino manager or an affiliate proposes to enter into a debt transaction, written notice shall be provided to the board no less than 20 calendar days prior to the

proposed transaction. The notice shall be signed under oath by an authorized representative and shall include:

1. names and addresses of all parties to the transaction;
2. amount and source of funds;
3. nature and amount of security and collateral provided;
4. specific nature and purpose of the transaction; and
5. term sheet or executive summary of the transaction.

B. All debt transactions shall require prior written approval of the board unless one of the following apply.

1. The amount of the transaction does not exceed \$2,500,000 and the lender(s) is a qualified institutional lender(s) as defined by applicable gaming statute.

2. The amount of the transaction does not exceed \$1,000,000 and the lender(s) has previously been found suitable.

3. The amount of the transaction does not exceed \$500,000.

4. The transaction is exempted from the prior written approval requirement pursuant to §2524 of this Chapter.

5. The transaction does not provide for guarantees, pledges or other security from the licensee, casino operator, casino manager or an affiliate .

6. The transaction qualifies under a shelf approval pursuant to §2525 of this Chapter.

7. The transaction modifies the terms of an existing debt transaction which was previously approved and the modification does not substantially alter such terms. Factors to be considered include, but are not limited to:

- a. increases or decreases previously approved borrowing capability;
- b. adds security or collateral;
- c. loosens restrictions on financial covenants; or
- d. provides more favorable terms considering current market conditions.

C. Except as otherwise provided in §2525 of this Chapter, the board shall determine whether the debt transaction is exempt from the prior approval requirement and shall notify the borrower of the determination.

D. In the event a determination is made that the debt transaction is not exempt pursuant to Subsection B the board shall issue a ruling approving or disapproving the transaction. If disapproved, the ruling shall be in writing and shall set forth reasons for the disapproval.

E. The board may require the debt transaction be subject to conditions which must be accepted by the parties prior to approval.

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 36:

§2524. Registered Securities/Private Placement

A. Board approval is not required for the following transactions:

1. sales of securities to be registered with the Securities and Exchange Commission and sold pursuant to an underwriters' agreement;

2. private placement offerings with registration rights under Rule 144A and Regulation S promulgated by the Securities and Exchange Commission and sold pursuant to a purchase agreement with initial purchasers.

B. For transactions made pursuant to this Subsection, the initial notice required by §2523 shall be provided no less than 10 calendar days prior to the proposed offering. Additionally, the following documents shall be provided, if applicable:

1. copy of the final registration statement approved by the Securities Exchange Commission;
2. copy of the underwriters' agreement or purchase agreement;
3. copy of the indenture;
4. copy of the offering memorandum;
5. copy of the registration rights agreement;
6. a report 45 days after completion of sale providing amounts of securities sold and identities of underwriters or initial purchasers; and
7. any other documents which may be requested by the board or 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 36:

§2525. Shelf Application

A. An affiliate which is a publicly traded company may apply to the board for shelf approval of debt transactions if it has:

1. a class of securities listed on either the New York Stock Exchange (NYSE), the American Stock Exchange (ASE) or the National Association of Securities Dealers Automatic Quotation System (NASDAQ), or has stockholders' equity in the amount of \$15 million or more as reported in its most recent report on Form 10-K or Form 10-Q filed with the Securities Exchange Commission (SEC) immediately preceding application; and
2. filed all reports required to be filed by section 13, or section 15(d) of the Securities and Exchange Act of 1934 during the preceding 12 months, or for such a shorter period that the affiliate has been required to file such reports.

B. The application shall be signed under oath by an authorized representative of the affiliate and shall include:

1. proof of qualification to make the application in accordance with the criteria of this Section;
2. a statement of the amount of debt sought to be approved and the intended use of potential proceeds;
3. duration sought for the shelf approval; and
4. other supplemental documentation requested by the board or division following initial submission.

C. The board may grant an approval of the shelf application for a period not to exceed three years under such terms, conditions and limitations as determined by the board in its discretion including a limitation on the maximum amount of total debt permitted to be borrowed under the shelf approval. The approval shall be in writing and shall contain all terms, conditions and limitations set by the board.

D. If an application is granted, the affiliate shall notify the board of all debt transactions within 10 days of consummation, including subsequent amendments and modifications of debt transactions, and provide executed copies of the documents evidencing the transactions as may be required by the board or division.

E. The board may rescind a shelf approval without prior written notice. The rescission shall be in writing and set forth the reasons for the rescission and shall remain in effect

until lifted by the board upon the satisfaction of any such terms, conditions, and limitations as required by the board.

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 36:

§2526. Limitation on Financing; Incurring Debt; Casino Operator

A. In accordance with section 13.6 of the casino operating contract and except as provided in §2523, §2524 and §2525 of these regulations, the casino operator or its financing affiliate may obtain debt only from a lender found suitable by the board and only after obtaining approval of the financing by the board. Board approval shall not be required for financing obtained from a lender previously found suitable by the board or from a lender who is a suitable lender as defined in the casino operating contract if:

1. principal amount of the debt incurred in the financing does not exceed the sum of:
 - a. debt retired with the proceeds of financing;
 - b. projected cost of capital improvements to be funded with the proceeds of the financing; and
 - c. customary transaction costs relating to the financing; or
2. pre-tax cash flow of the casino operator for the 12-month period ending on the last day of the calendar quarter preceding the calendar month in which the financing occurs is not less than 125 percent of the amount of annual interest payable with respect to secured debt incurred in the financing.

B. The casino operator, any holding company or intermediary company thereof, or the casino manager shall apply for prior approval of any proposed public offering of any ownership interest therein, and shall comply with all conditions imposed by the board.

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 36:

Part VII. Pari-Mutuel Live Racing Facility Slot Machine Gaming

Chapter 25. Transfers of Interest in Licensees and Permittees; Loans and Restrictions

§2521. Loans and Lines of Credit

Repealed.

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 26:743 (April 2000), repealed LR 36:

§2523. Board Actions Concerning Loans and Lines of Credit

Repealed.

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 26:744 (April 2000), repealed LR 36:

§2524. Publicly Registered Debt and Securities

Repealed.

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 26:744 (April 2000), amended LR 34:2646 (December 2008), repealed LR 36:

Part IX. Landbased Casino Gaming

Subpart 1. Economic Development and Gaming Corporation

Chapter 25. Transfers of Interest in the Casino Operator and Permittees; Loans and Restrictions

§2521. Loans and Lines of Credit

Repealed.

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 25:1922 (October 1999), repealed LR 36:

§2522. Limitation on Financing; Incurring Debt

Repealed.

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 25:1922 (October 1999), repealed LR 36:

§2523. Board Actions Concerning Loans and Lines of Credit

Repealed.

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 25:1922 (October 1999), repealed LR 36:

§2524. Publicly Registered Debt and Securities

Repealed.

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 25:1923 (October 1999), amended LR 34:2654 (December 2008), repealed LR 36:

Part XIII. Riverboat Gaming

Subpart 2. State Police Riverboat Gaming Division

Chapter 25. Transfers of Interest in Licensees and Permittees; Loans and Restrictions

§2521. Loans and Lines of Credit

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), repealed by the Gaming Control Board, LR 36:

§2523. Board Actions Concerning Loans and Lines of Credit

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:1 et seq.

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 23:746 (June 1997), repealed LR 36:

§2524. Publicly Registered Debt and Securities

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 23:746 (June 1997), amended LR 34:2664 (December 2008), repealed LR 36:

Small Business Impact Statement

Pursuant to the provisions of R.S. 49:965.5 the Gaming Control Board, through its chairman, has concluded that there will be no adverse impact on small business if LAC 42:III.2521-2526 are adopted and LAC 42:VII, IX, and XIII.2521-2524 are repealed as the changes will not apply to small businesses.

Family Impact Statement

Pursuant to the provisions of R.S. 49:953(A), the Louisiana Gaming Control Board, through its chairman, has considered the potential family impact of adopting the proposed LAC 42:III.2521-2526 and repealing LAC 42:VII, IX, and XIII.2521-2524.

It is accordingly concluded that amending adopting the proposed LAC 42:III.2521-2526 and repealing LAC 42:VII, IX, and XIII.2521-2524 would appear to have no impact on the following:

1. the effect on stability of the family;
2. the effect on the authority and rights of parents regarding the education and supervision of their children;
3. the effect on the functioning of the family;
4. the effect on family earnings and family budget;
5. the effect on the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Public Comments

All interested persons may contact Jonathon Wagner, Attorney General's Gaming Division, telephone (225) 326-6500, and may submit comments relative to these proposed rules, through May 10, 2010, to 1885 North 3rd Street, Suite 500, Baton Rouge, LA 70802.

Dane K. Morgan
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Licensees, Permittees; Loans and Restrictions

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed administrative rule changes will reduce costs to the Department of Public Safety (DPS) by allowing casinos to receive shelf approval (approval to incur debt up to a certain limit) when they seek to finance any aspect of their operations. The savings are generated by requiring fewer applications for lending approval from industry which leads to fewer individual investigations by DPS. The proposal will also require fewer appearances by industry before the Gaming Control Board.

In addition to creating shelf approval provisions, the proposal streamlines the rules governing the incurrence of debt by pari-mutuel live racing facilities and casinos by consolidating them from Parts VII, IX, & XIII into a single section of Part III.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed administrative rule change will have no impact on revenue collections for state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Currently, casinos have to receive approval from the Gaming Control Board each time they seek to finance any aspect of their operations. The proposed administrative rule changes will reduce costs to industry by allowing casinos to apply for shelf approval (approval to incur debt up to a certain limit) without having to re-appear before the board each time they wish to increase their debt as long as it remains below the approved shelf limit.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed administrative rule change will have no effect on competition or employment as it applies to all participants within the casino gaming industry.

Dane K. Morgan
Chairman
1003#049

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Office of the Fire Marshal**

Code Enforcement and Building Safety
Fire Protection (LAC 55:V.103 and 303)

In accordance with the provisions of R.S. 40:1578.6(A), relative to the authority of the Office of State Fire Marshal to promulgate and enforce rules, the Office of State Fire Marshal hereby proposes to adopt the following Rule regarding the establishment of minimum standards.

Title 55

**PUBLIC SAFETY
Part V. Fire Protection**

**Chapter 1. Preliminary Provisions
§103. General Provisions**

A. It shall be the policy of the State Fire Marshal that in all instances or specifications provided in the statutes or in the codes referenced by the statutes, or by any specific references in administrative rulings by the State Fire Marshal, that the *Standard Building Code* published by the Southern Building Code Congress International, and the *International Building Code* published by the International Code Council, and the National Fire Codes published by the National Fire Protection Association as specifically identified in the following list, shall be used as the materials for determinations by the State Fire Marshal.

NFPA 1	2009 Edition	Fire Code
NFPA 10	2010 Edition	Standard for Portable Fire Extinguishers
NFPA 11	2010 Edition	Standard for Low-, Medium-, and High-Expansion Foam
NFPA 12	2008 Edition	Standard on Carbon Dioxide Extinguishing Systems
NFPA 12A	2009 Edition	Standard on Halon 1301 Fire Extinguishing Systems
NFPA 13	2010 Edition	Standard for the Installation of Sprinkler Systems
NFPA 13D	2010 Edition	Standard for the Installation of Sprinkler Systems in One- and Two-Family Dwellings and Manufactured Homes

NFPA 13R	2010 Edition	Standard for the Installation of Sprinkler Systems in Residential Occupancies up to and Including Four Stories in Height
NFPA 14	2010 Edition	Standard for the Installation of Standpipes and Hose Systems
NFPA 15	2007 Edition	Standard for Water Spray Fixed Systems for Fire Protection
NFPA 16	2007 Edition	Standard for the Installation of Foam-Water Sprinkler and Foam-Water Spray Systems
NFPA 17	2009 Edition	Standard for Dry Chemical Extinguishing Systems
NFPA 17A	2009 Edition	Standard for Wet Chemical Extinguishing Systems
NFPA 18	2010 Edition	Standard on Wetting Agents
NFPA 20	2010 Edition	Standard for the Installation of Stationary Pumps for Fire Protection
NFPA 22	2008 Edition	Standard for Water Tanks for Private Fire Protection
NFPA 25	2008 Edition	Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems
NFPA 30	2008 Edition	Flammable and Combustible Liquids Code
NFPA 30A	2008 Edition	Code for Motor Fuel Dispensing Facilities and Repair Garages
NFPA 30B	2007 Edition	Code for the Manufacture and Storage of Aerosol Products
NFPA 31	2006 Edition	Standard for the Installation of Oil-Burning Equipment
NFPA 32	2007 Edition	Standard for Drycleaning Plants
NFPA 33	2007 Edition	Standard for Spray Application Using Flammable or Combustible Materials
NFPA 34	2007 Edition	Standard for Dipping and Coating Processes Using Flammable or Combustible Liquids
NFPA 37	2010 Edition	Standard for the Installation and Use of Stationary Combustion Engines and Gas Turbines
NFPA 45	2010 Edition	Standard on Fire Protection for Laboratories Using Chemicals
NFPA 51	2007 Edition	Standard for the Design and Installation of Oxygen-Fuel Gas Systems for Welding, Cutting, and Allied Processes
NFPA 51B	2009 Edition	Standard for Fire Prevention During Welding, Cutting, and Other Hot Work
NFPA 52	2010 Edition	Vehicular Gaseous Fuel Systems Code
NFPA 53	2010 Edition	Recommended Practice on Materials, Equipment, and Systems Used in Oxygen-Enriched Atmospheres
NFPA 54	2009 Edition	National Fuel Gas Code
NFPA 55	2010 Edition	Compressed Gases and Cryogenic Fluids Code
NFPA 58	2008 Edition	Liquefied Petroleum Gas Code
NFPA 59A	2009 Edition	Standard for the Production, Storage, and Handling of Liquefied Natural Gas (LNG)
NFPA 61	2008 Edition	Standard for the Prevention of Fires and Dust Explosions in Agricultural and Food Processing Facilities
NFPA 68	2007 Edition	Standard on Explosion Protection by Deflagration Venting
NFPA 69	2008 Edition	Standard on Explosion Prevention Systems
NFPA 70	2008 Edition	National Electrical Code
NFPA 72	2010 Edition	National Fire Alarm and Signaling Code
NFPA 80	2010 Edition	Standard for Fire Doors and Other Opening Protectives

NFPA 82	2009 Edition	Standard on Incinerators and Waste and Linen Handling Systems and Equipment
NFPA 88A	2007 Edition	Standard for Parking Structures
NFPA 90A	2009 Edition	Standard for the Installation of Air-Conditioning and Ventilating Systems
NFPA 90B	2009 Edition	Standard for the Installation of Warm Air Heating and Air-Conditioning Systems
NFPA 92A	2009 Edition	Standard for Smoke-Control Systems Utilizing Barriers and Pressure Differences
NFPA 92B	2009 Edition	Guide for Smoke Management Systems in Malls, Atria, and Large Spaces
NFPA 96	2008 Edition	Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations
NFPA 99	2005 Edition	Standard for Health Care Facilities
NFPA 99B	2010 Edition	Standard for Hypobaric Facilities
NFPA 101	2009 Edition	Life Safety Code
NFPA 101A	2010 Edition	Guide on Alternative Approaches to Life Safety
NFPA 102	2006 Edition	Standard for Grandstands, Folding and Telescopic Seating, Tents, and Membrane Structures
NFPA 105	2010 Edition	Standard for the Installation of Smoke Door Assemblies and Other Opening Protectives
NFPA 110	2010 Edition	Standard for Emergency and Standby Power Systems
NFPA 111	2010 Edition	Standard on Stored Electrical Energy Emergency and Standby Power Systems
NFPA 140	2008 Edition	Standard on Motion Picture and Television Production Studio Soundstages, Approved Production Facilities, and Production Locations
NFPA 150	2009 Edition	Standard on Fire and Life Safety in Animal Housing Facilities
NFPA 160	2006 Edition	Standard for the Use of Flame Effects Before an Audience
NFPA 170	2009 Edition	Standard for Fire Safety and Emergency Symbols
NFPA 204	2007 Edition	Standard for Smoke and Heat Venting
NFPA 211	2010 Edition	Standard for Chimneys, Fireplaces, Vents, and Solid Fuel-Burning Appliances
NFPA 220	2009 Edition	Standard on Types of Building Construction
NFPA 221	2009 Edition	Standard for High Challenge Fire Walls, Fire Walls, and Fire Barrier Walls
NFPA 303	2006 Edition	Fire Protection Standard for Marinas and Boatyards
NFPA 307	2006 Edition	Standard for the Construction and Fire Protection of Marine Terminals, Piers, and Wharves
NFPA 407	2007 Edition	Standard for Aircraft Fuel Servicing
NFPA 409	2010 Edition	Standard on Aircraft Hangars
NFPA 415	2008 Edition	Standard on Airport Terminal Buildings, Fueling Ramp Drainage, and Loading Walkways
NFPA 418	2006 Edition	Standard for Heliports
NFPA 484	2009 Edition	Standard for Combustible Metals
NFPA 495	2010 Edition	Explosive Materials Code
NFPA 654	2006 Edition	Standard for the Prevention of Fire and Dust Explosions from the Manufacturing, Processing, and Handling of Combustible Particulate Solids

NFPA 664	2007 Edition	Standard for the Prevention of Fires and Explosions in Wood Processing and Woodworking Facilities
NFPA 701	2010 Edition	Standard Methods of Fire Tests for Flame Propagation of Textiles and Films
NFPA 703	2009 Edition	Standard for Fire-Retardant Treated Wood and Fire-Retardant Coatings for Building Materials
NFPA 750	2010 Edition	Standard on Water Mist Fire Protection Systems
NFPA 801	2008 Edition	Standard for Fire Protection For Facilities Handling Radioactive Materials
NFPA 820	2008 Edition	Standard for Fire Protection in Wastewater Treatment and Collection Facilities
NFPA 901	2006 Edition	Standard Classifications for Incident Reporting and Fire Protection Data
NFPA 909	2010 Edition	Code for the Protection of Cultural Resources Properties - Museums, Libraries, and Places of Worship
NFPA 914	2010 Edition	Code for Fire Protection of Historic Structures
NFPA 1031	2009 Edition	Standard for Professional Qualifications for Fire Inspector and Plan Examiner
NFPA 1123	2010 Edition	Code for Fireworks Display
NFPA 1124	2006 Edition	Code for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles
NFPA 1126	2006 Edition	Standard for the Use of Pyrotechnics before a Proximate Audience
NFPA 1221	2010 Edition	Standard for the Installation, Maintenance, and Use of Emergency Services Communications Systems
NFPA 1402	2007 Edition	Guide to Building Fire Service Training Centers
NFPA 1403	2007 Edition	Standard on Live Fire Training Evolutions
NFPA 1961	2007 Edition	Standard on Fire Hose
NFPA 1962	2008 Edition	Standard for the Inspection, Care, and Use of Fire Hose, Couplings, and Nozzles and the Service Testing of Fire Hose
NFPA 2001	2008 Edition	Standard on Clean Agent Fire Extinguishing Systems

B. All inspections and other evaluations of buildings constructed or remodeled pursuant to plans submitted to the Office of State Fire Marshal for review shall be made utilizing new construction requirements set forth in the *Life Safety Code* published by the National Fire Protection Association and the "Special Provisions for High-Rise Building" Section of the *Standard Building Code* published by the Southern Building Code Congress International as follows.

Building Constructed or Remodeled	Life Safety Code Edition	Section/Standard Building Code Edition	Sections/International Building Code Edition
prior to 1/1/1975	1967	-	-
1/1/1975 to 12/31/1979	1973	518 / 1974 Chapter 4 revisions to 1973	-
1/1/1980 to 8/31/1981	1976	518 / 1974 Chapter 4 revisions to 1973	-
9/1/1981 to 8/31/1986	1981	506 / 1979	-
9/1/1986 to 2/18/1989	1985	506 / 1985	-

2/19/1989 to 5/31/1992	1988	506 / 1985	-
6/1/1992 to 1/4/1995	1991	506 / 1988	-
1/5/1995 to 5/31/1998	1994	506 / 1991	-
6/1/1998 to 6/30/2001	1997	412 / 1994	-
7/1/2001 to 12/31/2001	2000	412 / 1994	-
1/1/2002 to 6/30/2004	2000	412 / 1997	-
7/1/2004 to 9/30/2007	2003	-	-
10/1/2007 to 6/30/2010	2006	-	-
after 7/1/2010	2009	-	-

C. All references to performance based criteria in the *Life Safety Code* shall only be considered by the Office of State Fire Marshal after an appeal of a decision has been timely made.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1651(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Fire Protection, LR 1:145 (February 1975), amended LR 5:468 (December 1979), LR 6:71 (February 1980), amended by the Office of the State Fire Marshal, LR 7:588 (November 1981), LR 9:417 (June 1983), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 15:96 (February 1989), LR 17:1114 (November 1991), LR 23:1688 (December 1997), LR 27:857 (June 2001), LR 27:2257 (December 2001), repromulgated LR 29:183 (February 2003), amended LR 30:1303 (June 2004), LR 33:671 (April 2007), LR 36:

Chapter 3. Buildings

§303. Plans and Specifications for New Buildings

A. As of July 1, 2010, the plans and specifications for every structure built or remodeled in the state of Louisiana must be drawn in accordance with the requirements of the 2009 Edition of the *Life and Safety Code* (excluding Chapter 5) of the National Fire Protection Association. Chapter 5, Performance-Based Option, may be used as a basis for appeal equivalency determinations.

B. - D. ...

E. Regarding "building rehabilitation," compliance in accordance with LAC 55:V.103.B shall be considered by the Office of State Fire Marshal as an equivalent alternative for compliance with the applicable existing chapter, where the applicable existing chapters are prescribed in the latest adopted NFPA 101 Life Safety Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1651(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Fire Protection, LR 1:143 (February 1975), amended LR 5:468 (December 1979), LR 6:72 (February 1980), amended by the Office of the State Fire Marshal, LR 7:344 (July 1981), LR 7:588 (November 1981), LR 9:417 (June 1983), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 12:116 (February 1986), LR 15:96 (February 1989), LR 17:1115 (November 1991), LR 23:1692 (December 1997), amended LR 30:1305 (June 2004), LR 33:673 (April 2007), LR 36:

Family Impact Statement

The proposed Rule will not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;

4. family earnings and family budget;
5. the behavior and personal responsibility of the children.

Local governmental entities have the ability to perform the enforcement of the action proposed in accordance with R.S. 40:1571.A.

Small Business Impact Statement

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

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Such comments should be submitted no later than April 16, 2010, at 4:30 p.m. to Don Zeringue, Office of State Fire Marshal, Plan Review Section, 8181 Independence Blvd., Baton Rouge, LA 70806. In the event that the required number of written comments is received, a public hearing is tentatively scheduled for April 19, 2010 at 2:00 p.m. at 8181 Independence Blvd., Baton Rouge, LA 70806. Please call in advance to confirm the time and place of meeting.

Jill P. Boudreaux
Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Code Enforcement and Building Safety Fire Protection

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no costs anticipated to state and local governments that are associated with the implementation of this rule change. The proposed changes will update the editions of the current Fire Protection Codes. Costs to the State Fire Marshal that are associated with the purchase of the code books are currently budgeted in the amount of \$96,001.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is no additional cost or economic benefit to directly affected persons or non-governmental groups that are associated with this rule change.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated impact on competition and employment associated with this proposed rule change.

Jill P Boudreaux
Undersecretary
1003#071

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.1913)

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 an amendment to the regulatory requirements regarding the Gross Vehicle Weight Rating (GVWR) for tow trucks. Through this amendment, tow trucks manufactured prior to 2007 with a GVWR of 10,000 pounds will be eligible for a tow truck license plate. These specific trucks had been inadvertently disqualified by a previous rule.

Title 55

PUBLIC SAFETY

Part I. State Police

Chapter 19. Towing Recovery and Storage

§1913. Tow Truck License Plate

A. - B.2. ...

3. Denial of Applications

a. An application for a tow truck license plate shall be denied if:

i. ...

ii. a tow truck has a GVWR of 10,000 pounds or less and it shall not be used for towing vehicles for compensation; unless the year of manufacture is prior to 2007, in which case, a GVWR of 10,000 pounds is acceptable and shall not be cause for denial; or

B.3.iii. - D.1.h. ...

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 32:856 (May 2006), amended LR 36:

Family Impact Statement

1. The Effect of this Rule on the Stability of the Family. This Rule should not have any effect on the stability of the family.

2. The Effect of this Rule on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. This Rule should not have any effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect of this Rule on the functioning of the family. This Rule should not have any effect on the functioning of the family.

4. The effect of this Rule on family earnings and family budget. This Rule should not have any effect on family earnings and family budget.

5. The effect of this Rule on the behavior and personal responsibility of children. This Rule should not have any effect on the behavior and personal responsibility of children.

6. The effect of this Rule on the ability of the family or local government to perform the function as contained in the proposed Rule. This Rule should not have any effect on the ability of the family or local government to perform the function as contained in the proposed Rule.

Public Comments

Interested persons may submit written comments to Paul Schexnayder, Post Office Box 66614, Baton Rouge, LA 70896. Written comments will be accepted through April 15, 2010.

Jill P. Boudreaux
Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Towing Recovery and Storage

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed administrative rule amending the Gross Vehicle Weight Rating (GVWR) for tow trucks will not result in implementation costs or savings to Louisiana State Police or other state or local governmental entities as the affected tow trucks are currently licensed or in the process of being licensed under an emergency rule. This rule corrects an inadvertent exclusion of tow trucks manufactured prior to 2007 with a GVWR of 10,000 pounds.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no impact on state or local governmental revenues as a result of these proposed rule changes.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed administrative rule will prevent the rescission of tow license plates and rejection of future applications for these specific tow trucks.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will not affect competition or employment.

Jill P. Boudreaux
Undersecretary
1003#070

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Correction Uniform Construction Code Council

Certification Requirements—Grandfathering
(LAC 55:VI.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 proposes to amend Chapter 9 by adding §905 which will provide that code enforcement officers who have been employed in building code enforcement for at least 10 years on January 1, 2007 will not be required to obtain certification by a recognized code organization or testing agency as a prerequisite to registration by the Construction Code Council.

**Title 55
PUBLIC SAFETY**

Part VI. Uniform Construction Code

Chapter 9. Temporary Exemption to Certification Requirement

§905. Grandfathering for Employment of at Least 10 Years on 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 who have been employed in building code enforcement for at least 10 years on January 1, 2007, only for the position and locality held at the time of registration. Building code enforcement officers who are registered pursuant to this paragraph shall provide notarized verification of employment from the payroll agent of their employing authority having jurisdiction, and must comply with all continuing education requirements established by the council.

1. Building code enforcement officers currently provisionally registered with the Louisiana State Uniform Construction Code Council and meeting the 10-year employment requirement in Subsection A above shall have until December 31, 2010 to renew registration under the provisions of R.S. 40:1730.35 C(2) and this section.

2. Building code enforcement officers not currently registered with the Louisiana State Uniform Construction Code Council and referenced in Subsection A above shall have until April 15, 2010 to satisfy the registration requirements set forth in §701 of this Part and this Section, and have until December 31, 2010 to meet the continuing education requirements of their provisional registration.

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 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 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, P.O. Box 66614, Baton Rouge, LA 70896. Written comments will be accepted through April 15, 2010.

Jill Boudreaux
Undersecretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Certification
Requirements—Grandfathering**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change is not anticipated to result in additional state or local government costs or savings. This rule change provides that building code enforcement officers who have been employed in building code enforcement for at least 10 years on January 1, 2007 may be issued certificates of registration without certification by a recognized code organization or testing agency. The rule also provides the time period within which these code enforcement officers must obtain their certificates of registration.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is anticipated to be no impact on revenue collections of state or local government as a result of these rules.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The adoption of these rule changes are not anticipated to have any impact on costs and/or benefits to the affected construction industry. Code enforcement officers who have been employed in building code enforcement for at least 10 years on January 1, 2007 will benefit by not being required to obtain certification by a recognized code organization or testing agency.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes should not significantly affect competition or employment.

Jill Boudreaux
Undersecretary
1003#072

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Revenue
Policy Services Division**

Electronic Filing Requirements for Oil
or Gas Severance Tax
(LAC 61:III.1525)

Under the authority of R.S. 47:1511 and 47:1520 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.1525 to mandate electronic filing to persons severing oil or gas from the soil or water of the state.

R.S. 47:1520(A)(1)(b) authorizes the secretary to require electronic filing from persons severing oil or gas from the soil or water of the state that are required to file reports under R.S. 47:635(A)(2). Paragraph (A)(2) requires that the electronic filing requirements be implemented by administrative rule in accordance with the Administrative Procedure Act. R.S. 47:1520(B) provides for penalties if the taxpayer fails to comply with the electronic filing requirement.

Title 61

REVENUE AND TAXATION

Part III. Administrative Provisions and Miscellaneous Chapter 15. Mandatory Electronic Filing of Tax Returns and Payment

§1525. Severance Tax—Oil or Gas

A. R.S. 47:635(A)(2) requires every person severing oil or gas from the soil or water of the state to submit, on or before the twenty-fifth day of the second month following the month to which the tax is applicable, a statement of the business conducted by the severer during the month on forms approved by the department.

B. Effective with the July 2010 filing period, reporting severers of oil or gas, from the soil or water, shall be required to file tax returns electronically with the Department of Revenue using the electronic format prescribed by the department.

C. Failure to comply with this electronic filing requirement will result in the assessment of a penalty of \$100 or 5 percent of the tax, whichever is greater, as provided by R.S. 47:1520(B).

1. If it is determined that the failure to comply is attributable, not to the negligence of the taxpayer, but to other cause set forth in written form and considered reasonable by the secretary, the secretary may remit or waive payment of the whole or any part of the penalty.

2. If the penalty exceeds \$25,000, it may be waived by the secretary only after approval by the Board of Tax Appeals.

3. If electronic filing of a tax return or report would create an undue hardship, proven by the taxpayer, the secretary may exempt the taxpayer from filing the return or report electronically.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511, 47:1520, and 47:635(A)(2).

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

Family Impact Statement

This proposed adoption of LAC 61:III.1525 should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D).

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 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 April 28, 2010. A public hearing will be held on April 29, 2010 at 8:00 a.m. in the River Room on

the Seventh Floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA 70802-5428.

Cynthia Bridges
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Electronic Filing Requirements

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This proposed rule requires dealers who remit oil and gas severance taxes to electronically submit their tax returns to the Louisiana Department of Revenue beginning with the July, 2010, production month, which are to be filed by September 27, 2010. Electronic filing of these returns is necessary to facilitate proper identification and dedication of tax revenues from these sources. Since the electronic filing applications already exist, the department's implementation costs should be minimal and will be absorbed within the department's existing budget allocation. Ongoing system maintenance costs will be offset by a corresponding reduction in tax return printing, postage, and paper processing costs.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This proposed rule, which requires dealers to electronically submit oil and gas severance tax returns, will have no impact on the 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 for businesses that will be required to electronically file returns should be negligible because 47 percent of gas severance tax filers and 45 percent of oil severance tax filers already file electronically. In addition, severance taxpayers typically own a computer with Internet access, which are necessary to submit the electronic returns as required by this proposed rule. In addition, regional offices of the Department of Revenue offer kiosks and on-site customer support to assist in electronic filing. The electronic filing of returns should also benefit taxpayers by eliminating paper return preparation and mailing.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule should not affect competition or employment.

Cynthia Bridges
Secretary
1003#008

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue Policy Services Division

Income Tax Credits for Wind or Solar Energy Systems
(LAC 61:I.1907)

Under the authority of R.S. 47:287.785, R.S. 47:295, R.S. 47:1511, and R.S. 47:6030, 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.1907 relative to income tax credits for wind or solar energy systems.

Act 467 of the 2009 Regular Session of the Louisiana Legislature amended R.S. 47:6030 to expand the existing credit to taxpayers who do not own the structures into which the wind or solar energy systems are installed. This amendment to the Rule will clarify the application of the credits for those taxpayers who purchase and install wind or solar energy systems.

Title 61

REVENUE AND TAXATION

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

Chapter 19. Miscellaneous Tax Exemptions

§1907. Income Tax Credits for Wind or Solar Energy Systems

A. Revised Statute 47:6030 provides an income tax credit for the purchase and installation of a wind or solar energy system by a Louisiana taxpayer, the owner of a residential rental apartment project, or by a taxpayer who purchases and installs such a system in a residence or a residential rental apartment project which is located in the state. In order for costs associated with the purchase and installation of a wind or solar energy system to qualify for this credit, the expenditure must be made on or after January 1, 2008. The amount of the credit is equal to fifty percent of the first \$25,000 of the cost of each wind or solar energy system.

B. Definitions

Charge Controller—an apparatus designed to control the state of charge of a bank of batteries.

Grid-Connected, Net Metering System—a wind or solar electric system interconnected with the utility grid in which the customer only pays the utility for the net energy used from the utility minus the energy fed into the grid by the customer. All interconnections must be in accordance with the capacity, safety and performance interconnection standards adopted as part of the Louisiana Public Service Commission's, the New Orleans City Council's, or other Louisiana utility regulatory entities, as appropriate, established Net Metering rules and procedures.

Inverter—an apparatus designed to convert direct current (DC) electrical current to alternating current (AC) electrical energy. Modern inverters also perform a variety of safety and power conditioning functions that allow them to safely interconnect with the electrical grid.

Photovoltaic Panel—a panel consisting of a collection of solar cells capable of producing direct current (DC) electrical energy when exposed to sunlight.

Residence—a single family dwelling, one dwelling unit of a multi-family, owner occupied complex, or one residential dwelling unit of a rental apartment complex. To be considered a residence, the physical properties of the space must provide the basic elements of a home, including full sized and integrated appliances and facilities and the occupant must use the facilities as a home with the intent to permanently remain. All eligible residences must be located in Louisiana.

Solar Electric System—a system consisting of photovoltaic panels with the primary purpose of converting sunlight to electrical energy and all equipment and apparatus necessary to connect, store and process the electrical energy for connection to and use by an electrical load.

Solar Thermal System—a system consisting of a solar energy collector with the primary purpose of converting sunlight to thermal energy and all devices and apparatus necessary to transfer and store the collected thermal energy for the purposes of heating water, space heating, or space cooling.

Supplemental Heating Equipment—a device or apparatus installed in a solar thermal system that utilizes energy sources other than wind or sunlight to add heat to the system, with the exception of factory installed auxiliary heat strips that are an integral component of a specifically engineered solar hot water storage tank.

Wind Energy System—a system of apparatus and equipment with the primary purpose of intercepting and converting wind energy into mechanical or electrical energy and transferring this form of energy by a separate apparatus to the point of use or storage.

C. Eligibility for Wind and/or Solar Energy Systems Tax Credits

1. Each residence or apartment project in the state is eligible for tax credits for the number of separate complete wind, solar electric, and solar thermal energy systems necessary to ensure that the residence or apartment project is supplied with all of its energy needs.

2. All wind or solar energy systems must be installed in the immediate vicinity of the residence or apartment project claiming the credit such that the electrical, mechanical or thermal energy is delivered directly to the residence or apartment project.

3. In order to claim a tax credit(s) for a wind energy system, solar electric energy system, or solar thermal energy system, the components for each system must be purchased and installed at the same time as a system.

4. For a taxpayer other than the owner of the residence or residential rental apartment project to claim a tax credit for a wind energy system, solar electric energy system, or solar thermal energy system, the taxpayer must provide the Department with a copy of the contract in which the owner of the residence has clearly and unambiguously stated that he is not entitled to and will not claim the tax credit. Absent such a contract, the owner of the residence or residential rental apartment project is the only taxpayer eligible to claim the credit and the installer or developer shall have no right to the credit.

D. Claiming the Wind and Solar Energy Systems Tax Credit

1. The credit for the purchase and installation of a wind energy system or solar energy system by a taxpayer at his residence shall be claimed by the taxpayer on his Louisiana individual income tax return.

2. The credit for the purchase and installation of a wind energy system or solar energy system by the owner of a residential rental apartment project shall be claimed by the owner on his Louisiana individual, corporate or fiduciary income tax return.

3. The credit for the purchase and installation of a wind energy system or solar energy system by a taxpayer who purchases and installs such a system in a residence or a residential rental apartment project of which he is not the owner shall be claimed by the taxpayer on his Louisiana individual, corporate or fiduciary income tax return.

E. Wind and Solar Energy Systems Eligible for the Tax Credit

1. The credit provided by R.S. 47:6030 is only allowed for complete and functioning wind energy systems or solar energy systems. Local and state sales and use taxes are an eligible system cost. Financing costs are not an eligible system cost.

a. Exceptions to General Rule Allowing Credit Only for Complete Systems

i. Exception in the Case of a Multi-Family Residence

(a). In order to be eligible to receive the credit, the owner of a single unit in a multi-family residence project must have an undivided interest in the wind or solar energy system that is being installed.

(b). If a component of a wind or solar energy system is shared, documentation must be supplied dividing up the costs of the component between all those eligible for the credit.

(c). Subsequent purchasers of units in the multi-family residence not in possession of an undivided interest at the time of installation, will not be eligible for the credit.

ii. Exception Allowing Shared Inverters

(a). Shared inverters are permitted when two or more systems are being installed at the same time.

(b). Any equipment added at a later date can not use existing system components and has to have every element of a complete system in order to qualify for the credit.

2. Wind Energy Systems. Eligible wind energy systems under the tax credit include systems designed to produce electrical energy and systems designed to produce mechanical energy through blades, sails, or turbines and may include the following.

System Type	Eligible System Components
DC Wind Electric Generation Systems	DC output wind turbine, controllers, towers & supports, charge controllers, inverters, batteries, battery boxes, DC & AC disconnects, junction boxes, monitors, display meters, lightning and ground fault protection, and wiring and related electrical devices and supplies from generator to residence or electrical load
AC Wind Electric Generation Systems	AC output wind turbine, controllers, towers & supports, charge controllers, power conditioners/grid interconnection devices, batteries, battery boxes, AC disconnects, junction boxes, monitors, display meters, lightning and ground fault protection, and wiring and related electrical devices and supplies from generator to residence or electrical load
Mechanical Wind Systems	mechanical output wind turbine, towers & supports, mechanical interconnection between turbine and mechanical load

3. Solar Electric Systems. Eligible solar electric systems under the tax credit include grid-connected net metering systems, grid-connected net metering systems with battery backup, stand alone alternating current (AC) systems and stand alone direct current (DC) systems, designed to produce electrical energy and may include the following.

System Type	Eligible System Components
Grid-Connected, Net Metering Solar Electric Systems	photovoltaic panels, mounting systems, inverters, AC & DC disconnects, lightning and ground fault protection, junction boxes, remote metering display devices and related electrical wiring materials from the photovoltaic panels to point of interconnection with the residence or electrical load
Grid-Connected, Net Metering Solar Electric Systems with Battery Backup	photovoltaic panels, mounting systems, inverters, charge controllers, batteries, battery cases, AC & DC disconnects, lightning and ground fault protection, junction boxes, remote metering display devices and related electrical wiring materials from the photovoltaic panels to point of interconnection with the residence or electrical load
Stand Alone Solar Electric AC Systems	photovoltaic panels, mounting systems, inverters, charge controllers, batteries, battery cases, AC & DC disconnects, lightning and ground fault protection, junction boxes, remote metering display devices and related electrical wiring materials from the photovoltaic panels to point of interconnection with the residence or electrical load
Stand Alone Solar Electric DC Systems	photovoltaic panels, mounting systems, charge controllers, batteries, battery cases, DC disconnects, lightning and ground fault protection, junction boxes, remote metering display devices and related electrical wiring materials from the photovoltaic panels to point of interconnection with the residence or electrical load

4. Solar Thermal Systems. Solar thermal systems eligible under the tax credit include systems designed to produce domestic hot water, systems designed to produce thermal energy for use in heating and cooling systems and solar pool heating systems and may include the following.

System Type	Eligible System Components
Domestic Solar Hot Water Systems	solar thermal collectors, mounting systems, solar hot water storage tanks, pumps, heat exchangers, drain back tanks, expansion tanks, controllers, sensors, valves, freeze protection devices, air elimination devices, photovoltaic panels for PV systems, piping and other related materials from the solar thermal collectors to the solar hot water storage tanks
Heating and Cooling Thermal Energy Systems	solar thermal collectors, mounting systems, solar hot water storage tanks, pumps, heat exchangers, drain back tanks, expansion tanks, controllers, sensors, valves, freeze protection devices, air elimination devices, photovoltaic panels for PV systems, piping and other related materials from the solar thermal collectors to the solar hot water storage tanks
Solar Pool Heating System	solar pool heating collectors, mounting systems and devices, controllers, actuators, valves, pool covers, air elimination devices, sensors, piping and other related materials from solar pool heating collectors to interconnection with pool filtration system

5. All wind and solar energy systems for which a tax credit is claimed shall include an Operations and Maintenance manual containing a working diagram of the system, explanations of the operations and functions of the component parts of the system and general maintenance procedures.

6. All photovoltaic panels, wind turbines, inverters and other electrical apparatus claiming the tax credit must be

UL listed and installed in compliance with manufacturer specifications and all applicable building and electrical codes.

7. All solar thermal apparatus claiming the tax credit must be certified by the Solar Rating and Certification Corporation (SRCC) and installed in compliance with manufacturer specifications and all applicable building and plumbing codes.

8. Applicants applying for the tax credit on any system(s) must provide proof of purchase to the Louisiana Department of Revenue detailing the following as applicable to your particular solar or wind energy system installation:

- a. type of system applying for the tax credit;
- b. output capacity of the system:
 - i. Solar Electric Systems – total nameplate listed kW of all installed panels;
 - ii. Solar Thermal Systems – listed SRCC annual BTU or equivalent kWh output;
 - iii. Wind Electric Systems – total rated kW of all alternators and generators;
 - iv. Wind Mechanical Systems – shaft horsepower as rated by manufacturer, licensed contractor or licensed professional engineer;
- c. physical address where the system is installed in the state;
- d. total cost of the system as applied towards the tax credit separated by:
 - i. equipment costs;
 - ii. installation costs;
 - iii. taxes;
- e. make, model, and serial number of generators, alternators, turbines, photovoltaic panels, inverters, and solar thermal collectors applied for in the tax credit;
- f. name and Louisiana contractor's license number of installer;
- g. if applicable, copy of the modeled array output report using the PV Watts Solar System Performance Calculator developed by the National Renewable Energy Laboratory and available at the website www.nrel.gov/rredc/pvwatts. The analysis must be performed using the default PV Watts de-rate factor;
- h. copy of a solar site shading analysis conducted on the installation site using a recognized industry site assessment tool such as a Solar Pathfinder or Solmetric demonstrating the suitability of the site for installation of a solar energy system.

F. Eligible Costs

1. Eligible Costs—Eligible costs that can be included under the tax credit are reasonable and prudent costs for equipment and installation of the wind and solar energy systems defined in Subsection B and described in Subsection E above. Equipment costs must be in accordance with Subsection E above.

2. Ineligible Costs—Labor costs for individuals performing their own installations are not eligible for inclusion under the tax credit. Supplemental heating equipment costs used with solar collectors are not eligible for inclusion under the tax credit.

3. Whenever, in return for the purchase price or as an inducement to make a purchase, marketing rebates or incentives are offered, the eligible cost shall be reduced by the fair market value of the marketing rebate or incentive received. Such marketing rebates or incentives include, but are not limited to, cash rebates, prizes, gift certificates, trips or any other thing of value given by the installer to the customer as an inducement to purchase an eligible wind or solar energy system.

4. Only one wind or solar energy systems tax credit is available for each eligible system. Once a wind or solar energy systems tax credit is claimed by a taxpayer for a particular system, that same system is not eligible for any other tax credit pursuant to this Section. If the residential property or system is sold, the taxpayer who claimed the tax credit must disclose his use of the tax credit to the purchaser.

5. Any solar or wind energy system for which a tax credit is received must remain on the structure to which it was originally attached or on another structure located within Louisiana owned or occupied by the individual receiving the credit for a minimum of five years from the date of installation.

G. Other Tax Benefits Disallowed

1. A taxpayer shall not receive any other state tax credit, exemption, exclusion, deduction, or any other tax benefit for property for which the taxpayer has received a wind energy system, solar electric energy system, or solar thermal energy system credit under R.S. 47:6030.

a. Taxpayers claiming a wind energy system, solar electric energy system, or solar thermal energy system credit may not claim a state depreciation deduction for capitalized system costs.

2. Exception. The credit may be used in addition to any federal tax credits earned for the same system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6030 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, LR 34:2206 (October 2008), amended LR 36:

Family Impact Statement

The proposed amendment of LAC 61:I.1907, regarding income tax credits for wind or solar energy systems 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. The implementation of this proposed rule will have 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 budgets;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform this function.

Public Comments

Any interested person may submit written data, views, arguments, or comments regarding this proposed rule to Leonore Heavey, Revenue Tax Assistant Director, Policy Services Division, by mail to P.O. Box 44098, Baton Rouge,

LA 70804. All comments must be submitted no later than 4:30 p.m., April 26, 2010. A public hearing will be held on April 27, 2010, at 11:00 a.m. in the Calcasieu Room located on the second floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA 70802.

Cynthia Bridges
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Income Tax Credits for Wind
or Solar Energy Systems**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

This proposed amendment to this rule will have no cost or savings impact to state or local governments. Act 467 of the 2009 Regular Session of the Louisiana Legislature amended R.S. 47:6030 to expand the existing refundable credit of 50 percent of the first \$25,000 in purchase and installation costs for wind and solar energy systems to taxpayers who purchase and install systems in residential property owned by others. This amendment to the rule will clarify the application of the credits for those taxpayers who purchase and install wind or solar energy systems. It is expected that there will be no change in the amount of resources needed to apply the proposed amended rule. Any costs of additional verification of the credits caused by the change will be absorbed in the Department of Revenue's existing budget.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

State general fund revenue will likely decline by an indeterminable amount in Fiscal Year 2009-2010 and thereafter due to the proposed amendment to this rule.

Tax year 2008 marks the first year that the credits were available. Extending this credit to non-owners and allowing the rental of systems will possibly increase the utilization of the credit but the increase cannot be established with certainty. By expanding the credit to taxpayers who purchase and install systems in residential property owned by others, the purchaser/installer can rent a system to a resident owner and get the benefit of the credit while relieving the resident owner of the burden of the upfront cost of the system. However, without a pattern of utilization on the existing credit and the unknown impact of a recently uncapped 30 percent federal credit, it is possible that credits claimed could increase substantially over the next few years.

This proposed amended rule will have no impact on local revenue collections.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

The proposed amended rule will likely increase receipts of sellers, distributors, and installers of these systems to the extent that non-owners participate in the credit.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

Sellers, distributors, and installers of solar systems will likely see an increase in receipts and possibly employment due to the expanded credit eligibility. The extent to which solar systems may be installed instead of more typical power sources is unknown, but the choice of solar over a more standard power

source could increase as knowledge of the expanded eligibility of the credit becomes more widespread.

Cynthia Bridges
Secretary
1003#068

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Social Services
Office of Community Services**

Residential Licensing—Notice of Revocation Action
(LAC 67:V.6503, 6705, 6955 and 7107)

In accordance with provisions of R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Social Services (DSS), Office of Community Services (OCS), proposes to amend LAC 67:V.6503, 6705, 6955, and 7107.

The DSS/OCS finds it necessary to amend this rule to require that any notice of revocation action shall be prominently posted on the premises of any residential care facility when the license to operate is revoked. In an effort to ensure the public health, safety and welfare of children who receive care in transitional living, maternity homes, and child residential care facilities, prominent posting of the notice of revocation action shall remain visible to the general public, other placing agencies, parents, guardians, and other interested parties, throughout the pendency of any appeals of the revocation. This notice shall notify the general public, other placing agencies, parents, guardians, and other interested parties who are involved with child residential care services, that the child residential care facility is not in compliance with state laws.

Title 67

SOCIAL SERVICES

Part V. Office of Community Services

Subpart 8. Residential Licensing

Chapter 65. Transitional Living

§6503. Authority

A. ...

B. Posting of Notices of Revocation

1. The notice of revocation of the license shall be prominently posted.

a. The Department of Social Services shall prominently post a notice of revocation action at each public entrance of the transitional living facility within one business day of such action. This notice must remain visible to the general public, other placing agencies, parents, guardians, and other interested parties who are involved with children who attend the child care facility.

b. It shall be a violation of these rules for a provider to permit the obliteration or removal of a notice of revocation that has been posted by the department. The provider shall ensure that the notice continues to be visible to the general public, other placing agencies, parents, guardians, and other interested parties throughout the pendency of any appeals of the revocation.

c. The provider shall notify the department's child residential licensing in writing immediately if the notice is removed or obliterated.

d. Failure to maintain the posted notice of revocation required under these rules shall be grounds for denial, revocation or non-renewal of any future license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477, R.S.46:1401-1424 and R.S. 46:1414.1.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:92 (January 2004), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2686 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1561 (August 2009), amended LR 36:

Chapter 67. Maternity Home

§6705. Application

A. ...

B. Posting of Notices of Revocation.

1. The notice of revocation of the license shall be prominently posted.

a. The Department of Social Services shall prominently post a notice of revocation action at each public entrance of the maternity home facility within one business day of such action. This notice must remain visible to the parents, guardians, placing agencies, and other interested parties of children who reside the facility.

b. It shall be a violation of these rules for a provider to permit the obliteration or removal of a notice of revocation that has been posted by the department. The provider shall ensure that the notice continues to be visible to the general public, other placing agencies, parents, guardians, and other interested parties throughout the pendency of any appeals of the revocation.

c. The provider shall notify the department's child residential licensing in writing immediately if the notice is removed or obliterated.

d. Failure to maintain the posted notice of revocation required under these rules shall be grounds for denial, revocation or non-renewal of any future license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477, R.S.46:1401-1424 and R.S. 46:1414.1.

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), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2694 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1570 (August 2009), amended LR 36:

Chapter 69. Child Residential Care

§6955. Procedures

A. - E.5. ...

F. Posting of Notices of Revocation.

1. The notice of revocation of the license shall be prominently posted.

a. The Department of Social Services shall prominently post a notice of revocation action at each public entrance of the child residential care facility within one business day of such action. This notice must remain visible to the general public, other placing agencies, parents, guardians, and other interested parties of children who attend the child care facility.

b. It shall be a violation of these rules for a provider to permit the obliteration or removal of a notice of revocation that has been posted by the department. The provider shall ensure that the notice continues to be visible

to the general public, other placing agencies, parents, guardians, and other interested parties throughout the pendency of any appeals of the revocation.

c. The provider shall notify the department's child residential licensing in writing immediately if the notice is removed or obliterated.

d. Failure to maintain the posted notice of revocation required under these rules shall be grounds for denial, revocation or non-renewal of any future license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477, R.S. 46:1410 et seq., R.S.46:1401-1424 and R.S. 46:1414.1.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:1565 (September 2001), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2740 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1617 (August 2009), amended LR 36:331 (February 2010), LR 36:

Chapter 71. Child Residential Care

§7107. Licensing Requirements

A. - J.6. reserved.

K. Posting of Notices of Revocation.

1. The notice of revocation of the license shall be prominently posted.

a. The Department of Social Services shall prominently post a notice of revocation action at each public entrance of the child residential care facility within one business day of such action. This notice must remain visible to the general public, other placing agencies, parents, guardians, and other interested parties of children who attend the child care facility.

b. It shall be a violation of these rules for a provider to permit the obliteration or removal of a notice of revocation that has been posted by the department. The provider shall ensure that the notice continues to be visible to the general public, other placing agencies, parents, guardians, and other interested parties throughout the pendency of any appeals of the revocation.

c. The provider shall notify the department's child residential licensing in writing immediately if the notice is removed or obliterated.

d. Failure to maintain the posted notice of revocation required under these rules shall be grounds for denial, revocation or non-renewal of any future license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, 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 an additional enforcement measure to 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? Parents and guardians of children will have visible notice that the facility's license has been revoked due to the prominent posting of the revocation notice, which enables them to use their authority to make better decisions 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 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.

Public Comments

Interested persons may submit written comments by the close of business Monday, May 3, 2010, to Kaaren Hebert, Assistant Secretary, Office of Community Services, P.O. Box 3318, Baton Rouge, LA 70821. She is responsible for responding to inquiries regarding this proposed Rule

Public Hearing

A public hearing on the proposed Rule will be held on April 29, 2010 at the Department of Social Services, Iberville Building, 627 North Fourth Street, Seminar Room 1-127, Baton Rouge, LA, beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, arguments, orally and in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least 7 working days in advance of the hearing. For assistance, call 225-342-4120 (Voice and TDD).

Kristy H. Nichols
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Residential Licensing—Notice of Revocation Action

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This proposed rule to amend the *Louisiana Administrative Code* (LAC) Title 67, Part V, Subpart 8, Residential Licensing, stipulates requirements and procedures relative to public posting of a notification of revocation of a child residential care facility's license. The Department of Social Services (DSS) is required to provide and prominently post a public notice in a highly visible location on the premises of the child residential care facility, stipulating that the facility's license has been revoked due to non-compliance with state laws. The child residential care facility is required to retain this prominently posted public notice in that highly visible location on its premises, to serve as notification to the general public, other placing agencies, parents, guardians, and other interested parties of the children who receive child residential care services, that their license has been revoked. This rule was developed to help ensure the public health, safety and welfare of children who receive care in child residential care facilities.

DSS will develop the information, the form, and the composition of the public notification to be posted and displayed on the premises of the appropriate facility. DSS shall also develop and distribute a three-page document to 125 child residential care facility providers.

The total estimated cost to implement this rule change is \$744, which includes: printing the 3-page document for providers (\$94), supplies (\$24), postage (\$60), printing of revocation notices (\$230) and publishing rulemaking (\$336). This cost will be absorbed within the Office of Community Services FY 2009-10 budget appropriation.

The only potential cost in subsequent fiscal years is the cost for the additional printing of notices; however, the number of revocation notices cannot be determined, as it is not possible to determine the number of licenses that may be revoked.

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)

This rule requires the DSS to post a notice on the premises of the child residential care facility when the license to operate is revoked. This rule requires prominent posting of the notice of revocation action to remain visible to the general public, other placing agencies, parents, guardians, and other interested parties throughout the pendency of any appeals of the license revocation. DSS will develop, purchase and post the notices. There will be no charge to the providers for the notice. This rule may benefit the health and safety of children because parents, guardians and others will have visible knowledge and notification of the license revocation, and may choose to remove their children from the child residential care facilities that do not comply with state rules and regulations.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule may effect competition and employment in the child residential care industry because parents, guardians and other interested parties of children who receive care at the facility may decide to remove their child(ren) from the child residential care facility due to the prominent posting of the notice that the license has been revoked. Some child residential care employees may lose their job due to a decrease in the number of children at the facility. However, child residential care facilities that comply with rules and regulations may increase their profits because they may be able to provide care for additional children. The number of child residential care facilities this rule will affect is impossible to determine.

Kaaren Hebert
Assistant Secretary
1003#095

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Social Services Office of Family Support

Child Care Assistance Program
Discontinuation of Job Search
(LAC 67:III.5102, 5103, 5104, and 5109)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Social Services, (DSS) Office of Family Support (OFS), proposes to amend LAC 67:III.5102, 5103, 5104, and 5109.

Section 5102 is being amended to expand the definition of a *Household Designee* to include that this person may be responsible for checking a child or children on or off of an approved child care vehicle.

Section 5103 is being amended to remove the reference to the specific verification required for determining eligibility.

Sections 5103, 5104, and 5109 are being amended to discontinue Job Search as a countable Employment and Training (E&T) activity in CCAP. Due to budget constraints, this will align with the department's requirement to ensure core services are provided to assist needy families during difficult economic times. This Rule should result in a reduction of CCAP cases and will allow the department to address the child care needs of participants who are currently employed or in an approved job training or educational activity.

This Rule was effective by Emergency Rule effective January 1, 2010.

**Title 67
Social Services**

**Part III. Office of Family Support
Subpart 12. Child Care Assistance**

Chapter 51. Child Care Assistance Program

**Subchapter A. Administration, Conditions of Eligibility,
and Funding**

§5102. Definitions

* * *

Household Designee (HD)—An adult who is designated (in writing) by the CCAP Head of Household to drop off and/or pick up the child or children from an authorized CCAP provider or check the child or children on or off of an approved child care vehicle. In the case of an In-Home provider, this is the person to whom the provider may release the child or children when the provider leaves the home. Each household designee may be finger imaged for identity purposes.

* * *

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 26:2826 (December 2000), LR 27:1932 (November 2001), LR 28:1490 (June 2002), LR 29:43 (January 2003), LR 29:189 (February 2003), LR 30:1484 (July 2004), LR 31:2262 (September 2005), LR 32:1464 (August 2006), LR 36:

§5103. Conditions of Eligibility

A. - B.3. ...

4. Effective September 1, 2002, unless disabled as established by receipt of Social Security Administration Disability benefits, Supplemental Security Income, Veterans' Administration Disability benefits for a disability of at least 70 percent, or unless disabled and unable to care for his/her child(ren) as verified by a doctor's statement or by worker determination, the TEMP must be:

a. employed for a minimum average of 25 hours per week and all countable employment hours must be paid at least at the Federal minimum hourly wage; or

b. attending a job training or educational program for a minimum average of, effective April 1, 2003, 25 hours per week (attendance at a job training or educational

program must be verified, including the expected date of completion); or

c. engaged in some combination of employment which is paid at least at the Federal minimum hourly wage, or job training, or education as defined in Subparagraph B.4.b of this section that averages, effective April 1, 2003, at least 25 hours per week.

d. Exception: a household in which all of the members described in Paragraph B.4 of this section meet the disability criteria is not eligible for child care assistance unless one of those members meets, effective April 1, 2003, the required minimum average of 25 activity hours per week.

5. - 6. ...

7. Effective November 1, 2005, the household must be current on payment of co-payments to any current or previous provider(s). Verification will be required that co-payments are not owed when:

a. - c. ...

C. The family requesting child care services must provide the information and verification necessary for determining eligibility and benefit amount, and meet appropriate eligibility requirements established by the State.

D. Cases eligible for payment may be assigned a certification period of up to twelve months.

E. Effective October 1, 2004, all children receiving services must be age-appropriately immunized according to the schedule of immunizations as promulgated by the Louisiana Office of Public Health, or be in the process of receiving all age-appropriate immunizations. No person is required to comply with this provision if that person or his/her parent or guardian submits a written statement from a physician stating that the immunization procedure is contraindicated for medical reasons, or if the person or his/her parent or guardian objects to the procedure on religious grounds.

F. CCAP households must participate in the system designated by the agency for capturing time and attendance. This process may include finger imaging for the *Head of Household* and their *Household Designees*. The agency will determine the maximum number of *Household Designees* allowed on a CCAP case. Finger imaging is a requirement to participate in CCAP if the provider chosen by the client utilizes this as the mechanism for capturing time and attendance. Exceptions may be granted by the Executive Director of Family Assistance or his or her designee on a case by case basis.

G. If a client chooses care in an In-Home Provider setting, the client must possess a working landline telephone.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L.104-193, 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 24:356 (February 1998), amended LR 25:2444 (December 1999), LR 26:2827 (December 2000), LR 27:1932 (November 2001), LR 28:1490 (June 2002), LR 29:43 (January 2003), LR 29:1106 (July 2003), LR 29:1833 (September 2003), LR 30:496 (March 2004), LR 30:1487 (July 2004), LR 31:101 (January 2005), LR 31:2263 (September 2005), LR 32:1464 (August 2006), LR 33:506 (March 2007), LR 34:692 (April 2008), LR 36:

§5104. Reporting Requirements Effective February 1, 2004

A. - B.1. ...

2. an interruption of at least three weeks or termination of any TEMP's employment or training, or

3. a child receiving CCAP services leaves the home.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L. 104-193, 7 CFR Part 273, ACF Guidance: ACYF-IM-CC-05-03.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:1487 (July 2004), amended LR 31:2263 (September 2005), LR 32:1464 (August 2006), LR 36:

Subpart 12. Child Care Assistance

Chapter 51. Child Care Assistance Program

Subchapter B. Child Care Providers

§5109. Payment

A. - B.3.a. ...

b. the number of hours the *head of household*, the *head of household's* spouse or non-legal spouse, or the minor unmarried parent is working and/or attending a job training or educational program each week, plus one hour per day for travel to and from such activity; or

B.3.c. - F. ...

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:

Family Impact Statement

1. What effect will this Rule have on the stability of the family? CCAP households and applicants will no longer have the option of selecting Job Search to meet the Employment and Training (E&T) requirement. Fewer households will have their child care paid for through CCAP, however this Rule will allow the department to address the child care needs of participants who are currently employed or in an approved job training or educational activity.

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? Families will no longer be able to have their child care paid for through CCAP while they look for work. This may present a challenge to the family as they will have to find other means of payment to assist with their child care expenses.

4. What effect will this have on family earnings and family budget? Families that are no longer eligible to receive CCAP due to the discontinuation of Job Search will have to find other means of payment to assist with their child care expenses or may incur the full cost of their child care expenses.

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, April 26, 2010, to Deidria W. Bolden, Assistant Secretary, Office of Family Support, P.O. Box 94065, Baton Rouge, LA, 70804-9065.

Public Hearing

A public hearing on the proposed Rule will be held on April 26, 2010, at the Department of Social Services, Iberville Building, 627 North Fourth Street, Seminar Room 1-127, 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 Care Assistance Program Discontinuation of Job Search

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 12, Child Care Assistance Program (CCAP), Chapter 51, Subchapter A, Sections 5102, 5103, 5104 and Subchapter B, Section 5109.

Section 5102 is being amended to expand the definition of a Household Designee to include that this person may be responsible for checking a child or children on or off of an approved child care vehicle.

Sections 5103, 5104, and 5109 are being amended to discontinue Job Search as a countable Employment and Training (E&T) activity in the Child Care Assistance Program (CCAP).

Each month approximately 3,356 children whose households participate in Job Search are served at a cost of \$233 per child per month. The discontinuation of job search will save the Agency approximately \$781,948 per month. The 3,356 children whose households participate in Job Search may continue to receive child care benefits through TANF cash assistance (FITAP), depending on eligibility. However, there are different eligibility factors for this program.

DSS estimates that a savings of \$9,383,376 (\$3,021,447 State funds and \$6,361,929 Federal funds) in FY 2011 and FY

2012 from the discontinuation of Job Search in CCAP. To the extent that a portion of the Job Search participants may become eligible to receive benefits through TANF cash assistance (FITAP), depending on eligibility, the estimated savings amount may be reduced.

The only cost associated with this rule is the cost of publishing rulemaking, which is estimated to be approximately \$1,000 for FY 2009/2010 (\$322 State General Fund/\$678 Federal Child Care Block Grant funds). This is a one-time cost that is routinely covered in the Agency's budget.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of this rule will have no effect on state or local revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Prior to January 1, 2010, eligible households were able to have their Child Care Assistance paid through CCAP for four months per FY while they looked for work. Clients whose CCAP benefits end due to the discontinuation of Job Search will incur additional costs if they continue to utilize child care services and are unable to meet the E&T requirement through another eligible activity or find other sources of assistance or other means of payment. Each affected household may have to absorb the full cost of child care for the four months they otherwise would have been eligible for assistance. CCAP households are obligated to pay a percentage of their child care expenses (between 20% - 60%), but now may have to absorb the full cost of child care.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Clients whose CCAP benefits end due to the discontinuation of Job Search will have to meet the E&T requirement through another eligible activity or find other sources of assistance or other means of payment if they continue to utilize child care services while they look for work. Continuing to utilize child care services may not be feasible for families who have to look for work. These families may have to care for their child(ren) while looking for work.

Deidria W. Bolden
Assistant Secretary
1003#109

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Social Services
Office of Family Support**

**Child Care Licensing Revocation Notice
(LAC 67:III.7303 and 7359)**

In accordance with provisions of R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Social Services (DSS), Office of Family Support (OFS), proposes to amend LAC 67:III.7303 and 7359 in Child Care Licensing.

The Department of Social Services finds it necessary to adopt this Rule which shall require a notice of revocation action be prominently posted on the premises of any child care facility when the license to operate is revoked. In an effort to ensure the public health, safety and welfare of children who receive care in child care facilities; prominent posting of the notice of revocation action shall remain visible to the parents, guardians, and others throughout the pendency of any appeals of the revocation. This notice shall

notify the parents and guardians of the children who receive child care that the child care facility is not in compliance with state laws.

Title 67

Social Services

Part III. Office of Family Support

Subpart 21. Child Care Licensing

Chapter 73. Day Care Centers

**Subchapter A. Licensing Class "A" Regulations for
Child Care Centers**

§7303. Procedures

A. - F.7. ...

G. - G.2.d Reserved.

H. Posting of Notices of Revocation. The notice of revocation of the license shall be prominently posted.

1. The Department of Social Services shall prominently post a notice of revocation action at each public entrance of the child care facility within one business day of such action. This notice must remain visible to the parents and guardians of the children who attend the child care facility.

2. It shall be a violation of these rules for a provider to permit the obliteration or removal of a notice of revocation that has been posted by the department. The provider shall ensure that the notice continues to be visible to parents, guardians, and others throughout the pendency of any appeals of the revocation.

3. The provider shall notify child care licensing in writing immediately if the notice is removed.

4. Failure to maintain the posted notice of revocation required under these rules shall be grounds for denial, revocation or non-renewal of any future license.

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 33:2756 (December 2007), amended LR 36:333 (February 2010), LR 36:

Subpart 21. Child Care Licensing

Chapter 73. Day Care Centers

**Subchapter B. Licensing Class "B" Regulations for
Child Care Centers**

§7359. Procedures

A. - H. ...

I. - I.2.d. Reserved.

J. Posting of Notices of Revocation. The notice of revocation of the license shall be prominently posted.

1. The Department of Social Services shall prominently post a notice of revocation action at each public entrance of the child care facility within one business day of such action. This notice must remain visible to the parents and guardians of the children who attend the child care facility.

2. It shall be a violation of these rules for a provider to permit the obliteration or removal of a notice of revocation that has been posted by the department. The provider shall ensure that the notice continues to be visible to parents, guardians, and others throughout the pendency of any appeals of the revocation.

3. The provider shall notify child care licensing in writing immediately if the notice is removed.

4. Failure to maintain the posted notice of revocation required under these rules shall be grounds for denial, revocation or non-renewal of any future license.

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 36:335 (February 2010), 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 an additional enforcement measure to 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? Parents and guardians of children will have visible notice that the license has been revoked due to the prominent posting of the revocation notice, which enables them to use their authority to make better decisions 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 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, April 26, 2010, to Deidria W. Bolden, Assistant Secretary, Office of Family Support, P.O. Box 94065, Baton Rouge, LA., 70804-9065.

Public Hearing

A public hearing on the proposed Rule will be held on April 26, 2010, at the Department of Social Services, Iberville Building, Street, Seminar Room 1-129, Baton

Rouge, Louisiana, beginning at 10 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 Care Licensing Revocation Notice

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This rule proposes to amend the Louisiana Administrative Code (LAC) 67, Part III, Subpart 21, Child Care Licensing. This amendment pertaining to child day care facilities is required to notify the general public and the parents/guardians of the children who receive child care that the license of the child care facility is revoked due to noncompliance with state laws.

This rule was developed to help ensure the public health, safety and welfare of children who receive care in child care facilities. The rule requires prominent posting of the notice of revocation action to remain visible to the parents, guardians, and others throughout the pendency of any appeals of the revocation.

This rule requires the Department of Social Services (DSS) to post a notice on the premises of the child day care facility when the license to operate is revoked. DSS will develop this information and display and post the notice on the premise of the appropriate facility. DSS shall develop and distribute a three-page document to 1,906 day care centers. The agency will provide the revocation notice that shall be posted at the child care facility. The estimated cost is \$2,405 (\$1202.50 SGF; \$1202.50 FED), which includes printing (\$515), supplies (\$131), postage (\$839), and the revocation notices (\$920). This cost will be 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 09/10 is \$3,665 (\$1,832.50 SGF; \$1,832.50 Federal). The only potential cost in subsequent fiscal years is the cost for the additional printing of notices, however the exact number of revocation notices cannot be determined as it is not possible to determine the number of licenses that may be revoked.

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)

This rule requires the Department of Social Services (DSS) to post a notice on the premises of the child day care facility when the license to operate is revoked. This rule requires prominent posting of the notice of revocation action to remain visible to the parents, guardians, and others throughout the

pendency of any appeals of the revocation. DSS will develop, purchase and post the notices. There will be no charge to the providers for the notice. This rule may benefit the health and safety of children because parents/guardians will have visible knowledge of the revocation and may choose to remove their children from child care facilities that do not comply with rules and regulations.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule may effect competition and employment in the child care industry because parents/guardians of the children that receive care at the facility may decide to remove their child

or children from the child care facility due to the prominent posting of the notice that the license has been revoked. Some child care employees may lose their job, due to a decrease in the number of children at the facility. However, child care facilities that comply with rules and regulations may increase its profits because they may be able to provide care for additional children. The number of child care facilities this rule will affect is impossible to determine.

Deidria W. Bolden
Assistant Secretary
1003#105

Robert E. Hosse
Staff Director
Legislative Fiscal Office

Potpourri

POTPOURRI

Environmental Protection Agency

EPA Region 4 Outer Continental Shelf (OCS)
Air Quality Permitting Actions

EPA Region 4 is seeking persons who are interested in being placed on a mailing list and notified of EPA Region 4 Outer Continental Shelf (OCS) air quality permitting actions.

EPA Region 4 is the agency responsible for implementing and enforcing Clean Air Act requirements for OCS sources located beyond the seaward boundaries of the states of Florida, Georgia, South Carolina, and North Carolina. In the Gulf of Mexico, this is the area east of 87°30' and beyond the seaward boundary of Florida. OCS sources are primarily engaged in offshore oil and gas exploration and production, but can also include alternative energy facilities, such as offshore wind and ocean current projects.

These OCS sources will likely need a air quality preconstruction permit issued pursuant to EPA's Prevention of Significant Deterioration Program and/or a Title V operating permit. The Code of Federal Regulations at 40 CFR 124 requires EPA to "Notify the public of the opportunity to be put on the mailing list through periodic publication in the public press and in such publications as Regional and State funded newsletters, environmental bulletins, or State law journals." This section also requires EPA to notify the public when EPA proposes to issue an air quality permit and allow the opportunity for comment on the proposed permit or request a public hearing. The public comment period is a minimum of 30 days. The public will be notified of a draft permit through a printed legal notice in a newspaper of general circulation in an area onshore from where the source will be located. The public may also be notified of the draft permit through EPA's website. EPA will directly notify any person who requests to be on the mailing list. EPA Region 4 is seeking persons who are interested in being placed on a mailing list and notified of OCS air quality permitting actions. If interested, please go to <http://www.epa.gov/region4/air/permits/OCSPermits/OCSPublicNotices.html> and fill out and submit the form. You can also submit the following information by email or mail to the below contact.

Name (First and Last)
Home Address
City
State
Zip Code
Email
Organization
Contact Number

For further information please contact:

Sean Lakeman
EPA Region 4
61 Forysth Street, SW
Atlanta, GA 30303
lakeman.sean@epa.gov
(404) 562-9043

1003#110

POTPOURRI

Department of Environmental Quality Office of Environmental Services Permit Support Services Division

Standard Fees for Solid Waste Transporters

In accordance with LAC 33:VII.1505.A, an initial fee of \$132 plus \$33 per vehicle is charged for the processing of solid waste transporter notifications. Historically, the department has waived the fees for transporters hauling less than 100 tons per year. Effective immediately, notice is hereby provided that all solid waste transporters must pay an initial fee of \$132 plus \$33 per vehicle.

Questions regarding this Potpourri may be directed to Christopher Mayeux at (225) 219-0789, or Mia Townsel at (225) 219-1665.

Herman Robinson, CPM
Executive Counsel

1003#056

POTPOURRI

Department of Environmental Quality Office of the Secretary

Regulation of Greenhouse Gas Emissions and Title V Applicability

Editor's Note: This Potpourri is being repromulgated to correct a printing error. The original document may be viewed on pages 431-432 of the February 20, 2010 edition of the *Louisiana Register*.

Currently, greenhouse gas (GHG) emissions are not considered to be "subject to regulation" and have not triggered the need for a Part 70 (Title V) permit, regardless of the magnitude of such emissions. However, on October 27, 2009, EPA proposed its "Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule" (74 FR 55292). As a first phase, this rule seeks to establish a "major stationary source" threshold at a level of 25,000 tons per year (TPY) of carbon dioxide equivalents, or CO_{2e}, for

both the Prevention of Significant Deterioration (PSD) and Part 70 Operating Permits programs (LAC 33:III.507 and 509, respectively).

Though there are several factors which may impact when GHGs become regulated pollutants, it is expected that the regulation of GHG emissions from mobile sources will be the driving factor. EPA is currently developing a Rule to regulate GHGs from mobile sources under Title II of the Clean Air Act (74 FR 24007; May 22, 2009), the light duty vehicle Rule. EPA expects to promulgate this Rule by the end of March 2010. It is currently EPA's position that new pollutants become subject to PSD and Title V when a rule controlling those pollutants is promulgated (and even before that Rule takes effect).

Accordingly, when the light-duty vehicle rule is finalized, the GHGs subject to regulation under that Rule may become immediately subject to regulation under the PSD program, meaning that from that point forward, prior to constructing any new major source or major modification that would increase GHGs by a significant amount, a source owner would need to apply for, and a permitting authority would need to issue, a permit under the PSD program that addresses these increases.

Further, in accordance with Section 503(c) of the Clean Air Act, an owner or operator of an existing source exceeding the major source applicability level for regulated GHGs would have 12 months to submit a Title V permit application if the facility did not have a Title V permit already.

The Louisiana Department of Environmental Quality, Air Permits Division, is requesting owners or operators of facilities operating under any type of air permit to notify the Air Permits Division if GHG emissions from their facility equal or exceed 25,000 CO₂e. A site-specific estimate of potential GHG emissions (in tons per year) is requested if available, but is not required. This correspondence should be directed to Bryan D. Johnston, Air Permits Division, P.O. Box 4313, Baton Rouge, Louisiana 70821-4313, and submitted by March 31, 2010. Questions may be directed to Tegan Treadaway at (225) 219-3004.

Herman Robinson, CPM
Executive Counsel

1003#054

POTPOURRI

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

**Termination Determination of CAAA §185 Penalty Fees
State Implementation Plan Revision**

Editor's Note: This Potpourri is being repromulgated to correct a printing error. The original document may be viewed on page 432 of the February 20, 2010 edition of the *Louisiana Register*.

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., the Secretary of the Louisiana Department of Environmental Quality gives notice that the Office of Environmental Compliance, Air Quality Assessment Division will submit a revision to the

State Implementation Plan (SIP) to request a termination determination of the applicability of the Clean Air Act Amendments (CAAA) §185, to the Baton Rouge five-parish ozone nonattainment area pursuant to guidance issued by the U.S. Environmental Protection Agency on January 5, 2010 (see memo from Stephen D. Page, Director Office of Air Planning and Standards).

The Baton Rouge five-parish ozone nonattainment area, which consists of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge Parishes was classified as severe under the now-revoked one-hour ozone standard on June 23, 2003. Accordingly, the area became subject to CAAA §185, which requires states to develop and implement a fee collection rule. The one-hour ozone standard was revoked by the Environmental Protection Agency on June 15, 2004 which was prior to the attainment deadline.

Based upon monitoring data for the years 2006, 2007, and 2008, the Baton Rouge ozone nonattainment area has reached attainment with the one-hour, as well as the 1997 eight-hour, ozone standard and is therefore eligible to request a termination determination of the CAAA §185 fee collection. As such, the department is submitting a revision to the SIP.

A public hearing will be held at 1:30 p.m. on March 30, 2010, in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposal. Should individuals with a disability need an accommodation in order to participate, please contact Vivian H. Aucoin at (225) 219-3509 or at the address listed below.

All interested persons are invited to submit written comments concerning the Termination Determination of CAAA §185 Penalty Fees for the Baton Rouge area no later than 4:30 p.m., March 30, 2010, to Vivian H. Aucoin, Office of Environmental Compliance, Air Quality Assessment Division, P.O. Box 4314, Baton Rouge, LA 70821-4314 or to fax (225) 219-3240 or by e-mail to vivian.aucoin@la.gov.

A copy of the SIP revision is available on the LDEQ website at www.deq.louisiana.gov/portal/Default.aspx?tabid=2381.

Herman Robinson, CPM
Executive Counsel

1003#055

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 02/01/2010 to 02/28/2010.

Bulletin Number	Topic	Date
ITB 10-01	Strohl/LDRPS *Repeals IT Bulletin 06-04, Dated November 17, 2006	02/17/2009

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

1003#030

POTPOURRI

**Department of Insurance
Office of the Commissioner**

Regulation 99—Certificates of Insurance

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted under R.S. 22:1 et seq., and R.S. 22:881.1, the Commissioner of Insurance gave public notice in the February 2010 edition of the *Louisiana Register* that rulemaking procedures had been initiated to promulgate Regulation 99—Certificates of Insurance.

The Notice of Intent included an announcement that a public hearing on the proposed regulation was scheduled to be held on Tuesday, March 30, 2010 at 10:00 a.m. in the Plaza Hearing Room of the Louisiana Department of Insurance. Please be advised that this public hearing has been postponed until further notice. Interested persons who wish to make written comments may continue to do so by writing to Walter L. Corey, LDOI staff attorney, 1702 N. Third Street, Baton Rouge, LA 70802.

James J. Donelon
Commissioner

1003#104

POTPOURRI

**Department of Natural Resources
Office of Conservation**

Orphaned Oilfield Sites

Office of Conservation records indicate that the Oilfield Sites listed in the table below have met the requirements as set forth by Section 91 of Act 404, R.S. 30:80 et seq., and as such are being declared Orphaned Oilfield Sites.

Operator	Field	District	Well Name	Well Number	Serial Number
C. G. Glasscock-Tidelands Oil Co.	Humphreys, South	L	Continental Land & Fur C	001	68612
B & M Oilfield Service, Inc.	Big Bayou	M	Louisiana Delta Swd	A-1	76131(30)
B & M Oilfield Service, Inc.	Big Bayou	M	Olin-Tensas Delta	001	79462(30)
B & M Oilfield Service, Inc.	Big Bayou	M	Louisiana Delta	003	99361(30)
Gunn Oil Corporation	Section 28	L	Gunn Oil Corp-St Martin Ld Co	001	82333
Don M. Meabon	Oakland	M	Olin	001	12046

Operator	Field	District	Well Name	Well Number	Serial Number
Black Gold Production Co. Inc.	Ramos	L	B Sub; Intercoastal Shipyard Ea	002	218671
Chestine Land Corp.	Wildcat-No La Shreveport Dist	S	Fee	001	374

James H. Welsh
Commissioner

1003#066

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 5 claims in the amount of \$19,782.16 were received for payment during the period February 1, 2010 - February 28, 2010.

There were 5 claims paid and 0 claims denied.

Latitude/Longitude Coordinates of reported underwater obstructions are:

2918.258	8954.361	Plaquemines
2925.401	8958.082	Jefferson
2926.368	8958.549	Jefferson
2941.973	8925.922	St. Bernard
2945.329	8926.226	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

1003#064

POTPOURRI

**Department of Revenue
Policy Services Division**

March Meeting of Act 442 Collaborative Working Group

The next meeting of the Collaborative Working Group will be conducted on Wednesday, March 31, 2010, at 9 a.m. in the Griffon Room on the first floor of the LaSalle Building, 617 N. Third Street, Baton Rouge, Louisiana.

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

1003#010

POTPOURRI

Department of Social Services Office of Community Services

SSBG—2010-2011 Intended Use Report

The Department of Social Services (DSS) announces opportunities for public review of the state's pre-expenditure report on intended uses of Social Services Block Grant (SSBG) funds for the state fiscal year (SFY) beginning July 1, 2010, and ending June 30, 2011. The proposed SFY 2010-2011 SSBG Intended Use Report has been developed in compliance with the requirements of Section 2004 of the Social Security Act (SSA), as amended and includes information on the types of activities to be supported and the categories or characteristics of individuals to be served through use of the state's allocation of SSBG funds. Section 2004 of the SSA further requires that the SSBG pre-expenditure report shall be "made public within the state in such manner as to facilitate comment by any person." The DSS as the designated state services agency will continue to administer programs funded under the SSBG in accordance with applicable statutory requirements and federal regulations. The DSS/Office of Community Services (OCS) will be responsible for provision of social services, by direct delivery and vendor purchase, through use of SFY 2010 – 2011 SSBG expenditures for adoption, child protection, daycare for children, family services, and foster care/residential habilitation services.

Additionally, and separate and apart from the traditional SSBG funding priorities, the Intended Use Report describes the uses of Supplemental Appropriations for disaster relief. These are federal funds from the Department of Defense Act (HR 2638) for states most severely affected and for expenses related to the consequences of disasters in the calendar year 2008. The use of supplemental funds were previously addressed in a public hearing held May 1, 2009 with funding allocated to the sources named in this document.

For non-supplemental funds, Louisiana, through DSS/OCS, will utilize its allotted funds to provide comprehensive social services on behalf of children and families in fulfillment of legislative mandates for child protection and child welfare programs. These mandated services, and certain other essential social services, are provided without regard to income (WRI) to individuals in need. Individuals to be served also include low-income

persons as defined in the Intended Use Report who meet eligibility criteria for services provided through SSBG funding.

Services designated for provision through SSBG non-supplemental funding for SFY 2010-2011 are:

A. Adoption (pre-placement to termination of parental rights).

B. Child protection (investigation of child abuse/neglect reports, assessment, evaluation, social work intervention, shelter care, counseling, referrals).

C. Daycare for children (direct care for portion of the 24-hour day as follow-up to investigations of child abuse/neglect).

D. Family services (social work intervention subsequent to validation of a report of child abuse/neglect, counseling to high risk groups).

E. Foster care/residential habilitation services (foster, residential care, and treatment on a 24-hour basis).

Definitions for the proposed services are set forth in the Intended Use Report.

A. Persons eligible for non-supplemental SSBG funded services include:

B. Persons WRI, who are in need of adoption services, child protection, family services, and foster care/residential habilitation services.

C. Individuals WRI who are recipients of Title IV-E adoption assistance.

D. Recipients of Supplemental Security Income and recipients of Temporary Assistance for Needy Families (TANF) and those persons whose needs were taken into account in determining the needs of TANF recipients.

E. Low-income persons (income eligible) whose gross monthly income is not more than 125% of the poverty level. A family of four (4) with gross monthly income of not more than \$2297 would qualify as income eligible for services.

Persons receiving Title XIX (Medicaid) benefits and certain Medicaid applicants identified in the proposed plan as group eligibles.

Post expenditure reports for the SSBG program for SFY 2006-2007 and SFY 2007-2008 are included in the previous year's SSBG Final Intended Use Report for SFY 2009-2010. The report is available for public review on line at: www.dss.state.la.us Free copies are available by telephone request to (225) 342-3910 or by writing to the Assistant Secretary, Attention: Planning and Accreditation Section, PO Box 3318, Baton Rouge, LA 70821.

Interested persons will have the opportunity to provide recommendations on the proposed SFY 2010 - 2011 SSBG Intended Use Report, at a public hearing scheduled for 1:00P.M. on April 26, 2010 at the Department of Social Services, Iberville Building, 627 North 4th Street, Room 1-127, Baton Rouge, Louisiana. Written comments should be sent to Kaaren Hebert, Assistant Secretary, at P. O. Box 3318, Baton Rouge, LA 70821, and must be received no later than the close of business on Friday, April 23, 2010.

Kristy H. Nichols
Secretary

1003#108

POTPOURRI

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

Proposed Changes to LAC 76:III.337
Elmer's Island Wildlife Refuge

The Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission hereby give notice that they are seeking to incorporate a change to the Notice of Intent relative to the proposed rule regarding Elmer's Island Wildlife Refuge, LAC 76:III.337, which was originally published in the November 20, 2009 issue of the *Louisiana Register* (pages 2652-2653). The change to the proposed Rule involves waiving the requirement for a Wild Louisiana Stamp on Elmer's Island Wildlife Refuge and directing the Secretary to take all necessary steps to accomplish this waiver. Copies of the proposed change can be viewed by

contacting Mr. Joey Shepard, 225-765-2390. Interested persons may submit their written comments on the proposed change to Mr. Joey Shepard, Research and Assessment Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898 no later than 4:30 p.m., Tuesday, April 6, 2010.

A public hearing to receive comments on the amended Notice of Intent for Elmer's Island Wildlife Refuge will be held during the Wildlife and Fisheries Commission Meeting to be held on Thursday, April 1, 2010. The meeting will begin at 9:30 a.m. and will be held in the Louisiana Room of the Department's Headquarters Building, 2000 Quail Drive, Baton Rouge, LA 70808.

Stephen J. Oats
Chairman

1003#036

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