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Executive Orders

EXECUTIVE ORDER BJ 11-01

Carry-Forward Bond Allocation 2010

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

(1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits 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 four hundred four million two hundred eighty six thousand eight hundred forty dollars (\$404,286,840) 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 2010 ("2010 Ceiling");

WHEREAS, Executive Order No. BJ 2010-10, issued on June 9, 2010 allocated two million five hundred thousand dollars (\$2,500,000) from the 2010 Ceiling to the Local Government Environmental Facilities and Community Development Authority for a multi-purpose building, and two million five hundred thousand dollars (\$2,500,000) of the allocation was returned unused to the 2010 Ceiling;

WHEREAS, Four hundred one million seven hundred eighty six thousand eight hundred forty dollars (\$401,786,840) of the 2010 Ceiling was not allocated during the 2010 calendar year; and two million five hundred thousand dollars (\$2,500,000) of the 2010 Ceiling was returned; and

WHEREAS, The SBC has determined that four hundred four million two hundred eighty six thousand eight hundred forty dollars (\$404,286,840) of the excess 2010 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 2010 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
Louisiana Housing Finance Agency	Mallard Crossing Apartments Multifamily Housing Revenue Bond	\$14,107,000
Louisiana Housing Finance Agency	Woodcrest Apartments Multifamily Housing Revenue Bond	\$7,872,000
Louisiana Housing Finance Agency	Blue Plate Lofts Multifamily Housing Revenue Bond	\$15,000,000
Finance Authority of New Orleans	GCHP-MLK Multifamily Housing Revenue Bond	\$10,000,000
Louisiana Housing Finance Agency	Multifamily Mortgage Revenue Bond	\$100,000,000
Finance Authority of New Orleans	Multifamily Mortgage Revenue Bond	\$10,000,000
Louisiana Housing Finance Authority	Single Family Mortgage Revenue Bond	\$61,826,960
East Baton Rouge Mortgage Finance Authority	Single Family Mortgage Revenue Bond	\$61,826,960
Finance Authority of New Orleans	Single Family Mortgage Revenue Bond	\$41,226,217
Finance Authority of New Orleans	Single Family Mortgage Revenue Bond	\$41,226,217
Finance Authority of St. Tammany Parish	Single Family Mortgage Revenue Bond	\$20,600,743
Rapides Finance Authority	Single Family Mortgage Revenue Bond	\$20,600,743

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 9th day of February, 2011.

Bobby Jindal
Governor

ATTEST BY
THE GOVERNOR
Jay Dardenne
Secretary of State
1102#046

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 9th day of February, 2011.

EXECUTIVE ORDER BJ 11-02

Bond Allocation—Local Government Environmental Facilities and Community Development Authority

Bobby Jindal
Governor

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

- (1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits (hereafter “Ceiling”);
- (2) the procedure for obtaining an allocation of bonds under the Ceiling; and
- (3) a system of central record keeping for such allocations; and

WHEREAS, The Louisiana Local Government Environmental Facilities and Community Development Authority has applied for an allocation of the 2011 Ceiling to be used in connection with the financing of the acquisition, construction, rehabilitation and equipping of one or more distributive sewer systems;

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

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 2011 Ceiling in the amount shown:

Amount of Allocation	Name of Issuer	Name of Project
\$1,400,000	Local Government Environmental Facilities and Community Development Authority	Fourth Ward Water Association

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

SECTION 3: The allocation granted herein shall be valid and in full force and effect through December 31, 2011, provided that such bonds are delivered to the initial purchasers thereof on or before May 10, 2011.

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

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

ATTEST BY
THE GOVERNOR
Jay Dardenne
Secretary of State
1102#047

EXECUTIVE ORDER BJ 11-03

Bond Allocation—Local Government Environmental Facilities and Community Development Authority

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

- (1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits (hereafter “Ceiling”);
- (2) the procedure for obtaining an allocation of bonds under the Ceiling; and
- (3) a system of central record keeping for such allocations; and

WHEREAS, The Louisiana Local Government Environmental Facilities and Community Development Authority has applied for an allocation of the 2011 Ceiling to be used in connection with the financing of the acquisition, construction, rehabilitation and equipping of one or more distributive sewer systems;

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

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 2011 Ceiling in the amount shown:

Amount of Allocation	Name of Issuer	Name of Project
\$5,780,000	Local Government Environmental Facilities and Community Development Authority	Fourth Ward Water Association

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

SECTION 3: The allocation granted herein shall be valid and in full force and effect through December 31, 2011, provided that such bonds are delivered to the initial purchasers thereof on or before May 10, 2011.

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

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the City of Baton Rouge, on this 9th day of February, 2011.

Bobby Jindal
Governor

ATTEST BY
THE GOVERNOR
Jay Dardenne
Secretary of State
1102#048

EXECUTIVE ORDER BJ 11-04

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

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 10, 2011, 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 Union and they recommend that qualifying in that parish be

suspended and resume at 8:30 a.m. on Friday, February 11, 2011 and conclude at 5:00 p.m. on Monday, February 14, 2011;

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 10, 2011 certification from the Secretary of State that a state of emergency exists in the parish of Union and the February 10, 2011 recommendation that the qualifying period in this parish be suspended and resume at 8:30 a.m. on Friday, February 11, 2011 and conclude at 5:00 pm. on Monday, February 14, 2011, 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 Union, Chief of Police, Village of Lillie, suspended from 8:30 a.m. to 5:00 p.m. on Thursday, February 10, 2011;

Parish of Union, Chief of Police, Village of Spearsville, suspended from 8:30 a.m. to 5:00 p.m. on Thursday, February 10, 2011;

SECTION 2: In accordance with the procedures set forth in R.S. 18:401.1, qualifying in the parish of Union shall be rescheduled for and/or resume at 8:30 a.m. on Friday, February 11, 2011, and conclude at 5:00 p.m. on Monday, February 14, 2011.

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 10th day of February, 2011.

Bobby Jindal
Governor

ATTEST BY
THE GOVERNOR
Jay Dardenne
Secretary of State
1102#089

Emergency Rules

DECLARATION OF EMERGENCY

**Department of Agriculture and Forestry
Office of the Commissioner
Agricultural Commodities Commission**

Aflatoxin (LAC 7:XXVII.128)

In accordance with the emergency provisions of the Administrative Procedures Act, LA 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 Rule becomes effective on February 11, 2011 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)

Unit Inspection Fees:	
Aflatoxin Testing, per sample	\$30.00
Hopper Car, per car	\$20.00
Boxcar, per car	\$15.00
Truck/Trailer, per carrier	\$10.00
Barge, per 1,000 bushels	\$ 2.50
Submitted sample inspection	\$12.00
Re-grade grain sample	\$15.00

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 37:

Dr. Mike Strain, DVM
Commissioner

1102#026

DECLARATION OF EMERGENCY

Department of Children and Family Services Division of Programs

Portability of Criminal History, Religious
Exemption, and Sex Offender Rule
(LAC 67:III.Chapter 73)

The Department of Children and Family Services (DCFS), has exercised the emergency provision in accordance with R.S. 49:950 et seq., the Administrative Code Act to adopt LAC 67, Part III, Subpart 21 Chapter 73, Sections 7302, 7303, 7305, 7311, 7357, 7359, 7361 and 7365 Child Care Licensing to comply with Acts 429, 508 and 569 of the 2010 Regular Session of the Louisiana Legislature and Act 210 of the 2009 Regular Session of the Louisiana Legislature. This Emergency Rule is effective upon the signature of the DCFS secretary and shall remain in effect for a period of 120 days. This declaration is necessary to extend the original Emergency Rule effective November 10, 2010 since it is effective for a maximum of 120 days and will expire on March 9, 2011 before the final Rule takes effect. (The final Rule will be published in the March 20, 2011 issue of the *Louisiana Register*.)

The Department of Children and Family Services finds that an imminent threat to the safety and welfare of children in licensed child care facilities exists. Pursuant to Act 508 of the 2010 Legislative Session, the Department of Children and Family Services finds it necessary to allow for the portability of criminal history information. This rule shall allow an individual applying for a position of supervisory or disciplinary authority over children in a child care facility, or

Online D/T sampling inspection service (sampling, grading and certification), per regular hour	\$25.00
Overtime hourly rate, per hour	\$40.00

an independent contractor who performs work in a child care facility, to receive a certified copy of his/her criminal history information upon written request to the Louisiana Bureau of Criminal Identification and Information Section of the Louisiana State Police. The certified copy of the criminal background check may be accepted by a prospective employer and shall be deemed to satisfy the requirements of R.S. 15:587.1 for each facility requesting criminal history information for a period of one year from the date of issuance of the certified copy.

In accordance with Acts 429 and 569 of the 2010 Legislative Session a recognized religious organization which is qualified as a tax-exempt organization under Section 501(c) of the Internal Revenue Code, which remains open for not more than 24 hours in a continuous 7-day week, and in which no individual child remains for more than 24 hours in one continuous stay shall not be considered a "day care center" for the purposes of this Chapter. In addition, there shall be a moratorium on the enforcement of any rule and regulation by the Department of Children and Family Services upon a child care facility, operated by a religious, nonprofit organization which is exempt from federal income taxes pursuant to 26 U.S.C. 501(c)(3), and which was not licensed as either a Class "A" or Class "B" facility on June 1, 2010, and provides childcare for not less than 25 hours and not more than 40 hours in a continuous 7-day week. This moratorium shall terminate and cease to be effective upon July 1, 2011.

Pursuant to Act 210 of the 2009 Legislative Session, any person that has been convicted of a sex offense as defined in R.S. 15:541, is prohibited from owning, operating, or in any way participating in the governance of a child day care facility. The department also prohibits any employer from knowingly employing a person convicted of a sex offense as defined in R.S. 15:541, to work in a day care center or a child day care facility. This rule shall also require any owner/owners of a child day care facility to provide documentation of a satisfactory criminal record check, as required by R.S. 15:587.1.

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

§7302. Authority

A. Legislative Provisions. The state of Louisiana, Department of Children and Family Services, is charged with the responsibility for developing and publishing standards for the licensing of child care centers. The licensing authority of the Department of Children and Family Services is established by R.S. 46:1401 et seq., making mandatory the licensing of all child care facilities and child placing agencies, including child care centers. R.S. 46:1403 defines a child day care facility as any place or facility operated by any institution, society, agency, corporation, person or persons, or any other group for the purpose of providing care, supervision, and guidance of seven or more children, not including those related to the caregiver, unaccompanied by parent or guardian, on a regular basis for at least 12 1/2 hours in a continuous 7-day

week. Related or relative is defined as the natural or adopted child or grandchild of the caregiver or a child in the legal custody of the caregiver.

In accordance with Act 429 and Act 569 of the 2010 Legislative Session, a recognized religious organization which is qualified as a tax-exempt organization under Section 501(c) of the Internal Revenue Code, which remains open for not more than 24 hours in a continuous 7-day week, and in which no individual child remains for more than 24 hours in one continuous stay shall not be considered a "day care center" for the purposes of this Chapter. In addition, there shall be a moratorium on the enforcement of any rule and regulation by the Department of Children and Family Services upon a child care facility, operated by a religious, nonprofit organization which is exempt from federal income taxes pursuant to 26 U.S.C. 501(c)(3), and which was not licensed as either a Class A or Class B facility on June 1, 2010, and provides childcare for not less than 25 hours and not more than 40 hours in a continuous 7-day week. This moratorium shall terminate and cease to be effective upon July 1, 2011.

B. - F.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:1107 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2755 (December 2007), amended LR 36:332 (February 2010), LR 36:847 (April 2010), amended by the Department of Children and Family Services, LR 37:

§7303. Procedures

A.1. - A.2.g.viii. ...

ix. three current, positive, signed references on director designee (if applicable);

x. licensure survey verifying compliance with all minimum standards;

xi. documentation of a satisfactory criminal record clearance for all staff including all owners and operators; and

xii. documentation of completed State Central Registry disclosure forms noting no justified (valid) finding of abuse and/or neglect for all staff or documentation from the Risk Assessment Panel or Division of Administrative Law noting that the individual does not pose a risk to children.

3. - 4.h. ...

i. three current, positive, signed references on director designee (if applicable);

j. copy of bill of sale;

k. documentation of a satisfactory criminal record clearance for all owners and operators and all staff not employed by the previous owner; and

l. documentation of completed state central registry disclosure forms noting no justified (valid) finding of abuse and/or neglect for all staff or documentation from the Risk Assessment Panel or Division of Administrative Law noting that the individual does not pose a risk to children.

NOTE: If the above information is not received prior to the sale or day of the sale, the new owner must not operate until a

license is issued. When the application is received, it will be treated as an initial application rather than a change of ownership.

A.5. - C.3. ...

4. The bureau shall be notified prior to making changes which may have an effect upon the license, e.g., age range of children served, usage of indoor and outdoor space, director, hours/months/days of operation, transportation, etc.

D. Denial, Revocation or Non-Renewal of License. An application for a license may be denied, or a license may be revoked, or renewal denied, for any of the following reasons:

1. - 14. ...

15. presence or use of any recalled product by the provider that is listed in the newsletters issued by the Office of the Attorney General;

16. failure to attend any mandatory training session offered by the bureau;

17. presence of an individual with a justified (valid) finding of child/abuse neglect not being directly supervised by another paid employee of the facility, who has not disclosed that their name appears with a justified (valid) finding on the state central registry until a determination by the Risk Evaluation Panel or Division of Administrative Law that the individual does not pose a risk to children;

18. presence of an individual on the child care premises with a ruling by the Risk Evaluation Panel that the individual poses a risk to children and the individual has not requested an appeal hearing by the Division of Administrative Law within the required time frame;

19. presence of an individual on the child care premises with a ruling by the Division of Administrative Law that the individual poses a risk to children; or

20. having knowledge that a convicted sex offender is physically present within 1000 feet of the child care facility and failing to notify law enforcement and licensing management staff immediately upon receipt of such knowledge.

E. - H.4. ...

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 36:832 (April 2010), repromulgated LR 36:1272 (June 2010), amended LR 36:1279 (June 2010), amended by the Department of Children and Family Services, LR 37:

§7305. General Requirements

A. - M. ...

N. Conditions for Participation in a Child-Related Business

1. Any owner/owners of a child day care facility shall provide documentation of a satisfactory criminal record check, as required by R.S. 46:51.2 and R.S. 15:587.1. A criminal background check shall be required of each owner of a facility submitting a new application, change of ownership application, change of location application, and/or application for renewal for a child day care license. No person with a criminal conviction of a felony, a plea of guilty or nolo contendere of a felony, or plea of guilty or

nolo contendere to any offense included in R.S. 15:587.1, R.S. 14:2, R.S. 15:541 or any offense involving a juvenile victim, shall directly or indirectly own, operate or participate in the governance of a child care facility.

2. New members/owners added to a partnership, church, corporation, limited liability corporation or governmental entity which does not constitute a change of ownership shall provide documentation of a satisfactory criminal record check as required by R.S. 46:51.2 and R.S. 15:587.1. No member/owner with a criminal conviction of conviction of a felony, a plea of guilty or nolo contendere of a felony, or plea of guilty or nolo contendere to any offense included in R.S. 15:587.1, R.S. 14:2, R.S. 15:541 or any offense involving a juvenile victim, shall directly or indirectly own, operate or participate in the governance of a child care facility.

3. Every owner shall submit the criminal background check showing that he or she has not been convicted of any offense enumerated in R.S. 15:587.1 or a felony, or plea of guilty or nolo contendere to any offense included in R.S. 15:587.1, R.S. 14:2, R.S. 15:541 or any offense involving a juvenile victim, together with the initial application or, in the case of an existing center, with the application for renewal of the license. If the criminal background check shows that any owner has been convicted of any enumerated offense under R.S. 15:587.1 or a felony, a plea of guilty or nolo contendere of a felony, or any offense involving a juvenile victim, the owner or director shall submit the information to the licensing section management staff within 24 hours or no later than the next business day, whichever is sooner, upon receipt of the result.

4. The physical presence of a sex offender in, on, or within 1,000 feet of a child day care facility is prohibited. Providers and child care staff shall not permit an individual convicted of a sex offense as defined in R.S. 15:541 physical access to a child day care facility as defined in R.S. 46:1403.

5. The owner or director of a child day care facility shall be required to call and notify law enforcement agencies and the licensing section management staff if a sex offender is on the premises of the child day care facility or within 1,000 feet of the child day care facility. The licensing office shall be contacted immediately. The verbal report shall be followed by a written report.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:1112 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2759 (December 2007), amended LR 36:333 (February 2010), amended by the Department of Children and Family Services, LR 37:

§7311. Personnel Records

A. - A.4. ...

5. documentation of a satisfactory criminal record check from Louisiana State Police as required by R.S. 46:51.2. This check shall be obtained prior to the individual being present in the child care facility. No person who has been convicted of, or pled guilty or nolo contendere to any offense included in R.S. 15:587.1, R.S. 14:2, R.S. 15:541 or any offense involving a juvenile victim, shall be eligible to

own, operate, and/or be present in any capacity in any licensed child care facility. For any owner or operator, a clear criminal background check in accordance with R.S. 46:51.2 shall be obtained prior to the issuance of a license or approval of a change of ownership. In addition, neither an owner, nor a director, nor a director designee shall have a conviction of, or pled guilty or nolo contendere to any crime in which an act of fraud or intent to defraud is an element of the offense.

a. An individual who applies for a position of supervisory or disciplinary authority over children in a child care facility may provide a certified copy of their criminal background check obtained from the Louisiana Bureau of Criminal Identification and Information Section of the Louisiana State Police. If an individual provides a certified copy of their criminal background check obtained from the Louisiana State Police to the provider, this criminal background check shall be accepted by the department for a period of one year from the date of issuance of the certified copy. A photocopy of the certified copy shall be kept on file at the facility in which the individual is currently employed. However, prior to the one year date of issuance of the certified criminal background check, the provider shall request and obtain a satisfactory criminal check from Louisiana State Police in order for the individual to continue employment at the center. If the clearance is not obtained by the provider prior to the one year date of issuance of the certified criminal background check, the staff person is no longer allowed on the child care premises until a clearance is received.

B. The following information shall be kept on file for independent contractors including therapeutic professionals and extracurricular personnel, e.g. computer instructors, dance instructors, librarians, tumble bus personnel, speech therapists, licensed health care professionals, state-certified teachers employed through a local school board, art instructors, and other outside contractors:

1. documentation of a satisfactory criminal record check from Louisiana State Police as required by R.S. 46:51.2. This check shall be obtained prior to the individual being present in the child care facility. No person who has been convicted of, or pled guilty or nolo contendere to any offense included in R.S. 15:587.1, R.S. 14:2, R.S. 15:541 or any offense involving a juvenile victim, shall be present in any capacity in any child care facility.

a. Independent contractors, therapeutic professionals, and/or extracurricular personnel may provide a certified copy of their criminal background check obtained from the Bureau of Criminal Identification and Information Section of the Louisiana State Police to the provider prior to being present and working with a child or children at the facility. If an individual provides a certified copy of their criminal background check obtained from the Louisiana State Police to the provider, this criminal background check shall be accepted by the department for a period of one year from the date of issuance of the certified copy. A photocopy of the certified copy shall be kept on file at the facility. Prior to the one year date of issuance of the certified copy, the individual shall request and obtain a current certified copy of their criminal background check obtained from the Louisiana Bureau of Criminal Identification and Information Section of the Louisiana State Police in order to continue

providing services to a child or children at the child care facility. If the clearance is not obtained by the provider prior to the one year date of issuance of the certified criminal background check, the individual shall no longer be allowed on the child care premises until a clearance is received. This criminal background check shall be accepted by the department for a period of one year from the date of issuance of the certified copy. A photocopy of the certified copy shall be kept on file at the facility.

B.2. - C.3.d. ...

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 29:1114 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2762 (December 2007), amended by the Department of Children and Family Services, LR 37:

Subpart 21. Child Care Licensing

Chapter 73. Day Care Centers

Subchapter B. Licensing Class "B" Regulations for Child Care Centers

§7357. Definitions

A. The following are definitions of terms used in these minimum standards.

* * *

Child Day Care Center—a child day care facility as defined in R.S. 46:1403, including vehicles or other structures owned or operated by the provider where care and supervision of children are provided, or where some process or operation integral to providing or facilitating care or supervision is conducted.

* * *

Extra-Curricular Personnel/Therapeutic Professionals—individuals who are not employees of the center, but who come to the center to provide therapy, services, or enrichment activities for an individual child or group of children. Examples: computer instructor, dance instructor, librarian, tumble bus personnel, therapeutic personnel (occupational therapist, physical therapist, speech therapist), nutritionist, early interventionist, and nurse.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:1636 (August 2000), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2770 (December 2007), amended LR 36:334 (February 2010), LR 36:850 (April 2010), amended by the Department of Children and Family Services, LR 37:

§7359. Procedures

A.1. - A.2.f.v. ...

vi. licensure survey verifying compliance- with all minimum standards;

vii. documentation of a satisfactory criminal record clearance for all staff including all owners and operators;

viii. documentation of completed State central registry disclosure forms noting no justified (valid) finding

of abuse and/or neglect for all staff or documentation from the Risk Assessment Panel or Division of Administrative Law noting that the individual does not pose a risk to children.

3. - 4. ...

a. documentation of a satisfactory criminal record clearance for all owners and operators and all staff not employed by the previous owner; and

b. documentation of completed state central registry disclosure forms noting no justified (valid) finding of abuse and/or neglect for all staff or documentation from the Risk Assessment Panel or Division of Administrative Law noting that the individual does not pose a risk to children.

A.5. - F.10. ...

11. presence of an individual with a justified (valid) finding of child/abuse neglect not being directly supervised by another paid employee of the facility, who has not disclosed that their name appears with a justified (valid) finding on the state central registry until a determination by the Risk Evaluation Panel or Division of Administrative Law that the individual does not pose a risk to children;

12. presence of an individual on the child care premises with a ruling by the Risk Evaluation Panel that the individual poses a risk to children and the individual has not requested an appeal hearing by the Division of Administrative Law within the required time frame;

13. presence of an individual on the child care premises with a ruling by the Division of Administrative Law that the individual poses a risk to children;

14. having knowledge that a convicted sex offender is physically present within 1000 feet of the child care facility and failing to notify law enforcement and licensing management staff immediately upon receipt of such knowledge.

G. - J.4. ...

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 by the Department of Social Services, Office of Family Support LR 36:832 (April 2010), LR 36:1272 (June 2010), LR 36:1279 (June 2010), amended by the Department of Children and Family Services, LR 37:

§7361. General Requirements

A. - L. ...

M. Conditions for participation in a child-related business.

1. Any owner/owners of a child day care facility shall provide documentation of a satisfactory criminal record check, as required by R.S. 46:51.2 and R.S. 15:587.1. A criminal background check shall be required of each owner of a facility submitting a new application, change of ownership application, change of location application, and/or application for renewal for a child day care license. No person with a criminal conviction of a felony, a plea of guilty or nolo contendere of a felony, or plea of guilty or nolo contendere to any offense included in R.S. 15:587.1, R.S. 14:2, R.S. 15:541 or any offense involving a juvenile

victim, shall directly or indirectly own, operate or participate in the governance of a child care facility.

2. New members/owners added to a partnership, church, corporation, limited liability corporation or governmental entity which does not constitute a change of ownership shall provide documentation of a satisfactory criminal record check as required by R.S. 46:51.2 and R.S. 15:587.1. No member/owner with a criminal conviction of conviction of a felony, a plea of guilty or nolo contendere of a felony, or plea of guilty or nolo contendere to any offense included in R.S. 15:587.1, R.S. 14:2, R.S. 15:541 or any offense involving a juvenile victim, shall directly or indirectly own, operate or participate in the governance of a child care facility.

3. Every owner shall submit the criminal background check showing that he or she has not been convicted of any offense enumerated in R.S. 15:587.1 or a felony, or plea of guilty or nolo contendere to any offense included in R.S. 15:587.1, R.S. 14:2, R.S. 15:541 or any offense involving a juvenile victim, together with the initial application or, in the case of an existing center, with the application for renewal of the license. If the criminal background check shows that any owner has been convicted of any enumerated offense under R.S. 15:587.1 or a felony, a plea of guilty or nolo contendere of a felony, or any offense involving a juvenile victim, the owner or director shall submit the information to the licensing section management staff within 24 hours or no later than the next business day, whichever is sooner, upon receipt of the result.

4. The physical presence of a sex offender in, on, or within 1,000 feet of a child day care facility is prohibited. Providers and child care staff shall not permit an individual convicted of a sex offense as defined in R.S. 15:541 physical access to a child day care facility as defined in R.S. 46:1403.

5. The owner or director of a child day care facility shall be required to call and notify law enforcement agencies and the licensing management staff if a sex offender is on the premises of the child day care facility or within 1,000 feet of the child day care facility. The licensing office shall be contacted immediately. The verbal report shall be followed by a written report.

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 26:1638 (August 2000), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2773 (December 2007), amended LR 36:335 (February 2010), amended by the Department of Children and Family Services, LR 37:

§7365. Center Staff

A. - C.3. ...

4. Criminal Records Check. Documentation of a satisfactory criminal records check from Louisiana State Police as required by R.S. 46:51.2. This check shall be obtained prior to the individual being present in the child care facility. No person who has been convicted of, or pled guilty or nolo contendere to, any offense included in R.S. 15:587.1, R.S. 14:2, R.S. 15:541 or any offense involving a juvenile victim, shall be eligible to own, operate, and/or be present in any capacity in any licensed child care facility.

For any owner or operator, a clear criminal background check in accordance with R.S. 46:51.2 shall be obtained prior to the issuance of a license or approval of a change of ownership. In addition, neither an owner, nor a director, nor a director designee shall have a conviction of, or pled guilty or nolo contendere to any crime in which an act of fraud or intent to defraud is an element of the offense.

a. An individual who applies for a position of supervisory or disciplinary authority over children in a child care facility may provide a certified copy of their criminal background check obtained from the Bureau of Criminal Identification and Information Section of the Louisiana State Police. If an individual provides a certified copy of their criminal background check obtained from the Louisiana State Police to the provider, this criminal background check shall be accepted by the department for a period of one year from the date of issuance of the certified copy. A photocopy of the certified copy shall be kept on file at the facility in which the individual is currently employed. However, prior to the one year date of issuance of the certified criminal background check, the provider shall request and obtain a satisfactory criminal check from Louisiana State Police in order for the individual to continue employment at the center. If the clearance is not obtained by the provider prior to the one year date of issuance of the certified criminal background check, the staff person is no longer allowed on the child care premises until a clearance is received.

b. The following information shall be kept on file for independent contractors including therapeutic professionals and extracurricular personnel, e.g. computer instructors, dance instructors, librarians, tumble bus personnel, speech therapists, licensed health care professionals, state-certified teachers employed through a local school board, art instructors, and other outside contractors.

i. Documentation of a satisfactory criminal record check from Louisiana State Police as required by R.S. 46:51.2. This check shall be obtained prior to the individual being present in the child care facility. No person who has been convicted of, or pled guilty or nolo contendere to, any offense included in R.S. 15:587.1, R.S. 14:2, R.S. 15:541 or any offense involving a juvenile victim, shall be present in any capacity in any child care facility.

ii. Independent contractors, therapeutic professionals, and/or extracurricular personnel may provide a certified copy of their criminal background check obtained from the Bureau of Criminal Identification and Information Section of the Louisiana State Police to the provider prior to being present and working with a child or children at the facility. If an individual provides a certified copy of their criminal background check obtained from the Louisiana State Police to the provider, this criminal background check shall be accepted by the department for a period of one year from the date of issuance of the certified copy. A photocopy of the certified copy shall be kept on file at the facility. Prior to the one year date of issuance of the certified copy, the individual shall request and obtain a current certified copy of their criminal background check obtained from the Bureau of Criminal Identification and Information Section of the Louisiana State Police in order to continue providing services to a child or children at the child care facility. If the clearance is not obtained by the provider prior to the one

year date of issuance of the certified criminal background check, the individual shall no longer be allowed on the child care premises until a clearance is received. This criminal background check shall be accepted by the department for a period of one year from the date of issuance of the certified copy. A photocopy of the certified copy shall be kept on file at the facility.

c. No felon shall be employed in a Class "B" facility, unless approved in writing by a district judge of the parish and the local district attorney. This statement shall be kept on file at all times by the child care facility and shall be produced upon request to any law enforcement officer.

C.5. - D.7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:1639 (August 2000), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2774 (December 2007), amended by the Department of Children and Family Services, LR 37:

Ruth Johnson
Secretary

1102#072

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Disproportionate Share Hospital Payments Non-Rural Community Hospitals (LAC 50.V.2701)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:V.2701 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amended the provisions governing disproportionate share hospital (DSH) payments to revise the provisions governing non-rural community hospitals and federally mandated statutory hospitals to clarify that hospitals qualifying as a non-rural community hospital in state fiscal year 2007-08 may also qualify in the federally mandated statutory hospital category, and to revise the definition of a non-rural community hospital (*Louisiana Register*, Volume 34, Number 11). In compliance with Act 228 of the 2009 Regular Session of the Louisiana Legislature, the department promulgated an Emergency Rule to amend the provisions governing disproportionate share hospital payments to reallocate any remaining funds from the fiscal year 2009 DSH appropriation to non-rural community hospitals and issue a supplemental payment to these hospitals for their uncompensated care costs (*Louisiana Register*, Volume 35, Number 7).

Act 10 of the 2009 Regular Session of the Louisiana Legislature directed the department to amend the DSH qualifying criteria and payment methodologies for non-rural community hospitals. In compliance with Act 10, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions of the June 26, 2009 Emergency Rule governing supplemental DSH payments to non-rural community hospitals (*Louisiana Register*, Volume 36, Number 1). The department promulgated and Emergency Rule which amended the January 20, 2010 Emergency Rule to amend the provisions governing supplemental DSH payments to non-rural community hospitals in order to redistribute the funds allocated for the state fiscal year 2010 DSH appropriation (*Louisiana Register*, Volume 36, Number 7). This Emergency Rule is being promulgated to continue the provisions of the June 29, 2010 Emergency Rule. This action is being taken to promote the public health and welfare of uninsured individuals and to ensure their continued access to health care by assuring that hospitals are adequately reimbursed for furnishing uncompensated care.

Effective February 25, 2011, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing supplemental DSH payments to non-rural community hospitals.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Medical Assistance Program—Hospital Services

Subpart 3. Disproportionate Share Hospital Payments

Chapter 27. Qualifying Hospitals

§2701. Non-Rural Community Hospitals

A. ...

B. DSH payments to a public, non-rural community hospital shall be calculated as follows.

1. Each qualifying public, non-rural community hospital shall certify to the Department of Health and Hospitals its uncompensated care costs. The basis of the certification shall be 100 percent of the hospital's allowable costs for these services, as determined by the most recently filed Medicare/Medicaid cost report. The certification shall be submitted in a form satisfactory to the department no later than October 1 of each fiscal year. The department will claim the federal share for these certified public expenditures. The department's subsequent reimbursement to the hospital shall be in accordance with the qualifying criteria and payment methodology for non-rural community hospitals included in Act 10 of the 2009 Regular Session of the Louisiana Legislature, and may be more or less than the federal share so claimed. Qualifying public, non-rural community hospitals that fail to make such certifications by October 1 may not receive Title XIX claim payments or any disproportionate share payments until the department receives the required certifications.

C. Private, non-rural community hospitals (other than freestanding psychiatric hospitals) shall be reimbursed as follows:

1. If the hospital's qualifying uninsured cost is less than 3.5 percent of total hospital cost, no payment shall be made.

2. If the hospital's qualifying uninsured cost is equal to or greater than 3.5 percent of total hospital cost, but less than 6.5 percent, the payment shall be 50 percent of an

amount equal to the difference between the total qualifying uninsured cost as a percent of total hospital cost and 3.5 percent of total hospital cost.

3. If the hospital's qualifying uninsured cost is equal to or greater than 6.5 percent of total hospital cost, but less than or equal to 8 percent, the payment shall be 80 percent of an amount equal to the difference between the total qualifying uninsured cost as a percent of total hospital cost and 3.5 percent of total hospital cost.

4. If the hospital's qualifying uninsured cost is greater than 8 percent of total hospital cost, the payment shall be 90 percent of qualifying uninsured cost for the portion in excess of 8 percent of total hospital cost and 80 percent of an amount equal to 4.5 percent of total hospital cost.

C.5. - E. ...

F. In the event that the total payments calculated for all recipient hospitals are anticipated to exceed the total amount appropriated, the department shall reduce payments on a pro rata basis in order to achieve a total cost that is not in excess of the amounts appropriated for this purpose. Any funding not distributed per the methodology outlined in C.1 – C.5 above shall be reallocated to these qualifying hospitals based on their reported uninsured costs. The \$35,000,000 appropriation for the non-rural community hospital pool shall be effective only for state fiscal year 2010 and distributions from the pool shall be considered nonrecurring.

G. Of the total appropriation for the non-rural community hospital pool, \$12,000,000 shall be allocated to public and private non-rural community hospitals with a distinct part psychiatric unit and freestanding psychiatric hospitals.

1. To qualify for this payment hospitals must have uninsured cost as defined in §2701.C.5 equal to or greater than 3.5 percent of total hospital cost and:

a. be a public or private non-rural community hospital, as defined in §2701.A. that has a Medicaid enrolled distinct part psychiatric unit; or

b. enrolled in Medicaid as a freestanding psychiatric hospital that pursuant to 42 CFR 441.151 is accredited by the Joint Commission on the Accreditation of Healthcare Organizations.

2. Payment shall be calculated by dividing each qualifying freestanding psychiatric hospital's or distinct part psychiatric unit's uninsured days by the sum of all qualifying psychiatric uninsured days and multiplying by \$12,000,000.

G.2.a. - G.2.b. Repealed.

H. - I. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:655 (April 2008), amended LR 34:2402 (November 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

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

Bruce D. Greenstein
Secretary

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Federally Qualified Health Centers
Diabetes Self-Management Training
(LAC 50:XI.Chapters 103-105 and 10701)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XI.Chapters 103-105 and §10701 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.

Act 11 of the 2010 Regular Session of the Louisiana Legislature authorized the Department of Health and Hospitals, through its primary and preventive care activity, to provide reimbursement to providers for rendering services that will educate and encourage Medicaid enrollees to obtain appropriate preventive and primary care in order to improve their overall health and quality of life. In keeping with the intent of Act 11, the Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend the provisions governing federally qualified health centers (FQHCs) to provide Medicaid reimbursement for diabetes self-management training (DSMT) services. It is anticipated that this new service will promote improved patient self-management skills which will reduce diabetes-related complications that adversely affect quality of life, and subsequently reduce Medicaid costs associated with the care of recipients diagnosed with diabetes-related illnesses. This Emergency Rule will also reorganize the provisions governing provider participation and services in a more clear and concise manner in the *Louisiana Administrative Code*.

This action is being taken to promote the health and welfare of Medicaid recipients diagnosed with diabetes and to reduce the Medicaid costs associated with their care. It is estimated that implementation of this Emergency Rule will increase expenditures for federally qualified health center services by approximately \$6,551 for state fiscal year 2010-2011.

Effective February 20, 2011, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing federally qualified health centers to provide coverage for diabetes self-management training services.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XI. Clinic Services

Subpart 13. Federally-Qualified Health Centers

Chapter 103. Services

§10301. Scope of Services

A. Medicaid reimbursement is limited to medically necessary services that are covered by the Medicaid State Plan and would be covered if furnished by a physician. The following services shall be covered:

1. services furnished by a physician within the scope of practice of his profession under Louisiana law;
2. services furnished by a:
 - a. physician assistant;
 - b. nurse practitioner;
 - c. nurse midwife;
 - d. clinical social worker;
 - e. clinical psychologist; or
 - f. dentist;
3. services and supplies that are furnished as an incident to professional services furnished by all eligible professionals;
4. other ambulatory services; and
5. diabetes self-management training (DSMT) services.

B. Effective February 20, 2011, the department shall provide coverage of diabetes self-management training services rendered to Medicaid recipients diagnosed with diabetes.

1. The services shall be comprised of one hour of individual instruction and nine hours of group instruction on diabetes self-management.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2328 (October 2004), repromulgated LR 30:2487 (November 2004), amended LR 32:1901 (October 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§10303. Service Limits

A. Federally qualified health center visits (encounters) are limited to 12 visits per year for medically necessary services rendered to Medicaid recipients who are 21 years of age or older. Visits for Medicaid recipients who are under 21 years of age and for prenatal postpartum care are excluded from the service limitation.

1. - 3. Repealed.

B. Recipients of DSMT services shall receive up to 10 hours of services during the first 12-month period following the initial order.

1. After the first 12-month period has ended, recipients shall only be eligible for two hours of individual instruction on diabetes self-management every 12 months.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2328 (October 2004), repromulgated LR 30:2488 (November 2004), amended LR 32:1901 (October 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

Chapter 105. Provider Participation

§10501. Provider Enrollment

A. In order to enroll and participate in the Medicaid Program, an FQHC must submit a completed provider enrollment packet that includes a copy of the HRSA grant approving its FQHC status.

1. - 4. Repealed.

B. The effective date of a FQHC's enrollment to participate in the Medicaid Program shall not be prior to the date of receipt of the completed enrollment packet.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2328 (October 2004), repromulgated LR 30:2488 (November 2004), amended LR 32:1902 (October 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§10503. Standards for Participation

A. Federally qualified health centers must comply with the applicable licensure, accreditation and program participation standards for all services rendered. If a FQHC wishes to initiate participation, it shall be responsible for meeting all of the enrollment criteria of the program. The FQHC provider shall:

1. maintain an acceptable fiscal record keeping system that readily distinguishes one type of service from another type of service that may be provided;
2. retain all records necessary to fully disclose the extent of services provided to recipients for five years from the date of service and furnish such records, and any payments claimed for providing such services, to the Medicaid Program upon request; and
3. abide by and adhere to all federal and state regulations and policy manuals.

B. If a FQHC receives approval for a satellite site, the satellite site must enter into a separate provider agreement and obtain its own Medicaid provider number.

C. In order to receive Medicaid reimbursement for DSMT services, a FQHC must have a DSMT program that meets the quality standards of one of the following accreditation organizations:

1. the American Diabetes Association;
2. the American Association of Diabetes Educators; or
3. the Indian Health Service.

D. All DSMT programs must adhere to the national standards for diabetes self-management education.

1. Each member of the instructional team must:
 - a. be a certified diabetes educator (CDE) certified by the National Certification Board for Diabetes Educators; or
 - b. have recent didactic and experiential preparation in education and diabetes management.
2. At a minimum, the instructional team must consist of one the following professionals who is a CDE:
 - a. a registered dietician;
 - b. a registered nurse; or
 - c. a pharmacist.
3. All members of the instructional team must obtain the nationally recommended annual continuing education hours for diabetes management.

AUTHORITY NOTE: Promulgated in 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 32:1902 (October 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2280 (October 2010), amended LR 37:

Chapter 107. Reimbursement Methodology

§10701. Prospective Payment System

A. - B.2.NOTE. ...

3. Effective for dates of service on or after February 20, 2011, the Medicaid Program shall include coverage for diabetes self-management training services rendered by qualified health care professionals in the FQHC encounter rate.

a. Separate encounters for DSMT services are not permitted and the delivery of DSMT services alone does not constitute an encounter visit.

C. - F. ...

AUTHORITY NOTE: Promulgated in 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 32:1902 (October 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

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

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

Bruce D. Greenstein
Secretary

1102#077

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

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

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt LAC 50:V.1301-1309 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

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

Act 347 of the 2009 Regular Session of the Louisiana Legislature revised the qualifying criteria for major teaching hospitals. In compliance with Act 347, the department promulgated an Emergency Rule which amended the provisions governing the qualifying criteria for major teaching hospitals. This Emergency Rule also repromulgated

the March 20, 2000 Rule governing teaching hospitals in a codified format for inclusion in the *Louisiana Administrative Code (Louisiana Register, Volume 36, Number 6)*. This Emergency Rule is being promulgated to continue the provisions of the July 1, 2010 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by encouraging provider participation in the Medicaid Program so as to assure sufficient access to hospital services.

Effective February 28, 2011, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing inpatient hospital services rendered by non-rural, non-state hospitals designated as teaching hospitals.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 1. Inpatient Hospital Services

Chapter 13. Teaching Hospitals

Subchapter A. General Provisions

§1301. Major Teaching Hospitals

A. The Louisiana Medical Assistance Program's recognition of a major teaching hospital is limited to facilities having a documented affiliation agreement with a Louisiana medical school accredited by the Liaison Committee on Medical Education (LCME). A major teaching hospital shall meet one of the following criteria:

1. be a major participant in at least four approved medical residency programs. At least two of the programs must be in medicine, surgery, obstetrics/gynecology, pediatrics, family practice, emergency medicine or psychiatry; or

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

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

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

a. the residents' salaries and fringe benefits;

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

c. other direct administrative costs of the program; and

2. participate in residency programs that:

a. require residents to rotate for a required experience;

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

c. provide residency rotations of more than one sixth of the program length or more than a total of six months at the facility and are listed as part of an accredited

program in the *Graduate Medical Education Directory* of the Accreditation Council for Graduate Medical Education (ACGME).

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§1303. Minor Teaching Hospitals

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

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

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

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

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

a. the residents' salaries and fringe benefits;

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

c. other direct administrative costs of the program; and

2. participate in residency programs that:

a. require residents to rotate for a required experience;

b. require explicit approval by the appropriate

Residency Review Committee of the medical school with which the facility is affiliated prior to utilization of the facility; or

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§1305. Approved Medical Residency Program

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

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

Report and Reference Handbook published by the American Board of Medical Specialties;

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

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

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

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§1307. Graduate Medical Education

A. The Bureau adopts criteria for the reimbursement of graduate medical education (GME) in facilities that do not qualify as major or minor teaching facilities. GME recognized by the Medical Assistance Program for reimbursement shall be limited to facilities having a documented affiliation agreement with a Louisiana medical school accredited by the LCME.

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§1309. Requirements for Reimbursement

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

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

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

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

3. a signed Certification For Teaching Hospital Recognition.

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

1. a copy of the Intern and Resident Information

System report that is submitted annually to the Medicare intermediary; and

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

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

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

F. The peer group maximum for minor teaching hospitals shall be the peer group maximum for minor teaching hospitals or the peer group maximum for peer group five, whichever is greater.

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

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

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

Bruce D. Greenstein
Secretary

1102#082

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Inpatient Hospital Services
Non-Rural, Non-State Hospitals
Outlier Payment Methodology Changes
(LAC 50:V.954)

The Department of Health and Hospitals, Bureau of Health Services Financing rescinds the January 1, 2011 Emergency Rule governing the outlier payment methodology for inpatient hospital services rendered by non-rural, non-state hospitals, as authorized by R.S. 36:254. The Emergency Rule will be published in the January 20, 2011 edition of the *Louisiana Register*. 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 an Emergency Rule which amended the provisions governing inpatient hospital services rendered by non-rural, non-state hospitals in order to revise the outlier payment methodology (*Louisiana Register*, Volume 37, Number 1). The department has now determined that it is necessary to rescind the January 1, 2011 Emergency Rule.

Effective January 11, 2011 the Department of Health and Hospitals, Bureau of Health Services Financing rescinds the Emergency Rule which amended the provisions governing the outlier payment methodology for inpatient hospital services which will be published in the January 20, 2011 edition of the *Louisiana Register*.

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

Bruce D. Greenstein
Secretary

1102#008

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Inpatient Hospital Services—State Hospitals
Supplemental Payments (LAC 50:V.551)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:V.551 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Rule in June of 1983 that established the reimbursement methodology for inpatient services provided in acute care hospitals (*Louisiana Register*, Volume 9, Number 6). Inpatient hospital services were reimbursed in accordance with the Medicare reimbursement principles utilizing a target rate set based on the cost per discharge for each hospital, except that the base year to be used in determining the target rate was the fiscal year ending on September 29, 1982. In October 1984, the department established separate per diem limitations for neonatal and pediatric intensive care and burn units using the same base period as the target rate per discharge calculation (*Louisiana Register*, Volume 10, Number 10). In October 1992, the department promulgated a Rule which provided that inpatient hospital services to children under one year of age shall be reimbursed as pass-through costs and shall not be subject to per discharge or per diem limits applied to other inpatient hospital services (*Louisiana Register*, Volume 18, Number 10). The department subsequently amended the reimbursement methodology for inpatient hospital services to establish a prospective payment methodology for non-state hospitals (*Louisiana Register*, Volume 20, Number 6). The per discharge and per diem limitations in state acute care hospitals were rebased by a Rule promulgated in December of 2003 (*Louisiana Register*, Volume 29, Number 12). The Bureau subsequently amended the reimbursement methodology for inpatient services provided in state acute hospitals (*Louisiana Register*, Volume 32, Number 2).

The department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for inpatient hospital services to provide a supplemental Medicaid payment to state-owned acute care hospitals that meet the qualifying criteria, and to adjust the reimbursement paid to non-qualifying state-owned acute care hospitals (*Louisiana Register*, Volume 36, Number 11). The department now proposes to amend the provisions of the October 16, 2010 Emergency Rule to clarify the provisions governing the reimbursement methodology for those state-owned acute care hospitals that do not meet the qualifying criteria for the supplemental payment. For the purpose of clarity, the department also proposes to incorporate the provisions of the February 20, 2006 Rule in a codified format for inclusion in the *Louisiana Administrative Code*. This action is being taken to clarify the intent of the October 16, 2010 Emergency Rule and to promote the health and welfare of Medicaid recipients by ensuring sufficient provider participation and recipient access to services.

Effective January 20, 2011, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions of the October 16, 2010 Emergency Rule governing the reimbursement methodology for inpatient hospital services rendered by state-owned acute care hospitals.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part V. Hospital Services
Subpart 1. Inpatient Hospital Services
Chapter 5. State Hospitals
Subchapter B. Reimbursement Methodology

§551. Acute Care Hospitals

A. Inpatient hospital services rendered by state-owned acute care hospitals shall be reimbursed at allowable costs and shall not be subject to per discharge or per diem limits.

B. Effective for dates of service on or after October 16, 2010, a quarterly supplemental payment up to the Medicare upper payment limits will be issued to qualifying state-owned hospitals for inpatient acute care services rendered.

1. - 2. Repealed.

C. Qualifying Criteria for Supplemental Payment. The state-owned acute care hospitals must be located in DHH Administrative Region 8 (Monroe).

D. Effective for dates of service on or after October 16, 2010, Medicaid rates paid to state-owned acute care hospitals that do not meet the qualifying criteria for the supplemental payment shall be adjusted to 60 percent of allowable Medicaid costs.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

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

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

Bruce D. Greenstein
Secretary

1102#007

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing

Medicaid Program—Reimbursement Rate
and Prescription Limit Reductions

The Department of Health and Hospitals, Bureau of Health Services Financing hereby rescinds the December 1, 2010 Emergency Rules implementing reimbursement rate reductions and prescription limit reduction in the Medical Assistance Program as authorized by R.S. 36:254. These Emergency Rules were adopted on November 22, 2010, published in the major daily newspapers and the December 20, 2010 edition of the *Louisiana Register*. 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, the Office of Aging and Adult Services, and the Office for Citizens with Developmental Disabilities adopted provisions which reduced the reimbursement rates for designated services and the monthly prescription limit covered in the Medicaid Program (*Louisiana Register*, Volume 36, Number 12). The department has now determined that it is necessary to rescind all of the December 1, 2010 Emergency Rules which reduced the Medicaid reimbursement rates and the monthly prescription limit.

Effective January 11, 2011, the Department of Health and Hospitals, Bureau of Health Services Financing rescinds the following Emergency Rules which appeared in the December 20, 2010 edition of the *Louisiana Register* on pages 2771-2823:

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

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

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

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

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

6. Home Health Program—Extended Nursing Services Reimbursement Rate Reduction (LAC 50:XIII.701);

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

8. Inpatient Hospital Services—Non-Rural, Non-State Hospitals—Outlier Payment Methodology (LAC 50:V.954);

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

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

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

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

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

14. Pharmacy Program—Prescription Limit Reduction (LAC 50:XXIX.113);

15. Pregnant Women Extended Services—Dental Services Reimbursement Rate Reduction (LAC 50:XV.16107);

16. Medical Transportation Program—Emergency Ambulance Services Reimbursement Rate Reduction (LAC 50:XXVII.325 and 353);

17. Medical Transportation Program—Non-Emergency Ambulance Services Reimbursement Rate Reduction (LAC 50:XXVII.571); and

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

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

Bruce D. Greenstein
Secretary

1102#006

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Outpatient Hospital Services
Diabetes Self-Management Training (LAC 50:V.Chapter 63)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:V.Chapter 63 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.

Act 11 of the 2010 Regular Session of the Louisiana Legislature authorized the Department of Health and Hospitals, through its primary and preventive care activity, to provide reimbursement to providers for rendering services that will educate and encourage Medicaid enrollees to obtain appropriate preventive and primary care in order to improve their overall health and quality of life. In keeping with the intent of Act 11, the Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt provisions in the Hospital Program to provide Medicaid reimbursement for diabetes self-management training (DSMT) services rendered in an outpatient hospital setting. It is anticipated that this new service will promote improved patient self-management skills which will reduce diabetes-related complications that adversely affect quality of life, and subsequently reduce Medicaid costs associated with the care of recipients diagnosed with diabetes-related illnesses.

This action is being taken to promote the health and welfare of Medicaid recipients diagnosed with diabetes and to ultimately reduce the Medicaid costs associated with their care. It is estimated that implementation of this Emergency Rule will increase expenditures in the Professional Services Program by approximately \$196,541 for state fiscal year 2010-2011.

Effective February 20, 2011, the Department of Health and Hospitals, Bureau of Health Services Financing adopts provisions in the Hospital Program to provide coverage for diabetes self-management training services rendered in an outpatient hospital setting.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 5. Outpatient Hospital Services

Chapter 63. Diabetes Education Services

Subchapter A. General Provisions

§6301. Introduction

A. Effective for dates of service on or after February 20, 2011, the department shall provide coverage of diabetes self-management training (DSMT) services rendered to Medicaid recipients diagnosed with diabetes.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§6303. Scope of Services

A. DSMT services shall be comprised of one hour of individual instruction and nine hours of group instruction on diabetes self-management.

B. Service Limits. Recipients shall receive up to 10 hours of services during the first 12-month period following the initial order. After the first 12-month period has ended, recipients shall only be eligible for two hours of individual instruction on diabetes self-management every 12 months.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§6305. Provider Participation

A. In order to receive Medicaid reimbursement, outpatient hospitals must have a DSMT program that meets the quality standards of one of the following accreditation organizations:

1. the American Diabetes Association;
2. the American Association of Diabetes Educators; or
3. the Indian Health Service.

B. All DSMT programs must adhere to the national standards for diabetes self-management education.

1. Each member of the instructional team must:
 - a. be a certified diabetes educator (CDE) certified by the National Certification Board for Diabetes Educators; or
 - b. have recent didactic and experiential preparation in education and diabetes management.
2. At a minimum, the instructional team must consist of one the following professionals who is a CDE:
 - a. a registered dietician;
 - b. a registered nurse; or
 - c. a pharmacist.
3. All members of the instructional team must obtain the nationally recommended annual continuing education hours for diabetes management.

C. Members of the instructional team must be either employed by or have a contract with a Medicaid enrolled outpatient hospital that will submit the claims for reimbursement of outpatient DSMT services rendered by the team. AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

Subchapter B. Reimbursement

§6311. Reimbursement Methodology

A. Effective for dates of service on or after February 20, 2011, the Medicaid Program shall provide reimbursement for diabetes self-management training services rendered by qualified health care professionals in an outpatient hospital setting.

B. Reimbursement for DSMT services shall be a flat fee based on the appropriate Healthcare Common Procedure Coding (HCPC) code.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

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

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

Bruce D. Greenstein
Secretary

1102#078

DECLARATION OF EMERGENCY

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

Pharmacy Benefits Management Program
Prescription Limit Reduction
(LAC 50:XXIX.113)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XXIX.113 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 11 of the 2010 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures in the Medicaid Program do not exceed the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law." This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

As a result of a budgetary shortfall in state fiscal year 2009, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions

governing prescription limits in the Pharmacy Benefits Management Program to reduce the number of prescriptions covered by the Medicaid Program within a calendar month for certain recipients (*Louisiana Register*, Volume 35, Number 9).

Due to a budgetary shortfall in state fiscal year 2011, the department has determined that it is necessary to amend the provisions governing the Pharmacy Benefits Management Program to further reduce the number of prescriptions covered by the Medicaid Program within a calendar month. This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately \$1,240,000 for state fiscal year 2010-2011.

Effective February 1, 2011, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing prescription limits in the Pharmacy Benefits Management Program.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXIX. Pharmacy

Chapter 1. General Provisions

§113. Prescription Limit

A. Effective February 1, 2011, the Department of Health and Hospitals will pay for a maximum of four prescriptions per calendar month for Medicaid recipients.

B. The following federally mandated recipient groups are exempt from the four prescriptions per calendar month limitation:

1. persons under 21 years of age;
2. persons who are residents of long-term care institutions, such as nursing homes and ICF-DD facilities; and
3. pregnant women.

C. The four prescriptions per month limit can be exceeded when the prescriber determines an additional prescription is medically necessary and communicates the following information to the pharmacist in his own handwriting or by telephone or other telecommunications device:

1. "medically necessary override;" and
2. a valid ICD-9-CM, or its successor, diagnosis code that is directly related to each drug prescribed that is over the four prescription limit (no ICD-9-CM, or its successor, literal description is acceptable).

D. The prescriber should use the Clinical Drug Inquiry (CDI) internet web application developed by the fiscal intermediary in his/her clinical assessment of the patient's disease state or medical condition and the current drug regime before making a determination that more than four prescriptions per calendar month is required by the recipient.

E. ...

F. An acceptable statement and ICD-9-CM, or its successor, diagnosis code is required for each prescription in excess of four for that month.

G. ...

AUTHORITY NOTE: Promulgated in 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 32:1055 (June 2006), amended by the

Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1901 (September 2009), LR 37:

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

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

Bruce D. Greenstein
Secretary

1102#005

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Professional Services Program
Diabetes Self-Management Training
(LAC 50:IX.Chapter 7 and 15103)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:IX.Chapter 7 and §15103 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.

Act 11 of the 2010 Regular Session of the Louisiana Legislature authorized the Department of Health and Hospitals, through its primary and preventive care activity, to provide reimbursement to providers for rendering services that will educate and encourage Medicaid enrollees to obtain appropriate preventive and primary care in order to improve their overall health and quality of life. In keeping with the intent of Act 11, the Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt provisions in the Professional Services Program to provide Medicaid reimbursement for diabetes self-management training (DSMT) services. It is anticipated that this new service will promote improved patient self-management skills which will reduce diabetes-related complications that adversely affect quality of life, and subsequently reduce Medicaid costs associated with the care of recipients diagnosed with diabetes-related illnesses.

This action is being taken to promote the health and welfare of Medicaid recipients diagnosed with diabetes and to reduce the Medicaid costs associated with their care. It is estimated that implementation of this Emergency Rule will increase expenditures in the Professional Services Program by approximately \$39,308 for state fiscal year 2010-2011.

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

provisions in the Professional Services Program to provide coverage for diabetes self-management training services.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part IX. Professional Services Program

Subpart 1. General Provisions

Chapter 7. Diabetes Education Services

§701. General Provisions

A. Effective for dates of service on or after February 20, 2011, the department shall provide coverage of diabetes self-management training (DSMT) services rendered to Medicaid recipients diagnosed with diabetes.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§703. Scope of Services

A. DSMT shall be comprised of one hour of individual instruction and nine hours of group instruction on diabetes self-management.

B. Service Limits. Recipients shall receive up to 10 hours of services during the first 12-month period following the initial order. After the first 12-month period has ended, recipients shall only be eligible for two hours of individual instruction on diabetes self-management every 12 months.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§705. Provider Participation

A. In order to receive Medicaid reimbursement, outpatient hospitals must have a DSMT program that meets the quality standards of one of the following accreditation organizations:

1. the American Diabetes Association;
2. the American Association of Diabetes Educators; or
3. the Indian Health Service.

B. All DSMT programs must adhere to the national standards for diabetes self-management education.

1. Each member of the instructional team must:
a. be a certified diabetes educator (CDE) certified by the National Certification Board for Diabetes Educators; or

b. have recent didactic and experiential preparation in education and diabetes management.

2. At a minimum, the instructional team must consist of one the following professionals who are also a CDE:

- a. a registered dietician;
- b. a registered nurse; or
- c. a pharmacist.

3. All members of the instructional team must obtain the nationally recommended annual continuing education hours for diabetes management.

C. Members of the instructional team must be either employed by or have a contract with a Medicaid enrolled professional services provider that will submit the claims for reimbursement of DSMT services rendered by the team.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

Subpart 15. Reimbursement
Chapter 151. Reimbursement Methodology
Subchapter A. General Provisions
§15103. Diabetes Education Services

A. Effective for dates of service on or after February 20, 2011, the Medicaid Program shall provide reimbursement for diabetes self-management training services rendered by qualified health care professionals.

B. Reimbursement for DSMT services shall be a flat fee based on the appropriate Healthcare Common Procedure Coding (HCPC) code.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

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

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

Bruce D. Greenstein
Secretary

1102#079

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing

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

The Department of Health and Hospitals, Bureau of Health Services Financing adopts §15151 and §15153 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions in the Professional Services Program to provide supplemental payments to physicians and other eligible professional service practitioners employed by state-owned or operated entities (*Louisiana Register*, Volume 32, Number 6). The department now proposes to amend the provisions governing the reimbursement methodology for professional services to provide a supplemental payment to physicians and other professional practitioners employed by, or under contract with, non-state owned or operated governmental entities. In addition, this Emergency Rule will also repromulgate the provisions of the June 20, 2006 Rule in a codified format for inclusion in the *Louisiana Administrative*

Code. This Emergency Rule is being promulgated to continue the provisions of the July 1, 2010 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by encouraging continued provider participation in the Medicaid Program and ensuring recipient access to services.

Effective February 28, 2011, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for services rendered by physicians and other professional service practitioners.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part IX. Professional Services Program

Subpart 15. Reimbursement

Chapter 151. Reimbursement Methodology

Subchapter F. Supplemental Payments

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

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

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

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

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

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

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

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

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

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

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

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

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

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

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

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

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

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

E. The supplemental payments shall be made on a quarterly basis and the Medicare to community rate conversion factor shall be recalculated periodically as determined by the department.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

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

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A

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

Bruce D. Greenstein
Secretary

1102#083

DECLARATION OF EMERGENCY

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

Rural Health Clinics—Diabetes Self-Management Training
(LAC 50:XI.Chapters 163-165 and 16701)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XI.Chapters 163-165 and §16701 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.

Act 11 of the 2010 Regular Session of the Louisiana Legislature authorized the Department of Health and Hospitals, through its primary and preventive care activity, to provide reimbursement to providers for rendering services that will educate and encourage Medicaid enrollees to obtain appropriate preventive and primary care in order to improve their overall health and quality of life. In keeping with the intent of Act 11, the Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend the provisions governing rural health clinics to provide Medicaid reimbursement for diabetes self-management training (DSMT) services. It is anticipated that this new service will promote improved patient self-management skills which will reduce diabetes-related complications that adversely affect quality of life, and subsequently reduce Medicaid costs associated with the care of recipients diagnosed with diabetes-related illnesses. This Emergency Rule will also reorganize the provisions governing provider participation and services in a more clear and concise manner in the *Louisiana Administrative Code*.

This action is being taken to promote the health and welfare of Medicaid recipients diagnosed with diabetes and to reduce the Medicaid costs associated with their care. It is estimated that implementation of this Emergency Rule will increase expenditures for rural health clinic services by approximately \$6,551 for state fiscal year 2010-2011.

Effective February 20, 2011, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing rural health clinics to provide coverage for diabetes self-management training services.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XI. Clinic Services

Subpart 15. Rural Health Clinics

Chapter 163. Services

§16301. Scope of Services

A. Medicaid reimbursement is limited to medically necessary services that are covered by the Medicaid State

Plan and would be covered if furnished by a physician. The following services shall be covered:

1. services furnished by a physician, within the scope of practice of his profession under Louisiana law;
2. services furnished by a:
 - a. physician assistant;
 - b. nurse practitioner;
 - c. nurse midwife;
 - d. clinical social worker;
 - e. clinical psychologist; or
 - f. dentist;
3. services and supplies that are furnished as an incident to professional services furnished by all eligible professionals;
4. other ambulatory services; and
5. diabetes self-management training (DSMT) services.

B. Effective February 20, 2011, the department shall provide coverage of diabetes self-management training services rendered to Medicaid recipients diagnosed with diabetes.

1. The services shall be comprised of one hour of individual instruction and nine hours of group instruction on diabetes self-management.

AUTHORITY NOTE: Promulgated in 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 32:1904 (October 2006), repromulgated LR 32:2267 (December 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§16303. Service Limits

A. Rural health clinic visits (encounters) are limited to 12 visits per year for medically necessary services rendered to Medicaid recipients who are 21 years of age or older. Visits for Medicaid recipients who are under 21 years of age and for prenatal and postpartum care are excluded from the service limitation.

1. - 3. Repealed.

B. Recipients of DSMT services shall receive up to 10 hours of services during the first 12-month period following the initial order.

1. After the first 12-month period ends, recipients shall only be eligible for two hours of individual instruction on diabetes self-management every 12 months.

AUTHORITY NOTE: Promulgated in 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 32:1905 (October 2006), repromulgated LR 32:2267 (December 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

Chapter 165. Provider Participation

§16501. Provider Enrollment

A. In order to enroll and participate in the Medicaid Program, a RHC must submit a completed provider enrollment packet.

1. - 4. Repealed.

B. The effective date of enrollment to participate in the Medicaid Program shall not be prior to the date of receipt of the completed enrollment packet.

AUTHORITY NOTE: Promulgated in 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 32:1905 (October 2006), repromulgated LR 32:2267 (December 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§16503. Standards for Participation

A. Rural Health Clinics must comply with the applicable licensure, accreditation and program participation standards for all services rendered. If a RHC wishes to initiate participation, it shall be responsible for meeting all of the enrollment criteria of the program. The RHC provider shall:

1. maintain an acceptable fiscal record keeping system that readily distinguishes one type of service from another type of service that may be provided;

2. retain all records necessary to fully disclose the extent of services provided to recipients for five years from the date of service and furnish such records, and any payments claimed for providing such services, to the Medicaid Program upon request; and

3. abide by and adhere to all federal and state regulations and policy manuals.

B. Medicaid enrollment can be no sooner than Medicaid's receipt of the complete enrollment packet. A complete enrollment packet for RHCs must include a copy of the CMS provider certification letter approving rural health clinic status.

C. In order to receive Medicaid reimbursement for DSMT services, a RHC must have a DSMT program that meets the quality standards of one of the following accreditation organizations:

1. the American Diabetes Association;
2. the American Association of Diabetes Educators; or
3. the Indian Health Service.

D. All DSMT programs must adhere to the national standards for diabetes self-management education.

1. Each member of the instructional team must:

a. be a certified diabetes educator (CDE) certified by the National Certification Board for Diabetes Educators; or

b. have recent didactic and experiential preparation in education and diabetes management.

2. At a minimum, the instructional team must consist of one the following professionals who is a CDE:

- a. a registered dietician;
- b. a registered nurse; or
- c. a pharmacist.

3. All members of the instructional team must obtain the nationally recommended annual continuing education hours for diabetes management.

AUTHORITY NOTE: Promulgated in 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 32:1905 (October 2006), repromulgated LR 32:2267 (December 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

Chapter 167. Reimbursement Methodology

§16701. Prospective Payment System

A. - B.2.NOTE...

3. Effective for dates of service on or after February 20, 2011, the Medicaid Program shall include coverage for diabetes self-management training services rendered by

qualified health care professionals in the RHC encounter rate.

a. Separate encounters for DSMT services are not permitted and the delivery of DSMT services alone does not constitute an encounter visit.

C. - D. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1905 (October 2006), repromulgated LR 32:2267 (December 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

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

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

Bruce D. Greenstein
Secretary

1102#080

DECLARATION OF EMERGENCY

Department of Natural Resources Office of Conservation

Statewide Orders No. 29-B and 29-B-a
(LAC 43:XIX.Chapters 2 and 11)

Pursuant to the power delegated under the laws of the state of Louisiana, and particularly Title 30 of the Revised Statutes of 1950, as amended, and in conformity with the provisions of the Louisiana Administrative Procedure Act, Title 49, Sections 953(B)(1) and (2), 954(B)(2), as amended, the following Emergency Rule and reasons therefore are now adopted and promulgated by the Commissioner of Conservation as being necessary to protect the public health, safety and welfare of the people of the state of Louisiana, as well as the environment generally, by amending and expanding the drilling and completion operational and safety requirements for wells drilled in search of oil and natural gas at water locations. The Emergency Rule signed by the commissioner and effective December 9, 2010 is hereby rescinded and replaced by the following Emergency Rule.

The Emergency Rule is intended to provide greater protection to the public health, safety and welfare of the people of the State, as well as the environment generally by adopting new operational and safety requirements for the drilling and completion of oil and gas wells at water locations. Specifically, the Emergency Rule creates a new Chapter within Statewide Order No. 29-B (LAC 43:XIX.Chapter 2) to provide additional rules concerning the drilling and completion of oil and gas wells at water locations, specifically providing for the following: rig movement and reporting requirements, additional

requirements for applications to drill, casing program requirements, mandatory diverter systems and blowout preventer requirements, oil and gas well-workover operations, diesel engine safety requirements, and drilling fluid regulations. Further, the Emergency Rule amends Statewide Order No. 29-B-a (LAC 43:XIX.Chapter 11) to provide for and expand upon rules concerning the use of storm chokes in oil and gas wells at water locations. Finally, the Emergency Rule provides for Commissioner of Conservation approved exceptions to equipment requirements on workover operations.

Recognizing the potential advantages of expanding the operational and safety requirements for the drilling and completion of oil and gas wells at water locations within the state, it has been determined that failure to establish such requirements in the form of an administrative rule may lead to the existence of an imminent peril to the public health, safety and welfare of the people of the state of Louisiana, as well as the environment generally.

Protection of the public and our environment therefore requires the Commissioner of Conservation to take immediate steps to assure that drilling and completion of oil and gas wells at water locations within the State are undertaken in accordance with all reasonable care and protection to the health, safety of the public, oil and gas personnel, and the environment generally.

The effective date of the Emergency Rule, Amendment to Statewide Order No. 29-B (LAC 43:XIX.Chapter 2) and Statewide Order No. 29-B-a (LAC 43:XIX.Chapter 11) (Emergency Rule) set forth hereinafter is January 12, 2011. The Emergency Rule shall remain in effect for 120 days after its effective date.

Title 43

NATURAL RESOURCES

Part XIX. Office of Conservation—General Operations Subpart 1. Statewide Order No. 29-B

Chapter 2. Additional Requirements for Water Locations

§201. Applicability

A. In addition to the requirements set forth in Chapter 1 of this Subpart, all oil and gas wells being drilled or completed at a water location within the state and which are spud or on which workover operations commence on or after July 15, 2010 shall comply with this Chapter.

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

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

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 37:

§203. Application to Drill

A. In addition to the requirements set forth in Section 103 of this Subpart, at the time of submittal of an application for permit to drill, the applicant will provide an electronic copy on a disk of the associated drilling rig's Spill Prevention Control (SPC) plan that is required by DEQ pursuant to the provisions of Part IX of Title 33 of the Louisiana Administrative Code or any successor rule. Such plan shall become a part of the official well file. If the drilling rig to be used in drilling a permitted well changes between the date of the application and the date of drilling, the applicant shall provide an electronic copy on a disk of

the SPC plan for the correct drilling rig within two business days of becoming aware of the change; but in no case shall the updated SPC plan be submitted after spudding of the well.

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

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 37:

§204. Rig Movement and Reporting

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

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

1. An emergency shutdown station must be installed near the driller’s console.
2. All producible wells located in the affected wellbay must be shut in below the surface and at the wellhead when:
 - a. a rig or related equipment is moved on and off a platform. This includes rigging up and rigging down activities within 500 feet of the affected platform;
 - b. a drilling unit is moved or skid between wells on a platform;
 - c. a mobile offshore drilling unit (MODU) moves within 500 feet of a platform.
3. Production may be resumed once the MODU is in place, secured, and ready to begin drilling operations.

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

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

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 37:

§205. Casing Program

A. General Requirements

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

2. The operator shall install casing necessary to withstand collapse, bursting, tensile, and other stresses that may be encountered and the well shall be cemented in a manner which will anchor and support the casing. Safety factors in casing program design shall be of sufficient

magnitude to provide optimum well control while drilling and to assure safe operations for the life of the well.

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

4. Centralizers

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

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

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

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

c. All centralizers shall meet API standards.

5. A copy of the documentation furnished by the manufacturer, if new, or supplier, if reconditioned, which certifies tubular condition, shall be provided with the Well History and Work Resume Report (Form WH-1).

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

C. Surface Casing

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

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

a. In known low-pressure areas, exceptions to the above may be granted by the commissioner or his agent. If, however, in the opinion of the commissioner, or his agent, the above regulations shall be found inadequate, and additional or lesser amount of surface casing and/or test pressure shall be required for the purpose of safety and the protection of the USDW.

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

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

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

D. Intermediate Casing/Drilling Liner

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

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

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

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

Table 2. Intermediate Casing and Liner	
Depth Set	Test Pressure (lbs. per sq. in.)
2000-3000'	800
3000-6000'	1000
6000-9000'	1200
9000-and deeper	1500

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

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

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

E. Producing String

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

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

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

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

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

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

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

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

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

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

F. Cement Evaluation

1. Cement evaluation tests (cement bond or temperature survey) shall be conducted for all casing and liners installed below surface casing to assure compliance with Paragraphs D.3 and E.3 of this Section.

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

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

G. Leak-off Tests

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

a. The pressure integrity test and related hole-behavior observations, such as pore-pressure test results, gas-cut drilling fluid, and well kicks must be used to adjust the drilling fluid program and the setting depth of the next

casing string. All test results must be recorded and hole-behavior observations made during the course of drilling related to formation integrity and pore pressure in the driller's report.

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

H. Prolonged Drilling Operations

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

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

i. caliper or pressure test the casing; and

ii. report evaluation results to the district manager and obtain approval of those results before resuming operations.

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

I. Tubing and Completion

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

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

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

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

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

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

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

obstructions in wells used for bottomhole pressure test purposes.

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 37:

§207. Diverter Systems and Blowout Preventers

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

1. dual diverter lines arranged to provide for maximum diversion capability;

2. at least two diverter control stations. One station shall be on the drilling floor. The other station shall be in a readily accessible location away from the drilling floor;

3. remote-controlled valves in the diverter lines. All valves in the diverter system shall be full-opening. Installation of manual or butterfly valves in any part of the diverter system is prohibited;

4. minimize the number of turns in the diverter lines, maximize the radius of curvature of turns, and minimize or eliminate all right angles and sharp turns;

5. anchor and support systems to prevent whipping and vibration;

6. rigid piping for diverter lines. The use of flexible hoses with integral end couplings in lieu of rigid piping for diverter lines shall be approved by the district manager.

B. Diverter Testing Requirements

1. When the diverter system is installed, the diverter components including the sealing element, diverter valves, control systems, stations and vent lines shall be function and pressure tested.

2. For drilling operations with a surface wellhead configuration, the system shall be function tested at least once every 24-hour period after the initial test.

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

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

5. Recordkeeping Requirements

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

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

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

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

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

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

a. annular-type well control component;

b. hydraulically-operated blind rams;

c. hydraulically-operated shear rams;

d. two sets of hydraulically-operated pipe rams.

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

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

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

5. The Commissioner of Conservation, following a public hearing, may grant exceptions to the requirements of Subsections C-J of this Section.

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

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

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

2. a backup to the primary accumulator-charging system, supplied by a power source independent from the power source to the primary, which shall be sufficient to close all BOP components and hold them closed;

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

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

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

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

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

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

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

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

F. BOP Maintenance and Testing Requirements

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

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

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

b. immediately following installation of the BOPs;

c. within 14 days of the previous BOP pressure test, alternating between control stations and at a staggered interval to allow each crew to operate the equipment. If

either control system is not functional, further operations shall be suspended until the nonfunctional, system is operable. Exceptions may be granted by the district manager in cases where a trip is scheduled to occur within 2 days after the 14-day testing deadline;

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

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

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

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

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

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

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

4. High pressure tests of the BOP system are to be performed at the times and intervals specified in Paragraph F.2 of this Section in accordance with the following provisions.

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

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

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

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

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

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

a. use water to test the surface BOP system;

b. if a control station is not functional, operations shall be suspended until that station is operable;

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

G. BOP Record Keeping. The time, date and results of pressure tests, function tests, and inspections of the BOP system are to be recorded in the driller's report. All pressure tests shall be recorded on an analog chart or digital recorder.

All documents are to be retained for inspection at the wellsite for the duration of drilling operations and are to be retained in the operator's files for a period of two years.

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

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

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

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

J. Well Control Operations

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

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

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

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

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

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

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

i. evacuation of the drilling crew;

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

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 37:

§209. Casing-Heads

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

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

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 36:

§211. Oil and Gas Well-Workover Operations

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

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

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

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

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

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

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

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

ram component of this requirement shall be effective for any workover operations initiated on or after January 1, 2011 and not before.

2. The minimum BOP-system components when the expected surface pressure is greater than 5,000 psi shall include one annular-type well control component, two sets of pipe rams, and one set of blind-shear rams. The shear ram component of this requirement shall be effective for any workover operations initiated on or after January 1, 2011 and not before.

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

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

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

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

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

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

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

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

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

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

- a. stripper or annular-type well control component;

- b. hydraulically-operated blind rams;
- c. hydraulically-operated shear rams;
- d. kill line inlet;
- e. hydraulically-operated two-way slip rams;
- f. hydraulically-operated pipe rams;
- g. hydraulically-operated blind-shear rams. These rams should be located as close to the tree as practical.

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

- a. stripper or annular-type well control component;
- b. hydraulically-operated blind rams;
- c. hydraulically-operated shear rams;
- d. kill line inlet;
- e. hydraulically-operated two-way slip rams;
- f. hydraulically-operated pipe rams;
- g. a flow tee or cross;
- h. hydraulically-operated pipe rams;
- i. hydraulically-operated blind-shear rams on wells with surface pressures less than or equal to 3,500 psi. As an option, the pipe rams can be placed below the blind-shear rams. The blind-shear rams should be placed as close to the tree as practical.

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

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

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

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

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

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

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

working pressure of the connector, the rated working pressure of the dual check valve, expected surface pressure, or the collapse pressure of the coiled tubing, whichever is less.

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

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

H. Test pressures must be recorded during BOP and coiled tubing tests on a pressure chart, or with a digital recorder, unless otherwise approved by the district manager. The test interval for each BOP system component must be 5 minutes, except for coiled tubing operations, which must include a 10 minute high-pressure test for the coiled tubing string.

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

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

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

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

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

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

L. The commissioner may grant an exception to any provision of this section that requires specific equipment upon proof of good cause. For consideration of an exception, the operator must show proof of the unavailability of properly sized equipment and demonstrate that anticipated surface pressures minimize the potential for a loss of well control during the proposed operations. All exception requests must be made in writing to the commissioner and include documentation of any available evidence supporting the request.

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

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 37:

§213. Diesel Engine Safety Requirements

A. On or after January 1, 2011, each diesel engine with an air take device must be equipped to shut down the diesel engine in the event of a runaway.

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

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

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 37:

§215. Drilling Fluids

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

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

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

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

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

E. Safe Practices

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

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

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

3. When coming out of the hole with drill pipe, the annulus must be filled with drilling fluid before the hydrostatic pressure decreases by 75 psi, or every five stands

of drill pipe, whichever gives a lower decrease in hydrostatic pressure. The number of stands of drill pipe and drill collars that may be pulled must be calculated before the hole is filled. Both sets of numbers must be posted near the driller's station. A mechanical, volumetric, or electronic device must be used to measure the drilling fluid required to fill the hole.

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

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

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

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

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

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

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

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

F. Monitoring Drilling Fluids

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

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

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

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

d. gas-detecting equipment to monitor the drilling fluid returns. The indicator may be located in the drilling

fluid-logging compartment or on the rig floor. If the indicators are only in the logging compartment, you must continually man the equipment and have a means of immediate communication with the rig floor. If the indicators are on the rig floor only, an audible alarm must be installed.

G. Drilling Fluid Quantities

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

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

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

H. Drilling Fluid-Handling Areas

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

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

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

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

iii. if discharges from a mechanical ventilation system may be hazardous, the drilling fluid-handling area must be maintained at a negative pressure. The negative pressure area must be protected by using at least one of the following: a pressure-sensitive alarm, open-door alarms on each access to the area, automatic door-closing devices, air locks, or other devices approved by the district manager;

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

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 37:

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

Chapter 11. Required Use of Storm Chokes

§1101. Scope

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

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

HISTORICAL NOTE: Adopted by the Department of Conservation, March 15, 1946, amended March 1, 1961, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 20:1127 (October 1994), LR 37:

§1103. Applicability

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

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

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

HISTORICAL NOTE: Adopted by the Department of Conservation, March 15, 1946, amended March 1, 1961, amended and promulgated by Department of Natural Resources, Office of Conservation, LR 20:1128 (October 1994), LR 37:

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

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

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

1. The device shall be installed at a depth of 100 feet or more below the seafloor within two days after production is established.

2. Until a SSSV is installed, the well shall be attended in the immediate vicinity so that emergency actions may be

taken while the well is open to flow. During testing and inspection procedures, the well shall not be left unattended while open to production unless a properly operating subsurface-safety device has been installed in the well.

3. The well shall not be open to flow while the SSSV is removed, except when flowing of the well is necessary for a particular operation such as cutting paraffin, bailing sand, or similar operations.

4. All SSSV's must be inspected, installed, used, maintained, and tested in accordance with American Petroleum Institute Recommended Practice 14B, Recommended Practice for Design, Installation, Repair, and Operation of Subsurface Safety Valve Systems.

C. Temporary Removal for Routine Operations

1. Each wireline or pumpdown-retrievable SSSV may be removed, without further authorization or notice, for a routine operation which does not require the approval of Form DM-4R.

2. The well shall be identified by a sign on the wellhead stating that the SSSV has been removed. If the master valve is open, a trained person shall be in the immediate vicinity of the well to attend the well so that emergency actions may be taken, if necessary.

3. A platform well shall be monitored, but a person need not remain in the well-bay area continuously if the master valve is closed. If the well is on a satellite structure, it must be attended or a pump-through plug installed in the tubing at least 100 feet below the mud line and the master valve closed, unless otherwise approved by the district manager.

4. Each operator shall maintain records indicating the date a SSSV is removed, the reason for its removal, and the date it is reinstalled.

D. Emergency Action. In the event of an emergency, such as an impending storm, any well not equipped with a subsurface safety device and which is capable of natural flow shall have the device properly installed as soon as possible with due consideration being given to personnel safety.

E. Design and Operation

1. All SSSVs must be inspected, installed, maintained, and tested in accordance with API RP 14B, Recommended Practice for Design, Installation, Repair, and Operation of Subsurface Safety Valve Systems.

2. Testing requirements. Each SSSV installed in a well shall be removed, inspected, and repaired or adjusted, as necessary, and reinstalled or replaced at intervals not exceeding 6 months for those valves not installed in a landing nipple and 12 months for those valves installed in a landing nipple.

3. Records must be retained for a period of 2 years for each safety device installed.

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

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 37:

§1105. Waivers

A. Onshore Wells. Where the use of storm chokes would unduly interfere with normal operation of a well, the district manager may, upon submission of pertinent data, in writing, waive the requirements of this order.

B. Offshore Wells

1. The district manager, upon submission of pertinent data, in writing explaining the efforts made to overcome the particular difficulties encountered, may waive the use of a subsurface safety valve under the following circumstances, and may, in his discretion, require in lieu thereof a surface safety valve:

- a. where sand is produced to such an extent or in such a manner as to tend to plug the tubing or make inoperative the subsurface safety valve;
- b. when the flowing pressure of the well is in excess of 100 psi but is inadequate to activate the subsurface safety valve;
- c. where flow rate fluctuations or water production difficulties are so severe that the subsurface safety valve would prevent the well from producing at its allowable rate;
- d. where mechanical well conditions do not permit the installation of a subsurface safety valve;
- e. in such other cases as the district manager may deem necessary to grant an exception.

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

HISTORICAL NOTE: Adopted by the Department of Conservation, March 1, 1961, amended March 15, 1961, amended and promulgated by Department of Natural Resources, Office of Conservation, LR 20:1128 (October 1994), LR 37:

James H. Welsh
Commissioner

1102#003

DECLARATION OF EMERGENCY

**Department of Public Safety and Corrections
Office of State Police**

Collection, Submission, Receipt, Identification, Storage and Disposal of DNA Samples (LAC 55:1.Chapter 27)

The Louisiana Department of Public Safety and Corrections, Office of State Police hereby adopts the following Emergency Rule governing the implementation of Act 12 of the 2005 First Extraordinary Session, R.S. 40:1730.21et.seq. This Rule is being adopted in accordance with 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 Department of Public Safety and Corrections, Office of State Police (February 8, 2011) and shall remain in effect for the maximum period allowed by the APA, which is 120 days.

In anticipation of rule changes allowing for the use of DNA Database Buccal Collection Kits, the Louisiana State Police Crime Lab is exhausting its stock of DNA Database Blood Collection Kits. As a result, DNA Database Buccal Collection Kits may also be used to obtain DNA samples pending finalization of proposed rules. Immediate adoption of these rules will facilitate the taking of DNA samples as well as increase the safety to the lab technicians that are collecting the DNA samples.

Title 55

PUBLIC SAFETY

Chapter 27. Collection, Submission, Receipt, Identification, Storage and Disposal of DNA Samples

Subchapter A. Collection of DNA Samples

§2702. Definitions

AFIS—the Automated Fingerprint Identification System operated by the Department of Public Safety and Corrections, Public Safety Services.

CAJUN—the Corrections and Justice Unified Network operated by the Department of Public Safety and Corrections.

CODIS or Combined DNA Index System—the Federal Bureau of Investigation's national DNA identification index system which facilitates the storage and exchange of DNA records submitted by state and local criminal justice and law enforcement agencies.

Crime Laboratory—Louisiana State Police Crime Laboratory of the Department of Public Safety and Corrections, Public Safety Services.

Convicted Offender—a person convicted of a felony sex offense, other specified offense or any other offense for which a DNA sample must be obtained pursuant to R.S. 15:601 et seq.

Department—Department of Public Safety and Corrections, Public Safety Services.

Director—the Director of the Louisiana State Police Crime Laboratory.

DNA—deoxyribonucleic acid.

DNA Analysis—DNA typing tests that generate numerical identification information and are obtained from a DNA sample.

DNA Database—the DNA identification record system maintained and administered by the director.

DNA Database Blood Collection Kit —the kit approved by the department for the collection of DNA blood samples.

DNA Database Buccal Collection Kit – the kit approved by the department for the collection of DNA saliva samples.

DNA Database Information Card (DDIC) – the information card which provides identifying information of the offender when a non-livescan collection is performed.

DNA Record—DNA information that is derived from a DNA sample and DNA analysis and is stored in the state DNA database or in CODIS, including all records pertaining to DNA analysis.

DNA Sample—biological evidence of any nature that is utilized to conduct DNA analysis.

DPS&C—Department of Public Safety and Corrections.

FBI—Federal Bureau of Investigation within the United States Department of Justice.

FTA—specialized paper that binds DNA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 27:205 (February 2001), repromulgated LR 27:1701 (October 2001), amended LR 37:

§2703. Collection, Submission, and Identification of DNA Samples for Convicted Offenders

A. All DNA samples obtained for DNA Analysis from a convicted offender shall be collected using an approved Louisiana State Police Crime Laboratory DNA Database Collection kit. Procedures are specific to the type of sample being collected. A different kit is used for blood collection and buccal collection.

1. Each DNA Database Collection Kit shall contain all necessary materials for collection and for proper identification of the offender.

2. Each kit shall be numbered sequentially from one kit to the next so that each number shall serve as a unique identifier. Kit components shall have the same number.

3. All DNA samples shall be collected by individuals trained and approved to serve as collectors by the Louisiana State Police Crime Laboratory.

4. The collector shall complete the DDIC (for non-livescan collections), which contains the identifying information of the collected offender when obtaining a sample. All information shall be provided. Printed name, date and signature of the person collecting the sample is required. A fingerprint is obtained as positive identification of the offender. Samples submitted with incomplete information may require recollection.

5. Finger stick blood samples shall be obtained using recognized and approved medical procedures, and the following guidelines shall be followed.

a. Prior to each individual blood collection procedure, personnel performing the collection shall put on barrier gloves. The FTA Blood Collection Paper contained within the kit shall not be touched unless the individual collecting the offender's blood is wearing barrier gloves.

b. The tip of the offender's finger shall be wiped with an absorbent alcohol pad.

c. The offender's finger shall be pricked using a sterile, fixed depth lancet.

d. The offender's finger shall be positioned over one of the four circles printed on the FTA Blood Collection Paper, allowing two drops of blood to fall onto the FTA paper, within the circle. If the blood is not flowing, the finger may be squeezed and then released to facilitate blood flow adequate to yield two drops of blood in each circle. Repeat to collect sample in all circles.

e. A sterile gauze pad shall be used to wipe off any remaining blood from the offender's finger, and an adhesive bandage shall be affixed to the offender's finger.

f. All medical supplies (lancet, absorbent alcohol pad, gauze pad, barrier gloves) shall be discarded in compliance with standard medical procedures.

g. The FTA Blood Collection Paper shall not be touched, nor shall it be allowed to come in contact with any other FTA Blood Collection Paper during the drying and packaging stages.

h. The FTA Blood Collection Paper shall be placed in the plastic specimen bag, along with the dessicant. The sealed plastic specimen bag shall be stapled to the DDIC, which shall then be placed in the white mailing envelope. The mailing envelope flap shall be sealed and an evidence or security label shall then be placed across the envelope flap. The label shall be dated and initialed.

i. In the event a convicted offender resists the taking of the DNA sample and the collector may use reasonable force in accordance with R.S. 15:601-620, the collector may collect any type of biological sample approved by the Louisiana State Police Crime Laboratory. The following types of biological sample collections are hereby approved for these instances:

- i. blood stain from finger prick on FTA card;
- ii. buccal swab;
- iii. phlebotomy draw.

6. Buccal (saliva) samples shall be obtained using an approved buccal collection kit, in accordance with the guidelines detailed in Subchapter B: 2722.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 27:206 (February 2001), repromulgated LR 27:1702 (October 2001), amended LR 30:271 (February 2004), amended LR 37:

§2704. Shipping of DNA Samples for Convicted Offenders

A. DNA samples collected in accordance with these procedures shall be submitted to the crime laboratory in person by approved personnel or via delivery service, such as U.S. mail in accordance with the Crime Laboratory's policies and procedures. The mailing envelope shall be mailed or delivered to the crime laboratory after collection to the following address.

Louisiana State Police Crime Laboratory
376 East Airport Drive
Baton Rouge, LA 70806

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 27:207 (February 2001), repromulgated LR 27:1702 (October 2001), amended LR 37:

§2705. Record Keeping of DNA Samples for Convicted Offenders

A. The individual who collects each DNA sample shall provide an accurate, up-to-date list of every DNA sample collected each day of collection. Any failed attempts to collect blood from an offender and the reason for the failure (e.g., refusal of offender to submit, failure to keep scheduled appointment) shall also be indicated. The list will include the following information: the kit number, the offender's name, the name of the person collecting the sample and the submitting agency together with any additional data which the director deems necessary. This information shall be mailed to the CODIS DNA Unit to the following address.

Louisiana State Police Crime Laboratory
376 East Airport Drive
Baton Rouge, LA 70806

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 27:207 (February 2001), repromulgated LR 27:1703 (October 2001), amended LR 30:271 (February 2004), LR 37:

§2706. Storage of DNA Samples for Convicted Offenders

A. The sealed kits containing DNA samples shall be stored in a dedicated storage area within the crime

laboratory. Access to the sealed kits and to the storage area shall be limited to authorized personnel. Any access to or removal/return of the sealed kit or specimen bags shall be performed in accordance with crime lab policies and procedures. Only authorized personnel shall open a sealed kit or specimen bag.

B. DNA samples on FTA Blood Collection Paper, DNA buccal samples, and DDIC cards shall be stored indefinitely in a secure storage area unless otherwise required in accordance with R.S. 15:614.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 27:207 (February 2001), repromulgated LR 27:1703 (October 2001), LR 37:

Subchapter B. Arrestees

§2721. Definitions

AFIS—the Automated Fingerprint Identification System operated by the Department of Public Safety and Corrections, Public Safety Services.

Arrestee—a person arrested for a felony sex offense, other specified offense or any other offense for which a DNA sample must be obtained pursuant to R.S. 15:601 et seq.

Biological Sample—biological evidence of any nature that is utilized to conduct DNA analysis.

Crime Laboratory—Louisiana State Police Crime Laboratory of the Department of Public Safety and Corrections, Public Safety Services.

Department—Department of Public Safety and Corrections, Public Safety Services.

Director—the director of the Louisiana State Police Crime Laboratory.

DNA—deoxyribonucleic acid.

DNA Analysis—DNA typing tests that generate numerical identification information and are obtained from a DNA sample.

DNA Arrestee Database Collection Kit or Kit—the kit provided by the department for the collection of DNA samples.

DNA Database—the DNA identification record system maintained and administered by the director.

DNA Record—DNA information that is derived from a DNA sample and DNA analysis and is stored in the state DNA database or in CODIS, including all records pertaining to DNA analysis.

DPS&C—Department of Public Safety and Corrections.

FBI—Federal Bureau of Investigation within the United States Department of Justice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 28:2369 (November 2002), LR 37:

§2722. Collection, Submission, and Identification of DNA Samples for Arrestees

A. All biological samples obtained for DNA analysis from an arrestee shall be collected using an approved Louisiana State Police Crime Laboratory DNA Arrestee Collection kit.

1. An arrestee collection kit shall contain materials for collection of a biological sample for use in DNA analysis.

2. Each kit shall be numbered sequentially from one kit to the next so that each kit number shall serve as a unique identifier. Kit components shall have the same number.

3. All biological samples shall be collected by individuals trained and approved to serve as collectors by the Louisiana State Police Crime Laboratory.

4. The collector shall utilize an AFIS Printout (livescan generated), which contains the identifying information of the arrestee when obtaining a sample.

a. In the event that a manual collection form is used, all information shall be provided. Printed name, date and signature of the person collecting the sample is required. A fingerprint is obtained as positive identification of the offender. Samples submitted with incomplete information may require recollection.

b. Buccal biological samples shall be obtained according to the instructions contained in the kit.

c. The transport pouch, containing the buccal collection device, and the AFIS printout shall be placed in the mailing envelope provided. The mailing envelope flap shall be sealed.

d. In the event an arrestee resists the taking of the DNA sample, the collector may use reasonable force in accordance with R.S. 15:601-620.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 28:2369 (November 2002), amended LR 37:

§2724. Shipping of DNA Samples for Arrestees

A. DNA samples collected in accordance with these procedures shall be submitted to the crime laboratory in person by approved personnel or via delivery service, such as U.S. Mail in accordance with the Crime Laboratory's policies and procedures. The mailing envelope shall be mailed or delivered to the crime laboratory after collection to the following address.

Louisiana State Police Crime Laboratory
376 East Airport Drive
Baton Rouge, LA 70806

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 28:2370 (November 2002), amended LR 37:

§2725. Record Keeping of DNA Samples for Arrestees

A. The individual who collects each DNA sample shall provide an accurate, up-to-date list of every DNA sample collected each day of collection. Any failed attempts to collect a sample from an arrestee and the reason for the failure (e.g., refusal of arrestee to submit) shall also be indicated. The list will include the following information: the kit number, the arrestee's name, the name of the person collecting the sample and the submitting agency together with any additional data which the director deems necessary. This information shall be mailed to the CODIS DNA Unit to the following address.

Louisiana State Police Crime Laboratory
376 East Airport Drive
Baton Rouge, LA 70806

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 28:2370 (November 2002), amended LR 30:271 (February 2004), LR 37:

§2726. Storage of DNA Samples for Arrestees

A. The sealed kits containing DNA samples shall be stored in a dedicated storage area designated by the crime laboratory. Access to the sealed kits and to the storage area shall be limited to authorized personnel. Any access to or removal/return of the sealed kit shall be performed in accordance with crime lab policies and procedures. Only authorized personnel shall open a sealed specimen envelope, and if applicable shall initial and date the broken seal and shall reseal the specimen envelope in accordance with standard operating procedures.

B. DNA samples from arrestees and AFIS printouts shall be stored for the time period as prescribed by Louisiana law in a secure storage area unless otherwise required in accordance with R.S. 15:614.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 28:2370 (November 2002), amended LR 37:

Subchapter C. Peace Officers

§2742. Collection of DNA Samples for Peace Officers

A. All biological samples obtained for DNA Analysis from a peace officer shall be buccal swabs and shall be collected using sterile cotton tip swabs as provided by the agency employing the peace officer who is required to have his biological sample collected pursuant to R.S. 40:2405.4.

1. The agency employing the peace officer shall provide all materials necessary to collect a biological sample from any peace officer required to provide a sample pursuant to R.S. 40:2405.4.

2. The supplies necessary to collect a buccal swab shall include the following:

- a. one pack of two sterile cotton tip swabs;
- b. one pair of gloves;
- c. one paper type envelope to store the samples once collected;
- d. evidence tape for sealing the paper envelope.

3. In order to collect the biological sample, the collector shall adhere to the following procedures.

a. The collector shall print the name of the peace officer, the date of collection and the name of the collector on the paper type envelope used to store the samples prior to collection of the specimen.

b. Have the subject open his or her mouth. If there is foreign matter in the mouth, such as tobacco or gum, have the subject rinse his or her mouth out with water.

c. Remove one sterile cotton swab and collect the specimen by rubbing the swab vigorously on the inside surfaces of the cheeks and gums thoroughly. While slowly turning the swab (so that all sides of the swab are in contact with the side of the cheek) rub the swab up and down and back and forth in the mouth about 10 times.

d. Place the buccal swab in the paper type envelope. Do not place the swab back into the original sterile swab packaging.

e. Repeat Subparagraph c with the remaining swab.

f. Place the second cotton tip swab immediately inside the paper type envelope with the first swab.

g. Seal the paper type envelope. Write the date and collector's initials partially on the paper type envelope and partially on the envelope flap.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2405.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 30:271 (February 2004), amended LR 37:

Michael D. Edmonson, Colonel
Superintendent

1102#021

DECLARATION OF EMERGENCY

**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, which authorizes the secretary of revenue to prescribe rules and regulations to carry out the purposes of Title 47 of the Louisiana Revised Statutes of 1950 and the purposes of any other statutes or provisions included under the secretary's authority, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and specifically the emergency provisions of R.S. 49:953(B), the Department of Revenue, Policy Services Division, hereby issues the following Emergency Rule to amend LAC 61:III.1525 to mandate the electronic filing of the applications for reduced oil or gas severance tax rates, Forms O-2 and G-2.

Beginning with the filing of the July 2011 production month application due September 25, 2011, the Gas Severance Tax Form G-2, Application for Certification of Incapable Wells Oil, and the Oil Severance Tax Form O-2, Application for Certification of Stripper/Incapable Wells, must be filed electronically with the Department of Revenue on or before the twenty-fifth day of the second month following the production month in which the reduced tax rate(s) is applicable. This Emergency Rule, effective January 28, 2011, shall remain in effect for a period of 120 days or until this Rule takes effect through the normal promulgation process, whichever comes first.

This Emergency Rule is necessary to allow the secretary to provide needed information to taxpayers, producers, purchasers, or duly authorized representatives regarding the mandatory electronic filing requirements for applications for reduced oil or gas severance tax rates. A delay in adopting this Rule could have an adverse impact on persons applying for reduced oil or gas severance tax rates.

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. 47:1520(A)(1)(b) authorizes the secretary of revenue to require electronic filing of tax returns or reports by persons severing oil or gas from the soil or water from the state that are required to file reports under R.S. 47:635(A)(2) or 640(A)(2).

B. 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 on forms approved by the department, of the business conducted by the severer during the month, showing the gross quantity of oil or gas severed or produced, the names of the owners at the time of severance, the portion owned by each, the location and place(s) where the oil or gas was produced or severed from the soil or water and any other reasonable and necessary information pertaining thereto that the secretary may require.

C. R.S. 47:640(A)(2) requires purchasers and other persons dealing in oil or gas severed from the soil or water in Louisiana to submit, on or before the twenty-fifth day of the second month following the month to which the tax is applicable, to the Department of Revenue a monthly statement on forms approved by the department, showing the names and addresses of all persons from whom they have purchased oil or gas during that month, together with the total quantity of, and gross price paid for the oil or gas, and, at the time the report is made, pay the amount of tax deducted or withheld, or that may be due.

D. Effective with the July 2010 filing period, severers of oil or gas that are required to file reports under R.S. 47:635(A)(2) and 640(A)(2) shall be required to file the tax returns or report electronically with the Department of Revenue using the electronic format prescribed by the department.

E. R.S. 47:633(7)(b) and 633(c)(i)(aa) provide reduced severance tax rates on oil produced from wells that have been certified by the Department of Revenue as "incapable wells" and "stripper wells" on or before the twenty-fifth day of the second month following the month of production.

F. R.S. 47:633(9)(b) and 633(9)(c) provide reduced severance tax rates on gas produced from wells that have been determined by the secretary of revenue to be "incapable oil wells" and "incapable gas wells".

G. Beginning with the July 2011 production month application that is due September 25, 2011, the R-9001 Application for Certification of Incapable Wells, Form G-2, and R-9020 O-2 Application for Certification of Stripper/Incapable Wells, Form O-2, must be filed electronically with the Department of Revenue on or before the twenty-fifth day of the second month following the production month in which the reduced tax rate(s) is applicable. If the due date falls on a weekend or holiday, the application and electronic filing thereof is due on the next business day.

H. Failure to comply with these electronic filing requirements will result in the assessment of a penalty of \$100 or five 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 the taxpayer can prove electronic filing of a tax return, report, or application for certification would create an undue hardship, the secretary may exempt the taxpayer from filing the return, report, or application electronically.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511, 47:1520, 47:635(A)(2), R.S. 47:640(A)(2), R.S. 47:633(7)(b), 47:633(c)(i)(aa), R.S. 47:633(9)(b), and R.S. 47:633(9)(c).

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 36:1271 (June 2010), amended by the Department of Revenue, Policy Services Division, LR 36:1 (January 2011), LR 37:

Cynthia Bridges
Secretary

1102#011

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Crab Trap Closure and Derelict Crab Trap Clean-Up

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to close seasons when faced with imminent peril to the public health, safety, or welfare and R.S. 56:332(N) which provides the Wildlife and Fisheries Commission with authority to establish a program to remove abandoned crab traps from state-owned lake and river beds and other water bottoms of the state, and to prohibit the use of crab traps and for the removal of crab traps and their disposal during a maximum sixteen-consecutive-day period between February first and March thirty-first in one or more geographical areas of the state, and to specify the beginning and ending dates for the prohibition on the use of crab traps, and to specify the geographical area within which the use of crab traps shall be prohibited, and to specify who is authorized to remove the abandoned traps, and authorizes the Secretary of the Department of Wildlife and Fisheries to designate the locations where removed and abandoned traps are to be placed for disposal, the commission hereby declares:

The use of crab traps shall be prohibited from 6:00 a.m., February 26, 2011 through 6:00 a.m. March 5, 2011 within that portion of Plaquemines Parish, as described below:

Beginning at a point on the western shoreline of the Mississippi River at 29 degrees 28 minutes 30 seconds north latitude and 89 degrees 41 minutes 15 seconds west longitude; thence southeasterly to a point on the southern shoreline of the Freeport Sulphur Company Canal at 29 degrees 27 minutes 50 seconds north latitude and 89 degrees 42 minutes 10 seconds west longitude; thence southwesterly along the southern shoreline of the Freeport Sulphur Company Canal to a point at 29 degrees 24 minutes 00 seconds north latitude and 89 degrees 46 minutes 20 seconds west longitude; thence west along 29 degrees 24 minutes 00 seconds north latitude to 89 degrees 50 minutes 00 seconds west longitude; thence north along 89 degrees 50 minutes 00 seconds west longitude to 29 degrees 26 minutes 00 seconds north latitude; thence west along 29 degrees 26 minutes 00

seconds north latitude to 89 degrees 58 minutes 00 seconds west longitude; thence north along 89 degrees 58 minutes 00 seconds west longitude to 29 degrees 40 minutes 00 seconds north latitude; thence east along 29 degrees 40 minutes 00 seconds north latitude to the western shoreline of the Mississippi River; thence southeasterly along the western shoreline of the Mississippi River to the point of beginning.

The Wildlife and Fisheries Commission further declares as follows: all crab traps remaining in the closed area during the specified period shall be considered abandoned; these trap removal regulations do not provide authorization for access to private property; authorization to access private property can only be provided by individual landowners; crab traps may be removed only between one-half hour before sunrise to one-half hour after sunset; anyone is authorized to remove these abandoned crab traps within the closed area; no person removing crab traps from the designated closed areas shall possess these traps outside of the closed area; and abandoned traps must be brought to sites designated by the Secretary of the Department of Wildlife and Fisheries. The Wildlife and Fisheries Commission further authorizes the Secretary of the Department of Wildlife and Fisheries to designate disposal sites, and to delay, suspend or extend the crab trap closure as he deems necessary for human safety or resource considerations.

Derelict crab traps are any old or new crab trap that is not being actively fished and tended and may originate from: accidental loss of actively fished traps due to tides, currents or storm surges; weathering of buoys or lines; clipping of buoy lines by vessel propellers; displacement of traps caught in shrimp gear; intentional cutting of buoy lines by vandals; abandonment of fishable traps by fishermen who leave the fishery; and improper disposal of old, unfishable traps. Since 2004, the Department of Wildlife and Fisheries together with individual volunteers and volunteer organizations have successfully removed and disposed of 18,449 abandoned and derelict crabs. Plaquemines Parish has formally requested the Department of Wildlife and Fisheries to close this area to the use of crab traps so that derelict traps may be removed. Portions of this closure area are currently heavily used by crews conducting oil spill cleanup activities and in consideration of the presence of numerous derelict crab traps and low winter tides within the area, the safety of cleanup crews and other boaters is being compromised. It is essential that this closure be done as an emergency so that this cleanup may proceed immediately without hazard to human life or health. This area is being temporarily closed to the use of crab traps to allow for the removal of derelict crab traps as their removal benefits the crab fishery, reduces potential navigational hazards to recreational and commercial fishermen and boaters and reduces "Ghost Fishing", a term referencing an unseen cycle of mortality of blue crabs and other organisms that enter and perish within abandoned traps.

Stephen W. Sagraera
Chairman

1102#061

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

King Mackerel Commercial Season

In accordance with the emergency provisions of R.S. 49:953, the Administrative Procedure Act, R.S. 49:967 which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons, R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, and the authority given to the Secretary of the Department, by the Commission in its resolution of January 7, 2010, to close the 2010-11 commercial king mackerel season in Louisiana state waters when he is informed that the designated portion of the commercial king mackerel quota for the Gulf of Mexico has been filled, or was projected to be filled, the Secretary hereby declares:

Effective 12:00 noon, February 11, 2011, the commercial fishery for king mackerel in Louisiana waters will close and remain closed through June 30, 2011. Nothing herein shall preclude the legal harvest of king mackerel by legally licensed recreational fishermen. Effective with this closure, no person shall commercially harvest, possess, purchase, barter, trade, sell or attempt to purchase, barter, trade or sell king mackerel within or without Louisiana waters. Effective with this closure, no person shall possess king mackerel in excess of a daily bag limit within or without Louisiana waters. The prohibition on sale/purchase of king mackerel during the closure does not apply to king mackerel that were legally harvested, landed ashore, and sold prior to the effective date of the closure and were held in cold storage by a dealer or processor provided appropriate records in accordance with R.S. 56:306.5 and 56:306.6 are properly maintained.

The secretary has been notified by National Marine Fisheries Service that the commercial king mackerel season in Federal waters of the Gulf of Mexico will close at 12:00 noon, February 11, 2011. Closing the season in State waters is necessary to provide effective rules and efficient enforcement for the fishery, to prevent overfishing of this species in the long term.

Robert J. Barham
Secretary

1102#062

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Shrimp Season Closure—Zone 1

In accordance with the emergency provisions of R.S. 49:953 of the Administrative Procedure Act, which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, and R.S. 56:497, which

allows the Wildlife and Fisheries Commission to delegate to the secretary of the department the powers, duties and authority to set seasons, and in accordance with a Declaration of Emergency adopted by the Wildlife and Fisheries Commission on August 5, 2010 which authorized the Secretary of the Department of Wildlife and Fisheries to change the closing dates of the 2010 Fall Shrimp Season if biological and technical data indicate the need to do so or if enforcement problems develop, the Secretary of the Department of Wildlife and Fisheries does hereby declare that the 2010 fall inshore shrimp season in the remaining portion of Shrimp Management Zone 1 shall close at official sunset January 29, 2011 except for the open waters of Breton and Chandeleur Sounds as described by the double-rig line (R.S. 56:495.1(A)(2)) which shall remain open until 6:00 a.m., March 31, 2011.

Robert J. Barham
Secretary

1102#009

DECLARATION OF EMERGENCY

Workforce Commission Office of Workers' Compensation

Medical Guidelines (LAC 40:I.Chapters 20-23)

Editor's Note: The following Sections of Chapter 22 were inadvertently left out of the January 20, 2011 *Louisiana Register* printing. These Sections are being repromulgated in their entirety. This Emergency Rule may be viewed on pages 51-268 of the January edition.

The Louisiana Workforce Commission, Office of Workers' Compensation, has exercised the emergency provision in accordance with LA. R.S. 49:953(B), the Administrative Procedure Act, to adopt LAC 40:I, Chapters 20-23. This emergency rule will be effective January 1, 2011.

House Bill 1138, Act No. 619, of the 2010 Regular Session of the Louisiana Legislative Session, states that "the Director shall, through the Office of the Workers' Compensation Administration, promulgate rules...to establish a medical treatment schedule no later than January 1, 2011". Failure to promulgate the rules by January 1, 2011, would result in significant uncertainty among medical providers and insurers as to which procedures would be approved under the medical guidelines. Such uncertainty would cause a delay in services to injured workers and impair their ability to return to the workforce. Accordingly it is necessary to timely implement the rules by virtue of emergency rule.

Notice is hereby given, in accordance with R.S. 49:950, et seq., that the Louisiana Workforce Commission, Office of Workers' Compensation, pursuant to authority vested in the Director of the Office of Workers' Compensation by R.S. 23:1310.1 and in accordance with applicable provisions of the Administrative Procedure Act, proposes to enact LAC 40:I., Subpart 2, Chapters 20-23 to add the following:

- Chapter 20 (Spine Medical Treatment Guidelines): Sections 2001 through 2012 (Cervical Spine Injury) and Sections 2013 through 2024 (Low Back Pain)

- Chapter 21 (Pain Medical Treatment Guidelines):
- Sections 2101 through 2116 (Chronic Pain Disorder) and Sections 2117 through 2136 (Complex Regional Pain Syndrome/Reflex Sympathetic Dystrophy)
- Chapter 22 (Neurological and Neuromuscular Disorder Medical Treatment Guidelines) Sections 2201 through 2214 (Carpal Tunnel Syndrome)
- Sections 2215 through 2228 (Thoracic Outlet Syndrome)
- Chapter 23 (Upper and Lower Extremities Medical Treatment Guidelines) Sections 2301 through 2314 (Lower Extremities) and Sections 2315 through 2328 (Shoulder Injuries)

The contents of the new chapters are relative to medical treatment guidelines for the delivery of medical treatment in workers compensation cases, which are being promulgated in accordance with the directives of La. R.S. 23:1203.1. The proposed enactment is set forth in the attached documents.

Title 40

LABOR AND EMPLOYMENT

Part I. Workers' Compensation Administration

Subpart 2. Medical Guidelines

Chapter 22. Thoracic Outlet Syndrome

§2215. Introduction

A. This document has been prepared by the Louisiana Workforce Commission, Office of Workers' Compensation and should be interpreted within the context of guidelines for physicians/providers treating individuals qualifying under Louisiana's Workers' Compensation Act as injured workers with upper extremity involvement. These guidelines are enforceable under the Louisiana Workers Compensation Act. All medical care, services, and treatment owed by the employer to the employee in accordance with the Louisiana Workers' Compensation Act shall mean care, services, and treatment in accordance with these guidelines. Medical Care, services, and treatment that varies from these guidelines shall also be due by the employer when it is demonstrated to the medical director of the office by a preponderance of the scientific medical evidence, that a variance from these guidelines is reasonably required to cure or relieve the injured worker from the effects of the injury or occupational disease given the circumstances. Therefore, these guidelines are not relevant as evidence of a provider's legal standard of professional care. To properly utilize this document, the reader should not skip nor overlook any Sections.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1203.1.

HISTORICAL NOTE: Promulgated by the Louisiana Workforce Commission, Office of Workers Compensation Administration, LR 37:

§2217. General Guidelines Principles

A. The principles summarized in this section are key to the intended implementation of all Office of Workers' Compensation guidelines and critical to the reader's application of the guidelines in this document.

1. Application of Guidelines. The OWCA provides procedures to implement medical treatment guidelines and to foster communication to resolve disputes among the

provider, payer, and patient through the Office of Worker's Compensation.

2. Education of the patient and family, as well as the employer, insurer, policy makers and the community should be the primary emphasis in the treatment of upper extremity pain. Currently, practitioners often think of education last, after medications, manual therapy, and surgery. Practitioners must develop and implement an effective strategy and skills to educate patients, employers, insurance systems, policy makers, and the community as a whole. An education-based paradigm should always start with inexpensive communication providing reassuring information to the patient. More in-depth education currently exists within a treatment regime employing functional restorative and innovative programs of prevention and rehabilitation. No treatment plan is complete without addressing issues of individual and/or group patient education as a means of facilitating self-management of symptoms and prevention.

3. Treatment Parameter Duration. Time frames for specific interventions commence once treatments have been initiated, not on the date of injury. Obviously, duration will be impacted by patient compliance, as well as availability of services. Clinical judgment may substantiate the need to accelerate or decelerate the time frames discussed in this document. Such deviation shall be in accordance with La. R.S. 23:1203.1.

4. Active Interventions. Emphasizing patient responsibility, such as therapeutic exercise and/or functional treatment, are generally emphasized over passive modalities, especially as treatment progresses. Generally, passive interventions are viewed as a means to facilitate progress in an active rehabilitation program with concomitant attainment of objective functional gains.

5. Active Therapeutic Exercise Program. Exercise program goals should incorporate patient strength, endurance, flexibility, coordination, and education. This includes functional application in vocational or community settings.

6. Positive Patient response. Positive results are defined primarily as functional gains that can be objectively measured. Standard measurement tools, including outcome measures, should be used. Objective functional gains include, but are not limited to, positional tolerances, range-of-motion (ROM), strength, and endurance, activities of daily living, cognition, psychological behavior, and efficiency/velocity measures that can be quantified. Subjective reports of pain and function should be considered and given relative weight when the pain has anatomic and physiologic correlation. Anatomic correlation must be based on objective findings.

7. Re-evaluation Treatment every Three to Four Weeks. If a given treatment or modality is not producing positive results within three to four weeks, the treatment should be either modified or discontinued. Reconsideration of diagnosis should also occur in the event of poor response to a seemingly rational intervention.

8. Surgical Interventions. Surgery should be contemplated within the context of expected functional outcome and not purely for the purpose of pain relief. The concept of "cure" with respect to surgical treatment by itself is generally a misnomer. All operative interventions must be based upon positive correlation of clinical findings, clinical

course, and diagnostic tests. A comprehensive assimilation of these factors must lead to a specific diagnosis with positive identification of pathologic conditions.

9. Six-month Time Frame. The prognosis drops precipitously for returning an injured worker to work once he/she has been temporarily totally disabled for more than six months. The emphasis within these guidelines is to move patients along a continuum of care and return-to-work within a six-month time frame, whenever possible. It is important to note that time frames may not be pertinent to injuries that do not involve work-time loss or are not occupationally related.

10. Return-to-work is therapeutic, assuming the work is not likely to aggravate the basic problem or increase long-term pain. The practitioner must provide specific written physical limitations and the patient should never be released to "sedentary" or "light duty." The following physical limitations should be considered and modified as recommended: lifting, pushing, pulling, crouching, walking, using stairs, bending at the waist, awkward and/or sustained postures, tolerance for sitting or standing, hot and cold environments, data entry and other repetitive motion tasks, sustained grip, tool usage and vibration factors. Even if there is residual chronic pain, return-to-work is not necessarily contraindicated.

a. The practitioner should understand all of the physical demands of the patient's job position before returning the patient to full duty and should request clarification of the patient's job duties. Clarification should be obtained from the employer or, if necessary, including, but not limited to, an occupational health nurse, occupational therapist, vocational rehabilitation specialist, or an industrial hygienist.

11. Delayed Recovery. Strongly consider a psychological evaluation, if not previously provided, as well as initiating interdisciplinary rehabilitation treatment and vocational goal setting, for those patients who are failing to make expected progress 6 to 12 weeks after an injury. The OWCA recognizes that 3 to 10 percent of all industrially injured patients will not recover within the timelines outlined in this document despite optimal care. Such individuals may require treatments beyond the limits discussed within this document, but such treatment will require clear documentation by the authorized treating practitioner focusing on objective functional gains afforded by further treatment and impact upon prognosis.

12. Guideline Recommendations and Inclusion of Medical Evidence. Guidelines are recommendations based on available evidence and/or consensus recommendations. When possible, guideline recommendations will note the level of evidence supporting the treatment recommendation. When interpreting medical evidence statements in the guideline, the following apply.

a. *Consensus*—the opinion of experienced professionals based on general medical principles. Consensus recommendations are designated in the guideline as "generally well accepted," "generally accepted," "acceptable/accepted," or "well-established."

b. *Some*—the recommendation considered at least one adequate scientific study, which reported that a treatment was effective.

c. *Good*—the recommendation considered the availability of multiple adequate scientific studies or at least

one relevant high-quality scientific study, which reported that a treatment was effective.

d. *Strong*—the recommendation considered the availability of multiple relevant and high quality scientific studies, which arrived at similar conclusions about the effectiveness of a treatment.

i. All recommendations in the guideline are considered to represent reasonable care in appropriately selected cases, regardless of the level of evidence or consensus statement attached to it. Those procedures considered inappropriate, unreasonable, or unnecessary are designated in the guideline as “not recommended.”

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1203.1.

HISTORICAL NOTE: Promulgated by the Louisiana Workforce Commission, Office of Workers Compensation Administration, LR 37:

§2219. Definition of Thoracic Outlet Syndrome

A. Thoracic Outlet Syndrome (TOS) may be described as a neurovascular disorder affecting the upper extremity which, on rare occasions, is caused by workplace factors, such as jobs that require repetitive activities of the upper extremities with forward head and shoulder postures. It should be emphasized that occupational TOS is a relatively uncommon disorder and other disorders with similar symptomatology need to be ruled out.

B. There are four types of thoracic outlet syndrome. The two vascular types, comprised of subclavian vein or artery pathology, are diagnosed with imaging. True or classic neurogenic TOS consists of a chronic lower trunk brachial plexopathy diagnosed by positive electrodiagnostic testing. It is usually unilateral, predominantly affects women, and results in classic electrophysiologic and physical exam findings such as hand atrophy. The two vascular types of TOS and true neurogenic are relatively rare and easily diagnosed. The most common type of TOS is non-specific neurogenic (also called disputed) TOS, which is diagnosed based on upper or lower trunk brachial plexus symptoms.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1203.1.

HISTORICAL NOTE: Promulgated by the Louisiana Workforce Commission, Office of Workers Compensation Administration, LR 37:

§2221. Initial Diagnostic Procedures

A. The OWCA recommends the following diagnostic procedures be considered, at least initially, the responsibility of the workers' compensation carrier to ensure that an accurate diagnosis and treatment plan can be established. Standard procedures that should be utilized when initially diagnosing a work-related TOS complaint are listed below.

1. History taking and physical examination (Hx and PE) are generally accepted, well-established and widely used procedures which establish the basis for diagnosis, and dictate all other diagnostic and therapeutic procedures. When findings of clinical evaluations and those of other diagnostic procedures are not complementing each other, the objective clinical findings should have preference. Neurogenic TOS will be described separately from vascular TOS, although some general symptoms may occasionally overlap. Vascular TOS usually requires emergent treatment as described in the surgical Section. Treatment for non-specific neurogenic TOS begins with jobsite alteration and therapy as described in

Section F. and rarely requires surgical intervention. True neurogenic TOS may require early surgical intervention if there is significant weakness with corresponding EMG/NCV changes. The medical records should reasonably document the following.

a. History Taking. A careful history documenting exacerbating activities and positions which relieve symptoms is essential. Timing of the onset of symptoms is important. TOS has been associated with trauma and motor vehicle accidents. Avocational pursuits should also be specifically documented.

i. Symptoms Common to Neurogenic TOS. Neurological symptoms are usually intermittent in non-specific TOS. If symptoms are constant, consider other diagnoses such as true TOS or other brachial plexus injuries. Neck pain is often the first symptom with complaints within the first few days of injury. Occipital headaches may also occur early. Some patients experience coldness or color changes in the hands. Neurogenic symptoms include the following:

(a). forearm (frequently medial), or proximal upper extremity pain;

(b). numbness and paresthesia in arm, hand and fingers:

(i). fourth and fifth digits: most common pattern;

(ii). all five fingers: next most common pattern;

(iii). first, second and third digits: symptoms may occur, but one must rule out carpal tunnel syndrome;

(c). upper extremity weakness: arm and/or hand; “dropping things” may be a common complaint;

(d). exacerbating factor: arm elevation. Common complaints are trouble combing hair, putting on clothing, driving a car, or carrying objects with shoulder straps such as back packs; disturbed sleep, etc.

(i). Symptoms Common to Vascular TOS

[a]. Pain, coldness, pallor, digital ischemia and claudication in the forearm are signs of arterial compromise which is most frequently chronic and due to subclavian aneurysm or stenosis.

[b]. Swollen, cyanotic, and sometimes painful arm is indicative of a venous obstruction requiring immediate attention.

b. Occupational Relationship for Neurogenic and Vascular TOS. In many cases, trauma is the cause vascular or neurogenic TOS. Clavicular fractures, cervical strain (including whiplash), and other cases of cervical trauma injuries have been associated with TOS. Continual overhead lifting or motion may contribute as can static postures in which the shoulders droop and the head is inclined forward. Activities which cause over-developed scalene muscles such as weight-lifting and swimming may contribute. The Paget-Schroetter syndrome, or effort thrombosis of the subclavian vein, may occur in athletes or workers with repetitive overhead forceful motion and neck extension. Arterial thrombosis or symptoms from subclavian aneurysms or stenosis are usually not work-related. Both classic neurogenic TOS (usually due to a cervical or anomalous first rib) and vascular TOS due to arterial compromise from stenosis or aneurysm are rarely work-related conditions.

c. Physical Findings

i. Physical Examination Signs used to Diagnose Classic or Non-specific Neurogenic TOS. Both extremities should be examined to compare symptomatic and asymptomatic sides.

ii. Provocative maneuvers (listed below) must reproduce the symptoms of TOS to be considered positive:

(a). tenderness over scalene muscles in supraclavicular area;

(b). pressure in supraclavicular area elicits symptoms in arm/hand, or Tinel's sign over brachial plexus is positive. The supraclavicular pressure test is positive for paresthesia in approximately 15 percent of asymptomatic individuals;

(c). Elevated Arm Stress Test (EAST) is performed with the arms abducted and shoulders externally rotated to 90 degrees with elbows bent to 90 degrees for 3 minutes (some examiners use 60 seconds). The patient may also be asked to repetitively open and close fists. A positive test reproduces upper extremity symptoms. When this test is performed for 3 minutes in an asymptomatic population, approximately 35 percent experience paresthesia;

(d). some literature has suggested another provocative elevated arm stress test. The patient holds his arms over head for one minute with elbows extended, wrists in a neutral position, and forearm midway between supination and pronation. If symptoms are reproduced, the test is positive.

d. Posture related brachial tests:

i. head tilting: lateral flexion of the neck (ear to shoulder) causes radiating pain and paresthesia in the contralateral arm consistent with TOS.;

ii. Military posture or costoclavicular maneuver. Shoulders are depressed and pulled backward in an exaggerated position. Reproduction of symptoms is a positive test. Approximately 15 percent of asymptomatic individuals will report paresthesia with this test.

e. Neurological Examination: usually normal in non-specific TOS, but may be abnormal.

i. Sensory Exam: may show decreased sensation to light touch, pain, vibration, and/or temperature in lower brachial plexus distribution. The entire ring finger is usually involved. This contrasts with ulnar neuropathy, which usually involves only the ulnar side of the ring finger.

ii. Motor Exam: weakness and/or muscle atrophy in either upper or lower trunk distributions including, but not limited to, valid dynamometer readings indicative of relative weakness in the affected limb. In lower plexus injuries, the abductor pollicis brevis often demonstrates more involvement and atrophy than the intrinsic interosseous muscles.

(a). Physical exam findings for vascular TOS cases. Suspicion of vascular compromise should lead to confirmation using appropriate imaging procedures.

(i). Arterial cases usually demonstrate an absent radial pulse at rest, pale hand and often ischemic fingers.

(ii). Venous obstruction presents with visible or distended superficial veins on the effected signs involving the anterior axillary fold and chest wall. The arm is usually swollen and cyanotic.

iii. Physical Exam—other tests which are recommended and may indicate additional diagnostic considerations.

(a). Neck rotation may be restricted and can indicate the presence of additional pathology.

(b). Upper Limb Tension Test—this provocative test may be positive for cervical radiculopathy, brachial plexus pathology, or other peripheral nerve pathology. It is considered sensitive but non-specific. The test has several variations; however, they all consist of a series of systematic maneuvers performed on the upper quadrant to evaluate peripheral nerve function and pathology. Head tilting is one of the maneuvers included. Provocation of abnormal responses indicates neural tissue sensitization/irritation, and can include implication of specific peripheral nerve trunks. Performance and interpretation of this test requires specific training and experience. A negative response to the upper limb tension test makes the diagnosis of neurogenic TOS unlikely. If negative, investigate other diagnoses.

(c). Rotator cuff/acromioclavicular (AC) joint tenderness suggests rotator cuff, or biceps tendonitis or AC joint disease.

(d). Trapezius muscle, shoulder girdle muscles or paraspinal muscle tenderness suggests a myofascial component.

(e). Drooping shoulders secondary to nerve injuries can be present with TOS symptoms. If a spinal accessory, long thoracic or other nerve injury is identified, treatment should focus on therapy for the nerve injury in addition to conservative measures for TOS. Refer to the Shoulder Injury Medical Treatment Guidelines. Brachial Plexus and Shoulder Nerve Injuries.

(f). The following tests suggest carpal tunnel syndrome:

(i). carpal tunnel compression test;

(ii). flicking the wrist secondary to paresthesia;

(iii). Tinel's sign; and/or

(iv). Phalen's sign.

(g). Positive Tinel's sign at elbow (over ulnar groove) suggests ulnar nerve entrapment.

(h). Positive Tinel's sign over the pronator teres muscle suggests median nerve involvement. Positive Tinel's sign over the radial tunnel suggests radial nerve compression.

f. Cervical spine x-ray is a generally accepted, well-established procedure indicated to rule out cervical spine disease, fracture, cervical rib or rudimentary first rib when clinical findings suggest these diagnoses. Cervical spine x-rays should also be considered when there is an asymmetric diminished pulse in an arm that is symptomatic. X-rays are most useful when arterial TOS is suspected. The presence of a cervical rib does not confirm the diagnosis unless other clinical signs and symptoms are present, as many cervical ribs are asymptomatic. Therefore, routine roentgenographic evaluation of the cervical spine is frequently unnecessary early in the course of treatment for non-specific TOS.

g. Vascular Studies. Vascular laboratory studies, including duplex scanning, Doppler studies, standard and MR arteriography and venography are required for patients

presenting with arterial or venous occlusion, as these patients may require immediate thrombolytic intervention. These studies are not indicated for neurogenic TOS.

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§2223. Follow-up Diagnostic Imaging and Testing Procedures

A. Cervical computed axial tomography or magnetic resonance imaging (ct/mri) are generally accepted, well-established procedures indicated to rule out cervical disc or other cervical spine disorders when clinical findings suggest these diagnoses. It should not be routinely performed for TOS. MRI is the preferred test over a CT unless a fracture is suspected, and then CT may be superior to MRI. CT/MRI is not indicated early unless there is a neurological deficit and/or the need to rule out a space-occupying lesion, such as a tumor. Repeat cervical MRI is not indicated for TOS. If cervical spine injury is confirmed, refer to the OWCA's *Cervical Spine Injury Medical Treatment Guidelines*. If a cervical spine disorder is not suspected, conservative therapy as indicated in Section F, Non-operative Procedures should be done for at least 8 to 12 weeks, prior to ordering an MRI for persistent symptoms.

B. Electrodiagnostic Studies

1. Electromyography/Nerve Conduction Velocities (EMG/NCV) is a generally accepted, well-established procedure. EMG/NCV is primarily indicated to rule out other nerve entrapment syndromes such as carpal tunnel or cubital tunnel syndrome when indicated by clinical examination, or to establish true neurogenic TOS. Most cases of non-specific TOS have normal electrodiagnostic studies, but EMG/NCV should be considered when symptoms have been present for approximately three months or if the patient has failed eight weeks of conservative therapy. EMG/NCV may also be performed to rule out other disorders. Somato-sensory evoked potentials (SSEPs), F waves and NCV across the thoracic outlet have no diagnostic value and should not be performed. The diagnosis is usually made by comparison to the normal extremity. For bilateral disease, each EMG lab must establish its own absolute limits of latency and amplitude from volunteer controls so that measurements exceeding these limits can be noted.

2. Criteria for True Neurogenic TOS

- a. reduction of the ulnar sensory nerve action potential to digits (usually less than 60 percent of unaffected side); or
- b. medial antebrachial sensory action potential which is low or absent compared to the unaffected side; or
- c. reduction of the median M-wave amplitude (usually less than 50 percent of unaffected side); or
- d. needle EMG examination reveals neurogenic changes in intrinsic hand muscles and the abductor pollicis brevis muscle.

3. Portable automated electrodiagnostic device: (also known as surface EMG) is not a substitute for conventional EMG/NCS testing in clinical decision-making, and therefore, is not recommended.

4. Quantitative Sensory Testing (QST). Research is not currently available on the use of QST in the evaluation of TOS. QST tests the entire spectrum of the neurological system including the brain. It is not able to reliably distinguish between organic and psychogenic pathology and therefore, is not recommended.

C. Vascular Studies. Noninvasive vascular testing, such as pulse-volume recording in different positions, is not indicated in cases of neurogenic TOS. Since the presence or absence of a pulse cutoff on physical examination is not helpful in establishing a diagnosis of TOS, the recording of finer degrees of positional pulse alteration will not add to the diagnosis. Vascular laboratory studies, including duplex scanning, Doppler studies, standard and MR arteriography and venography, are not cost-effective in cases of neurogenic TOS. These studies are only indicated in patients who have arterial or venous occlusive signs. Dynamic venography with the arm in 180 degrees of abduction may be used in cases with continued swelling and/or periodic cyanosis who have not improved with conservative therapy. Approximately 20 percent of asymptomatic individuals will have an abnormal dynamic venogram. Some individuals may have a pectoralis minor syndrome which occludes the axillary vein rather than the subclavian vein. In these cases, less invasive surgery than the TOS operative procedures may be indicated.

D. Thermography is not generally accepted or widely used for TOS. It may be used if differential diagnosis includes CRPS; in such cases refer to the OWCA's Complex Regional Pain Syndrome/Reflex Sympathetic Dystrophy Medical Treatment Guidelines.

E. Anterior scalene or pectoralis muscle blocks may be performed to provide additional information prior to expected surgical intervention. It is recommended that EMG or sonography guidance be used to assure localization.

F. Personality/psychological/psychiatric/psychosocial evaluations are generally accepted and well-established diagnostic procedures with selective use in the acute TOS population and more widespread use in the sub-acute and chronic TOS population.

1. Diagnostic testing procedures may be useful for patients with symptoms of depression, delayed recovery, chronic pain, recurrent painful conditions, disability problems, and for pre-operative evaluation as well as a possible predictive value for post-operative response. Psychological testing should provide differentiation between pre-existing depression versus injury-caused depression, as well as post-traumatic stress disorder.

2. Formal psychological or psychosocial evaluation should be performed on patients not making expected progress within 6-12 weeks following injury and whose subjective symptoms do not correlate with objective signs and tests. In addition to the customary initial exam, the evaluation of the injured worker should specifically address the following areas:

- a. employment history;
- b. interpersonal relationships—both social and work;
- c. leisure activities;
- d. current perception of the medical system;
- e. results of current treatment;

- f. perceived locus of control; and
- g. childhood history, including abuse and family history of disability.

3. This information should provide clinicians with a better understanding of the patient, and enable a more effective rehabilitation.

4. The evaluation will determine the need for further psychosocial interventions, and in those cases, a Diagnostic Statistical Manual (DSM) of Mental Disorders diagnosis should be determined and documented. An individual with a PhD, PsyD, or Psychiatric MD/DO credentials should perform initial evaluations, which are generally completed within one to two hours. A professional fluent in the primary language of the patient is strongly preferred. When such a provider is not available, services of a professional language interpreter must be provided. When issues of chronic pain are identified, the evaluation should be more extensive and follow testing procedures as outlined in the OWCA's *Chronic Pain Disorder Medical Treatment Guidelines*.

a. Frequency—one time visit for evaluation. If psychometric testing is indicated as a portion of the initial evaluation, time for such testing should not exceed an additional two hours of professional time.

G. Special tests are generally well-accepted tests and are performed as part of a skilled assessment of the patients' capacity to return to work, his/her strength capacities, and physical work demand classifications and tolerance. The procedures in this subsection are listed in alphabetical order, not by importance.

1. Computer-enhanced evaluations may include isotonic, isometric, isokinetic and/or isoinertial measurement of movement, range-of-motion, endurance or strength. Values obtained can include degrees of motion, torque forces, pressures or resistance. Indications include determining validity of effort, effectiveness of treatment and demonstrated motivation. These evaluations should not be used alone to determine return to work restrictions. The added value of computer enhanced evaluations is unclear. Targeted work tolerance screening or gradual return to work is preferred.

a. Frequency—one time for evaluation. Can monitor improvements in strength every three to four weeks up to a total of six evaluations.

2. Functional capacity evaluation (FCE) is a comprehensive or modified evaluation of the various aspects of function as they relate to the worker's ability to return to work. Areas such as endurance, lifting (dynamic and static), postural tolerance, specific range of motion, coordination and strength, worker habits, employability as well as psychosocial, cognitive, and sensory perceptual aspects of competitive employment may be evaluated. Components of this evaluation may include: musculoskeletal screen; cardiovascular profile/aerobic capacity; coordination; lift/carrying analysis; job-specific activity tolerance; maximum voluntary effort; pain assessment/psychological screening; and non-material and material handling activities.

a. When an FCE is being used to determine return to a specific jobsite, the provider is responsible for fully understanding the job duties. A jobsite evaluation is frequently necessary. FCEs cannot be used in isolation to determine work restrictions. The authorized treating physician must interpret the FCE in light of the individual

patient's presentation and medical and personal perceptions. FCEs should not be used as the sole criteria to diagnose malingering.

b. Full FCEs are sometimes necessary. In many cases, a work tolerance screening will identify the ability to perform the necessary job tasks. If partial FCEs are performed, it is recognized that all parts of the FCE that are not performed are considered normal.

i. Frequency—can be used initially to determine baseline status and for case closure when patient is unlikely to return to pre-injury position and further information is desired to determine permanent work restrictions. Prior authorization is required for FCEs performed during treatment.

3. Jobsite evaluation is a comprehensive analysis of the physical, mental and sensory components of a specific job. These components may include, but are not limited to: postural tolerance (static and dynamic); aerobic requirements; range of motion; torque/force; lifting/carrying; cognitive demands; social interactions; visual perceptual; sensation; coordination; environmental requirements; repetitiveness; and essential job functions. Job descriptions provided by the employer are helpful but should not be used as a substitute for direct observation.

a. A jobsite evaluation may include observation and instruction of how work is done, what material changes (desk, chair) should be made, and determination of readiness to return to work. Postural risk factors should be identified and awkward postures of overhead reach, hyperextension or rotation of the neck, shoulder drooped or forward-flexed and head-chin forward postures should be eliminated. Unless combined with one of the above postures, repetitiveness is not by itself a risk factor. Refer to Cumulative Trauma Disorder and Shoulder Guidelines for further suggestions.

i. Requests for a jobsite evaluation should describe the expected goals for the evaluation. Goals may include, but are not limited to the following:

- (a) to determine if there are potential contributing factors to the person's condition and/or for the physician to assess causality;
- (b) to make recommendations for, and to assess the potential for ergonomic changes;
- (c) to provide a detailed description of the physical and cognitive job requirements;
- (d) to assist the patient in their return to work by educating them on how they may be able to do their job more safely in a bio-mechanically appropriate manner;
- (e) to give detailed work/activity restrictions.

(i). Frequency—one time with additional visits as needed for follow-up per jobsite.

4. Vocational Assessment. The vocational assessment should provide valuable guidance in the determination of future rehabilitation program goals. It should clarify rehabilitation goals, which optimize both patient motivation and utilization of rehabilitation resources. If prognosis for return to former occupation is determined to be poor, except in the most extenuating circumstances, vocational assessment should be implemented within 3 to 12 months post-injury. Declaration of MMI should not be delayed solely due to lack of attainment of a vocational assessment.

a. Frequency—one time with additional visits as needed for follow-up.

5. Work tolerance screening is a determination of an individual's tolerance for performing a specific job based on a job activity or task and may be used when a full functional capacity evaluation is not indicated. The screening is monitored by a therapist and may include a test or procedure to specifically identify and quantify work-relevant cardiovascular, physical fitness and postural tolerance. It may also address ergonomic issues affecting the patient's return-to-work potential.

a. Frequency—one time for initial screen. May monitor improvements in strength every three to four weeks up to a total of six visits.

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§2225. Therapeutic Procedures—Non-Operative

NOTE: Treating providers, as well as employers and insurers are highly encouraged to reference the General Guideline Principles prior to initiation of any therapeutic procedure.

A. Initial Treatment Recommendations. Vascular cases will require surgical management and thus are not appropriate candidates for initial non-operative therapy. Cases of "non-specific" (also called disputed) TOS are treated conservatively first for a minimum of three months. Patients undergoing therapeutic procedures may return to modified or restricted duty during their rehabilitation, at the earliest appropriate time. Cessation and/or review of treatment modalities should be undertaken when no further significant subjective or objective improvement in the patient's condition is noted. Most literature of conservative therapy for TOS suggest benefit for patients with non-specific TOS. Non-surgical patients may be less likely to lose as much time from work as surgical patients. Initial treatment for TOS patients without indications for early surgery should include, patient education, jobsite alterations (especially if job activities are related to symptoms), neuromuscular education to emphasis proper breathing techniques and posture, nerve gliding and core body therapeutic exercise.

B. Postural risk factors should be identified. Awkward postures of overhead reach, hyperextension or rotation of the neck, shoulder drooped or forward-flexed and head-chin forward postures should be eliminated. Proper breathing techniques are also part of the treatment plan.

C. Therapy is primarily a daily self-managed home program developed and supervised by an appropriately trained professional. Nerve gliding and upper extremity stretching usually involves the following muscle groups: scalene, pectoralis minor, trapezius and levator scapulae. Endurance or strengthening of the upper extremities early in the course of therapy is not recommended, as this may exacerbate cervical or upper extremity symptoms.

D. Jobsite evaluation should be done early in all non-traumatic cases and should be performed by a qualified individual in all cases of suspected occupational TOS. Postural risk factors discussed above should be considered when making jobsite changes. Unless combined with one of the above postures, repetition alone is not a risk factor. Work activities need to be modified early in treatment to avoid further exposure to risk factors.

1. Acupuncture is an accepted and widely used procedure for the relief of pain and inflammation and there is some scientific evidence to support its use. The exact mode of action is only partially understood. Western medicine literature suggests that acupuncture stimulates the nervous system at the level of the brain, promotes deep relaxation, and affects the release of neurotransmitters. Acupuncture is commonly used as an alternative or in addition to traditional Western pharmaceuticals. While it is commonly used when pain medication is reduced or not tolerated, it may be used as an adjunct to physical rehabilitation and/or surgical intervention to hasten the return of functional activity. Acupuncture should be performed by licensed practitioners.

a. Acupuncture is the insertion and removal of filiform needles to stimulate acupoints (acupuncture points). Needles may be inserted, manipulated and retained for a period of time. Acupuncture can be used to reduce pain, reduce inflammation, increase blood flow, increase range of motion, decrease the side effect of medication-induced nausea, promote relaxation in an anxious patient, and reduce muscle spasm.

i. Indications include joint pain, joint stiffness, soft tissue pain and inflammation, paresthesia, post-surgical pain relief, muscle spasm, and scar tissue pain.

b. Acupuncture with electrical stimulation is the use of electrical current (micro-amperage or milli-amperage) on the needles at the acupuncture site. It is used to increase effectiveness of the needles by continuous stimulation of the acupoint. Physiological effects (depending on location and settings) can include endorphin release for pain relief, reduction of inflammation, increased blood circulation, analgesia through interruption of pain stimulus, and muscle relaxation.

i. It is indicated to treat chronic pain conditions, radiating pain along a nerve pathway, muscle spasm, inflammation, scar tissue pain, and pain located in multiple sites.

c. Total time frames for acupuncture and acupuncture with electrical stimulation time frames are not meant to be applied to each of the above sections separately. The time frames are to be applied to all acupuncture treatments regardless of the type or combination of therapies being provided.

i. Time to Produce Effect—three to six treatments.

ii. Frequency—one to three times per week.

iii. Optimum Duration—one to two months.

iv. Maximum Duration—14 treatments.

(a). Any of the above acupuncture treatments may extend longer if objective functional gains can be documented or when symptomatic benefits facilitate progression in the patient's treatment program. Treatment beyond 14 treatments must be documented with respect to need and ability to facilitate positive symptomatic or functional gains. Such care should be re-evaluated and documented with each series of treatments.

d. Other Acupuncture Modalities. Acupuncture treatment is based on individual patient needs and therefore treatment may include a combination of procedures to

enhance treatment effect. Other procedures may include the use of heat, soft tissue manipulation/massage, and exercise. Refer to Active Therapy (Therapeutic Exercise) and, Passive Therapy sections (Massage and Superficial Heat and Cold Therapy) for a description of these adjunctive acupuncture modalities and time frames.

2. Biofeedback is a form of behavioral medicine that helps patients learn self-awareness and self-regulation skills for the purpose of gaining greater control of their physiology, such as muscle activity, brain waves, and measures of autonomic nervous system activity. Electronic instrumentation is used to monitor the targeted physiology and then displayed or fed back to the patient visually, auditorily, or tactilely, with coaching by a biofeedback specialist. Biofeedback is provided by clinicians certified in biofeedback and/or who have documented specialized education, advanced training, or direct or supervised experience qualifying them to provide the specialized treatment needed (e.g., surface EMG, EEG, or other).

a. Treatment is individualized to the patient's work-related diagnosis and needs. Home practice of skills is required for mastery and may be facilitated by the use of home training tapes. The ultimate goal in biofeedback treatment is normalizing the physiology to the pre-injury status to the extent possible and involves transfer of learned skills to the workplace and daily life. Candidates for biofeedback therapy or training must be motivated to learn and practice biofeedback and self-regulation techniques.

b. Indications for biofeedback include individuals who are suffering from musculoskeletal injury where muscle dysfunction or other physiological indicators of excessive or prolonged stress response affects and/or delays recovery. Other applications include training to improve self-management of emotional stress/pain responses such as anxiety, depression, anger, sleep disturbance, and other central and autonomic nervous system imbalances. Biofeedback is often utilized along with other treatment modalities.

- i. Time to Produce Effect—three to four sessions.
- ii. Frequency—one to two times per week.
- iii. Optimum Duration—five to six sessions.
- iv. Maximum Duration: 10 to 12 sessions.

Treatment beyond 12 sessions must be documented with respect to need, expectation, and ability to facilitate positive symptomatic or functional gains.

3. Injections—Therapeutic

a. Scalene blocks have no therapeutic role in the treatment of TOS.

b. Trigger point injections, although generally accepted, are not routinely used in cases of TOS. However, it is not unusual to find myofascial trigger points associated with TOS pathology, which may require injections.

i. Description. Trigger point treatment can consist of dry needling or injection of local anesthetic with or without corticosteroid into highly localized, extremely sensitive bands of skeletal muscle fibers that produce local and referred pain when activated. Medication is injected in a four-quadrant manner in the area of maximum tenderness. Injection efficacy can be enhanced if injections are immediately followed by myofascial therapeutic interventions, such as vapo-coolant spray and stretch, ischemic pressure massage (myotherapy), specific soft tissue

mobilization and physical modalities. There is conflicting evidence regarding the benefit of trigger point injections. A truly blinded study comparing dry needle treatment of trigger points is not feasible. There is no evidence that injection of medications improves the results of trigger-point injections. Needling alone may account for some of the therapeutic response.

ii. There is no indication for conscious sedation for patients receiving trigger point injections. The patient must be alert to help identify the site of the injection.

iii. Indications. Trigger point injections may be used to relieve myofascial pain and facilitate active therapy and stretching of the affected areas. They are to be used as an adjunctive treatment in combination with other treatment modalities such as functional restoration programs. Trigger point injections should be utilized primarily for the purpose of facilitating functional progress. Patients should continue with a therapeutic exercise program as tolerated throughout the time period they are undergoing intensive myofascial interventions. Myofascial pain is often associated with other underlying structural problems and any abnormalities need to be ruled out prior to injection.

iv. Trigger point injections are indicated in those patients where well circumscribed trigger points have been consistently observed, demonstrating a local twitch response, characteristic radiation of pain pattern and local autonomic reaction, such as persistent hyperemia following palpation. Generally, these injections are not necessary unless consistently observed trigger points are not responding to specific, noninvasive, myofascial interventions within approximately a six-week time frame.

v. Complications. Potential but rare complications of trigger point injections include infection, pneumothorax, anaphylaxis, neurapraxia, and neuropathy. If corticosteroids are injected in addition to local anesthetic, there is a risk of local myopathy developing. Severe pain on injection suggests the possibility of an intraneural injection, and the needle should be immediately repositioned.

(a). Time to Produce Effect—local anesthetic, 30 minutes; no anesthesia, 24 to 48 hours.

(b). Frequency—weekly, suggest no more than four injection sites per session per week to avoid significant post-injection soreness.

(c). Optimal Duration—four weeks.

(d). Maximum Duration—eight weeks. Occasional patients may require two to four repetitions of trigger point injection series over a one to two year period.

4. Medications:

a. Thrombolytic agents will be required for some vascular TOS conditions.

b. Medication use is appropriate for pain control in TOS. A thorough medication history, including use of alternative and over the counter medications, should be performed at the time of the initial visit and updated periodically.

c. Acetaminophen is an effective and safe initial analgesic. Nonsteroidal anti-inflammatory drugs (NSAIDs) are useful in the treatment of inflammation, and for pain control. Pain is subjective in nature and should be evaluated using a scale to rate effectiveness of the analgesic in terms of functional gain. Other medications, including antidepressants and anti-convulsants, may be useful in

selected patients with neuropathic and/or chronic pain (Refer to the OWCA's *Chronic Pain Guidelines*). Narcotics are rarely indicated for treatment of TOS, and they should be primarily reserved for the treatment of acute severe pain for a limited time on a case-by-case basis. Topical agents may be beneficial in the management of localized upper extremity pain.

d. The use of a patient completed pain drawing, Visual Analog Scale (VAS), is highly recommended to help providers track progress. Functional objective goals should be monitored regularly to determine the effectiveness of treatment. The patient should be advised regarding the interaction with prescription and over-the-counter herbal products.

e. The following medications are listed in alphabetical order.

i. Acetaminophen is an effective analgesic with antipyretic but not anti-inflammatory activity. Acetaminophen is generally well tolerated, causes little or no gastrointestinal irritation and is not associated with ulcer formation. Acetaminophen has been associated with liver toxicity in overdose situations or in chronic alcohol use. Patients may not realize that many over-the-counter preparations may contain acetaminophen. The total daily dose of acetaminophen is recommended not to exceed 2250 mg per 24 hour period, from all sources, including narcotic-acetaminophen combination preparations.

(a). Optimal Duration—7 to 10 days.

(b). Maximum Duration—chronic use as indicated on a case-by-case basis. Use of this substance long-term for three days per week or greater may be associated with rebound pain upon cessation.

ii. Anticonvulsants. Although the mechanism of action of anticonvulsant drugs in neuropathic pain states remains to be fully defined, they appear to act as nonselective sodium channel blocking agents. A large variety of sodium channels are present in nervous tissue, and some of these are important mediators of nociception, as they are found primarily in unmyelinated fibers and their density increases following nerve injury. While the pharmacodynamic effects of the various anticonvulsant drugs are similar, the pharmacokinetic effects differ significantly. Carbamazepine has important effects as an inducer of hepatic enzymes and may influence the metabolism of other drugs enough to present problems in patients taking more than one drug. Gabapentin and oxcarbazepine, by contrast, are relatively non-significant enzyme inducers, creating fewer drug interactions. Because anticonvulsant drugs may have more problematic side-effect profiles, their use should usually be deferred until antidepressant drugs have failed to relieve pain.

(a). Gabapentin (Neurontin)

(i). Description—structurally related to gamma aminobutyric acid (GABA) but does not interact with GABA receptors.

(ii). Indications—neuropathic pain.

(iii). Relative Contraindications—renal insufficiency.

iv. Dosing and Time to Therapeutic Effect—dosage may be increased over several days.

v. Major Side Effects—confusion, sedation.

vi. Drug Interactions—oral contraceptives, cimetidine, antacids.

vii. Recommended Laboratory Monitoring—renal function.

iii. Antidepressants are classified into a number of categories based on their chemical structure and their effects on neurotransmitter systems. Their effects on depression are attributed to their actions on disposition of norepinephrine and serotonin at the level of the synapse; although these synaptic actions are immediate, the symptomatic response in depression is delayed by several weeks. When used for chronic pain, the effects may in part arise from treatment of underlying depression, but may also involve additional neuromodulatory effects on endogenous opioid systems, raising pain thresholds at the level of the spinal cord.

(a). Pain responses may occur at lower drug doses with shorter times to symptomatic response than are observed when the same compounds are used in the treatment of mood disorders. Neuropathic pain, diabetic neuropathy, post-herpetic neuralgia, and cancer-related pain may respond to antidepressant doses low enough to avoid adverse effects that often complicate the treatment of depression.

(i). Tricyclics (e.g., amitriptyline [Elavil], nortriptyline [Pamelor, Aventyl], doxepin [Sinequan, Adapin])

[a]. Description—serotonergics, typically tricyclic antidepressants (TCAs), are utilized for their serotonergic properties as increasing CNS serotonergic tone can help decrease pain perception in non-antidepressant dosages. Amitriptyline is known for its ability to repair Stage 4 sleep architecture, a frequent problem found in chronic pain patients and to treat depression, frequently associated with chronic pain.

[b]. Indications—chronic musculoskeletal and/or neuropathic pain, insomnia. Second line drug treatment for depression.

[c]. Major Contraindications—cardiac disease or dysrhythmia, glaucoma, prostatic hypertrophy, seizures, suicide risk.

[d]. Dosing and Time to Therapeutic Effect—varies by specific tricyclic. Low dosages are commonly used for chronic pain and/or insomnia.

[e]. Major Side Effects—anticholinergic side effects including, but not limited to, dry mouth, sedation, orthostatic hypotension, cardiac arrhythmia, weight gain.

[f]. Drug Interactions—tramadol (may cause seizures), clonidine, cimetidine, sympathomimetics, valproic acid, warfarin, carbamazepine, bupropion, anticholinergics, quinolones.

[g]. Recommended Laboratory Monitoring—renal and hepatic function. Electrocardiogram (EKG) for those on high dosages or with cardiac risk.

iv. Minor tranquilizer/muscle relaxants are appropriate for muscle spasm, mild pain and sleep disorders.

(a). Optimum Duration—up to one week.

(b). Maximum Duration—four weeks.

v. Narcotics medications should be prescribed with strict time, quantity and duration guidelines, and with definitive cessation parameters. Adverse effects include

respiratory depression, impaired alertness, and the development of physical and psychological dependence.

(a). Optimum Duration—up to seven days.

(b). Maximum Duration—two weeks. Use beyond two weeks is acceptable in appropriate cases, such as patients requiring complex surgical treatment.

vi. Nonsteroidal Anti-Inflammatory Drugs (NSAIDs) are useful for pain and inflammation. In mild cases, they may be the only drugs required for analgesia. There are several classes of NSAIDs, and the response of the individual injured worker to a specific medication is unpredictable. For this reason, a range of NSAIDs may be tried in each case with the most effective preparation being continued. Patients should be closely monitored for adverse reactions. The US Food and Drug Administration advises that many NSAIDs may cause an increased risk of serious cardiovascular thrombotic events, myocardial infarction, and stroke, which can be fatal. Naproxen sodium does not appear to be associated with increased risk of vascular events. Administration of proton pump inhibitors, Histamine 2 Blockers, or prostaglandin analog misoprostol along with these NSAIDs may reduce the risk of duodenal and gastric ulceration but do not impact possible cardiovascular complications. Due to the cross-reactivity between aspirin and NSAIDs, NSAIDs should not be used in aspirin-sensitive patients, and should be used with caution in all asthma patients. NSAIDs are associated with abnormal renal function, including renal failure, as well as, abnormal liver function. Certain NSAIDs may have interactions with various other medications. Individuals may have adverse events not listed above. Intervals for metabolic screening are dependent upon the patient's age, general health status and should be within parameters listed for each specific medication. Complete Blood Count (CBC), and liver and renal function should be monitored at least every six months in patients on chronic NSAIDs and initially when indicated.

(a). Non-selective Nonsteroidal Anti-Inflammatory Drugs

(i). Includes NSAIDs and acetylsalicylic acid (aspirin). Serious GI toxicity, such as bleeding, perforation, and ulceration can occur at any time, with or without warning symptoms in patients treated with traditional NSAIDs. Physicians should inform patients about the signs and/or symptoms of serious gastrointestinal toxicity and what steps to take if they occur. Anaphylactoid reactions may occur in patients taking NSAIDs. NSAIDs may interfere with platelet function. Fluid retention and edema have been observed in some patients taking NSAIDs.

[a]. Optimal Duration—one week.

[b]. Maximum Duration—one year.

Use of these substances long-term (three days per week or greater) is associated with rebound pain upon cessation.

(b). Selective Cyclo-oxygenase-2 (COX-2) Inhibitors

(i). COX-2 inhibitors are more recent NSAIDs and differ in adverse side effect profiles from the traditional NSAIDs. The major advantages of selective COX-2 inhibitors over traditional NSAIDs are that they have less gastrointestinal toxicity and no platelet effects. COX-2 inhibitors can worsen renal function in patients with renal insufficiency, thus renal function may need monitoring.

(ii). COX-2 inhibitors should not be first-line for low risk patients who will be using an NSAID short-term but are indicated in select patients for whom traditional NSAIDs are not tolerated. Serious upper GI adverse events can occur even in asymptomatic patients. Patients at high risk for GI bleed include those who use alcohol, smoke, are older than 65, take corticosteroids or anti-coagulants, or have a longer duration of therapy. Celecoxib is contraindicated in sulfonamide allergic patients.

[a]. Optimal Duration—7 to 10 days.

[b]. Maximum Duration—chronic use is appropriate in individual cases. Use of these substances long-term (three days per week or greater) is associated with rebound pain upon cessation.

5. Occupational Rehabilitation Programs

a. Non-Interdisciplinary. These generally accepted programs are work-related, outcome-focused, individualized treatment programs. Objectives of the program include, but are not limited to, improvement of cardiopulmonary and neuromusculoskeletal functions (strength, endurance, movement, flexibility, stability, and motor control functions), patient education, and symptom relief. The goal is for patients to gain full or optimal function and return to work. The service may include the time-limited use of passive modalities with progression to achieve treatment and/or simulated/real work. These programs are frequently necessary for patients who must return to physically demanding job duties or whose injury requires prolonged rehabilitation and therapy spanning several months.

i. Work Conditioning. These programs are usually initiated once reconditioning has been completed but may be offered at any time throughout the recovery phase. It should be initiated when imminent return of a patient to modified or full duty is not an option, but the prognosis for returning the patient to work at completion of the program is at least fair to good.

(a). Length of Visit—one to two hours per day.

(b). Frequency—two to five visits per week.

(c). Optimum Duration—two to four weeks.

(d). Maximum Duration—six weeks.

Participation in a program beyond six weeks must be documented with respect to need and the ability to facilitate positive symptomatic or functional gains.

ii. Work Simulation. Work Simulation is a program where an individual completes specific work-related tasks for a particular job and return-to-work. Use of this program is appropriate when modified duty can only be partially accommodated in the work place, when modified duty in the work place is unavailable, or when the patient requires more structured supervision. The need for work place simulation should be based upon the results of a functional capacity evaluation and/or jobsite analysis.

(a). Length of Visit—two to six hours per day.

(b). Frequency—two to five visits per week.

(c). Optimum Duration—two to four weeks.

(d). Maximum Duration—six weeks.

Participation in a program beyond six weeks must be documented with respect to need and the ability to facilitate positive symptomatic or functional gains.

b. Interdisciplinary programs are well-established treatment for patients with sub-acute and functionally

impairing cervical spine pain. They are characterized by a variety of disciplines that participate in the assessment, planning, and/or implementation of an injured workers program with the goal for patients to gain full or optimal function and return to work. There should be close interaction and integration among the disciplines to ensure that all members of the team interact to achieve team goals. Programs should include cognitive-behavioral therapy as there is good evidence for its effectiveness in patients with chronic low back pain and it is probably effective in cervical spine pain. These programs are for patients with greater levels of disability, dysfunction, deconditioning and psychological involvement. For patients with chronic pain, refer to the *Chronic Pain Disorder Medical Treatment Guidelines*.

i. **Work Hardening.** Work hardening is an interdisciplinary program addressing a patient's employability and return to work. It includes a progressive increase in the number of hours per day that a patient completes work simulation tasks until the patient can tolerate a full workday. This is accomplished by addressing the medical, psychological, behavioral, physical, functional, and vocational components of employability and return-to-work.

(a). This can include a highly structured program involving a team approach or can involve any of the components thereof. The interdisciplinary team should, at a minimum, be comprised of a qualified medical director who is board certified with documented training in occupational rehabilitation; team physicians having experience in occupational rehabilitation; occupational therapy; physical therapy; case manager; and psychologist. As appropriate, the team may also include: chiropractor, RN, vocational specialist or certified biofeedback therapist.

(i). Length of Visit—up to eight hours/day.

(ii). Frequency—two to five visits per week.

(iii). Optimal Duration—two to four weeks.

(iv). Maximum Duration—six weeks.

Participation in a program beyond six weeks must be documented with respect to need and the ability to facilitate positive symptomatic or functional gains.

6. **Patient Education.** No treatment plan is complete without addressing issues of individual and/or group patient education as a means of prolonging the beneficial effects of treatment, as well as facilitating self-management of symptoms and injury prevention. The patient should be encouraged to take an active role in the establishment of functional outcome goals. They should be educated on their specific injury, assessment findings, and plan of treatment. Instruction on breathing technique, proper body mechanics and posture, positions to avoid, self-care for exacerbation of symptoms, sleep postures, and home exercise should also be addressed. Patients with TOS may find that sleeping on the affected side, with the arms overhead or prone with head to one side can increase symptoms and should be avoided. Cervical roll pillows that do not result in overextension may be useful.

a. Time to Produce Effect—varies with individual patient.

b. Frequency—should occur at each visit.

7. **Personality/Psychosocial/Psychiatric/Psychological Intervention.** Psychosocial treatment is generally accepted, widely used, and well-established intervention. This group of therapeutic and diagnostic modalities includes, but is not limited to, individual counseling, group therapy, stress management, psychosocial crises intervention, hypnosis and meditation. Any evaluation or diagnostic workup should clarify and distinguish between pre-existing versus aggravated versus purely causative psychological conditions. Psychosocial intervention is recommended as an important component in the total management program that should be implemented as soon as the problem is identified. This can be used alone or in conjunction with other treatment modalities. Providers treating patients with chronic pain should refer to the OWCA's *Chronic Pain Disorder Medical Treatment Guidelines*.

a. Time to Produce Effect—two to four weeks.

b. Frequency—one to three times weekly for the first four weeks (excluding hospitalization, if required), decreasing to one to two times per week for the second month. Thereafter, two to four times monthly.

c. Optimum Duration—six weeks to three months.

d. Maximum Duration—3 to 12 months.

Counseling is not intended to delay but to enhance functional recovery. For select patients, longer supervised treatment may be required and if further counseling beyond 3 months is indicated, extensive documentation addressing which pertinent issues are pre-existing versus aggravated versus causative, as well as projecting a realistic functional prognosis, should be provided by the authorized treating provider every 4 to 6 weeks during treatment.

8. **Return-to-Work.** Early return-to-work should be a prime goal in treating occupational injuries given the poor return-to-work prognosis for an injured worker who has been out of work for more than six months. It is imperative that the patient be educated regarding the benefits of return-to-work, work restrictions, and follow-up care if problems arise. When attempting to return a patient to work after a specific injury, clear objective restrictions of activity level should be made. An accurate job description with detailed physical duty restrictions may be necessary to assist the physician in making return-to-work recommendations. This may require a jobsite evaluation.

a. Employers should be prepared to offer transitional work. This may consist of temporary work in a less demanding position, return to the regular job with restrictions, or gradual return to the regular job. Company policies which encourage return-to-work with positive communication are most likely to have decreased worker disability.

b. *Return-to-Work*—any work or duty that the patient is able to perform safely. It may not be the patient's regular work. Due to the large spectrum of injuries of varying severity and varying physical demands in the work place, it is not possible to make specific return-to-work guidelines for each injury. Therefore, the OWCA recommends the following:

i. **Establishment of a Return-to-Work Status.** Ascertaining a return-to-work status is part of medical care, should be included in the treatment and rehabilitation plan, and addressed at every visit. A description of daily activity limitations is part of any treatment plan and should be the

basis for restriction of work activities. In most non-surgical cases, the patient should be able to return-to-work in some capacity or in an alternate position consistent with medical treatment within several days unless there are extenuating circumstances. Injuries requiring more than two weeks off work should be thoroughly documented.

ii. Establishment of Activity Level Restrictions. Communication is essential between the patient, employer and provider to determine appropriate restrictions and return-to-work dates. It is the responsibility of the physician to provide clear concise restrictions, and it the employer's responsibility to determine if temporary duties can be provided within the restrictions. For treatment of TOS injuries, the following should be addressed when describing the patient's activity level:

- (a). activities such as overhead motion, lifting, abduction;
- (b). static neck and shoulder positions with regard to duration and frequency;
- (c). restriction of cervical hyperextension;
- (d). use of adaptive devices or equipment for proper ergonomics and to enhance capacities;
- (e). maximum Lifting limits with reference to the frequency of the lifting and/or the object height level;
- (f). maximum limits for pushing, pulling, with limits on bending and twisting at the waist as necessary; and
- (g). restrictions on 'shoulder drooped' or 'head forward' positions.

iii. Compliance with Activity Restrictions. In some cases, compliance with restriction of activity levels may require a complete jobsite evaluation, a functional capacity evaluation (FCE), or other special testing. Refer to the special tests section of this guideline.

9. Therapy-active. The following active therapies are widely used and accepted methods of care for a variety of work-related injuries. They are based on the philosophy that therapeutic exercise and/or activity are beneficial for restoring flexibility, strength, endurance, function, range of motion, and can alleviate discomfort. Active therapy requires physical effort by the individual to complete a specific exercise or task. This form of therapy requires supervision from a therapist or medical provider such as verbal, visual, and/or tactile instruction(s). At times, the provider may help stabilize the patient or guide the movement pattern but the energy required to complete the task is predominately executed by the patient.

a. Patients should be instructed to continue active therapies at home as an extension of the treatment process in order to maintain improvement levels. Follow-up visits to reinforce and monitor progress and proper technique are recommended. Home exercise can include exercise with or without mechanical assistance or resistance and functional activities with assistive devices.

b. The use of a patient completed pain drawing, Visual Analog Scale (VAS), is highly recommended to help providers track progress. Functional objective goals should be monitored and documented regularly to determine the effectiveness of treatment.

c. The following active therapies are listed in alphabetical order.

i. Activities of daily living (ADL) are well-established interventions which involve instruction, active-

assisted training, and/or adaptation of activities or equipment to improve a person's capacity in normal daily activities such as self-care, work re-integration training, homemaking, and driving.

(a). Time to Produce Effect—four to five treatments.

(b). Frequency—three to five times per week.

(c). Optimum Duration—four to six weeks.

(d). Maximum Duration—six weeks.

ii. Aquatic therapy is a well-accepted treatment which consists of the therapeutic use of aquatic immersion for therapeutic exercise to promote range-of-motion, core stabilization, endurance, flexibility, strengthening, body mechanics, and pain management. Aquatic therapy includes the implementation of active therapeutic procedures in a swimming or therapeutic pool. The water provides a buoyancy force that lessens the amount of force gravity applies to the body. The decreased gravity effect allows the patient to have a mechanical advantage and more likely have a successful trial of therapeutic exercise. Literature has shown that the muscle recruitment for aquatic therapy versus similar non-aquatic motions is significantly less. Because there is always a risk of recurrent or additional damage to the muscle tendon unit after a surgical repair, aquatic therapy may be preferred by surgeons to gain early return of range of motion. In some cases the patient will be able to do the exercises unsupervised after the initial supervised session. Parks and recreation contacts may be used to develop less expensive facilities for patients. Indications include:

(a). postoperative therapy as ordered by the surgeon; or Intolerance for active land-based or full-weight bearing therapeutic procedures; or

(b). symptoms that are exacerbated in a dry environment; and

(c). willingness to follow through with the therapy on a regular basis.

(i). The pool should be large enough to allow full extremity range of motion and fully erect posture. Aquatic vests, belts, snorkels, and other devices may be used to provide stability, balance, buoyancy, and resistance.

[a]. Time to Produce Effect—four to five treatments.

[b]. Frequency—three to five times per week.

[c]. Optimum Duration: Four to six weeks.

[d]. Maximum Duration: eight weeks

(ii). A self-directed program is recommended after the supervised aquatics program has been established, or, alternatively a transition to a self-directed dry environment exercise program.

(iii). Functional activities are well-established interventions which involve the use of therapeutic activity to enhance mobility, body mechanics, employability, coordination, balance, and sensory motor integration.

[a]. Time to Produce Effect—four to five treatments.

[b]. Frequency—three to five times per week.

[c]. Optimum Duration—four to six weeks.

[d]. Maximum Duration—six weeks.

(iv). Nerve Gliding is an accepted therapy for TOS. Nerve Gliding exercises consist of a series of gentle movements of the neck, shoulder and arm that produce longitudinal movement along the length of the nerves of the upper extremity. These exercises are based on the principle that the tissues of the peripheral nervous system are designed for movement, and glide (excursion) of nerves may have an effect on neurophysiology through alterations in vascular and axoplasmic flow. Biomechanical principles have been more thoroughly studied than clinical outcomes. The exercises should be done by the patient after proper instruction and monitoring by the therapist.

[a]. Time to Produce Effect—two to four weeks.

[b]. Frequency—up to five times per day by patient (patient-initiated).

[c]. Optimum Duration—four to six sessions.

[d]. Maximum Duration—six to eight sessions.

(v). Neuromuscular re-education is a generally accepted treatment. Neuromuscular re-education is the skilled application of exercise with manual, mechanical, or electrical facilitation to enhance strength; movement patterns; neuromuscular response; proprioception, kinesthetic sense, coordination; education of movement, balance and posture. Indications include the need to promote neuromuscular responses through carefully timed proprioceptive stimuli to elicit and improve motor activity in patterns similar to normal neurologically developed sequences, and improve neuromotor response with independent

[a]. Time to Produce Effect—two to six treatments.

[b]. Frequency—three times per week.

[c]. Optimum Duration—four to eight weeks.

[d]. Maximum Duration—eight weeks.

(vi). Therapeutic exercise is a generally well-accepted treatment. Therapeutic exercise with or without mechanical assistance or resistance, may include isoinertial, isotonic, isometric and isokinetic types of exercises. The exact type of program and length of therapy should be determined by the treating physician with the physical or occupational therapist. In most cases the therapist instructs the patient in a supervised clinic and home program to increase motion and subsequently increase strength. Usually, isometrics are performed initially, progressing to isotonic exercises as tolerated.

[a]. time to produce effect: two to six treatments;

[b]. frequency: two to three times per week;

[c]. optimum duration: 16 to 24 sessions;

[d]. maximum duration: 36 sessions.

Additional visits may be necessary in cases of re-injury, interrupted continuity of care, exacerbation of symptoms, and in those patients with comorbidities. Functional gains

including increased range of motion must be demonstrated to justify continuing treatment.

10. Therapy—Passive. The following passive therapies and modalities are generally accepted methods of care for a variety of work-related injuries. Passive therapy includes those treatment modalities that do not require energy expenditure on the part of the patient. They are principally effective during the early phases of treatment and are directed at controlling symptoms such as pain, inflammation and swelling and to improve the rate of healing soft tissue injuries. They should be use adjunctively with active therapies such as postural stabilization and exercise programs to help control swelling, pain and inflammation during the rehabilitation process. Please refer to, General Guidelines Principles, Active Interventions. Passive therapies may be used intermittently as a therapist deems appropriate or regularly if there are specific goals with objectively measured functional improvements during treatment.

a. On occasion, specific diagnoses and post-surgical conditions may warrant durations of treatment beyond those listed as "maximum." Factors such as exacerbation of symptoms, re-injury, interrupted continuity of care, and comorbidities may also extend durations of care. Specific goals with objectively measured functional improvement during treatment must be cited to justify extended durations of care. It is recommended that, if no functional gain is observed after the number of treatments under "time to produce effect" has been completed, alternative treatment interventions, further diagnostic studies, or further consultations should be pursued.

b. The following passive therapies and modalities are listed in alphabetical order.

i. Electrical stimulation (unattended) is an accepted treatment. Once applied, electrical stimulation (unattended) requires minimal on-site supervision by the physical therapists, occupational therapist or other provider. Indications include pain, inflammation, muscle spasm, atrophy, decreased circulation, and the need for osteogenic stimulation. A home unit should be purchased if treatment is effective and frequent use is recommended.

(a). Time to Produce Effect—two to four treatments.

(b). Frequency—varies, depending upon indication, between two to three times/day to one time/week;

(c). Optimum Duration—one to three months;

(d). Maximum Duration—three months.

ii. Iontophoresis is an accepted treatment which consists of the transfer of medication, including, but not limited to, steroidal anti-inflammatories and anesthetics, through the use of electrical stimulation. Indications include pain (lidocaine), inflammation (hydrocortisone, salicylate), edema (mecholy, hyaluronidase, and salicylate), ischemia (magnesium, mecholy, and iodine), muscle spasm (magnesium, calcium), calcifying deposits (acetate), scars, and keloids (sodium chloride, iodine, acetate).

(a). Time to Produce Effect—one to four treatments.

(b). Frequency—three times per week with at least 48 hours between treatments.

(c). Optimum Duration—8 to 10 treatments.

(d). Maximum Duration—10 treatments.

iii. Manipulation is a generally accepted treatment. Manipulative treatment (not therapy) is defined as the therapeutic application of manually guided forces by an operator to improve physiologic function and/or support homeostasis that has been altered by the injury or occupational disease, and has associated clinical significance.

(a). High velocity, low amplitude (HVLA) technique, chiropractic manipulation, osteopathic manipulation, muscle energy techniques, counter strain, and non-force techniques are all types of manipulative treatment. This may be applied by osteopathic physicians (D.O.), chiropractors (D.C.), properly trained physical therapists (P.T.), properly trained occupational therapists (O.T.), or properly trained medical physicians. Under these different types of manipulation exist many subsets of different techniques that can be described as direct- a forceful engagement of a restrictive/pathologic barrier; indirect- a gentle/non-forceful disengagement of a restrictive/pathologic barrier; the patient actively assisting in the treatment; and the patient relaxing, allowing the practitioner to move the body tissues. When the proper diagnosis is made and coupled with the appropriate technique, manipulation has no contraindications and can be applied to all tissues of the body. Pre-treatment assessment should be performed as part of each manipulative treatment visit to ensure that the correct diagnosis and correct treatment is employed.

(i). Time to Produce Effect for all Types of Manipulative Treatment—one to six treatments.

(ii). Frequency—up to three times per week for the first three weeks as indicated by the severity of involvement and the desired effect.

(iii). Optimum Duration—10 treatments.

(iv). Maximum Duration—12 treatments.

Additional visits may be necessary in cases of re-injury, interrupted continuity of care, exacerbation of symptoms, and in those patients with comorbidities. Functional gains including increased range of motion must be demonstrated to justify continuing treatment.

iv. Massage, manual or mechanical, is a generally well-accepted treatment. Massage is manipulation of soft tissue with broad ranging relaxation and circulatory benefits. This may include stimulation of acupuncture points and acupuncture channels (acupressure), application of suction cups and techniques that include pressing, lifting, rubbing, pinching of soft tissues by, or with the practitioner's hands. Indications include edema (peripheral or hard and non-pliable edema), muscle spasm, adhesions, the need to improve peripheral circulation and range of motion, or to increase muscle relaxation and flexibility prior to exercise. In cases with edema, deep vein thrombosis should be ruled out prior to treatment.

(a). Time to Produce Effect—immediate.

(b). Frequency—one to two times per week.

(c). Optimum Duration—six weeks.

(d). Maximum Duration—two months.

v. Mobilization (joint) is a generally well-accepted treatment. Mobilization is passive movement, which may include passive range of motion performed in such a manner (particularly in relation to the speed of the movement) that it is, at all times, within the ability of the patient to prevent the

movement if they so choose. It may include skilled manual joint tissue stretching. Indications include the need to improve joint play, improve intracapsular arthrokinematics, or reduce pain associated with tissue impingement.

(a). Time to Produce Effect—six to nine treatments.

(b). Frequency—three times per week.

(c). Optimum Duration—six weeks.

(d). Maximum Duration—two months.

vi. Mobilization (soft tissue) is a generally well-accepted treatment. Mobilization of soft tissue is the skilled application of muscle energy, strain/counter strain, myofascial release, manual trigger point release and manual therapy techniques designed to improve or normalize movement patterns through the reduction of soft tissue pain and restrictions. These can be interactive with the patient participating or can be with the patient relaxing and letting the practitioner move the body tissues. Indications include muscle spasm around a joint, trigger points, adhesions, and neural compression. Mobilization should be accompanied by active therapy.

(a). Time to Produce Effect—two to three weeks.

(b). Frequency—two to three times per week.

(c). Optimum Duration—four to six weeks.

(d). Maximum Duration—six weeks.

vii. Superficial heat and cold therapy is a generally accepted treatment. Superficial heat and cold therapies are thermal agents applied in various manners that lower or raise the body tissue temperature for the reduction of pain, inflammation, and/or effusion resulting from injury or induced by exercise. It may be used acutely with compression and elevation. Indications include acute pain, edema and hemorrhage, need to increase pain threshold, reduce muscle spasm and promote stretching/flexibility. Includes portable cryotherapy units and application of heat just above the surface of the skin at acupuncture points.

(a). Time to Produce Effect—immediate.

(b). Frequency—two to five times per week.

(c). Optimum Duration—three weeks as primary, or up to two months if used intermittently as an adjunct to other therapeutic procedures.

(d). Maximum Duration—two months.

viii. Transcutaneous electrical nerve stimulation (TENS) is a generally accepted treatment and should include at least one instructional session for proper application and use. Indications include muscle spasm, atrophy, and decreased circulation and pain control. Minimal TENS unit parameters should include pulse rate, pulse width and amplitude modulation. Consistent, measurable functional improvement must be documented prior to the purchase of a home unit.

(a). Time to Produce Effect—immediate.

(b). Frequency—variable.

(c). Optimum Duration—three sessions.

(d). Maximum Duration—three sessions. If beneficial, provide with home unit or purchase if effective.

ix. Ultrasound (including phonophoresis) is an accepted treatment and includes ultrasound with electrical stimulation and phonophoresis. Ultrasound uses sonic generators to deliver acoustic energy for therapeutic thermal and/or non-thermal soft tissue effects. Indications include scar tissue, adhesions, collagen fiber and muscle spasm, and

the need to extend muscle tissue or accelerate the soft tissue healing.

(a). Ultrasound with electrical stimulation is concurrent delivery of electrical energy that involves a dispersive electrode placement. Indications include muscle spasm, scar tissue, pain modulation, and muscle facilitation.

(b). Phonophoresis is the transfer of medication to the target tissue to control inflammation and pain through the use of sonic generators. These topical medications include, but are not limited to, steroidal anti-inflammatory and anesthetics.

(i). Time to Produce Effect—6 to 15 treatments.

(ii). Frequency—3 times per week.

(iii). Optimum Duration—4 to 8 weeks.

(iv). Maximum Duration—2 months.

11. Vocational rehabilitation is a generally accepted intervention. Initiation of vocational rehabilitation requires adequate evaluation of patients for quantification highest functional level, motivation and achievement of maximum medical improvement. Vocational rehabilitation may be as simple as returning to the original job or as complicated as being retrained for a new occupation.

a. It may also be beneficial for full vocational rehabilitation to be started before MMI if it is evident that the injured worker will be unable to return to his/her previous occupation. A positive goal and direction may aid the patient in decreasing stress and depression, and promote optimum rehabilitation.

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§2227. Therapeutic Procedures—Operative

A. Operative treatment is indicated when the natural history of surgically treated lesions is better than the natural history for non-operatively treated lesions. All patients being considered for surgical intervention should first undergo a comprehensive neuro-musculoskeletal examination to identify mechanical pain generators that may respond to non-surgical techniques or may be refractory to surgical intervention.

1. Non-vascular Diagnostic Criteria for Surgical Procedures

a. True or Classic Neurogenic TOS

i. Clinical—at least two consistent clinical sign plus symptoms consistent with TOS (refer to initial diagnostic procedures).

ii. Neurophysiologic—meets criteria for neurogenic TOS (refer to follow-up diagnostic imaging and testing procedures).

b. Non-specific Neurogenic TOS (also called disputed)

i. Clinical—at least three consistent clinical signs plus symptoms consistent with TOS refer to discussion in Initial Diagnostic Procedures and alternative diagnoses have been explored and tests are negative.

ii. Neurophysiologic—may have normal EMG/NCV or a pattern not meeting criteria in EMG section.

c. Pectoralis Minor Syndrome without TOS

i. Compression of the Neurovascular Bundle by the Pectoralis Muscle. This syndrome, described by a few authors, is usually caused by neck or shoulder trauma and generally resolves with physical therapy.

ii. Clinical. Patients do not meet criteria for non-specific or true TOS. They generally have pain over the anterior chest wall near the pectoralis minor and into the axilla, arm, and forearm. They may complain of paresthesia or weakness, and have fewer complaints of headache, neck or shoulder pain. On physical exam there is tenderness with palpation over the pectoralis minor and in the axilla which reproduces the patient's symptoms in the arm. Disabling symptoms have been present for more than three months despite active participation in an appropriate therapy program and alternative diagnoses have been explored and tests are negative.

iii. Neurophysiologic and other Diagnostic Tests. EMG/NCV studies may show medial antebrachial cutaneous nerve changes compared to the normal side. The axillary vein may show some occlusion. Pectoralis minor block should be positive.

d. Non-surgical Diagnosis for Possible TOS

i. Clinical—inconsistent clinical signs plus symptoms of TOS for more than three months and alternative diagnoses have been explored and tests are negative.

ii. Neurophysiologic—may have normal EMG/NCV studies.

2. Surgical Indications

a. Early surgical intervention should be performed if there is:

i. documented EMG/NCV evidence of nerve compression with sensory loss, and weakness (with or without muscle atrophy); or

ii. acute subclavian vein thrombosis or arterial thrombosis; or

iii. subclavian artery aneurysm or stenosis secondary to a cervical or anomalous rib (Note: this condition is almost never work related.).

b. After failed conservative therapy, the following criteria must be fulfilled:

i. true neurogenic or non-specific TOS: see criteria in the preceding subsection; and

ii. a positive upper limb tension test; and

iii. failed three months of active participation in non-operative therapy including worksite changes; and

iv. disabling symptoms interfering with work, recreation, normal daily activities, sleep; and

v. pre-surgical psychiatric or psychological clearance has been obtained, demonstrating motivation and long-term commitment without major issues of secondary gain or other psychological contraindications for surgery, and with an expectation that surgical relief of pain probably would improve the patient's functioning.

c. Even if return to their prior job is unlikely, an individual may need surgical intervention to both increase activities-of-daily living and/or return-to-work in a different job.

d. It is critically important that all other pathology, especially shoulder disorders, be treated prior to surgical intervention for TOS.

e. Smoking may affect soft tissue healing through tissue hypoxia. Patients should be strongly encouraged to stop smoking and provided with appropriate counseling.

f. Prior to surgical intervention, the patient and treating physician should identify functional operative goals and the likelihood of achieving improved ability to perform activities of daily living or work activities. The patient should agree to comply with the pre- and post-operative treatment plan including home exercise requirements. The patient should understand the amount of post operative therapy required and the length of partial and full disability expected post operatively.

3. Surgical Procedures

a. Since the success rates for the various surgical procedures are similar, the OWCA suggests that the surgeon performing the procedure use the technique with which the surgeon has the most experience and is most appropriate for the patient.

b. No controlled quality literature on surgical outcome for non-specific neurogenic TOS have been published. Uncontrolled case series suggest some improvement in symptoms in the majority of patients. In one study of workers' compensation patients operated on for TOS, work disability was reported to be 60 percent at one year. Other pathologies were commonly diagnosed in this population. Comorbid conditions of the shoulder, cervical spine, and carpal tunnel should be treated or ruled out before surgery is considered. Reported repeat surgery rates vary between approximately 10 percent and 30 percent. Some literature contends that patients with non-specific TOS treated conservatively have similar long-term outcomes as those treated with surgery. Complications and/or unsatisfactory outcomes are reportedly in the range of 15 to 20 percent. Acknowledged complications depend on the procedure and include complex regional pain syndrome; Horner's syndrome; permanent brachial plexus damage; phrenic, intercostal brachial cutaneous, or long thoracic nerve damage; and pneumothorax.

c. Vascular TOS procedures include resection of the abnormal rib and repair of the involved vessel. Anticoagulation is required for thrombotic cases.

- i. first rib resection;
- ii. anterior and middle scalenectomy;
- iii. anterior scalenectomy;
- iv. combined first rib resection and scalenectomy;
- v. pectoralis minor tenotomy. This procedure is done under local anesthesia, normally in an out-patient setting for patients meeting the criteria for pectoralis minor syndrome.

4. Post-Operative Treatment

a. Individualized rehabilitation programs based upon communication between the surgeon and the therapist.

b. Generally, progressive resistive exercise no earlier than two months post-operatively with gradual return to full-activity at four to six months.

c. Return-to-work and restrictions after surgery may be made by an experienced primary occupational medicine physician in consultation with the surgeon or by the surgeon. Depending upon the patient's functional response and their

job requirements, return-to-work with job modifications may be considered as early as one week post operatively. The employer must be able to fully accommodate restrictions of overhead activities or heavy lifting. Work restrictions should be evaluated every four to six weeks during post-operative recovery and rehabilitation, with appropriate written communications to both the patient and the employer.

d. Should progress plateau, the provider should re-evaluate the patient's condition and make appropriate adjustments to the treatment plan.

e. Post-operative therapy will frequently require a repeat of the therapy provided pre-operatively. Refer to Therapeutic Procedures, Non-operative, and consider the first post-operative visit as visit number one for the time frame parameters provided.

f. Refer to the following areas in the non-operative therapeutic section for post-operative time parameters:

- i. activities of daily living;
- ii. functional activities;
- iii. nerve gliding;
- iv. neuromuscular re-education;
- v. therapeutic exercise;
- vi. proper work techniques. Refer to jobsite evaluation, and return-to-work, of these guidelines;
- vii. limited passive therapies may be appropriate in some cases.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1203.1.

HISTORICAL NOTE: Promulgated by the Louisiana Workforce Commission, Office of Workers Compensation Administration, LR 37:

§2228. LWC-WC 1009 Disputed Claim For Medical Treatment.

Mail to:
OWCA—Medical Services
ATTN: Medical Director
P.O. Box 94040
Baton Rouge, LA 70804

- 1. Social Security No. _ _ - _ -
- 2. Date of Injury/Illness _ - - _ -
- 3. Parts of Body Injury _____
- 4. Date of Birth _ - - _ -
- 5. Date of This Request _ - - _ -
- 6. Claim Number _____

DISPUTED CLAIM FOR MEDICAL TREATMENT

NOTE: THIS REQUEST WILL NOT BE HONORED UNLESS THE INSURER HAS ISSUED A DENIAL FOR THE MEDICAL SERVICES IN DISPUTE AS PER R.S. 23:1203.1 J.

GENERAL INFORMATION

Claimant files this dispute with the Office of Workers' Compensation – Medical Services Director. This office must be notified immediately in writing of changes in address. An employee may be represented by an attorney, but it is not required.

7. This request is submitted by
 Employee Employer Insurer Health Care Provider Other

A. Copies of all relevant medical records must be included with this request.

B. A copy of the denial letter issued by the insurance carrier must be attached to this request.

EMPLOYEE

8. Name _____
Street or Box _____
City _____
State _____ Zip _____
Phone (____) _____

EMPLOYEE'S ATTORNEY

9. Name _____
Street or Box _____
City _____
State _____
Phone (____) _____
Fax (____) _____

EMPLOYER

10. Name _____
Street or Box _____
City _____
State _____ Zip _____
Phone (____) _____
Fax (____) _____

**EMPLOYER/INSURER'S
ATTORNEY**

12. Name _____
Street or Box _____
City _____
State _____ Zip _____
Phone (____) _____
Fax (____) _____

LWC-WC 1009
11/2010

14. PLEASE PROVIDE A SUMMARY OF THE DETAILS
REGARDING THE ISSUE AT DISPUTE:

INSURER/ADMINISTRATOR

(circle one)

11. Name _____
Street or Box _____
City _____
State _____
Phone (____) _____
Fax (____) _____

**TREATING/REQUESTING
PHYSICIAN**

13. Name _____
Street or Box _____
City _____
State _____
Phone (____) _____
Fax (____) _____

You may attach a letter or petition with additional information
with this disputed claim.
The information given above is true and correct to the best of
my knowledge and belief.

SIGNATURE OF REQUESTING PARTY

DATE

LWC-WC 1009
11/2010

AUTHORITY NOTE: Promulgated in accordance with R.S.
23:1203.1.

HISTORICAL NOTE: Promulgated by the Louisiana
Workforce Commission, Office of Workers Compensation
Administration, LR 37:

Inquiries concerning the proposed enactment may be
directed to Director, Office of Workers' Compensation
Administration, Louisiana Department of Labor, P.O. Box
94040, Baton Rouge, LA 70804-9040.

Curt Eysink
Executive Director

1102#049

Rules

RULE

Department of Agriculture and Forestry Agricultural Commodities Commission

Agricultural Commodity Dealer and Warehouse Law (LAC 7:VII.Chapter 3 and XXVII.Chapter 1)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and with the enabling statute, R.S. 3:3405, the Louisiana Agricultural Commodities Commission (commission) has amended the Agricultural Commodity Dealer and Warehouse Law in order to make technical corrections, update language and fees to meet the requirements established in the revisions of Act 767 enacted in the 2010 Regular Legislative Session, adopt new regulations that pertain to the use of Electronic Warehouse Receipts as well as adopt fees for the testing and sampling of aflatoxin for corn.

Act No. 767 of the 2010 Regular Legislative Session adopted, amended and reenacted several sections of R.S. 3:3401-3425 of the Agricultural Commodity Dealer and Warehouse Law pertaining to the seizure of facilities, grain dealer license exams, moisture meter devices as well as technical corrections. The law also repeals obsolete provisions related to certification requirements for grain sampling, licensure requirements for weighmasters, policies for sampling and grading grain and design approval for scale tickets.

These Rules are enabled by R.S. 3:3401 -3425.

Title 7

AGRICULTURE AND ANIMALS

Part VII. Dealers in Farm Products

Chapter 3. Cotton Buyers

§301. Application

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:703 and R.S. 3:702.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, LR 1:473 (November 1975), repealed by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:494 (February 2011).

§303. Bonds

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:703 and R.S. 3:702.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, LR 1:474 (November 1975), repealed by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:494 (February 2011).

§305. Fees

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:703.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, LR 1:474 (November 1975), repealed by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:494 (February 2011).

§307. Term of License; Renewal

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:702 and R.S. 3:703.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, LR 1:474 (November 1975), repealed by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:494 (February 2011).

§309. Posting of License

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:702 and R.S. 3:703.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, LR 1:474 (November 1975), repealed by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:494 (February 2011).

§311. Suspension and Revocation of License

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:703.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, LR 1:474 (November 1975), repealed by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:494 (February 2011).

§313. Contracts

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:703.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, LR 1:474 (November 1975), repealed by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:494 (February 2011).

Part XXVII. Agricultural Commodity Dealer and Warehouse Law

Chapter 1. Louisiana Agricultural Commodities Commission Subchapter A. General Provisions

§101. Definitions

Adjudicatory Proceeding—an open public hearing by the commission to determine whether violations of R.S. 3401-3425 or the regulations contained in this Part have occurred. Such proceedings are conducted in accordance with the Louisiana Administrative Procedure Act (R.S. 49:950 et seq.).

Advance—a partial payment against total proceeds due to a seller.

Agricultural Commodities—cotton, all agricultural products commonly classed as grain (rice, corn, wheat, oats, rye, soybeans, barley, and grain sorghum), and any other agricultural commodity which the commission may declare to be an agricultural commodity subject to regulation under R.S. 3:3401-3425.

Applicant—any person making application for a license to engage in any of the activities regulated under R.S. 3:3401-3425 or anyone who requests official grain inspection services and/or grain weighing services of the department.

Audited [with respect to a financial statement]—a financial statement prepared by an independent certified

public accountant, the basis of which financial statement is the accountant's independent examination of the books and records of the business entity covered by the financial statement.

Authentic Act—a statement executed before a notary public and at least two witnesses.

Authorized Agent—with reference to the authorized agent of a warehouse or grain dealer, any representative thereof whose name has been filed with the commission as such. A person whose name has not been filed with the commission as an authorized agent will not be recognized by the commission as entitled to act for or on behalf of a warehouse or grain dealer.

Bid Contract—an agreement between a producer and a purchaser under which the purchaser examines samples of rice and extends to the producer an offer to purchase the rice at a price based on the quality of the sample.

Capacity—all of the area of a licensee which is in any kind of protected enclosure.

CCC—Commodity Credit Corporation.

Central Filing System (CFS) —an electronic system operated and maintained by a provider where information relating to electronic warehouse receipts is recorded and maintained in a confidential and secure fashion independent of any outside influence or bias in action or appearance, and that is authorized by the director.

Certified—with respect to the financial statements required under the Act R.S. 3:3401-3425, a written statement signed by the independent certified public accountant preparing the financial statement.

Commission—the Louisiana Agricultural Commodities Commission.

Commissioner—the Louisiana Commissioner of Agriculture and Forestry.

Compilation—with respect to a financial statement, a financial statement prepared by an independent certified public accountant solely on the basis of representations of the management of the business entity covered by the financial statement.

Confirmation Date—the date on which the bid contract was confirmed.

Confirmed—the bid contract has been agreed to by both parties. A bid contract is confirmed when the producer and the purchaser agree to the quantity and price of the rice to be sold.

Cotton Agent—every person, firm, corporation, association, or other legal entity which purchases or contracts to purchase cotton grown or to be grown by producers in this state for or on behalf of a cotton merchant and which is required to be a party to a notarized written agency agreement.

Cotton Merchant—every person, firm, corporation, association, or other legal entity which purchases or contracts to purchase, either directly or through a cotton agent, cotton grown or to be grown by producers in this state.

Current Financial Statement—a financial statement containing all of the documents listed in §107.B of this Part and presenting financial position as of the close of the applicant's or licensee's most recent fiscal year.

Deferred Price Commodities—commodities purchased by a grain dealer from a producer for which the sale price will

be established after date of the initial agreement between the parties. The agreement between the parties covering deferred price commodities shall be in writing. The term deferred price commodities is the same as the other following terms in general usage: price later, no price established (NPE), delayed price, basis contract, future settlement delivery, or contract for purchase.

Delivery Date—the date on which the purchaser is required to take delivery of the rice, either under the provisions of Subchapter O of this Chapter or under the provisions of a written agreement between the producer and the purchaser.

Department—the Louisiana Department of Agriculture and Forestry.

Director—the employee of the commission who is responsible for implementing the policies of the commission and performing the administrative responsibilities delegated to the commissioner under R.S. 3:3401-3425.

Electronic Warehouse Receipt (EWR)—a receipt that is issued or transmitted in the form of an electronic document.

Farm Products—products employed directly in the cultivation, production, or harvesting of any agricultural commodities or containers for agricultural commodities or farm products.

Fee—any charge imposed by a warehouse, directly or indirectly, for care of agricultural commodities belonging to any person other than the warehouse owner, including but not limited to base price adjustments, storage, handling, dockage, commission, drying, and/or conditioning fees or any fees as listed on the latest approved schedule of fees (§128.D of this Part) for official grain inspections and weighing services provided by the department.

Field Warehouse—a warehouse operated by a management organization under a contractual agreement between the management organization and the owner of the warehouse.

First Point of Sale—the initial time when title to agricultural commodities or farm products passes from a seller to a buyer.

Grain—corn, wheat, oats, rye, soybeans, barley, and grain sorghum.

Grain Dealer—any person who purchases agricultural commodities from producers, sells agricultural commodities for producers, or represents producers in the purchase or sale of agricultural commodities. The term does not include producers who purchase grain commodities for their own use as feed or seed.

Hedge [with respect to a contract to sell commodities]—a secondary contract to buy commodities to protect the obligations incurred with respect to the contract to sell. Hedge, with respect to a contract to buy commodities, means a secondary contract to sell commodities to protect the obligations incurred with respect to the contract to buy.

Identity Preserve—

1. instances in which a warehouse preserves the separate identities of different lots of agricultural commodities; or

2. instances in which a warehouse preserves the separate identities of agricultural commodities belonging to different owners.

Independent Certified Public Accountant—a person who has completed all requirements established by the American

Institute of Certified Public Accountants and the state Society of Louisiana Certified Public Accountants. To be recognized as an independent public accountant, the accountant, members of his immediate family, and his accounting business associates shall be totally free of any obligation to or interest in the client, its management, or its owners.

Licensed Capacity—the warehouse area which is bonded for the storage of agricultural commodities or farm products belonging to a person other than the owner of the warehouse.

Licensee—any person holding a license as a warehouse, cotton merchant or grain dealer issued by the commission.

Open or Open Position—the grain dealer's contracts for purchase or sale of agricultural commodities which are unhedged.

Person—any individual, partnership, company, firm, association, corporation, cooperative association, or any other legal entity engaged in any of the activities regulated under R.S. 3:3401-3425.

Producer—the owner, tenant, lessee, or operator of land within this state who has an interest in or receives all or any part of the proceeds from the sale of agricultural commodities produced thereon.

Purchaser—any person who purchases rice from a producer under a bid contract.

Review (with respect to a financial statement)—a financial statement prepared by an independent certified public accountant, in the preparation of which financial statement the accountant makes such inquiries of management and performs such analyses and/or comparisons as may appear appropriate to the accountant.

Risk Position—the loss potential to the grain dealer resulting from bringing its open position to market.

Scale Ticket—the document issued to a producer when agricultural commodities are delivered to a warehouse or grain dealer.

Spot or Spot Sale—a transaction where title to agricultural commodities passes from the producer to the buyer on the day of delivery, in which transaction the producer is paid promptly at the market price established on the day of delivery.

Storage—the physical possession by a warehouse, in any manner and/or under any type of fee arrangement, of agricultural commodities belonging to any person other than the owner of the warehouse. The term storage does not apply to a transaction in which title passes from the seller to the buyer upon delivery.

Warehouse—any building, structure, or any other protected enclosure required to be licensed by the commission in which agricultural commodities or farm products are stored for the public for a fee. The term includes facilities which commingle commodities belonging to different owners and facilities which preserve the separate identities of different lots of agricultural commodities.

Warehouse Operator—any person or other entity operating a warehouse.

Warehouse Receipts—may be paper or electronic and may be negotiable or non-negotiable and are defined as follows.

1. *Non-Negotiable Warehouse Receipts*—written evidence of the deposit of agricultural commodities or farm products in a warehouse, which cannot be sold or traded by the holder and cannot be used to secure a loan.

2. *Negotiable Warehouse Receipts*—written evidence of the deposit of agricultural commodities or farm products in a warehouse, which can be sold or traded by the holder and can be used to secure a loan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3402 and R.S. 3:3405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:284 (May 1983), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 12:287 (May 1986), LR 19:1300 (October 1993), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:624 (April 1998), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:494 (February 2011).

§103. Administration of the Affairs of the Commission

A. The officers of the commission shall be a chairman and a vice-chairman, who shall serve for terms concurrent with the commissioner, but may be elected for an indefinite number of terms.

B. After the initial election of officers, the chairman and vice-chairman shall be elected at the commission's regular meeting during the first quarter of each year.

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

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

E. Meetings of the commission shall normally be held in its domicile but may be held at other locations upon the determination of the chairman or the will of the commission.

F. The quorum of the commission is five members.

G. An affirmative vote of a minimum of five members shall be required for the adoption of any motion.

H. There shall be no voting by proxy.

I. Rules and regulations of the commission, and amendments thereto, shall be noticed, adopted, and promulgated as required by the Louisiana Administrative Procedure Act.

J. The chairman shall designate a hearing officer, who may or may not be a member of the commission, to preside at all adjudicatory proceedings of the commission. The chairman may, if he so desires, serve as hearing officer at any adjudicatory proceeding.

K. The commission shall serve as the hearing body in all adjudicatory proceedings and shall make the final determination with regard to the disposition of all matters coming to adjudication.

L. The director shall provide clerical and other support services as may be required by the commission and shall maintain and distribute appropriate minute records of the commission.

M. No member of the commission shall participate in any discussion or vote concerning any matter before the commission in which such member has a personal or commercial interest.

N. No member of the commission or the staff shall disclose any financial information pertaining to any licensee or applicant for license.

O. The commission may, from time to time, delegate any of its responsibilities to subcommittees appointed by the chairman. Such subcommittees may perform such specific

duties as may be assigned by the chairman but all actions of such subcommittees shall be subject to ratification by the full commission.

P. Appointed members of the commission shall be entitled to receive a per diem of \$40 and to be reimbursed for mileage expenses in accordance with the same travel regulations applying to state employees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Agricultural Commodities Commission, LR 9:287 (May 1983), amended 12:287 (May 1986), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:624 (April 1998), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:494 (February 2011).

§105. Agricultural Commodities and Other Farm Products Regulated by the Commission

A. The following agricultural commodities shall be regulated by the commission at all times:

1. rice;
2. rough rice;
3. all agricultural commodities commonly classed as grain; including:
 - a. wheat;
 - b. corn;
 - c. oats;
 - d. rye;
 - e. soybeans;
 - f. barley;
 - g. grain sorghum;
4. cotton.

B. Whenever commission warehouse receipts are issued to cover any of the following agricultural commodities, the following agricultural commodities shall be regulated by the commission:

1. peppers;
2. oils (vegetables and mineral);
3. pecans;
4. molasses and/or syrup;
5. any canned and/or frozen vegetables/fruits/juices.

C. Commodities and farm products enumerated in §105.B of this Part shall be subject to all requirements set forth in the regulations contained in this Part whenever commission warehouse receipts are issued.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:288 (May 1983), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 19:1300 (October 1993), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:624 (April 1998), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:497 (February 2011).

Subchapter B. Application for Warehouse, Grain Dealer and Cotton Merchant Licenses

§107. Application for License (Initial and Renewal); Time for Filing; Contents; Fees; Style of Document

A. Applications for renewal of warehouse, cotton merchant and grain dealer licenses shall be received no later

than April 30 of each year. Applications for initial license may be filed at any time during the year. For both initial and renewal licenses, the following information shall be furnished on the application form provided by the commission:

1. type of application:
 - a. warehouse;
 - b. grain dealer;
 - c. cotton merchant;
2. date of submission;
3. nature of application:
 - a. initial application;
 - b. renewal application;
4. nature of applicant's business:
 - a. sole proprietorship;
 - b. partnership;
 - c. corporation;
 - d. association;
 - e. agricultural cooperative;
 - f. other;
5. name under which the business will operate;
6. address of the principal office of the business, either in-state or out-of-state, including mailing address, physical location, and telephone number;
7. name of the person in charge (e.g., manager, warehouse operator, principal dealer, etc.) and his residence address and telephone number;
8. if a partnership, the names, addresses, and interests of all partners;
9. if a corporation, the names and addresses of all officers;
10. if an association, including an agricultural cooperative, the names and addresses of all members of the board of directors;
11. name and address of the owner of the business, if not shown under §107.A.7, 8, and 9 of this Part;
12. status of the facility in which the business will be operated:
 - a. owned by applicant;
 - b. leased by applicant (short term or long term);
 - c. rented by applicant and name and address of owner;
 - d. other;
13. type of agricultural commodities that the applicant will store or trade;
14. for all business locations to be operated under one license:
 - a. number of locations;
 - b. address of each location;
 - c. total capacity;
 - d. capacity of each location to be licensed, if different from total capacity;
 - e. name of person in charge of each facility;
15. bond status of the applicant:
 - a. amount of bond posted;
 - b. name and address of bonding company;
 - c. period for which bond written;
16. insurance of applicant:
 - a. amount of provisional stock insurance carried;
 - b. name and address of carrier;
 - c. term of policy;

d. physical address of each location covered by stock insurance;

17. names of all authorized agents;

18. a statement that the applicant will abide by the requirements of R.S. 3:3401-3425 and the regulations contained in this Part;

19. a certified statement that all representations contained in the application and in all required attachments are true and correct;

20. grain dealer applicants only:

a. name of person(s) on grain dealer's staff who is certified as a grain sampler and/or grader;

21. warehouse applicant only:

a. if utilizing paper warehouse receipts, three signature cards, on card forms provided by the commission, completed by each person listed as an authorized agent of the applicant, together with a resolution from the board of directors naming each person, other than the owner or president, whose name is listed as an authorized agent;

b. a copy of the warehouse's current schedule of tariffs or charges;

22. cotton merchant applicants only:

a. name and written notarized agency agreements of cotton agents buying cotton in the state;

23. grain dealers and cotton merchant applicants only:

a. aggregate amount paid to producers during applicant's most recent fiscal year;

24. application for acceptance into the self-insurance fund, if applicable.

B. For initial licensure under R.S. 3:3401-3425, each applicant shall provide a financial statement as of the close of the applicant's most recent fiscal year.

1. The financial statement shall be prepared by an accountant who is not a full-time employee of the applicant and who meets at least one of the following:

a. a certified public accountant;

b. a graduate of an accredited four-year college or university with a degree in accounting; or

c. has passed the examination administered by the National Society of Accountants.

2. The financial statement presented for initial licensure under R.S. 3:3401-3425 may be any of the following:

a. compilation;

b. review;

c. audited.

3. The financial statement shall contain:

a. a balance sheet;

b. a statement of income (profit and loss);

c. a statement of retained earnings;

d. a statement of changes in financial position;

e. a certificate by the applicant or the chief executive officer of the applicant, in the form of an authentic act, that the financial statement accurately reflects the financial condition of the applicant for the period covered in the financial statement;

f. whenever the certificate required under §107.B.3.e of this Part is executed by a representative of the applicant other than the owner or president, a resolution of the board of directors authorizing such representative to execute the certificate is required.

4. Multi-state and/or multi-national corporations with subsidiary divisions located in Louisiana shall either:

a. submit a fully audited financial statement showing the position of the parent company, together with sufficient financial information pertaining to the Louisiana subsidiary to reasonably reflect the corporation's ability to satisfy all obligations to Louisiana producers; or

b. pay all expenses necessary for performance of a full audit, at one or more locations where pertinent corporation records are maintained, by the department's Central Audit Committee.

5. The financial statement shall be prepared and signed by an accountant, as defined in §107.B of this Part, and shall be presented in accordance with generally accepted accounting principles.

a. Financial statements shall include contracts covering commodities which have not been delivered. Contracts covering commodities which have not been delivered to the licensee or applicant shall be brought to market in the financial statement. Contracts on commodities which have not been delivered to the licensee or applicant may be made a part of the financial statement by means of a footnote to the statement.

b. Fixed assets shall be presented at cost on financial statements.

6. Only one financial statement shall be required for a chain of warehouses covered by a single warehouse license.

C. Each licensee shall file a financial statement conforming to the requirements of §107.B of this Part within 90 days after the close of the licensee's fiscal year.

D. Each applicant shall also provide the following information, in addition to completing the required application form and providing a financial statement:

1. evidence of bond or alternate security which meets the requirements set forth in §115 of this Part (warehouse license applicants), §123.G of this Part (grain dealer license applicants) or R.S. 3:3411.1 (cotton merchant license applicants);

2. evidence of provisional stock insurance which meets the requirements set forth in §117 of this Part (warehouses) or §123 of this Part (grain dealers);

3. copy of Scale Ticket. Applicants who do not use scale tickets in their business operations shall certify to that effect in lieu of filing a scale ticket;

4. applicants who apply under corporate status shall provide evidence of compliance with Louisiana's Corporation Laws.

E. A fee of \$200, as required by R.S. 3:3401-3425, shall accompany each application at the time of filing. This fee is non-refundable, whether or not the license is granted.

F. All licenses shall signify on the face the following information:

1. name and address of licensee;

2. if a cotton merchant or grain dealer, the location of the principal place of business;

3. if a warehouse, the licensed capacity of the location covered by the license;

4. amount of bond;

5. term of license.

G. Approved licenses shall be issued in the name of the commission and signed by the commissioner.

H. A late fee of \$50 may be assessed per application per business day when the application is received after April 30.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405, R.S. 3:3408, R.S. 3:3409, R.S. 3:3410, R.S. 3:3411 and R.S. 3:3411.1.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:289 (May 1983), amended LR 10:75 (February 1984), LR 11:229 (March 1985), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 12:287 (May 1986), LR 19:1300 (October 1993), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:624 (April 1998), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:497 (February 2011).

§109. Grounds for Refusal to Issue or Renew a Warehouse, Cotton Merchant, or Grain Dealer License

A. The commission may refuse to issue or renew a warehouse, cotton merchant, or grain dealer license in any of the following circumstances:

1. the applicant cannot demonstrate to the satisfaction of the commission that he is competent to operate the business for which the license is sought;
2. the applicant cannot demonstrate a \$100,000 net worth;
3. the applicant has failed to provide all of the information required in the application for licensure;
4. the applicant has previously refused to permit audit of his records;
5. the applicant has not or cannot secure the bond required by R.S. 3:3401-3425;
6. the applicant has not or cannot secure the insurance required by R.S. 3:3401-3425;
7. if an applicant for a warehouse license: the facilities in which the business will be operated are not suitable for storage of agricultural commodities;
8. if an applicant for a grain dealer license: the applicant has failed to hedge its obligations to producers as required by R.S. 3:3401-3425 and the rules contained in this Part.

B. Any cotton merchant, warehouse or grain dealer whose application for license is refused by the commission may appeal the decision of the commission under the Administrative Procedure Act or through the judicial process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405 and R.S. 3:3412.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:293 (May 1983), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 12:287 (May 1986), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:625 (April 1998), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:499 (February 2011).

Subchapter C. Warehouse Licenses

§111. Requirements Applicable to All Warehouses

A. No person shall operate a warehouse subject to regulation under R.S. 3:3401-3425 unless licensed by the commission or under the U.S. Warehouse Act. The following types of warehouses are specifically defined as warehouses subject to regulation under R.S. 3:3401-3425:

1. any facility offering storage as defined in §101 of this Part;

2. any facility which issues state warehouse receipts covering agricultural commodities or farm products;

3. all field warehouses. The management organization operating a field warehouse shall secure a separate license for each location. Field warehouses shall be licensed in the same manner as any other warehouses and regulations governing other warehouses shall apply equally to field warehouses.

B. Warehouses licensed under the U.S. Warehouse Act are not required to submit the application required under R.S. 3401-3425 and are not subject to all other requirements of R.S. 3:3401-3425 unless licensed under the provisions of R.S. 3:3401-3425.

C. No warehouse, whether licensed under R.S. 3:3401-3425 or the U.S. Warehouse Act, shall buy or sell agricultural commodities for producers unless such warehouse is also licensed by the commission as a grain dealer.

D. A single business entity which operates warehouse facilities at more than one location may be covered by one license. In such instances, the applicant shall provide separate capacity and personnel information for each location but may submit a consolidated financial statement covering all locations.

E. When two or more businesses which are separate legal entities, even though owned and/or operated by the same individual or the same legal entity, are operated at one or more physical locations, each separate legal entity shall obtain a separate license.

F. Each license is personal to the holder thereof and may not be transferred or assigned to another for any purpose or any period of time.

G. Licenses issued by the commission shall be consecutively numbered and the number shall include a fiscal year designation.

H. All warehouse licenses issued by the commission shall expire on June 30 following the date of issue.

I. For initial and continuing licensure, the facility shall meet all requirements of §113 of this Part.

J. The warehouse shall meet all bonding and insurance requirements set forth in §§115 and 117 of this Part prior to issuance of the license. Failure to maintain the required bond and insurance in full force and effect for the license period shall subject the licensee to revocation of its license.

K. The person in charge of each warehouse unit shall possess the following qualifications:

1. be of legal age;
2. demonstrate the following:
 - a. knowledge of the practical facts of keeping accurate records regarding the storage of agricultural commodities;
 - b. knowledge of proper pest control and fumigation procedures.

L. Provisions Relative to the Schedule of Tariffs or Charges

1. Each warehouse shall file its current tariff with the commission for the commission's approval as to form.

2. Whenever there is any change in any warehouse's tariff, the new tariff shall be filed with the commission prior to implementation of any changes.

3. The director shall note on each warehouse's tariff the fact of its receipt by the commission. Upon the warehouse's receipt of the tariff bearing the director's notation, the warehouse shall post the copy bearing the director's signature in a conspicuous location at the warehouse.

4. Each tariff shall indicate whether charges are made on the basis of barrels, bushels, or hundredweights.

5. The tariff shall contain all fees routinely charged to depositors.

6. The tariffs or charges shall be the same for the same class of services to each customer of the warehouse.

M. Each warehouse shall maintain a daily inventory report on forms provided by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405, R.S. 3:3409, R.S. 3:3410 and R.S. 3:3420.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:294 (May 1983), amended LR 11:229 (March 1985), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 19:1301 (October 1993), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:499 (February 2011).

§113. Standards for Approval of Facilities for Storage of Agricultural Commodities

A. The building shall be of sound construction, in good physical condition, and suitable for storage of the agricultural commodities to be stored therein.

B. The building shall be weathertight so as to protect the commodities stored in it from the elements at all times.

C. The building and the surroundings shall be reasonably clean and free of debris of any kind.

D. There shall be safe ingress and egress to all storage units.

E. Storage units having entrances more than 20 feet above ground or floor level shall be equipped with a safe and adequate lift or ladder.

F. All catwalks shall be equipped with railings, shall be structurally sound, and shall be kept free of all grain or other matter which might endanger human life.

G. The facility shall maintain reasonable provisions for rodent and insect control.

H. Commodities or farm products stored in containers rather than in bulk shall be separated by an aisle of sufficient width to permit passage for inspection.

I. When different agricultural commodities are stored in the same facility in bulk, the different commodities shall be separated by a substantial partition.

J. When a warehouse license covers more than one facility, each warehouse unit shall be designated by a number, beginning with the number 1, which number may not be changed without the prior approval of the commission.

K. Each storage unit, building, bin, or compartment shall have painted thereon or securely affixed, in a conspicuous manner and location, an identifying number or letter, or both, which may not be changed without prior approval of the commission.

L. Bulk grain bins shall be numbered at all openings on top and also on or near all outlet valves underneath so as to be easily identified.

M. Each facility shall contain adequate and accurate weighing and sampling equipment. All scales in warehouses licensed by the commission are subject to examination by the Division of Weights and Measures of the department.

N. Special Requirements for Rice. Provisions for identification cards shall be securely attached to all bins and when commodities are placed under receipt, an identification card showing the following information shall be firmly attached to the bin boards:

1. the lot number;
2. whether the receipt is negotiable or non-negotiable;
3. the number of the receipt;
4. the name of the person or company to whom the receipt was issued;
5. the number of containers of commodities, if not in bulk, in the bin.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405 and R.S. 3:3409.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:296 (May 1983), amended LR 11:229 (March 1985), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:500 (February 2011).

§115. Bond Required for Warehouse License; Provisions Relative to Licensed Capacities

A. Each applicant shall execute and file a bond, on bond forms provided by the commission, which bond shall be issued by a company authorized to do business in Louisiana prior to issuance of the license.

B. Each bond shall be conditioned upon:

1. the faithful performance of all duties and obligations to patrons of the warehouse; and
2. compliance with all requirements of R.S. 3:3401-3425 and the regulations contained in this Part.

C. The amount of the bond shall be established on the basis of the capacity of the warehouse to be licensed.

1. The commission shall establish capacity records for all licensed facilities. Whenever there is a discrepancy between the capacity claimed by the applicant and the commission's capacity figures for the applicant, the bond to be required shall be determined by the commission's capacity figures. A licensee may, however, appeal the decision of the commission whenever it disagrees with the capacity figures established by the commission for its facility.

2. All facilities which commingle agricultural commodities shall bond 100 percent of their available capacity, subject to the exemptions contained in §115.C.5 and 6 of this Part.

3. Facilities which store identity-preserved commodities may, with the prior approval of the commission, bond 75 percent of their available capacity. In such event, the amount of the bond shall be increased if commodities in storage exceed the licensed capacity.

4. All capacity under one roof shall be bonded.

5. Outside tanks which are used solely for storage of company-owned commodities are not required to be bonded.

6. Buildings which are used solely for storage of company-owned commodities are not required to be bonded.

D. The amount of the bond shall be as follows:

1. \$0.20 per bushel for the first million bushels of licensed capacity—up to \$200,000 for a licensed capacity of 2 million bushels;

2. plus \$0.15 per bushel for the second million bushels of licensed capacity—a total of \$350,000 for a facility with a licensed capacity of 2 million bushels;

3. plus \$0.10 per bushel for all bushels over 2 million bushels up to 3.5 million bushels of licensed capacity—a maximum of an additional \$150,000.

E. A minimum bond of \$25,000 is required for all facilities of 125,000 bushels or less licensed capacity.

F. A maximum bond of \$500,000 is required for all facilities of 3.5 million or more bushels of licensed capacity.

G. Each bond shall be written for a period of one year, beginning on July 1, or for such other period of time as the commission may require.

H. Each bond shall provide for at least 90 days written notice to the commission prior to cancellation.

I. Each bond is subject to final approval by the commission and shall be so approved prior to issuance of the license.

J. Provisions for Alternate Security in Lieu of the Required Bond

1. The commission may accept alternate security in lieu of the required bond in an amount equal to 100 percent of the required bond.

2. Alternate security may be offered only by:

a. pledging of certificates of deposit;

b. filing of an irrevocable letter of credit, which shall be non-cancelable for a period of one year;

c. securing a first mortgage on immovable property which is located in Louisiana and which has an appraised value of at least one hundred fifty percent of the amount of the bond. The appraisal shall be made by an independent appraiser jointly designated by the commission and the applicant. The applicant shall provide a title insurance policy issued by a company authorized to do business in Louisiana in the amount of the required bond with the commission being an insured under the policy. The applicant shall pay all fees involved in providing such security.

3. Alternate security is subject to the approval of the commission. Approval is required prior to issuance of a license.

4. All alternate security instruments shall be assigned to the commission and maintained in the commission's office in Baton Rouge. Holders of certificates of deposit will continue to draw the interest thereon.

5. Whenever any warehouse ceases to operate as a licensed warehouse, alternate security filed in lieu of the required bond shall be retained by the commission:

a. until public notice, as herein required, is made; and

b. until completion of a final audit, which final audit shall be completed in not more than 120 days. Public notice of the commission's intent to release alternate security shall be made by publication in a newspaper of general circulation in the area where the licensee is located, as follows:

i. if there is a daily newspaper in the area, such notice shall be published at least three times, beginning at

least 15 days prior to the date on which the commission will release the alternate security;

ii. if there is no daily newspaper in the area, such notice shall be published in a weekly newspaper and shall be published once each week for the three weeks preceding the date on which the commission will release the alternate security.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405 and 3:3410.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:297 (May 1983), amended LR 10:75 (February 1984), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 19:1301 (October 1993), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:500 (February 2011).

§117. Provisional Stock Insurance Required for Warehouse License

A. At all times, each warehouse shall carry sufficient provisional stock insurance to assure protection against fire and other disasters for all agricultural commodities in storage in an amount proportionate to the licensed capacity of the facility. Provisional stock insurance records are subject to examination by the commission during audit of the facility.

B. The provisional stock insurance shall be written for a period of at least one year by an insurance company authorized to do business in Louisiana and shall provide for 30 days written notice to the commission prior to cancellation.

C. A copy of the insurance policy or a certificate of insurance shall be filed with the commission prior to issuance of the license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405 and R.S. 3:3410.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:299 (May 1983), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:501 (February 2011).

§119. Amendment to License Required When Change of Status Occurs

A. The licensee shall give written notice to the commission within three days after any of the following occurs:

1. loss or damage to stored commodities or licensed facilities;

2. change of ownership of a licensed warehouse, including a change in the members of a partnership or in the officers of a corporation;

3. change in management personnel of a licensed warehouse;

4. change in the name of the business operating the facility;

5. any major structural change in the facility;

6. the termination of a lease covering a licensed facility;

7. change of business address;

8. filing of any legal action (except filing of suits for workmen's compensation) against the warehouse or the management personnel of the warehouse.

B. The licensee shall give prior written or oral notice to the commission before use of the facilities for the storage of any agricultural commodity not listed on the application and before any change in the licensed capacity of the facility (except a change resulting from fire or other actions outside the control of the warehouse).

C. Notice to the commission concerning a change in licensed capacity shall include:

1. name, address, and license number of the warehouse;
2. warehouse or warehouses affected by the change in capacity;
3. current licensed capacity of the affected facility(ies);
4. proposed new capacity (whether increased or decreased).

D. Whenever the licensed capacity of a facility changes, the bond required under §115 of this Part shall be changed within 45 days to conform to the new capacity. Failure to amend the bond as required herein will subject the licensee to revocation of its license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405 and R.S. 3:3410.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:299 (May 1983), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 19:1301 (October 1993), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:501 (February 2011).

Subchapter D. Grain Dealers

§123. Requirements Applicable to All Grain Dealers

A. No person shall buy and/or sell agricultural commodities for producers, or represent producers in the purchase or sale of agricultural commodities, unless licensed as a grain dealer by the commission.

B. No grain dealer may store agricultural commodities belonging to any other person unless such grain dealer is also licensed by the commission as a warehouse or licensed under the U.S. Warehouse Act.

C. A single business entity which operates grain dealerships at more than one location may be covered by one license. In such instances, the applicant shall provide separate personnel information for each location but may submit a consolidated financial statement covering all locations.

D. When two or more businesses which are separate legal entities, even though owned and/or operated by the same individual or the same legal entity, are operated at one or more physical locations, each separate entity shall obtain a separate license.

E. Each grain dealer license issued by the commission shall expire on June 30 following the date of issue.

F. The applicant shall be of legal age and shall be able to demonstrate knowledge of the practical facts of keeping accurate records regarding the trading of agricultural commodities.

G. The applicant shall execute and file a bond, on forms provided by the commission, which is written by a bonding company authorized to do business in Louisiana. The bond shall be in an amount of \$50,000 and shall provide for 90

days written notice to the commission prior to cancellation. The bond shall be conditioned upon:

1. the faithful performance of all duties and obligations to producers; and

2. compliance with all requirements of R.S. 3:3401-3425 and the regulations contained in this Part. The bond is subject to the approval of the commission and shall be so approved prior to issuance of the license. Failure to keep the bond in full force and effect shall subject the grain dealer to suspension or revocation of its license.

H. The commission may accept alternate security in an amount of \$50,000 in lieu of the required bond.

1. Alternate security may be offered only by:

a. pledging of certificates of deposit or other similar negotiable instruments; or

b. filing of an irrevocable letter of credit, which shall be non-cancelable for a period of one year; or

c. securing a first mortgage on immovable property which is located in Louisiana and which has an appraised value of at least 150 percent of the amount of the bond. The appraisal shall be made by an independent appraiser jointly designated by the commission and the applicant. The applicant shall provide a title insurance policy issued by a company authorized to do business in Louisiana in the amount of the required bond with the commission being an insured under the policy. The applicant shall pay all fees involved in providing such security.

2. All alternate security instruments shall be assigned to the commission and will be maintained in the commission's office in Baton Rouge. Holders of certificates of deposit will continue to draw interest thereon.

3. Whenever any grain dealer ceases to operate as a licensed grain dealer, alternate security filed in lieu of the required bond shall be retained by the commission:

a. until public notice, as herein required, is made; and

b. until completion of a final audit, which final audit shall be completed in not more than 120 days. Public notice of the commission's intent to release alternate security shall be made by publication in a newspaper of general circulation in the area where the licensee is located as follows:

i. if there is a daily newspaper in the area, such notice shall be published at least three times, beginning at least 15 days prior to the date on which the commission will release the alternate security;

ii. if there is no daily newspaper in the area, such notice shall be published in a weekly newspaper and shall be published once each week for the three weeks preceding the date on which the commission will release the alternate security.

4. Alternate security offered in lieu of the required bond is subject to the approval of the commission and shall be approved prior to issuance of the license.

I. The applicant shall demonstrate a net worth which is reasonably sufficient to assure its ability to meet its obligations to producers. The commission shall be the final judge of the sufficiency of each applicant's net worth.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405 and R.S. 3:3411.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Agricultural Commodities Commission, LR 9:301

(May 1983), amended LR 10:75 (February 1984), LR 12:287 (May 1986), LR 35:2311 (November 2009), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:502 (February 2011).

§125. Risk Position Requirements

A. Each grain dealer shall achieve and maintain a relatively even hedge position within no more than three business days after deposit of agricultural commodities by producer. Relatively even hedge position means that the grain dealer has entered into contracts to buy or sell commodities which are roughly equal in value to the amount of the dealer's outstanding obligations to producers.

B. Whenever a grain dealer's risk position is brought to market, its loss potential shall never exceed 30 percent of the grain dealer's current net worth. No grain dealer may maintain a risk position in excess of 30 percent of its current net worth, provided that the commission may specify a lower maximum risk position for any grain dealer in an amount having a reasonable relationship to that grain dealer's current net worth.

C. The commission may require a lower maximum risk position on any grain dealer by the following procedures.

1. The commission shall notify the grain dealer that a public hearing will be held, within five days after notice, to establish for such grain dealer a requirement that its risk position will be less than 30 percent of its current net worth.

2. The grain dealer may appear on its own behalf or may be represented by counsel at the hearing, and may show cause why such lower maximum risk position shall not be established for such grain dealer.

3. The commission may require the submission of interim financial statements in order to make a final determination with respect to establishment of a lower risk position requirement for such grain dealer.

4. The commission shall make a determination at the public hearing and shall establish an exact risk position as a percentage of current net worth for such grain dealer. Written notice of the lower risk position requirement shall be given by the director immediately following such public hearing.

D. Any grain dealer who does not adhere to the risk position requirement imposed for such grain dealer by the commission shall be subject to the penalties set forth in §149 of this Part.

E. Any grain dealer whose risk position is established by the commission at less than 30 percent of its net worth may request reconsideration of the established risk position whenever its financial position changes. Such request shall be made in writing, setting forth the reasons therefore, and the commission shall consider the request at the next regularly scheduled quarterly meeting following receipt of such request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405 and R.S. 3:3413.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:302 (May 1983), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 19:1301 (October 1993), amended by the Department of Agriculture and

Forestry, Agricultural Commodities Commission, LR 37:503 (February 2011).

Subchapter E. Assessments and Fees

§127. Assessments: Amount, Time of Payment, Payment under Special Conditions

A. Assessments shall be due and payable from the producer at the first point of sale as defined in §101 of this Part.

B. Each grain dealer shall deduct the assessments set forth in this rule and in R.S. 3:3422 from the proceeds to be paid to producers at the time of sale of commodities.

C. Assessments on commodities normally weighed by hundredweight and on commodities normally weighed by bushels shall be as set forth in R.S. 3:3422. The weight of commodities normally weighed in barrels shall be converted to bushels by multiplying the barrel weight by 3.6.

D. Rates of Assessments

1. Assessments on regulated commodities listed in §105 of this Part shall be at rates comparable to the rates set forth in §127.E of this Part. The exact assessment on each commodity shall be promulgated in the *Louisiana Register* and when so promulgated shall remain in full force and effect until changed by subsequent promulgation in the *Louisiana Register*. Such assessments may be collected as soon as promulgated in the *Louisiana Register* and shall be collected in the same manner as the assessments listed in §127.C of this Part.

2. Rates of assessments to be levied at the first point of sale of agricultural commodities.

Rough Rice	\$.01 per hundredweight
Corn	\$0.007 per bushel
Soybeans	\$0.007 per bushel
Oats	\$0.007 per bushel
Sorghum	\$0.007 per bushel
Wheat	\$0.007 per bushel
Cotton	\$0.10 per bale

3. All assessments collected by licensees of the commission shall be remitted to the commissioner, together with the report form required by the commission, no later than the fifteenth day of the month following the month in which the assessments are collected.

4. The above assessments shall remain in effect until changed by the commission.

E. Each cotton merchant, grain dealer and warehouse shall remit all assessments withheld from producers, or otherwise due under this rule, together with a report on the form provided by the commission, to the commissioner no later than the fifteenth day of each month.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:303 (May 1983), amended LR 9:459 (July 1983), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 19:1301 (October 1993), repromulgated LR 20:154 (February 1994), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:503 (February 2011).

§128. Fees: Amount, Time of Payment

A. Fees are due and payable upon the receipt of an invoice from the department. A late payment shall be assessed for all invoices paid after 30 days from the date of the invoice. The amount which shall be assessed shall be 10 percent of the outstanding balance.

B. Applicable fees shall be charged for each request for the department to provide official inspection service or weighing service.

C. Schedule of Fees

1. The regular hours shall be 8 a.m. to 4:30 p.m., Monday through Friday, except legal holidays and declared half-holidays. All hours worked, that are not regular hours, shall be considered as overtime. Legal holidays and half-holidays shall be those legal holidays designated by the legislature in R.S. 1:55(B) and any other time declared to be a holiday or half-holiday by the governor of Louisiana in accordance with R.S. 1:55.

2. The hourly rate shall be \$26 per hour, including travel time. Overtime hours shall be billed at one and one-half times the hourly rate and shall be assessed in half-hour increments.

3. Mileage shall be billed at the IRS standard mileage rate and applicable hourly rate for actual miles traveled from nearest inspection point. Changes to the mileage rate shall be effective when the IRS changes their standard mileage rate.

4. Official Services (including sampling except as indicated)

Online D/T sampling inspection service (sampling, grading and certification), per regular hour	\$26
Overtime hourly rate, per hour	\$39
Unit Inspection Fees:	
Aflatoxin Testing, per sample	\$30
Rail Car, per car	\$20.50
Truck/Trailer, per carrier	\$10
Barge, per 1,000 bushels	\$2.60
Submitted sample inspection	\$12.30
Re-inspection grain sample	\$15
Rail Car (per sample)	\$10.30
Truck/Trailer (per sample)	\$5.30
Barge (per sample)	\$25.30
Starlink TM (if applicant supplies kit), per test	\$6
Starlink TM (if LDAF provides kit), per test	\$12
Factor only determination, per factor (not to exceed full grade fee)	\$5.20
Probe Sampling Barge (per barge)	\$100
On-Line Sampling Barge (per hour)	\$20

D. Moisture Meter Registration and Inspection Fee

1. A registration fee of \$20 per meter and an inspection fee of \$40 per meter to shall be paid by the owner or user of every moisture measuring device used or held for use at any commercial facility which receives, holds, dries, stores, mills, processes or otherwise deals in agricultural commodities in the state, when such use or intended use is for the purpose of determining discounts or other price variances in connection with the purchase or sale of such commodity, said Each moisture meter device shall be registered with the Louisiana Department of Agriculture and Forestry.

2. Registration shall be required on or before May 15 of each year or within five business days of acquisition of new or additional unregistered moisture measuring devices

for the purpose set forth in Paragraph 1 of this Section. Registration forms shall be provided by the department and shall state the name and address of the commercial facility which owns or uses the device, the number of devices used and held for use, the brand name(s) of the device(s), and such other information as may be deemed necessary to carry out the provisions of this Subchapter.

3. A moisture measuring device shall be deemed defective when an inspector determines after an inspection and testing that:

a. the moisture measuring device varies in tolerance in excess of one-half of one per cent with the testing device used by the inspector; or

b. the commercial facility does not have available the latest charts and calibration data for the type of commodity being tested; or

c. the facility does not have available accurate and proper scales and thermometers for use in conjunction with the type of moisture measuring device being used.

4.a. A moisture measuring device which is determined to be defective and which the defect cannot be immediately corrected shall be tagged in such a manner as to warn the public that the device is not in compliance with the law.

b. Notice shall be conspicuously posted indicating that a moisture measuring device has been deemed defective and the percentage by which the device has been determined to be out of tolerance.

5. Moisture measuring devices which have been registered and inspected and which have not been found defective shall bear an official tag or sticker from the department, placed on the devices by the inspector in such a manner as to be readily visible, bearing the year of inspection. Such tags or stickers shall be nontransferable.

6. All non-National Type Evaluation Program (NTEP) approved moisture measuring devices registered prior to May 15, 2010 shall be deemed suitable for use. In the event a non-NTEP moisture measuring device is deemed defective after May 15, 2010, it shall be taken out of service and replaced with an NTEP approved device.

7. Notwithstanding §128.D of this Part, all moisture measuring devices shall be NTEP approved devices.

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), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:504 (February 2011).

Subchapter F. Scale Tickets

§129. Scale Tickets: Filing, Contents, Maintenance in Records

A. Immediately upon deposit with a licensed warehouse or a licensed grain dealer of any agricultural commodity or farm product regulated under R.S. 3:3401-3425, the warehouse or grain dealer shall issue a scale ticket to the depositor which conforms to the requirements of this rule. Warehouses licensed under the U.S. Warehouse Act may use scale tickets approved by the federal licensing agency.

B. Each scale ticket shall contain the following information:

1. name and location of the licensed warehouse or grain dealer;
2. name and other information sufficient to identify the owner of the agricultural commodities or farm products;
3. the type, quantity, and grade (or applicable grade factors) necessary to determine the net value of the commodity received;
4. date the commodity was deposited in the warehouse or grain dealer's custody;
5. one of the following, as appropriate:
 - a. if the commodity is deposited on a spot basis, the words spot or spot sale, and when so marked the scale ticket shall serve as written confirmation of the sale;
 - b. if the commodity is deposited for any type of storage, including open storage, the word storage;
 - c. if the commodity is deposited for contract, the word contract;
6. such other terms as may be agreed upon between the depositor and the warehouse operator or grain dealer.

C. Scale tickets shall be sequentially pre-numbered and shall be issued to depositors in numerical order. Different scale ticket books may be used for different scales.

D. Each scale ticket shall consist of an original and at least one copy. The original or a copy of the scale ticket shall be maintained in numerical order in the licensee's records and shall be available for examination by the commission at all times.

E. Whenever a scale ticket is voided, all copies shall be so marked, dated, and signed by an authorized agent of the warehouse or grain dealer, and all copies of the voided scale ticket shall be maintained in the warehouse or grain dealer's records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405 and R.S. 3:3415, R.S. 3:3419.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Agricultural Commodities Commission, LR 9:304 (May 1983), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:504 (February 2011).

Subchapter G. Warehouse Receipts

§131. Warehouse Receipts: Completion; Issuance; Open Storage; Cessation of Business; Other Applicable Laws; Cancellation of Receipts; Company-Owned Commodities; Form of Non-negotiable Receipts

A. A licensee may issue warehouse receipts by use of a paper warehouse receipt system, an electronic warehouse receipt system, or both.

B. Except as herein provided, all warehouses shall use paper or electronic sequentially numbered warehouse receipts.

C. Warehouses licensed under the U.S. Warehouse Act may use receipt forms approved by the federal licensing agency.

D. Issuance of Receipts

1. Each warehouse shall, on demand, issue a warehouse receipt for stored agricultural commodities or farm products.

2. No warehouse shall issue a warehouse receipt covering commodities which are already covered by an

outstanding and uncanceled warehouse receipt, except as provided by §133.D of this Part.

3. No warehouse may issue a warehouse receipt covering commodities which are not actually stored in the warehouse.

E. All spaces on the warehouse receipt shall be filled in with appropriate information or crossed out (xxxxx).

F. Warehouse receipts may be signed only by authorized agents of the warehouse.

G. Open Storage

1. A warehouse which has commodities under open storage shall, in all cases when such commodities are not physically stored in its facilities (i.e., forwarded), be able to produce or secure a warehouse receipt from the warehouse to which such commodities were forwarded. The physical whereabouts of all agricultural commodities in open storage are subject to verification by the commission.

H. Delivery of Commodities Covered by Warehouse Receipt or Scale Ticket Marked for Storage

1. The holder of a warehouse receipt or a scale ticket marked for storage may request delivery of the agricultural commodities, or any portion thereof, at any time.

2. When the depositor of agricultural commodities removes such commodities from storage, the warehouse shall deliver to the depositor commodities of the same quantity and grade as designated on the warehouse receipt or scale ticket marked for storage.

3. The warehouse shall, without unnecessary delay, deliver any agricultural commodities or farm products stored therein upon demand by the holder of a warehouse receipt or scale ticket marked for storage upon the following conditions:

a. full payment of all amounts owed to the warehouse;

b. surrender of the warehouse receipt, if negotiable, for cancellation.

I. Cancellation of Warehouse Receipt

1. When commodities or farm products are removed from storage, the warehouse shall promptly and plainly cancel the warehouse receipt covering such commodities or farm products.

2. No warehouse receipt shall be canceled unless:

a. the commodities have been removed from storage, by sale or otherwise; or

b. a new warehouse receipt has been issued to replace a lost or destroyed warehouse receipt, as provided under §133.D of this Part.

J. Warehouse Receipt on Company-Owned Commodities

1. A warehouse may issue and hold a warehouse receipt for commodities which are company-owned, in whole or in part, and stored in the warehouse, provided that such warehouse receipts are subject to all requirements of the regulations contained in this Part.

K. Non-Negotiable Warehouse Receipts

1. Each person to whom a non-negotiable warehouse receipt is issued shall furnish the warehouse with a written statement naming persons having power to authorize delivery of the commodity covered by the non-negotiable warehouse receipt, together with a bona fide signature of such person. The warehouse shall not release the commodity

except to persons so authorized by the owner of the commodities or farm products.

2. The warehouse may release a portion of the commodities or farm products covered by a non-negotiable warehouse receipt, upon presentation of authorization as above required, but may not release all of the commodities covered by a non-negotiable warehouse receipt until such time as the non-negotiable warehouse receipt is returned and canceled.

L. Cessation of Business

1. Whenever any warehouse ceases to operate as a licensed warehouse, for any reason, the warehouse shall satisfy all outstanding obligations to producers and all outstanding warehouse receipts shall be canceled. The requirement for cancellation does not, however, apply when the warehouse is unable, for any reason, to satisfy obligations to producers.

M. Other Applicable Laws

1. In any circumstances surrounding the issuance of warehouse receipts which are not covered by R.S. 3:3401-3425 or the regulations contained in this Part, Chapter 7 of Title 10 of the Louisiana Revised Statutes of 1950 shall control.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405, R.S. 3:3416, R.S. 3:3417 and R.S. 3:3418.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:305 (May 1983), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:505 (February 2011).

§133. Paper Warehouse Receipts: Required Form; Issuance; Partial Delivery; Duplicate Receipts; Non-Negotiable Receipts

A. Except as herein provided, all paper warehouse receipts shall only be sequentially pre-numbered warehouse receipts on forms furnished by the commission.

B. Agents of the commission shall note the issuance of all partial releases, by number of each such partial release, on the original receipt.

C. Whenever a warehouse receipt is voided, all copies shall be so marked, dated, and signed by an authorized agent of the warehouse; the green and yellow copies of the voided receipt shall be maintained in proper sequence in the warehouse's receipt records and the pink copy shall be mailed to the commission on the day voided.

D. Issuance of Duplicate Negotiable Warehouse Receipt

1. If a negotiable warehouse receipt is lost or destroyed, the warehouse shall notify the commission of such loss or destruction prior to issuance of a duplicate warehouse receipt. A duplicate warehouse receipt replacing a lost or destroyed negotiable warehouse receipt may be issued by the warehouse only upon the written authorization of the commission.

2. Before authorizing issuance of a duplicate negotiable warehouse receipt, the commission shall require that the person applying for authority to issue the duplicate warehouse receipt shall file with the commission a notarized statement that:

- a. the applicant is lawfully entitled to possession of the duplicate warehouse receipt;
- b. the applicant has not negotiated or assigned the lost or destroyed warehouse receipt; and
- c. reports how the original was lost or destroyed.

3. A duplicate negotiable warehouse receipt issued to replace a lost or destroyed receipt shall:

- a. be marked duplicate;
- b. be distributed as required under §131.C of this Part;
- c. contain the same terms and conditions as the lost or destroyed warehouse receipt; and
- d. bear on its face the number and date of the warehouse receipt which it replaces.

2. The warehouse shall retain both the green and the yellow copies of canceled warehouse receipts in numerical order in the warehouse records for a period of at least three years after date of cancellation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405, R.S. 3:3416, R.S. 3:3417 and R.S. 3:3418.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:306 (May 1983), amended LR 11:229 (March 1985), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 19:1302 (October 1993), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:506 (February 2011).

§134. Electronic Warehouse Receipts (EWR): Validity; Format; Issuance; Rights and Obligations; Printing; Records Retained; Duplicates

A. The issuance and transfer of warehouse receipts in electronic form are specifically authorized by this Part. Any such warehouse receipts shall have the same validity and enforceability, for all purposes, as those in paper form.

B. An EWR shall be in the format prescribed in the applicable provider agreement.

C. An EWR issued in accordance with the R.S. 3:3401-3425 shall not be denied legal effect, validity, or enforceability on the grounds that the information is generated, sent, received or stored by electronic or similar means.

D. A warehouse shall not be required to issue a warehouse receipt in electronic form.

E. If a warehouse licensed under R.S. 3:3401-3425 elects to issue EWRs, and if the depositor or other holder prefers a paper receipt, the warehouse shall cancel the EWR and issue a paper receipt.

F. A warehouse operator intending to issue or issuing EWRs under the R.S. 3:3401-3425 shall:

1. issue an EWR through only one authorized provider annually;
2. inform the department of the identity of its provider 60 calendar days in advance of first issuing an EWR through that provider. The department may waive or modify this 60-day requirement;
3. before issuing an EWR, request and receive from the department a range of consecutive warehouse receipt numbers that the warehouse will use consecutively for issuing their EWRs;
4. cancel an EWR only when it is the holder of the EWR;
5. receive written authorization from the department at least 30 calendar days before changing providers. Upon authorization, a warehouse may request its current provider to transfer, and that provider shall transfer, its EWR data from the current provider's CFS to the CFS of the authorized provider it selects;

6. notify all holders of EWRs in the CFS at least 30 calendar days before changing providers, unless otherwise allowed or required by FSA; and

7. for purposes of §134.F.4 of this Part, the warehouse is considered a "holder" solely for the purpose of canceling an electronic warehouse receipt on the electronic warehouse receipt system and the warehouse shall in no way be considered the owner of the grain that was covered by the canceled electronic warehouse receipt, absent evidence of sale of that grain to the warehouse.

G. EWR Rights and Obligations. An EWR establishes the same rights and obligations with respect to an agricultural product as a paper warehouse receipt and possesses the following attributes.

1. The holder of an EWR will be entitled to the same rights and privileges as the holders of a paper warehouse receipt.

2. Only the current holder of the EWR may transfer the EWR to a new holder.

3. The identity of the holder shall be kept confidential by the provider.

4. Only one person may be designated as the holder of an EWR at any one time.

5. A warehouse operator may not issue an EWR on a specific identity-preserved or commingled lot of grain or any portion thereof while another valid warehouse receipt representing the same specific identity-preserved or commingled lot of grain remains not canceled. No two warehouse receipts issued by a warehouse may have the same warehouse receipt number or represent the same lot of grain.

6. Holders and warehouse operators may authorize any other user of their provider to act on their behalf with respect to their activities with this provider. This authorization shall be in writing and acknowledged and retained by the warehouse and provider.

H. Printing

1. Electronic warehouse receipts may be printed by a person authorized by the department. The department shall authorize persons to print warehouse receipts if they are printed in accordance with R.S. 3:3401-3425 and the regulations contained in this Part.

2. All electronic warehouse receipts shall be:

a. printed only for licensee;

b. numbered consecutively either at the time of printing or through the control of a computer generated system, and the numbers shall not be duplicated.

I. A complete record of receipts printed shall be retained by the person printing them for five years, showing for whom printed, the number printed, and the consecutive numbers that were printed on the receipts.

J. A duplicate copy of any invoice rendered for printing warehouse receipts shall be forwarded by the person printing them to the department at the same time as billing is made to the warehouse. The invoice shall show for whom printed, the consecutive numbers that were printed on the receipts, type of receipt (whether negotiable or non-negotiable), and number of receipts printed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405, R.S. 3:3416, R.S. 3:3417 and R.S. 3:3418.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services,

Agricultural Commodities Commission, LR 37:506 (February 2011).

Subchapter H. Grading; Sampling; Out-of-Condition Commodities

§135. Elevators: Official Grades and Sampling

A. All agricultural commodities shall be graded and sampled in accordance with official USDA grading standards, as detailed in The Official United States Standards for Grain handbook.

B. Procedures that result in equivalent results to USDA procedures are acceptable.

C. Requirements for Certification as an Elevator Grain Sampler and/or Grader

1. All persons interested in being certified to grade or sample grain for an elevator shall submit an application on a form which shall be provided by the commission.

2. All applicants shall pass an examination which shall be given by the department. The examination fee shall be \$5 and shall be submitted with the application. If the applicant successfully completes the examination, he will be required to pay a \$25 fee in order to be certified.

3. Each person that has been certified and whose certification has not been revoked or suspended may renew that certification by submitting an application to renew with a fee of \$25.

4. All certifications shall expire on December 31 of each year and shall be renewed annually.

D. One elevator representative may be certified as grader and sampler as long as the representative is responsible for subordinate graders and samplers.

E. The commission shall be required to provide each grain dealer with a copy of all changes to USDA standards prior to the effective date of such changes.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:309 (May 1983), amended LR 12:288 (May 1986), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:507 (February 2011).

§136. State Official Grain Inspections

A. Standards established in *Regulations Under the United States Grain Standard Act, As Amended*, USDA, Federal Grain Inspection Service (CFR, Title 7, Chapter VIII, Pt. 800 (Section 800.0 to 800.219), 801 (Section 801.1-801.12), 802 (Section 802.0 to 802.13), and 810 (Section 810.201 to 810.555), shall apply to all Department of Agriculture and Forestry grain inspections.

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

HISTORICAL NOTE: Promulgated by the Louisiana Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 12:288 (May 1986), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:507 (February 2011).

§137. Out-of-Condition Commodities

A. If a warehouse operator has reason to believe that any identity-preserved commodities are out-of-condition, or are becoming out-of-condition, he shall give immediate notice of such fact to the director of the commission and to the owner of the commodities.

B. The director shall immediately send a representative to the warehouse to determine whether out-of-condition commodities shall be cleaned, at the cost of the warehouse, or disposed of as the law permits and the circumstances require.

C. The storer of such commodities shall notify the warehouse operator, within 24 hours after receipt of notice, of the disposition to be made of such commodities. If the storer of the commodities fails to make such notice to the warehouse operator, the warehouse operator may dispose of the commodities as authorized by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:309 (May 1983), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:507 (February 2011).

Subchapter I. Records and Reports

§141. Records Required to be Maintained

A. Each grain dealer, cotton merchant and warehouse shall maintain the following records, when applicable to the commodity stored or traded, on a current basis in the company's principal office in this state at all times:

1. current financial statement;
2. bank statements;
3. bank reconciliations;
4. broker's statements;
5. current listing of unpriced commodities;
6. sequential record of all scale tickets;
7. sequential record of all warehouse receipts;
8. settlement or distribution sheets;
9. weight sheets;
10. perpetual inventory record;
11. insurance file, including copies of monthly reports to the carrier;
12. record of all assessments collected and remitted;
13. copies of all outstanding contracts;
14. copies of all outstanding notes and mortgages affecting the business;
15. a sample of each lot of grain which contains damage in excess of 7 1/2 percent shall be:
 - a. maintained for five days from the original grade date; and
 - b. maintained in separate containers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405, R.S. 3:3419 and R.S. 3:3414.3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:309 (May 1983), amended LR 12:288 (May 1986), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:625 (April 1998), LR 35:2311 (November 2009), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:508 (February 2011).

§143. Reports Required

A. Each cotton merchant, grain dealer and warehouse shall file a report of assessments collected from producers, on the form provided by the commission, and remit such assessments to the commissioner no later than the fifteenth day of each month. The assessment report shall be filed each month whether or not any assessments were collected during the month.

B. No later than the fifteenth day of each month, each warehouse shall file a copy of his daily inventory report for the preceding month with the commission.

1. The reports shall be filed on forms provided by the commission.

2. The commission may accept computer print-outs containing the same information as required by the commission's form.

3. The commission may accept any report in substantially the same form which is prepared as a result of any federal requirement in lieu of the report on the commission's form.

C. Subsequent to initial licensure under R.S. 3:3401-3425, each cotton merchant, grain dealer and warehouse shall file a financial statement, containing all of the information required under §107.B of this Part, no later than 90 days after the last day of the warehouse's or grain dealer's fiscal year.

D. Each cotton merchant, grain dealer and warehouse shall file such unaudited financial statements as and when required by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405, R.S. 3:3419 and R.S. 3:3422.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:310 (May 1983), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 19:1302 (October 1993), LR 35:2311 (November 2009), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:508 (February 2011).

Subchapter J. Access Requirements

§145. Access Requirements

A. Each licensee shall permit any officer or authorized representative of the commission or the commissioner to enter all locations listed on the application for license and inspect, examine, and/or audit all contents, facilities, equipment, records, books, accounts, samples, and grading and sampling practices relating thereto at any time during normal working hours, with or without notice.

B. The warehouse operator, cotton merchant, or grain dealer shall provide the necessary assistance required for any inspection, examination, and/or audit made in accordance with R.S. 3:3401-3425.

C. Each licensee having physical custody of commodities shall permit any authorized representative of the commission or the commissioner to sample commodities at any time during normal business hours.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405, R.S. 3:3414.3 and R.S. 3:3419.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:310 (May 1983), amended LR 12:288 (May 1986), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:625 (April 1998), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:508 (February 2011).

§Subchapter K. Posting Requirements

§147. Posting Requirements

A. Each grain dealer and cotton merchant shall post its original license issued by the commission in a conspicuous location at its principal place of business. A copy of the

license shall be posted at all other locations covered by the license.

B. Each warehouse location shall post its original license issued by the commission so that it is clearly visible at the main entrance to the warehouse. When only a portion of a location is licensed by the commission, that portion licensed by the commission shall be clearly marked.

C. The warehouse schedule of tariffs or charges shall be posted in a conspicuous location at each location.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405, R.S. 3:3409, R.S. 3:3411 and R.S. 3:3420.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:311 (May 1983), amended LR 11:229 (March 1985), LR 12:287 (May 1986), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:508 (February 2011).

Subchapter L. Suspension/Revocation of License; Other Penalties

§149. Adjudication Required Prior to Suspension/Revocation of License or Imposition of Other Penalties; Amount of Penalties; Surrender of License

A. Whenever the chairman has any reason to believe that a violation of R.S. 3:3401-3425 or the regulations contained in this Part has occurred, he shall call a meeting of the commission for the purpose of conducting an adjudicatory hearing to make a determination with respect to the suspected violation.

B. Upon any directive of the chairman, the director shall give written notice to the person suspected of the violation, such notice to comply with the requirements of the Administrative Procedure Act, at least five days prior to the date set for such adjudicatory hearing.

C. At any such adjudicatory hearing, the person suspected of a violation of R.S. 3:3401-3425 or the regulations contained in this Part shall be accorded all of the rights set forth in the Administrative Procedure Act.

D. The commission may suspend or revoke a license for any of the grounds set forth in §109 of this Part, or any other violation of R.S. 3:3401-3425 or the regulations contained in this Part, whenever proof thereof is made at any adjudicatory proceeding noticed and conducted as required by the Administrative Procedure Act.

E. Whenever the commission makes a determination at an adjudicatory hearing that any violation of R.S. 3:3401-3425 or the regulations contained in this Part has occurred, the commission may:

1. suspend or revoke the license;
2. impose a monetary fine;
3. place licensee on probation.

F. Any suspension of a license shall be for a definite period of time and the licensee shall be informed in writing of the period of suspension.

G. The commission may impose a penalty of up to \$1,000 for each violation of R.S. 3:3401-3425 or the regulations contained in this Part which is proven in an adjudicatory hearing.

H. Each separate day on which a violation occurs shall be considered a separate violation.

I. Whenever the commission suspends or revokes a warehouse, cotton merchant, or grain dealer license, the

former licensee shall immediately surrender the original and all copies of the license.

J. No person whose license has been suspended or revoked may engage in any of the activities regulated under R.S. 3:3401-3425.

K. Any licensee may appeal any action taken by the commission to suspend/revoke a license or impose a monetary penalty by either:

1. applying for a rehearing under the procedures provided in the Administrative Procedure Act; or

2. applying for judicial review of the commission's determination, under either the Administrative Procedure Act or other applicable laws.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405, R.S. 3:3410, R.S. 3:3411, R.S. 3:3417 and R.S. 3:3424.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:311 (May 1983), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 12:288 (May 1986), LR 19:1303 (October 1993), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:625 (April 1998), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:509 (February 2011).

Subchapter M. Schedule of Inspections; Voluntary Inspection

§151. Inspection of Physical Facilities and Contents; Schedule

A. A complete inspection of the physical facilities and the contents thereof shall be made of each licensee at least once during each license period, but may be made more frequently. Such inspection of facilities and contents may or may not be made in conjunction with an audit of the licensee's books and records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405 and R.S. 3:3406.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:312 (May 1983), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:509 (February 2011).

§153. Voluntary Inspection Service

A. Warehouses which require more frequent inspection and verification of contents, for whatever reason, may secure such services by making an application to the commission.

B. Voluntary inspection of facilities and contents, and verification thereof, on a schedule which shall be mutually agreed upon between the warehouse applying for voluntary inspection services and the commissioner, shall be made for a fee of \$0.01 per hundredweight for commodities normally weighed by hundredweight, \$.007 per bushel (or barrel weight converted to bushels as provided by R.S. 3:3422 and §127.C of this Part) for commodities normally weighed by bushel, or such other fee as may be promulgated by the commission as an assessment fee on other agricultural commodities or farm products.

C. The fee for voluntary inspection services shall be due and payable within 15 days after each inspection is completed.

D. The total fee for each voluntary inspection of facilities and contents shall be determined by multiplying the total amount of commodities under warehouse receipt at the time

of voluntary inspection services times the fee set forth in §153.B of this Part.

E. The minimum inspection fee applicable to voluntary inspection services, when performed for any licensee of the commission, shall be \$100.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:312 (May 1983), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 19:1303 (October 1993), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:509 (February 2011).

Subchapter N. Exemptions

§155. Exemptions

A. The regulations contained in this Part shall not apply to the following:

1. cold storage facilities;
2. facilities which store only commodities which are imported from outside the boundaries of the continental United States;
3. seed dealers licensed under R.S. 3:1431 et seq., who store seed for producers, which is identifiable on the bag and in the seed dealer's records as to the owner thereof, but who do not engage in any other activities regulated under R.S. 3:3401-3425. This exemption does not apply to seed dealers who issue warehouse receipts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3425 and R.S. 3:3405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:313 (May 1983), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:510 (February 2011).

Subchapter O. Grain and Cotton Indemnity Fund

§191. Creation

A. The Grain and Cotton Indemnity Fund is hereby created pursuant to R.S. 3:3410.2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3410.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 35:629 (April 2009), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:510 (February 2011).

§193. Definitions

A. The following words and terms are defined for purposes of this Subchapter and supplement the words and terms defined in §101 of this Part.

Claimant—a producer, as defined in §101 of this Part.

Fund—the Grain and Cotton Indemnity Fund.

Insolvency—the inability of a licensee to meet debts or discharge liabilities.

Licensee—for purposes of this Subchapter only, a *Licensee* is a cotton merchant as defined in R.S. 3:3402(6) or a grain dealer as defined in R.S. 3:3402(10).

Value of Commodity—the quoted price plus or minus premiums or discounts such as moisture and quality factors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3410.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services,

Agricultural Commodities Commission, LR 35:629 (April 2009), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:510 (February 2011).

§195. Purpose

A. Upon the insolvency of a licensee, the fund shall be used to reimburse a producer who has not otherwise been fully compensated for grain or cotton sold to the licensee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3410.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 35:629 (April 2009), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:510 (February 2011).

§197. Assessments

A. The commission shall charge an assessment at the rate of 1/25 of one percent on the value of all agricultural commodities regulated under this Chapter which are purchased by grain dealers and cotton merchants licensed in this state.

B. The assessments shall be levied only on commodities which are grown in Louisiana and that are regulated by the commission.

C. The assessments shall be due and payable to the commission by the licensee at the first point of sale, except as otherwise provided for under §199 of this Part.

D. The assessments shall be due to the commission on a monthly basis.

E. Each grain dealer and cotton merchant shall send a completed copy of the Louisiana Grain and Cotton Indemnity Fund Monthly Assessment Report (supplied by the commission) and assessment to the commission by the fifteenth of each month for the preceding month.

F. In the event no assessments are collected by the licensee, the licensee shall still submit a report each month to the commission on the approved form.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3410.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 35:629 (April 2009), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:510 (February 2011).

§199. Cotton Merchants Operating on a Cooperative Basis

A. Cotton merchants operating on a cooperative basis shall pay the assessment rate of 1/25 of one percent of the value of the commodity at the time of each payment, including any initial advance payment, progress payments and final payment to its members as proceeds of the crop.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3410.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 35:629 (April 2009), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:510 (February 2011).

§201. Claim Provisions

A. The monies in the Grain and Cotton Indemnity Fund shall be used solely for the administration and operation of the fund.

B. Any claimant who wishes to assert a claim shall provide, under oath, written and notarized proof of a loss covered by this fund within 60 days of the loss.

C. A written claim shall include all of the following information:

1. name and address of claimant;
2. name of the licensee against whom claimant is asserting a loss;
3. nature of the relationship and transaction between claimant and licensee;
4. the date of the loss which shall be defined as the date on which the claimant knew or should have known that a loss had occurred;
5. the amount of the loss and how calculated;
6. a concise explanation of the circumstances that precipitated the loss;
7. copies of those documents relied upon by claimant as proof of said loss.

D. Failure to furnish such proof of loss within the required time shall not invalidate nor reduce the claim if it was not reasonably possible to give proof within such time, provided such proof is furnished as soon as reasonably possible.

E. Upon receipt of a proof of loss, the commission shall review the claim to determine whether it is covered under the program. The burden of proof to establish the loss shall be upon the claimant.

F. Once proof of loss has been filed against a licensee, the commission may make a complete inspection of the licensee's physical facilities and the contents thereof, as well as an examination of all books and records of the licensee and/or claimant, subject to the confidentiality requirements of R.S. 3:3421.

G. Once proof of loss has been filed against a licensee, any other claimants alleging a loss caused by said licensee shall have a period of 60 days within which to post and thereby file a written claim.

H. The said 60 day period shall begin to run upon publication by the commission of the notice of claim in the official local journal for legal notices, or the print publication with the highest circulation in the area serviced by the licensee.

I. If claims for indemnity payments from the fund exceed the amount in the fund, the commission shall prorate the claims and pay the prorated amounts. As future assessments are collected, the commission shall continue to forward indemnity payments to each eligible person until the person receives the maximum amount payable in accordance with this Subchapter.

J. Distributions from the fund shall be made on a periodic basis as deemed necessary by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3410.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 35:630 (April 2009), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:510 (February 2011).

§203. Distribution of Funds for Claims from Prior Insolvency

A. Any claimant who wishes to assert a claim against a licensee who became or becomes insolvent after January 1,

2008, but before the promulgation of these rules shall provide, under oath, written and notarized proof of a loss covered by this fund within 30 days of notification of claim process.

B. A written claim shall include all of the following information:

1. name and address of claimant;
2. name of the licensee against whom claimant is asserting a loss;
3. nature of the relationship and transaction between claimant and licensee;
4. the date of the loss which shall be defined as the date on which the claimant knew or should have known that a loss had occurred;
5. the amount of the loss and how calculated;
6. a concise explanation of the circumstances that precipitated the loss;
7. copies of those documents relied upon by claimant as proof of said loss.

C. Upon receipt of proof of loss, the commission shall review the claim to determine whether it is covered under the program. The burden of proof to establish the loss shall be upon the claimant.

D. The said 30 day period shall begin to run upon publication by the commission of the notice of claim process in the official local journal for legal notices or the print publication with the highest circulation in the area serviced by the licensee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3410.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 35:630 (April 2009), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:511 (February 2011).

§205. Appeal Procedure

A. Any decision of the commission to deny or grant a claim for payment from the fund may be appealed to the commission by the licensee or claimant by seeking an adjudicatory hearing to have said decision reconsidered by the commission in accordance with Chapter 13 of Title 49 of the Louisiana Revised Statutes, as well as all subsequent appeals therefrom, provided said appellant files with the commission a written notice of appeal within 30 days of the mailing of the decision of the commission to the affected party.

B. The notice of appeal shall contain an expressed statement of each and every basis upon which said appeal is sought and the hearing to consider same shall be limited accordingly.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3410.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 35:630 (April 2009), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:511 (February 2011).

§207. Subrogation

A. When a claim is paid by the commission from the fund, the claimant, by accepting said payment, subrogates his rights to the commission up to the full amount of payment.

B. Any recovery for reimbursement to the fund shall include interest computed at the U.S. Treasury two-year note coupon rate as published in the Wall Street Journal on the date of the claim.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3410.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Louisiana Agricultural Commodities Commission, LR 35:631 (April 2009), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:511 (February 2011).

§209. Reimbursement Limitations

A. When any loss is or may be covered by other insurance or bond, the other insurance or bond is primary and the commission shall require the claimant to exhaust his remedies as to the other insurer before considering the payment of the claim.

B. After all other remedies are exhausted, claimants shall be entitled to recover the full amount of claims filed against the fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3410.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 35:631 (April 2009), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:512 (February 2011).

§211. Pending Litigation or Arbitration; Stay of Claims

A. Where the commission finds that litigation is pending, which could determine whether payment of a claim is due or to whom payment of a claim is due, the claim in question may be stayed until the judgment in said litigation has become final and definitive. The commission shall give notice of the stay to any claimants whose claims have been stayed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3410.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 35:631 (April 2009), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:512 (February 2011).

§213. Violations

A. Providing false information to the commission by a claimant or licensee regarding a claim for reimbursement from the fund is a violation of this Subchapter, if the person providing the information knew or should have known the information was false.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3410.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 35:631 (April 2009), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:512 (February 2011).

§215. Adjudicatory Hearings

A. Findings of violations and imposition of penalties may be made only by a ruling of the commission based upon

an adjudicatory proceeding held in accordance with the provisions of the Administrative Procedure Act.

B. Whenever the commissioner has any reason to believe that a violation of R.S. 3:3410.2, or of any rules and regulations adopted pursuant to this Part has occurred, the commissioner may present the alleged violations to the commission for a determination.

C. A hearing officer shall be appointed by the office of the attorney general to preside over the hearing.

D. Notice of the alleged violation, the date of the adjudicatory hearing, and the conduct of discovery shall be as provided in the Administrative Procedure Act.

E. The ruling of the commission shall be in writing and provided to the person charged with the violation, as provided by the Administrative Procedure Act.

F. Any appeal from a ruling of the commission shall be in accordance with the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3410.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 35:631 (April 2009), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:512 (February 2011).

§217. Civil Penalties

A. Any claimant or licensee who has been found in an adjudicatory hearing to be in violation of the provisions of this Subchapter shall be subject to the following civil penalties.

B. Any claimant or licensee who knew or should have known that he was providing the commission with false information regarding a claim may be denied payment of the claim on that basis.

C. Any claimant or licensee who knew or should have known that he was providing the commission with false information regarding a claim, or regarding any other matters pertaining to the fund, shall be subject to a maximum civil penalty of \$1,000 for each violation. Each day the false information is with the commission without correction shall be considered a separate violation.

D. Any licensee who intentionally refuses or fails to collect the assessment or refuses to remit the collected assessment to the commission shall be subject to a maximum civil penalty of \$1,000 for each violation. Each day the assessment is not collected shall be a separate violation. Each day the collected assessment is not remitted to the commission shall be a separate violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3410.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 35:631 (April 2009), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:512 (February 2011).

Mike Strain, DVM
Commissioner

1102#027

RULE

**Department of Children and Family Services
Child Welfare Section
and
Economic Stability and Self-Sufficiency Section**

Daycare Services—Residential Licensing
(LAC 67:III.7303 and 7359)

Editor's Note: Sections 7303 and 7359 are being repromulgated to correct citation errors. This Rule may be viewed in its entirety on pages 2521-2522 of the November 20, 2011 edition of the *Louisiana Register*.

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Department of Child and Family Services (DCFS), has amended rules in the *Louisiana Administrative Code* (LAC) Title 67, Part III, Subpart 21, Chapter 73, Child Day Care Licensing, and LAC Title 67, Part V, Subpart 8, Chapters 67-69 Residential Licensing pursuant to the general rule-making authority of the Department under La. R.S. 46:51 and the specific rule-making authority over child care facilities and child placing agencies granted by the Child Care Facility and Child-Placing Agency Licensing Act, La. R.S. 46:1401-1426.

State licensing regulations for child care facilities and child placing agencies provide for a disqualification period for licensees who have had a prior license revoked for failure to comply with state laws and regulations governing facilities providing out-of-home care for children.

The amendments to Title 67, Part III, Subpart 21, Chapter 73, Child Day Care Licensing, and LAC Title 67, Part V, Subpart 8, Chapters 67-69 propose to clarify the definition of the term "Affiliate."

**Title 67
SOCIAL SERVICES**

Part III. 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. - G.1....

* * *

2. Disqualification of Facility and Provider

a. If a facility's license is revoked or not renewed due to failure to comply with state statutes and licensing rules, the department shall not accept a subsequent application from the provider for that facility or any new facility for a minimum period of two years after the effective date of revocation or non-renewal or a minimum period of two years after all appeal rights have been exhausted, whichever is later (the disqualification period). Any pending application by the same provider shall be treated as an application for a new facility for purposes of this section and shall be denied and subject to the disqualification period. Any subsequent application for a license shall be reviewed by the secretary or their designee prior to a decision being made to grant a license. The department reserves the right to determine, at its sole discretion, whether to issue any subsequent license.

b. - c. ...

d. With respect to an application in connection with the revoked, denied, or not renewed facility, the disqualification period provided in this Section shall include any affiliate of the provider.

H. - H.4. ...

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 36:832 (April 2010), amended by the Department of Children and Family Services, Economic and Self-Sufficiency Section LR 36:2521 (November 2010), LR 36:2880 (December 2010), repromulgated 37:513 (February 2011).

§7359. Procedures

A. - I.1. ...

* * *

2. Disqualification of Facility and Provider

a. If a facility's license is revoked or not renewed due to failure to comply with state statutes and licensing rules, the department shall not accept a subsequent application from the provider for that facility or any new facility for a minimum period of two years after the effective date of revocation or non-renewal or a minimum period of two years after all appeal rights have been exhausted, whichever is later (the disqualification period). Any pending application by the same provider shall be treated as an application for a new facility for purposes of this section and shall be denied and subject to the disqualification period. Any subsequent application for a license shall be reviewed by the secretary or their designee prior to a decision being made to grant a license. The department reserves the right to determine, at its sole discretion, whether to issue any subsequent license.

b. - c. ...

d. With respect to an application in connection with the revoked, denied, or not renewed facility, the disqualification period provided in this Section shall include any affiliate of the provider.

J. - J.4. ...

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 36:833 (April 2010), amended by the Department of Children and Family Services, Economic and Self-Sufficiency Section LR 36:2521 (November 2010), LR 36:2882 (December 2010), repromulgated 37:513 (February 2011).

Ruth Johnson
Secretary

1102#074

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., hereby amends and adopts the following Rules.

Title 13

ECONOMIC DEVELOPMENT

Part I. Financial Incentive Programs

Chapter 35. Retention and Modernization Program

§3503. Definitions

A. ...

B. In this Chapter, the following terms shall have the meaning provided in this Section, unless the context clearly requires otherwise.

* * *

LDEQ—Louisiana Department of Environmental Quality

* * *

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 investment may be either voluntary or mandated by law but 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 such as LDEQ, or by any other reasonable means;

iii. the required efficiency increase includes a “green” option for a facility which affects a 10 percent or greater net reduction in nitrogen oxide (NOx) or volatile organic chemicals (VOC) without any increase in other emission sources from a facility in substantial compliance with its Title V Clean Air Act permit for the five preceding calendar years in which the emission reductions are claimed.

* * *

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 37:514 (February 2011).

§3513. Certification of Tax Credits.

A. Beginning July 31, 2011, employers seeking final certification of tax credits must submit to the department:

1. an audit of qualified expenditures incurred by the employer for modernization, certified by an independent certified public accountant;

a. qualified expenditures that could improve efficiency may include but not be limited to: new automation equipment, computer-driven instrumentation upgrades, NOX or VOC air emission 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. - D. ...

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 37:514 (February 2011).

Kristy Mc Kearn
Undersecretary

1102#058

RULE

**Department of Economic Development
Office of Business Development
Office of Entertainment Industry Development**

Motion Picture Investor Tax Credit Program
(LAC 61:I.1607 and 1613)

The Department of Economic Development, Office of Business Development, Office of Entertainment Industries Development, as authorized by and pursuant to the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and in accordance with R.S. 47:6007, has amended rules and regulations relative to its Motion Picture Investor Tax Credit Program.

Title 61

REVENUE AND TAXATION

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

**Chapter 16. Louisiana Entertainment Industry Tax
Credit Programs**

**Subchapter A. Motion Picture Investor Tax Credit
Program**

§1607. Certification Procedures

A. - D.1.d. ...

2. When requesting final certification of credits, the motion picture production company or

infrastructure project applicant shall submit to the office the following:

a. a cost report, certified by a state licensed, independent certified public accountant and complying with the minimum standards as required by R.S. 47:6007 D (2) (d). The cost report may be subject to additional audit by the department, the division, or the Department of Revenue, at the applicant's expense.

i. Incorrect Reporting. If an applicant submits a cost report required by the provisions of this Chapter and the report made and filed contains material misstatements, including but not limited to misrepresentation in or intentional omission from the cost report of events, transactions, or other significant information there may be cause for an additional audit.

ii. Related Party Transactions. If an audit contains related party transactions in excess of 20 percent of the total expenditures reported in the submitted audit there may be cause for an additional audit.

iii. Reimbursement of Audit Costs. The department may undertake additional audit at the applicant's expense, to be performed by a state certified public accountant also certified in financial forensics or also certified as a fraud examiner. Audit fees will be assessed at the department's contracted fee, with a minimum of \$2,000 and a maximum of \$15,000 fee per audit.

2.b. - E.2.e. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007.

HISTORICAL NOTE: Promulgated by the Division of Administration, the Department of Economic Development, Office of Business Development, and the Office of Entertainment Industry Development, LR 35:55 (January 2010), amended LR 37:514 (February 2011).

§1613 Application of the Tax Credit

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

2. Transfer. Any motion picture investor tax credits not previously claimed by any taxpayer against its income tax may be transferred or sold to another Louisiana taxpayer or to the office, pursuant to R.S. 47:6007(C)(4).

a. A single transfer or sale may involve one or more transferees. Transferors and transferees shall submit to the Office and to the Department of Revenue in writing, a notification of any transfer or sale of tax credits within thirty days after the transfer or sale of such credits and shall include a processing fee of two hundred dollars per transferee.

b. If the investor tax credits (evidenced by a certification letter) are transferred to the office:

i. on and after January 1, 2007, and prior to December 31, 2008 the state shall make payment to the investor at a value of 72 percent of the face-value of the credits;

ii. on January 1, 2009, and every second year thereafter, the percent of the value of the tax credits paid by the state shall increase 2 percent until the percentage reaches 80 percent;

iii. for state certified productions which receive initial certification on or after July 1, 2009, the state shall make payment to the investor at a value of 85 percent of the face-value of the credits.

A.3. - B.6.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007.

HISTORICAL NOTE: Promulgated by the Division of Administration, the Department of Economic Development, Office of Business Development, and the Office of Entertainment Industry Development, LR 35:57 (January 2010), amended LR 37:515 (February 2011).

Kristy McKearn
Undersecretary

1102#056

RULE

Department of Economic Development Office of Business Development Office of Entertainment Industry Development

Louisiana Filmmakers Grant Fund Program
(LAC 61:I.Chapter 16)

The Department of Economic Development, Office of Business Development, Office of Entertainment Industries Development, as authorized by and pursuant to the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and in accordance with R.S. 47:6007, has adopted Rules relative to the newly created Louisiana Filmmakers Grant Program.

Title 61

REVENUE AND TAXATION

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

Chapter 16. Louisiana Entertainment Industry Tax Credit Programs

Subchapter B. Louisiana Filmmakers Grant Fund Program

§1615. Preamble and Purpose

A. The Louisiana Filmmakers Grant Fund Program is vital to support the state's entertainment industry and the state's long-term goals in its master plan for economic development for the State of Louisiana.

B. The purpose of this Chapter is to implement the Louisiana Filmmaker Grants Program as established by R.S. 47:6007.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Office of Business Development, in cooperation with the Office of Entertainment Industry Development, LR 37:515 (February 2011).

§1616. Definitions

Applicant—the entity or natural person requesting a grant award from LED.

Award—funding approved under this program for eligible activities and expenditures.

Award Agreement—that agreement or contract hereinafter referred to between the applicant, and LED, through which, by cooperative endeavor agreement or otherwise, the parties set forth the amount of the award, the terms, conditions and performance objectives of the award provided pursuant to these rules.

Contract—a legally enforceable Award Agreement between LED and the successful applicant governing the terms and the conditions of the award.

LED—Louisiana Department of Economic Development.
Office—Office of Entertainment Industry Development
Program—the Louisiana Filmmakers Grant Fund Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Office of Business Development, in cooperation with the Office of Entertainment Industry Development, LR 37:515 (February 2011).

§1617. General Principles

A. The following general principles will direct the administration of the program.

1. LED shall serve as the administrators for this Program.

2. LED, through the office, in conjunction with a panel of entertainment industry experts, shall serve as the review panel.

3. Awards are not to be construed as an entitlement and such awards shall be subject to the discretion of LED.

3. LED shall negotiate with each applicant seeking an award, based on the individual merits of each project.

4. Contracts for awards shall contain “clawback” (or refund) provisions to protect the state in the event of a default.

5. Award funds shall be utilized for the approved project only.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Office of Business Development in cooperation with the Office of Entertainment Industry Development, LR 37:516 (February 2011).

§1619. Program Descriptions

A. This program is to be used to support Louisiana’s independent filmmakers, domiciled in Louisiana, who make a film in Louisiana, the total cost of which shall not exceed three hundred thousand dollars. The maximum amount of any grant shall not exceed the lesser of 50 percent of the total cost of the film or \$100,000.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Office of Business Development, in cooperation with the Office of Entertainment Industry Development, LR 37:516 (February 2011).

§1621. Eligibility

A. An applicant must be a Louisiana resident, with proof of at least 3 years residency.

B. An applicant must be the principal creative author of the production and hold complete artistic, creative and budgetary control.

C. Eligible project formats, may include, but not be limited to: documentary, feature length film, TV pilot, TV series, webisodes, animation, experimental shorts.

D. Ineligible project formats, may include, but not be limited to: reality shows, industrial, commercial, tourism, political campaigns or promotional pieces.

E. 100 percent of the project must be shot in Louisiana.

F. 100 percent of the project must post in Louisiana.

G. 100 percent of the crew must be Louisiana residents.

H. 75 percent of the talent must be Louisiana residents.

I. Grants will be awarded on a one time basis only and previous award winners will not be allowed to reapply.

J. An applicant shall be considered ineligible for this program if it has pending or outstanding claims or liabilities relative to its failure or inability to pay its obligations; including state or federal taxes, or bankruptcy proceedings, or if it has pending, at the federal, state, or local level, any proceeding concerning denial or revocation of a necessary license or permit, or if the company has a previous contract with LED in which the company is in default and/or is not in compliance.

K. Applicants must be in full compliance with all state and federal laws.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Office of Business Development, in cooperation with the Office of Entertainment Industry Development, LR 37:516 (February 2011).

§1623. Criteria

A. LED will consider various factors when determining which awards will be funded. Among the factors which may be taken into account in the review of the award requests are the following:

1. availability of funding;

2. recommendation of the office and an entertainment industry expert panel review committee;

3. artistic quality;

4. applicant’s demonstrated ability and creativity;

5. managerial and fiscal ability of the applicant to carry out the proposed project;

5. nature and extent of other revenue, in-kind goods and services, and/or public or private support; and

6. portrayal of Louisiana culture in a positive light.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Office of Business Development, in cooperation with the Office of Entertainment Industry Development, LR 37:516 (February 2011).

§1625. Application Procedure

A. An applicant may apply for this program by submitting the following information to the office:

1. a written application, including but not limited to, a detailed description of the proposed project, a preliminary budget and a grant request; and

2. supporting information as requested by the office, including but not limited to examples of prior or proposed work.

B. The office 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 and request such information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Office of Business Development, in cooperation with the Office of Entertainment Industry Development, LR 37:516 (February 2011).

§1627. Submission and Review Procedure

A. The office shall accept applications twice a year, between June 1 and July 1 and December 1 – January 1,

each calendar year, and upon determination that an application meets the general principles, eligibility requirements, and criteria for this program, the Office will then make a recommendation to an entertainment industry panel for further review.

B. The entertainment industry panel shall be comprised of representatives from the higher education community with curricula in film, and its members shall be identified on LED's website "LouisianaEntertainment.gov".

C. Each panel member shall complete an independent evaluation of each application and score them based upon a scoring form, to be posted on "LouisianaEntertainment.gov".

D. All panelists shall meet in a closed session to discuss their individual evaluation findings and to form consensus scoring of all proposed projects. The panel shall then recommend the highest scoring project(s) to be issued an award by LED.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Office of Business Development, in cooperation with the Office of Entertainment Industry Development, LR 37:516 (February 2011).

§1629. General Award Provisions

A. Award Agreement

1. Awards will be issued twice a year, by September 1 and March 1 of each calendar year.

2. A written award agreement, contract or cooperative endeavor agreement will be executed between LED and the successful applicant. The contract will specify the performance objectives expected and the compliance requirements to be enforced in exchange for state assistance, which will include, but not be limited to:

a. award amounts may vary at the discretion of LED and shall not exceed the lesser of 50 percent of the total cost of the film or \$100,000.

b. applicants and awardees are not allowed to use monies appropriated by the state of Louisiana as an eligible cost for reimbursement.

c. applicant shall agree to display LED's Louisiana Entertainment logo in the opening credits of the project;

d. applicant shall agree to grant LED rights to screen or use the project for promoting Louisiana's Entertainment industry; and

e. applicant shall agree to provide a service to LED in return for state funding. The service could take many forms, such as free training workshops to Louisiana residents in a specific area of filmmaking; free lectures, seminars or demonstrations, free public screening of completed works, mentoring or internships.

3. LED will disburse funds to the applicant as provided by the Award Agreement or Contract.

4. LED will oversee the progress of the approved project and reimburse the applicant on the basis of the cost reports and supporting documentation certifying the amount expended for which reimbursement is sought. LED may request the applicant at any time and from time to time to submit additional or supporting information.

B. Funding

1. The Louisiana Filmmakers Grant Program offers financial assistance in the form of a performance-based grant

for reimbursement of eligible project costs specified in the award agreement.

2. Eligible project costs may include, but not be limited to:

a. production costs: wages for crew and talent, equipment rental, props, permits and fees, art department, set construction wardrobe; and

b. post production costs: special effects, sound, scoring, video.

3. Ineligible project costs for reimbursement may include, but not be limited to:

a. purchase of equipment or creation of new facilities;

b. operating expenses of privately owned facilities; and

c. hospitality or entertainment costs.

C. Conditions for Disbursement of Funds

1. Funds will not be available for reimbursement to the applicant until an award agreement or contract between the applicant and LED has been finalized and executed.

2. Funds will be available on a reimbursement basis following submission of required documentation to LED by the applicant and will be based upon performance objectives as provided in the contract.

D. Compliance Requirements

1. In order to be paid or reimbursed as provided by the contract, the applicant shall be required to complete and submit to LED cost reports certifying the amount expended along with progress reports describing the applicant's progress toward the performance objectives specified in its contract with LED.

2. In the event an applicant fails to meet its performance objectives as specified in its contract, LED shall retain the right to withhold award funds, modify the terms and conditions of the award, and/or to reclaim disbursed funds from the applicant in an amount commensurate with the scope of the unmet performance objectives and the foregone benefits to the state, as determined by LED.

3. In the event an applicant knowingly files a false statement in its application or in a progress report, the applicant 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.

4. LED shall retain the right, for itself and for the Legislative Auditor, to require and/or conduct financial and performance audits of a project, including all relevant records and documents of the company.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Office of Business Development, in cooperation with the Office of Entertainment Industry Development, LR 37:517 (February 2011).

Kristy McKearn
Undersecretary

1102#057

RULE

Board of Elementary and Secondary Education

Bulletin 105—Louisiana Content Standards for Programs
Serving Four-Year Old Children
(LAC 28:LXXVII.Chapters 1-9)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 105—Louisiana Content Standards for Programs Serving Four-Year Old Children*: Chapters 1-9. It is the policy of the Board of Elementary and Secondary Education that content standards be reviewed and possibly revised at least every seven years. The revisions to *Bulletin 105—Louisiana Content Standards for Programs Serving Four-Year Old Children* are based on latest research and a review of pre-k standards in other states.

Title 28

EDUCATION

Part LXXVII. Bulletin 105—Louisiana Content Standards for Programs Serving Four-Year Old Children

Chapter 1. General Provisions

§101. Introduction

A. *The Louisiana Content Standards for Programs Serving Four-Year-Old Children* document was developed by a committee of educators from across the state. The committee consisted of representatives of higher education institutions, technical colleges, childcare, Head Start, Department of Social Services, and the Department of Health and Hospitals, as well as representatives from local school system administrators and classroom teachers. The standards were designed to address the needs of all children in all settings. There are a number of principles that guided the development of the document. [These *Guiding Principles* were reprinted with permission from the Connecticut State Department of Education Preschool Curriculum Framework and Benchmarks for Children in Preschool Programs (May 1999).]

1. Early learning and development are multidimensional; developmental domains are highly interrelated. Development in one domain influences the development in other domains. For example, children's language skills impact their ability to engage in social interactions. Therefore, developmental domains cannot be considered in isolation of each other. The dynamic interaction of all areas of development must be considered.

2. Young children are capable and competent. All children are capable of positive developmental outcomes. Therefore, there should be high expectations for all young children.

3. There are individual differences in rates of development among children. Each child is unique in the rate of growth and the development of skills and competencies. Some children may have a developmental delay or disability that may require program staff to adapt expectations of individual children or adapt experiences so that they will be successful in attaining the performance standard. Additionally, each child is raised in a cultural context that may impact a child's acquisition of certain skills and competencies.

4. Children will exhibit a range of skills and competencies in any domain of development. Preschool age children will exhibit a range of skills and competencies in any area of development. All children within an age group should not be expected to master each skill to the same degree of proficiency at the same time.

5. Knowledge of child growth and development and consistent expectations are essential to maximize educational experiences for children and for program development and implementation. Early care and education program staff must agree on what it is they expect children to know and be able to do, within the context of child growth and development. With this knowledge, early childhood staff can make sound decisions about appropriate curriculum for the group and for individual children.

6. Families are the primary caregivers and educators of their young children. Families should be aware of programmatic goals and experiences that should be provided for children and expectations for children's performance by the end of the preschool years. Program staff and families should work collaboratively to ensure that children are provided optimal learning experiences. Programs must provide families with the information they may need to support children's learning and development.

7. Young children learn through active exploration of their environment through children-initiated and teacher-selected activities. The early childhood environment should provide opportunities for children to explore materials and engage in concrete activities, and to interact with peers and adults in order to construct their own understanding about the world around them. There should therefore be a range of approaches to maximize children's learning.

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§103. Louisiana Content Standards Foundation Skills

A. The Louisiana Content Standards Task Force has developed the following foundation skills, which should apply to all students in all disciplines.

Citizenship—the application of the understanding of the ideals, rights, and responsibilities of active participation in a democratic republic that includes working respectfully and productively together for the benefit of the individual and the community; being accountable for one's choices and actions and understanding their impact on oneself and others; knowing one's civil, constitutional, and statutory rights; and mentoring others to become productive citizens and lifelong learners.

Communication—a process by which information is exchanged and a concept of "meaning" is created and shared between individuals through a common system of symbols, signs, or behavior. Students should be able to communicate clearly, fluently, strategically, technologically, critically, and creatively in society and in a variety of workplaces. This process can best be accomplished through use of the following skills: reading, speaking, listening, viewing, and visually representing.

Linking and Generating Knowledge—the effective use of cognitive processes to generate and link knowledge across

the disciplines and in a variety of contexts. In order to engage in the principles of continual improvement, students must be able to transfer and elaborate on these processes. "Transfer" refers to the ability to apply a strategy or in-content knowledge effectively in a setting or context other than that in which it was originally learned. "Elaboration" refers to monitoring, adjusting, and expanding strategies into other contexts.

Problem-Solving—the identification of an obstacle or challenge and the subsequent application of knowledge and thinking processes, which include reasoning, decision-making, and inquiry in order to reach a solution using multiple pathways, even when no routine path is apparent.

Resource Access and Utilization—the process of identifying, locating, selecting, and using resource tools to help in analyzing, synthesizing, and communicating information. The identification and employment of appropriate tools, techniques, and technologies are essential to all learning processes. These resource tools include pen, pencil, and paper; audio/video materials, word processors, computers, interactive devices, telecommunication, and other emerging technologies.

NOTE: These foundation skills were developed by the Louisiana Content Standards Task Force in 1997. This task force developed the State Standards for Curriculum Development for kindergarten through grade 12.

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§105. Information Literacy Model for Lifelong Learning

A. Students must become competent and independent users of information to be productive citizens of the 21st century. They must be prepared to live in an information-rich and changing global society. Due to the rapid growth of technology, the amount of information available is accelerating so quickly that teachers are no longer able to impart a complete knowledge base in a subject area. In addition, students entering the workforce must know how to access information, solve problems, make decisions, and work as part of a team. Therefore, information literacy, the ability to recognize an information need and then locate, evaluate, and effectively use the needed information, is a basic skill essential to the 21st century workplace and home. Information literate students are self-directed learners, who, individually or collaboratively, use information responsibly to create quality products and to be productive citizens. Information literacy skills must not be taught in isolation; they must be integrated across all content areas, utilizing fully the resources of the classroom, the school library media center, and the community. The Information Literacy Model for Lifelong Learning is a framework that teachers at all levels can apply to help students become independent lifelong learners.

1. *Defining/Focusing*. The first task is to recognize that an information need exists. Students make preliminary decisions about the type of information needed based on prior knowledge.

2. *Selecting Tools and Resources*. After students decide what information is needed, they then develop search strategies for locating and accessing appropriate, relevant sources in the school library media center, community

libraries and agencies, resource people, and others as appropriate.

3. *Extracting and Recording*. Students examine the resources for readability, currency, usefulness, and bias. This task involves skimming or listening for key words, "chunking" reading, finding main ideas, and taking notes.

4. *Processing Information*. After recording information, students must examine and evaluate the data in order to utilize the information by categorizing, analyzing, evaluating, and comparing for bias, inadequacies, omissions, errors, and value judgments. Based on their findings, they either move on to the next step or do additional research.

5. *Organizing Information*. Students effectively sort, manipulate, and organize the information that was retrieved. They make decisions on how to use and communicate their findings.

6. *Presenting Findings*. Students apply and communicate what they have learned (e.g., research report, project, illustration, dramatization, portfolio, book, book report, map, oral/audio/visual presentation, game, bibliography, hyper stack).

7. *Evaluating Efforts*. Throughout the information problem solving process, students evaluate their efforts. This assists students in determining the effectiveness of the research process. The final product may be evaluated by the teacher and other qualified or interested resource persons.

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Chapter 3. PreKindergarten Content Standards

Subchapter A. General

§301. Content Standards

A. This Section contains content standards, which are organized alphabetically into six domains of development:

1. approaches to learning;
2. cognitive development:
 - a. mathematical development;
 - b. science development;
 - c. social studies development;
3. creative arts development;
4. health and physical development;
5. language and literacy development;
6. social and emotional development.

B. The six developmental domains are designed to be interdependent and must be considered as a whole when considering the development of prekindergarten children. Each developmental domain includes the following.

1. *Standard*—the overarching goal for each content area
2. *Indicator*—defines the standard more specifically in each content area
3. *Grade-level Expectation (GLE)*—describes what children should know and be able to do by the end of prekindergarten
4. *Link*—Each content standard is aligned with the Louisiana K-4 Content Standards and other relevant state and national standards.

C. The content standards and grade-level expectations provide the prekindergarten personnel with a common understanding of what young children should know and do. It is designed to be a guide for designing and implementing a

curriculum that will facilitate learning and skill acquisition in each prekindergarten child. Skills such as letters, numbers, shapes, colors, etc., should not be taught in isolation, but integrated throughout the curriculum.

D. The content standards, indicators, and grade-level expectations are based on research in developmentally appropriate practice for preschool children. In developing these standards, the *Head Start Performance Standards* and the *Early Childhood Environment Rating Scale, Revised Edition* (ECERS-R) were reviewed and linked to the appropriate content standards.

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§303. Developmentally Appropriate Practices

Developmentally Appropriate Practices Include:	Developmentally Appropriate Practices Do Not Include:
• Learning centers/Free choice centers	• Timed rotation/Teacher selected centers
• Concrete learning experiences with real items	• Workbooks or ditto sheets
• Balance of student-initiated and teacher-directed activities in instructional day	• Teacher-directed activities more than 25-35 percent of the instructional day
• Actively engaged learners	• Passive quiet learners
• Language and talking encouraged daily	• Classrooms quiet most of the day
• Cozy inviting environments	• Sterile cold environments
• Daily outdoor gross motor time/Adults interacting with the children to facilitate learning	• Recess/Adults are On Duty
• Individual creative art expressions	• Patterned art/Uniform Art projects (all look the same)
• Language/Literacy rich activities encourage phonological awareness	• Alphabet letters taught through rote drill or Letter of the week
• Hands-on math activities	• Rote drill of numbers, shapes, colors, etc.
• Use a variety of materials changed frequently to meet the needs and interests of the children	• Same materials and equipment used daily throughout the school year
• Adult-Child Interactions encourage learning through open-ended questions, extending conversations, reasoning, etc.	• Adult-Child Interactions minimal, unpleasant, non-responsive, inappropriate, or only to control behavior
• Use of TV, videos and computers related to classroom events, appropriate, limited to short periods of time and adult interaction occurs	• TV, videos, and computers not related to classroom events, used inappropriately, no alternative activities are used, and no adult interaction occurs
• Teacher uses a variety of strategies and meaningful activities to develop skills and concepts	• Teacher uses direct instruction to teach and isolates the skills and concepts
• Assessment ongoing/Portfolios used that include anecdotal records, work samples, photographs, etc.	• Isolated testing/Worksheets

NOTE: For more developmentally appropriate practices refer to ECERS-R, NAEYC guidelines, and Bulletin 741.

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Subchapter B. Approaches to Learning

§305. Rationale

A. Approaches to learning are behaviors and attitudes that show how children learn and acquire knowledge. Children vary in their learning styles and how they express their approaches to learning. Research has shown that children with positive approaches to learning have an increased academic and social-emotional competence. These children did better in reading and mathematics in kindergarten and first grade, were twice as likely to score in the top 25 percent in reading and mathematics, and had more positive and constructive interactions with others.

B. Commonly cited components of approaches to learning include children's:

1. intrinsic motivation to learn;
2. interest and joy in learning;
3. initiative;
4. engagement;
5. persistence;
6. ability to plan, focus, and control attention;
7. flexible problem-solving;
8. inventiveness;
9. tolerance for frustration;
10. ability to connect and apply past learning to new experiences.

C. As children apply these approaches to learning, they can carry their new knowledge and abilities to a higher level of mastery and develop skills to become life-long learners.

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§307. Guiding Practices

A. Effective prekindergarten programs:

1. provide purposeful and meaningful child-initiated activities;
2. support children's play through a well-planned environment;
3. help children feel successful by supporting individual differences;
4. facilitate children's discovery of their own learning capacities and styles;
5. model enthusiasm for new learning processes and projects;
6. encourage children to try new things and use materials in different ways;
7. encourage children to think about things from different perspectives;
8. use open-ended questions as means to further learning;
9. prompt children to investigate, act on ideas, and communicate their thoughts;
10. help children work together on projects or solve problems.

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§309. Strategies to Support an Inclusive Learning Environment

A. Provide visual and verbal prompts to help children move through a problem-solving or planning process.

B. Purposefully guide children to work and play together.

C. Help children focus their attention by providing activities or materials that are of interest to them, and encourage them to stay focused on an activity.

D. Break problems and tasks into smaller or shorter pieces (“chunking”).

NOTE: To facilitate the inclusion of all children, including those with varying abilities, IEPs, and/or English Language

Learners, some sample accommodations are embedded within the examples provided for the indicators. Please see Appendix A and Appendix B for further information and suggested modifications and/or accommodations.

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§311. Reasoning and Problem-Solving

Standard: Develop learning and thinking skills through gaining, refining, and applying knowledge		
Head Start Performance Standards: 1304.21(a)(1); (a)(3); & (a)(4) 1304.21(c)(1)(i); & (c)(1)(ii) <i>ECERS-R</i> Items: 16, 17, & 18		
Indicator	Grade-level Expectation	Examples
NOTE: PreK Indicators do not apply to this Standard	1. Demonstrate an intrinsic motivation to learn by displaying interest in real world experiences	<ul style="list-style-type: none"> • Use a magnifying glass to look at lines on leaves • In dramatic play, look at a wok and ask, “What is this?” • While reading a book about Louisiana, ask, “What’s a beignet?”
	2. Demonstrate the ability to think systematically and use reasoning skills	<ul style="list-style-type: none"> • Make a prediction about what might happen next in a story • Decide what might happen if two colors of playdough are combined based on what s/he observed when two colors of paint were combined • Respond to “what if” questions and give reason(s) for answer
	3. Use a variety of strategies to investigate possible solutions when problem-solving	<ul style="list-style-type: none"> • Ask, “What made the dough smell different?” after a teacher adds peppermint oil to play dough • Use touch and smell to determine what a teacher has hidden in a bag • Observe a friend crying and try to determine what is wrong • Find a broken toy and seek assistance from teacher about the best way to fix it
	4. Approach tasks and experiences with flexibility, imagination, and inventiveness to create new ideas outside of his/her own experience	<ul style="list-style-type: none"> • After being read a book about space, spontaneously create a rocket ship out of blocks and pretend to “blast off” to the moon • Use play-dough to make pretend objects, such as jewelry, food, or press-on fingernails • Try using a rubber band to hold two sticks together after discovering that tape would not hold them together
	5. Discuss ideas and experiences with others, utilizing any form of communication	<ul style="list-style-type: none"> • While lining up next to each other, say or gesture, “I’m taller than you!” • Bring a collection of things from home and share with classmates • Mix blue and red paint and communicate to a friend that they make purple • Use measurement words (such as size, shape) at the water table to discuss the characteristics of containers
	6. Reflect on investigations and their results by making observations and possibly forming new ideas	<ul style="list-style-type: none"> • Recognize that a friend’s mom is pregnant after his/her own mom recently had a baby • Change the base of his/her block structure when the tower continues to fall • Talk about painting with a brush earlier that day and say, “Maybe tomorrow I can use my fingers, instead!” • While putting on a fire hat, girl tells boys, “Women can be fire people, too, because I saw it on TV!”

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:521 (February 2011).

§313. Initiative, Engagement, and Persistence

Standard: Demonstrate initiative, engagement, and persistence in learning		
Indicator	Grade-level Expectation	Examples
NOTE: PreK Indicators do not apply to this Standard	1. Show curiosity and interest in learning new things and trying new experiences	<ul style="list-style-type: none"> • Explore on his/her own, e.g., pick up class pet for the first time or collect objects to test if they are magnetic • Experiment with different art materials to make a self-portrait • Taste guacamole after learning about avocados • Ask to join a group playing with a mixture of cornstarch and water (“goop”)
	2. Demonstrate initiative and independence in selecting and carrying out activities	<ul style="list-style-type: none"> • Bring binoculars outside to look more closely at a bird building a nest • After a field trip to the grocery store, organize classroom play food and food boxes to create a grocery store • Bring art materials to a group building a castle in the block area to add on a bridge
	3. Maintain attention in child-initiated and teacher-initiated activities for short periods of time, despite distractions and interruptions	<ul style="list-style-type: none"> • Continue to attend to a story being read when someone enters the room • Work to complete a puzzle, even after a friend interrupts and asks him/her to play in another area • Put away the art materials, despite others preparing to go outside • Say, “I’ll do it!”, even though the teacher offered to help
	4. Demonstrate an increasing ability to plan and work towards completion of tasks and activities, even when faced with frustration because the task or activity is difficult	<ul style="list-style-type: none"> • Identify and collect materials (e.g., plastic farm animals, blocks, people figures, or tractors) to create a farm in the block area • Select paper and marker to create a sign for a store in the dramatic play area • Ask a teacher where to leave a clay structure so that it can be painted later • Continue to try to cross the monkey bars, even after having fallen off • Make repeated efforts to rebuild a block structure that keeps falling down • Work with the teacher to decide what objects to use in an obstacle course on the playground, and help put objects in place

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§315. Curiosity and Eagerness to Learn

Standard: Engage in play-based learning for sustained periods of time to acquire knowledge about themselves and their world		
Indicator	Grade-level Expectation	Examples
NOTE: PreK Indicators do not apply to this Standard	1. Make choices about play activities, materials, and playmates/companions	<ul style="list-style-type: none"> • Choose one ball out of a variety of balls that will fit through the ball hoop on the playground • Given five options for activity/play centers, make a choice of where to play • Pick a friend to play “Mama Bear” when reenacting a story in the dramatic play area
	2. Engage in unfamiliar activities during Play	<ul style="list-style-type: none"> • Try to put together a new interlocking puzzle in the puzzle center • Seek assistance when attempting to learn how to swing • Experiment with magnets
	3. Use prior knowledge and experiences to learn new skills during play	<ul style="list-style-type: none"> • Say, “May I take your order?” in dramatic play, then write or pretend to write it down • Attempt to make a stop sign, so children won’t knock down block structure • After a field trip to the fire station, put on firefighter hat and pretend to put out a fire • Find or collect props to retell the story, “The Three Little Pigs”
	4. Use manipulatives and other hands on materials to learn concepts and skills related to core content areas	<ul style="list-style-type: none"> • Use a scarf to symbolize wind blowing • Use play-dough to make letters • Use a collection of leaves to compare and discuss size • Weigh two apples to decide which one is heavier • Use materials and/or puppets to recreate a story
	4. Use manipulatives and other hands on materials to learn concepts and skills related to core content areas	<ul style="list-style-type: none"> • Use a scarf to symbolize wind blowing • Use play-dough to make letters • Use a collection of leaves to compare and discuss size • Weigh two apples to decide which one is heavier • Use materials and/or puppets to recreate a story
	5. Describe play experiences using English or another language or another mode of communication	<ul style="list-style-type: none"> • During center activities, describe “creations” when asked about art work, block structures, and other creative work • Use home language to communicate to a parent what he/she played with that day • Explain what friends are arguing about in the dramatic play area • Use signs to communicate that he/she played the role of “mother” during a classroom skit

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Subchapter C. Mathematics

§317. Mathematical Development

A. Young children develop mathematical concepts through meaningful and concrete experiences that are broader in scope than numerals and counting. In an inclusive, developmentally appropriate play-based environment, prekindergarten children will have opportunities to acquire and understand mathematical skills and concepts using hands-on experiences. They will have access to a wide variety of tools and technologies that foster the understanding of mathematics in real-life situations.

B. Early childhood teachers must be flexible during daily routines and strive to capture teachable moments using open-ended questioning techniques to expand mathematical concepts. These teachers must also facilitate activities that address and extend young children's developmental levels.

C. Strategies to support an inclusive learning environment:

1. simplify a complicated task by breaking it into smaller parts or reducing the number of steps;
2. use shorter but more frequent activities and routines;
3. add new activities and specific activities as needed to meet individual needs.

NOTE: To facilitate the inclusion of all children, including those with varying abilities, IEPs, and/or English Language Learners, some sample accommodations are embedded within the examples provided for the indicators. Please see Appendix A and Appendix B for further information and suggested modifications and/or accommodations.

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§319. Stages of Math Development

A. Two through three year-olds:

1. begin to understand the use of numbers as they hear others using them;
2. understand the use of numbers through exploring objects;

3. work large-piece puzzles;
4. understand direction and relational words;
5. recognize geometric shapes, like a circle;
6. sequence up to three items.

B. Three through four year-olds:

1. recognize and express quantities like *some*, *more*, *a lot*, and *another*;
2. begin to have a sense of time;
3. recognize familiar geometric shapes in the environment;
4. sort objects by one characteristic;
5. rote count to five;
6. notice and compare similarities and differences;
7. use words to describe quantity, length, and size.

C. Four through five year-olds:

1. play number games with understanding;
2. count objects to 10 and sometimes to 20;
3. identify the larger of two numbers;
4. answer simple questions that require logic;
5. recognize more complex patterns;
6. position words;
7. sort forms by shape;
8. compare sizes of familiar objects not in sight;
9. work multi-piece puzzles.

D. Five through six year-olds:

1. begin to understand concepts represented in symbolic form;
2. can combine simple sets;
3. begin to add small numbers in their heads;
4. rote count to 100 with little confusion;
5. count objects to 20 and more;
6. understand that the number is a symbol that stands for a certain number of objects;
7. classify objects by multiple attributes;
8. can decide which number comes before, or after, another number.

Source: The Portfolio and Its Use: A Road Map for Assessment by Southern Early Childhood Association

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:523 (February 2011).

§321. Mathematical Development—Number and Number Relations

Standard: Understand numbers, ways of representing numbers, and relationships between numbers and numerals		
Louisiana K-4 Content Standards: N-1-E & N-9-E ECERS-R, Items: 26 Head Start, etc. Performance Standards: 1304.21(a)(4)(iv) 1304.21(c)(1)(ii)		
Indicator	Grade-level Expectation	Examples
PK-CM-N1* Compare numbers of objects	5. Compares sets of objects using same/different and more/less/fewer	<ul style="list-style-type: none"> • Compare number of boys to girls • Compare unifix towers to each other • Begin to use names of numbers in play, such as “I need two more blocks” • Compare objects in groups, such as shoes that tie and do not tie
PKCM-N2 Perform one-to-one correspondence	2. Count a set of 5 or fewer objects using 1 to 1 correspondence between number names and objects	<ul style="list-style-type: none"> • Set the table • Hand out snacks to each child • Put pegs in each hole of pegboard
PK-CM-N3 Count by rote	1. Count by ones to 10	<ul style="list-style-type: none"> • Sing counting songs • Count in rhymes, fingerplays, poems, or stories
PK-CM-N4 Begin to count objects	2. Count a set of 5 or fewer objects using 1 to 1 correspondence between number names and objects	<ul style="list-style-type: none"> • Count manipulatives • Count days on the calendar • Count children to line up for field trip • Count the number of children present each day

Standard: Understand numbers, ways of representing numbers, and relationships between numbers and numerals		
Louisiana K-4 Content Standards: N-1-E & N-9-E <i>ECERS-R</i> , Items: 26 Head Start, etc. Performance Standards: 1304.21(a)(4)(iv) 1304.21(c)(1)(ii)		
Indicator	Grade-level Expectation	Examples
PK-CM-N5 Begin to recognize numerals	4. Identifies numerals 1-5	<ul style="list-style-type: none"> Identify some numerals in their environment Discriminate between letters and numerals by sorting Play number games
PK-CM-N6 Begin to demonstrate estimation skills	<i>No corresponding GLE</i>	<ul style="list-style-type: none"> Estimate how many scoops of sand will fill a pail Place a small number of items in a see-through container and ask children to estimate number and record the estimate Estimate how many eggs fit in a strawberry basket
*PK-CM-N -Prekindergarten– Cognitive Math – Number Concepts		

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§323. Mathematical Development—Measurement

Standard: Use non-standard units to measure and make comparisons		
Louisiana K-4 Content Standards: M-1-E; M-2-E; M-3-E; M-4-E; & M-5-E <i>ECERS-R</i> Items: 26 Head Start, etc. Performance Standards: 1304.21(a)(4)(iv) 1304.21(c)(1)(ii)		
Indicator	Grade-level Expectation	Examples
-PK-CM-M1* Experience, compare, and use language relating to time	7. Use words such as day/week, month, schedule, morning, noon, night	<ul style="list-style-type: none"> Begin to use words to describe time intervals, such as yesterday, today, and tomorrow Use different types of timers Participate in discussions about the daily schedule
PK-CM-M2 Anticipate, remember, and describe sequences of events	<i>No corresponding GLE</i>	<ul style="list-style-type: none"> Retell sequential events in a story and/or activity Recall daily schedule Count down days to an event
PK-CM-M3 Use mathematical language to describe experiences involving measurement	6. Use comparative vocabulary in measurement settings (long/longer, more/less, short/shorter, bigger/smaller, hotter/colder, heavier/lighter)	<ul style="list-style-type: none"> Use comparison terms, such as heavy/light, long/short, more/less, or big/little
PK-CM-M4 Measure objects in the physical world using non-standard units of measurement	<i>No corresponding GLE</i>	<ul style="list-style-type: none"> Use hands to measure objects Use string to measure child's height or circumference of an object, such as pumpkin, watermelon, or orange
*PK-CM-M — Prekindergarten – Cognitive Math – Measurement		

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§325. Mathematical Development—Geometry

Standard: Develop an understanding of geometrical and spatial concepts		
Louisiana K-4 Content Standards: G-1-E; G-2-E; & G-4-E, <i>ECERS-R</i> Items: 26 , Head Start Performance Standards: 1304.21(a)(4)(iv) 1304.21(c)(1)(ii)		
Indicator	Grade-level Expectation	Examples
PK-CM-G1* Recognize, name, describe, compare, and create basic shapes.	8. Identify rectangles, squares, circles, and triangles using concrete models.	<ul style="list-style-type: none"> Combine unit blocks to make shapes Go on shape scavenger hunt Use shapes to make pictures
PK-CM-G2 Identify shapes to describe physical world	<i>No corresponding GLE</i>	<ul style="list-style-type: none"> Identify shapes of objects in the environment, such as the classroom door is a rectangle Identify roof in photo of house as a triangle
PK-CM-G3 Describe and interpret spatial sense: positions, directions, distances, and order	<p>3. Identify an object's position as first or last</p> <p>10. Use words that indicate direction and position of an object (up, down, over, under, above, below, beside, in, out, behind).</p> <p>11. Recognize and manipulate an object's position in space.</p>	<ul style="list-style-type: none"> Describe the position of people or things in relation to self or other objects Give and follow directions using positional words Describe the movement of objects, such as "The dog jumped over the fence"
PK-CM-G — Prekindergarten – Cognitive Math – Geometry and Spatial Sense		

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:524 (February 2011).

§327. Mathematical Development—Data Analysis

Standard: Investigate, organize, respond, and create representations		
Louisiana K-4 Content Standards: P-1-E; P-2-E; P-3-E; D-1-E; D-2-E; D-3-E; & D-4-E <i>ECERS-R</i> Items: 26 Head Start Performance Standards: 1304.21(a)(4)(iv) 1304.21(c)(1)(ii)		
Indicator	Grade-level Expectation	Examples
PK-CM-D2 Collect and organize data about themselves, their surroundings, and meaningful experiences	12. Arrange objects/pictures to make an object or picture graph	<ul style="list-style-type: none"> • Create simple graphs (picture, bar, representational, Venn diagrams), such as leaves by type or favorite ice cream • Use webbing to collect information
PK-CM-D3 Interpret simple representations in data	<i>No corresponding GLE</i>	<ul style="list-style-type: none"> • Participate in discussion about the calendar • Participate in discussion using information from child-created graphs • Participate in discussion about charts
PK-CM-D — Prekindergarten – Cognitive Math – Data Collection, Organization, and Interpretation		

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:525 (February 2011).

§329. Mathematical Development--Patterns and Relationships

Standard: Identify and create patterns		
Louisiana K-4 Content Standards: P-1-E & P-3-E <i>ECERS-R</i> Items: 26 Head Start Performance Standards: 1304.21(a)(4)(iv) 1304.21(c)(1)(ii)		
Indicator	Grade-level Expectation	Examples
PK-CM-P1* Recognize patterns in the physical world	13. Recognize and copy repeated patterns (concrete objects, songs, rhymes, and body movements)	<ul style="list-style-type: none"> • Go on shape walks to identify patterns in environment • Recognize patterns in snack kabobs • Identify patterns on common objects, such as flag, clothes, or environmental patterns
PK-CM-P2 Describe, copy, extend, create patterns and make predictions about patterns	13. Recognize and copy repeated patterns (concrete objects, songs, rhymes, and body movements)	<ul style="list-style-type: none"> • Line up boy, girl, boy, girl ... • Clap out patterns • Make patterns with manipulatives, such as lacing beads, unifix cubes, or links • Tell what comes next in a pattern • Create musical patterns playing music on cans
PK-CM-P3 Seriate objects	<i>No corresponding GLE</i>	<ul style="list-style-type: none"> • Place blocks in order from shortest to tallest • Place colored bears in order from smallest to largest
*PK-CM-P –Prekindergarten – Cognitive Math – Patterns and Relationships		

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Subchapter C. Science

§331. Scientific Development

A. Young children are natural scientists. They easily become mesmerized by everyday happenings. Through varied and repeated opportunities to predict, observe, manipulate, listen, experiment with, reflect, and respond to open-ended questions, prekindergarteners make inferences and become higher-level thinkers.

B. Quality early childhood science programs require a balance of content and process, using multi-sensory experiences. In addition to science inquiry skills, prekindergarteners can begin to acquire a foundation of science concepts and knowledge on which they can build a clear understanding of their world. Early childhood teachers

should look for opportunities to explore scientific concepts in all content areas.

C. Strategies to support an inclusive learning environment:

1. simplify a complicated task by breaking it into smaller parts or reducing the number of steps;
2. use shorter but more frequent activities and routines;
3. add new activities and specific activities as needed to meet individual needs.

NOTE: To facilitate the inclusion of all children, including those with varying abilities, IEPs, and/or English Language Learners, some sample accommodations are embedded within the examples provided for the indicators. Please see Appendix A and Appendix B for further information and suggested modifications and/or accommodations.

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:525 (February 2011).

§333. Scientific Development—Inquiry

Standard: Begin to engage in partial and full inquiries		
Louisiana K-4 Content Standards: SI-E-A1, A2, A3, A4, A5, A6 SI-E-B1, B2, B3, B4, B5, B6 <i>ECERS-R</i> Items: 25 Head Start Performance Standards: 1304.21(a)(2)(ii) 1304.21(a)(4)(i)		
Indicator	Grade-level Expectation	Examples
PK-CS-11 Use prior knowledge and experiences to hypothesize, predict, generate questions, and draw conclusions about organisms and events in the environment.	1. Ask questions about objects and events in the environment (e.g., plants, rocks, storms) 2. Pose questions that can be answered by using students' own observations and scientific knowledge	<ul style="list-style-type: none"> • Generate questions about insects (KWL or Experience Charts) • Engage in spontaneous discussion (teachable moments) • Engage in discussion through questioning, after reading a nonfiction science book • Hypothesize or predict why certain phenomenon occurred
PK-CS-12 Conduct simple scientific investigations	16. Explore the motion of objects by using balls, toy cars, or spinning tops	<ul style="list-style-type: none"> • Observe ice melting • Compare cars rolling down a ramp • Compare objects that sink and float
PK-CS-13 Make observations using senses	<i>No corresponding GLE</i>	<ul style="list-style-type: none"> • Taste test a variety of foods and describe tastes • Describe objects in feely box • Describe changes in weather
PK-CS-14 Employ equipment and tools to gather data and extend sensory observations	4. Select and use developmentally appropriate equipment and tools and units of measurement to observe and collect data 7. Identify and use appropriate safety procedures and equipment when conducting investigations (e.g., gloves, goggles, hair ties) 8. Recognize that a variety of tools can be used to examine objects at different degrees of magnification (e.g., hand lens, microscope) 12. Determine whether one object weighs more or less than another by using a pan balance	<ul style="list-style-type: none"> • Sift soil with sieve to find organisms in soil • Observe objects using color paddles • Balance objects in scale to determine which is heavier or lighter
PK-CS-15 Collect, interpret, communicate data and findings from observations and experiments in oral and written formats	5. Express data in a variety of ways by constructing illustrations, graphs, charts, tables, concept maps, and oral and written explanations as appropriate 6. Use a variety of appropriate formats to describe procedures and to express ideas about demonstrations or experiments (e.g., drawings, journals, reports, presentations, exhibitions, portfolios)	<ul style="list-style-type: none"> • Communicate scientific information in a variety of ways (e.g. graph, tally, web, draw pictures, oral report) • Create models of objects in the environment • Participate in discussions where points of view are openly shared
PK-CS-16 Use appropriate scientific vocabulary related to topics	<i>No corresponding GLE</i>	<ul style="list-style-type: none"> • Describe the common physical changes of melting, freezing, and evaporating • Identify the life cycle of a butterfly using scientific terms (e.g. egg and chrysalis)
*PK-CS-I –Prekindergarten – Cognitive Science – Inquiry		

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§335. Scientific Development—Physical Science

Standard: Begin to acquire scientific knowledge related to physical science		
Louisiana K-4 Content Standards: SI-E-A1, A2, A3, A4 SI-E-B1, B2, B3, B4, B5 PS-E-A1, A2, A3, A4 PS-E-C6, C7 <i>ECERS-R</i> Items: 25 Head Start Performance Standards: 1304.21(a)(2)(ii) 1304.21(a)(4)(i)		
Indicator	Grade-level Expectation	Examples
PK-CS-P1 Begin investigating states of matter: solids, liquids, and gases	10. Determine whether objects float or sink through investigations 13. Compare the properties of different solids and liquids through observation 14. Identify components of simple mixtures (e.g., salt/water, rice/beans, iron filings/sand)	<ul style="list-style-type: none"> • Sort and classify objects by their state of matter • Participate in block play using a variety of types of blocks (e.g. wooden unit blocks, cardboard blocks, foam blocks) • Participate in a variety of sand and water activities • Observe what happens to objects when filled with gases • Explore three states of water: ice (solid), water (liquid), and steam (gas)
PK-CS-P2 Describe objects by their physical properties	9. Sort objects using one characteristic 18. Identify selected substances as <i>hot</i> or <i>cold</i>	<ul style="list-style-type: none"> • Describe objects according to size, shape, color, or state of matter • Describe characteristics of sand and water during sand and water play • Describe what happens when bottles filled with objects suspended in liquids are moved in various ways such as: dirt in water or confetti in Karo syrup

Standard: Begin to acquire scientific knowledge related to physical science		
Louisiana K-4 Content Standards: SI-E-A1, A2, A3, A4 SI-E-B1, B2, B3, B4, B5 PS-E-A1, A2, A3, A4 PS-E-C6, C7 ECERS-R Items: 25 Head Start Performance Standards: 1304.21(a)(2)(ii) 1304.21(a)(4)(i)		
Indicator	Grade-level Expectation	Examples
PK-CS-P3 Explore the physical world using five senses	3. Use the five senses to describe observations 15. Demonstrate motion by using students' own bodies 17. Identify different sounds as <i>soft</i> or <i>loud</i>	<ul style="list-style-type: none"> Take a walk exploring the environment using the senses of sight, touch, smell, and/or sound -- describe findings Match things during a tasting, touching, smelling party Listen to and identify environmental, animal, or voice sounds
PK-CS-P4 Explore simple machines, magnets, and sources of energy	11. Describe properties of materials by using observations made with the aid of equipment such as magnets, magnifying glasses, pan balances, and mirrors	<ul style="list-style-type: none"> Explore magnets, magnifying glasses, balance scales, gears, pulleys, mirrors, and wind-up toys Discuss what makes things run by answering open-ended questions (e.g. car-gas, waterwheel-water, lamp-electricity)
*PK-CS-P –Prekindergarten – Cognitive Science – Physical Science		

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§337. Scientific Development—Life Science

Standard: Begin to acquire scientific knowledge related to life science		
Louisiana K-4 Content Standards: SI-E-A1, A2, A3, A4 SI-E-B1, B2, B3 PS-E-A1, A2, A3, A4 PS-E-C6, C7 LS-E-A1, A2, A6 LS-E-B1 ECERS-R Items: 25 Head Start Performance Standards: 1304.21(a)(2)(ii) 1304.21(a)(4)(i)		
Indicator	Grade-level Expectation	Examples
PK-CS-L1 Explore, observe, and describe a variety of living things	19. Identify parts of the body and how they move 20. Give examples of different kinds of plants and different kinds of animals 21. Distinguish food items from nonfood items 22. Learn about animals and plants through nonfiction literature 23. Observe and care for pets and plants 24. Describe plants and animals in the schoolyard or home environments	<ul style="list-style-type: none"> Catch insects and place in bug catchers Use magnifying glass to observe insects Keep a class pet and/or plants in the classroom Observe the effect of darkness and light on growing plants
PK-CS-L2 Explore, observe, and describe a variety of non-living things	25. Explore and describe various properties of rocks, minerals, and soils	<ul style="list-style-type: none"> Compare live insects to plastic insects Collect non-living things, such as rocks, seashells, or buttons Sort examples of living and nonliving things
PK-CS-L3 Explore, observe, describe, and participate in a variety of activities related to preserving their environment	<i>No corresponding GLE</i>	<ul style="list-style-type: none"> Participate in constructing a compost heap Participate in planting a tree Participate in a campus cleanup day Participate in collecting items to recycle
PK-CS-L4 Begin to develop an awareness and understanding of plant and animal life cycles and how the life cycles vary for different reasons	<i>No corresponding GLE</i>	<ul style="list-style-type: none"> Plant and maintain a butterfly garden Read non-fiction age appropriate books about life cycles Observe life cycles of larvae, tadpoles, or mealworms
PK-CS-L –Prekindergarten – Cognitive Science – Life Science		

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§339. Scientific Development—Earth Science

Standard: Begin to acquire scientific knowledge related to earth science		
Louisiana K-4 Content Standards: SI-E-A1, A2, A3, A4 SI-E-B1, B2, B3, B4, B5 ESS-E-A1, A4 ESS-E-B1 ECERS-R Items: 25 Head Start Performance Standards: 1304.21(a)(2)(ii) 1304.21(a)(4)(i)		
Indicator	Grade-level Expectation	Examples

Standard: Begin to acquire scientific knowledge related to earth science		
Louisiana K-4 Content Standards: SI-E-A1, A2, A3, A4 SI-E-B1, B2, B3, B4, B5 ESS-E-A1, A4 ESS-E-B1 ECERS-R Items: 25 Head Start Performance Standards: 1304.21(a)(2)(ii) 1304.21(a)(4)(i)		
Indicator	Grade-level Expectation	Examples
PK-CS-ES1 Investigate, compare, and contrast seasonal changes in their immediate environment	9. Sort concrete objects by attribute (shape, size, color)	<ul style="list-style-type: none"> • Draw, write, and/or dictate a message in journal about what they see, feel, and do in certain kinds of weather or over a period of time • Dress-up in a variety of seasonal clothing in the dramatic play center • Play a lotto game about the seasons
PK-CS-ES2 Discover through observation that weather can change from day to day	26. Describe the weather and its daily changes 27. Describe different types of weather students have experienced and give examples of how daily activities and appropriate attire are affected by weather conditions	<ul style="list-style-type: none"> • Graph each day's weather • Keep weather journal • Read a thermometer to determine temperature • Keep a record of the day's temperature either from the newspaper, home, or outside thermometer
PK-CS-ES3 Use vocabulary to describe major features of the earth and sky	28. Learn about objects in the sky through nonfiction literature	<ul style="list-style-type: none"> • Listen to and retell stories about the earth, sky, land formations, and bodies of water such as: <i>In the Night Sky, Happy Birthday Moon, Good Night Moon, In a Small, Small Pond, In the Tall, Tall Grass, Swimmy, Big Al, The Tiny Seed</i> • Discuss things in the day and night time sky • Observe and discuss shadows at various times of the day
*PK-CS-ES –Prekindergarten – Cognitive Science – Earth Science		

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Subchapter D. Social Studies

§341. Social Studies Development

A. For young children the foundation for learning in social studies and history begins with the child's personal experiences and understanding of the relationship of self to home and family. Their understanding then gradually expands to include the people they meet in school, neighborhood, community, and the larger world. Teachers need to identify children's current knowledge and understanding. The prekindergarten curriculum needs to focus on concepts that are related to the child's immediate experience.

B. Strategies to support an inclusive learning environment:

1. provide adaptive equipment and materials where needed to accommodate children's special needs;

2. assure that the classroom and school environments are handicapped accessible and meet the needs of all children;

3. use appropriate verbal, visual, and physical cues in all the activities to meet the special needs of all the children.

NOTE: To facilitate the inclusion of all children, including those with varying abilities, IEPs, and/or English Language Learners, some sample accommodations are embedded within the examples provided for the indicators. Please see Appendix A and Appendix B for further information and suggested modifications and/or accommodations.

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:528 (February 2011).

§343. Social Studies Development—Geography

Standard: Develop an understanding of location, place, relationships within places, movement, and region		
Louisiana K-4 Content Standards: G-1B-E1 ECERS-R Items: 22 Head Start Performance Standards: 1304.21(c)(1)(ii)		
Indicator	Grade-level Expectation	Examples
PK-CSS-G1 Include representations of roads, bodies of water, and buildings in their play	1. Identify representations of roads, bodies of water, and buildings in play activities	<ul style="list-style-type: none"> • Use blue paper for a lake in the block area • Drive toy cars on roads made from blocks
PK-CSS-G2 Use words to indicate directionality, position, and size	<i>No corresponding GLE</i>	<ul style="list-style-type: none"> • Correctly use and respond to words, such as <i>left, right, first, last, big, little, top, or bottom</i> • Verbalize location of objects that are hidden during a Hide and Seek game
PK-CSS-G3 Develop awareness of the world around them	2. Demonstrate an awareness of the world around them (e.g., provide simple information about a trip the student has taken or where the student lives)	<ul style="list-style-type: none"> • Recognize some common symbols of state and country, such as the shape of Louisiana or United States, or the Louisiana or American flag • Observe the path a letter travels when teachers shows route on the map • Answers questions about where they went on a trip or other places they have lived
*PK-CSS-C –Prekindergarten – Cognitive Social Studies – Geography		

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§345. Social Studies Development—Civics

Standard: Develop community and career awareness		
Louisiana K-4 Content Standards: E-1A-E3 Kindergarten Health Standards: 3-E-1 & 3-E-2 Head Start Performance Standards: 1304.21(c)(1)(ii)		
Indicator	Grade-level Expectation	Examples
PK-CSS-C1 Recognize community workers and increase awareness of their jobs	2. Identify community workers and their jobs	<ul style="list-style-type: none"> Identify different community workers by the uniform worn or the equipment used Participate in field trips to observe community workers Listen to guest speakers, such as a firefighter or a police officer Dress-up and role play different types of community workers
PK-CSS-C2 Identify his/her role as a member of family/class	5. Participate in patriotic activities	<ul style="list-style-type: none"> Participate in classroom duties Describe experiences shared within the family Participate in role playing
*PK-CSS-E –Prekindergarten – Cognitive Social Studies – Civics		

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:529 (February 2011).

§347. Social Studies Development—Economics

Standard: Develop an understanding of how basic economic concepts relate to their everyday lives		
Louisiana K-4 Content Standards: E-1A-E3 Head Start Performance Standards: 1304.21(c)(1)(ii)		
Indicator	Grade-level Expectation	Examples
PK-CSS-E1 Demonstrate an awareness of money being used to purchase things	6. Demonstrate an awareness of the uses of money in play activities	<ul style="list-style-type: none"> Use pretend money to purchase things in a dramatic play grocery store, bank, or post office
*PK-CSS-G –Prekindergarten – Cognitive Social Studies –Economics		

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:529 (February 2011).

§349. Social Studies Development—History

Standard: Develop an understanding of the concept of time		
Louisiana K-4 Content Standards: H-1A-E1 Head Start Performance Standards: 1304.21(c)(1)(ii)		
Indicator	Grade-level Expectation	Examples
PK-CSS-H1 Use words to describe time (<i>yesterday, today, tomorrow</i>)	7. Demonstrate an awareness of time by using and responding to such words as <i>yesterday, today, and tomorrow</i>	<ul style="list-style-type: none"> Use statements like, “I’m getting a bike today!” or “My birthday is tomorrow!” Use statement like, “The field trip was yesterday.”
*PK-CSS-H –Prekindergarten – Cognitive Social Studies - History		

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Subchapter E. Creative Arts

§351. Creative Arts Development

A. Creative arts development fosters creativity, individual expression, self-esteem, imagination, and appreciation of diversity. Through music, movement, visual arts, and dramatic arts, prekindergarten children are encouraged to explore and express themselves creatively. Creative expression supports children’s cognitive growth, problem-solving skills, and growing insight about the world around them.

B. Effective prekindergarten programs:

- integrate creative arts in all developmental domains;
- provide daily opportunities for creative endeavors;
- emphasize the process, rather than the outcome;

4. offer creative arts experiences in a risk-free environment;

5. encourage children to express themselves freely.

C. Strategies to support an inclusive learning environment:

1. provide materials that are easily adaptable for independent use and ensure that the materials are easily accessible;

2. adapt the environment to promote interaction, engagement, and learning;

3. allow participation based on interest, ability, language, and culture.

NOTE: To facilitate the inclusion of all children, including those with varying abilities, IEPs, and/or English Language Learners, some sample accommodations are embedded within the examples provided for the indicators. Please see Appendix A and Appendix B for further information and suggested modifications and/or accommodations.

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§353. Stages of Art Development

A. Scribbling Stage (three to four years of age). Child use crayons, markers and paint in zigzag fashion and circular motions. Later, the scribbles become more controlled. Their work is exploratory. Color is unrealistic. The child begins to draw symbols like circles, crosses and lines.

B. Preschematic Stage (four to seven years of age)

1. Age Four—the child begins to show definite forms in representing a person, making a circle for the head and two vertical lines for legs. Sometimes there is a mouth, arms, hands, feet or shoes. Objects are drawn at random and they are not in sequence or proportion. At this stage, form is more important than color. As children progress through this stage, size becomes more proportional, and they gain more brush control as their paintings begin to look more like illustrations.

2. Age Seven—child has established a mental picture of an object that is repeated with each painted repetition of the object. For example, each time the child paints a house, it will look very much like all the other houses he/she painted.

C. Schematic Stage (six to nine years of age). At this stage, sky lines (usually blue) and base lines (usually green) appear on the top and bottom of drawings. Items drawn between these lines usually are proportional, and they are on the base line as appropriate.

Source: The Portfolio and Its Use: A Road Map for Assessment by Southern Early Childhood Association

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§355. Creative Arts Development—Music

Standard: Begin to participate in musical activities, perform and create music		
Head Start Performance Standards: 1304.21(a)(3)(ii) & (a)(4)(ii) ECERS-R: 21 Kindergarten P.E. Standards: 1-P-4		
Indicator	Grade-level Expectation	Examples
NOTE: PreK Indicators do not apply to this Standard	1. Respond to variations in music – pitch, volume, tempo, beat, rhythm, or patterns	<ul style="list-style-type: none"> Participate in musical listening games to hear differences in sounds or feel differences in vibrations (e.g. vocal, instrumental, sounds, or vibrations produced by instruments) Respond to music that has different types of beat by tapping or clapping with the beat Reproduce a musical variation with instruments, computer programs, voice, hand signs or movement
	2. Express thoughts and feelings in response to a variety of diverse types of music	<ul style="list-style-type: none"> Use props (e.g. scarves, streamers, instruments) to respond with expression to music Draw a picture in response to how they feel as they listen to a variety of music Participate in discussions (verbally or with an alternate communication system) about a live musical performance (e.g. how the performance made you feel, what you liked about the performance)
	3. Make music	<ul style="list-style-type: none"> Participate in daily musical activities, such as singing, finger plays, nursery rhymes, poetry, rhythmic games, instruments, and/or musical books Participate in songs and rhythms that reflect different languages and cultures Use musical instruments and props indoors or outdoors Create own music using voice, instruments or other objects

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:530 (February 2011).

§357. Creative Arts Development—Movement

Standard: Begin to participate in creative movement activities		
Head Start Performance Standards: 1304.21(a)(4)(ii) ECERS-R: 21 Kindergarten P.E. Standards: 2-P-2; 2-P-3; & 2-P-5		
Indicator	Grade-level Expectation	Examples
NOTE: PreK Indicators do not apply to this Standard	1. Observe or participate in various forms of movement	<ul style="list-style-type: none"> Observe and repeat the movements of people, animals, and various objects Develop body and/or hand movements that express concepts or ideas (e.g. feelings, directions, to find an object, or specific words) Play charades or “Simon Says” with prompts from teacher (e.g. stop, go, walk, come, angry, sad, hurry, surprise)

Standard: Begin to participate in creative movement activities		
Head Start Performance Standards: 1304.21(a)(4)(ii) ECERS-R: 21 Kindergarten P.E. Standards: 2-P-2; 2-P-3; & 2-P-5		
Indicator	Grade-level Expectation	Examples
	2. Show creativity through movement	<ul style="list-style-type: none"> • Dance freely to music • Imitate various movements found in nature, such as animals, trees, or water • Exhibit a variety of creative ways to move with or without assistance

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:530 (February 2011).

§359. Creative Arts Development—Visual Art

Standard: Respond to and begin to create various forms of visual art		
Head Start Performance Standards: 1304.21 (a)(4)(ii) ECERS-R: 20 & 27		
Indicator	Grade-level Expectation	Examples
NOTE: PreK Indicators do not apply to this Standard	1. Observe and/or describe various forms of art	<ul style="list-style-type: none"> • Work with different art materials in the art center (e.g. clay, paint, collage materials, and string) • View or feel art objects or exhibits, such as paintings, sculptures • Observe and/or tell about various artists and crafters who demonstrate different types of art media • Describe or show what they like about their own art and art of others • Point out various forms of art media (e.g. photographs, collages, paintings) found in books, photographs/prints, on school site and on field trips
	2. Create individual and/or group art	<ul style="list-style-type: none"> • Participate regularly in creative art opportunities using water colors, collage materials, paints, paper, scissors, glue, crayons, stamp pads, templates, stencils, markers, paint brushes and clay (independently or with support) • Use a computer program with a mouse, touch screen or other assistive technology to create art • Work with friends to create a collage or to paint a mural

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:531 (February 2011).

§361. Creative Arts Development—Dramatic Art

Standard: Participate in, perform, and create dramatic art		
Head Start Performance Standards: 1304.21(a)(4)(ii) ECERS-R: 24		
Indicator	Grade-level Expectation	Examples
NOTE: PreK Indicators do not apply to this Standard	1. Experience and respond to a variety of dramatic performances (puppetry, storytelling, dance, plays, pantomime, theater)	<ul style="list-style-type: none"> • Watch a puppet show the librarian presents for the class when she visits their room • Participate in retelling a story based on a dramatic performance the class saw together • Participate in discussions about a dramatic performance (e.g. how the performance made you feel, what character[s] did you like best and why?) • Create a picture to show feelings after viewing a variety of dramatic performances
	2. Role play or use puppets to express feelings, dramatize stories, mimic social behaviors observed in adults, re-enact real-life roles and experiences	<ul style="list-style-type: none"> • Play in various interest centers with a variety of props • Role-play problem-solving in classroom situations (e.g. taking turns, sharing, playing cooperatively, expressing feelings, appropriate behaviors and manners) • Act out stories that come from different cultures (e.g. fairy tales told by persons from a different country or Native American legends) • Pretend to cook dinner while playing outside in the sand box
	3. Participate in activities using symbolic materials and gestures to represent real objects and situations	<ul style="list-style-type: none"> • Exhibit free expression and imagination in songs, stories, poems, and finger plays (e.g. using scarves to represent birds; hands as thunder, raindrops, footsteps; stick for wand, pointer, a horse, or a walking cane) • Pretend that objects are something else during play (e.g. using a banana or their fingers for a telephone, using bristle blocks as hair clippers)

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2326 (November 2003), amended LR 37:531 (February 2011).

Subchapter F. Health and Physical Development

§363. Health and Physical Development

A. Health and physical development skills are the foundation for the future health and well-being of all children. This domain fosters children’s sound nutritional choices and health and safety practices for optimal learning. Fine and gross motor skills enhance agility and strength, neural development, and general body competence.

B. Effective prekindergarten programs:

1. integrate physical development and health and safety activities into all curriculum areas;
2. introduce concepts and model behaviors that promote a healthy lifestyle.
3. provide adequate age-appropriate indoor and outdoor space and facilities that allow children to experience a variety of developmentally appropriate physical activities.

4. emphasize participation, rather than mastery.
- C. Strategies to support an inclusive learning environment:

1. provide adaptive equipment and materials
2. assure that the classroom and school environments are easily accessible;
3. use appropriate verbal, visual, and physical cues in all the activities;
4. allow participation based upon interest, ability, language, and culture.

NOTE: To facilitate the inclusion of all children, including those with varying abilities, IEPs, and/or English Language Learners, some sample accommodations are embedded within the examples provided for the indicators. Please see Appendix A and Appendix B for further information and suggested modifications and/or accommodations.

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2329 (November 2003), amended LR 37:532 (February 2011).

§365. Health and Physical Development—Health and Hygiene

Standard: Develop health and hygiene skills		
Indicator	Grade-level Expectation	Examples
NOTE: PreK Indicators do not apply to this Standard	1. Demonstrate an awareness of healthy practices	<ul style="list-style-type: none"> • Engage in activities to learn about healthy and unhealthy foods • Understand that some foods are healthy and that some foods are not healthy • Participate in practices that promote healthy hygiene • Identify reasons for the importance of rest • Participate in nutritious cooking activities • Recognize that some foods may cause allergic reactions • Participate in exercise activities
	2. Exhibit good hygiene habits and self-help skills	<ul style="list-style-type: none"> • Use proper handwashing techniques • Use appropriate dental hygiene practices • Use appropriate toileting skills independently • Demonstrate autonomy in routine tasks (e.g. self-dressing, taking care of personal belongings, cleaning up after activities) • Attempt to cover nose and/or mouth when coughing or sneezing, use tissue to wipe nose, wash hands after toileting and nose wiping

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:532 (February 2011).

§367. Health and Physical Development—Environmental Hazards

Standard: Begin to develop an awareness of potential hazards in their environments		
Head Start Performance Standards: 1304.22(a); (c)(1)(iii); & (d) ECERS-R Items: 14 Kindergarten Health Standards: 1-E-4; 3-E-1; 3-E-2; & 7-E-1		
Indicator	Grade-level Expectation	Examples
NOTE: PreK Indicators do not apply to this Standard	1. Identify potentially harmful objects, substances, behaviors, and/or situations	<ul style="list-style-type: none"> • Sort pictures of non-harmful and harmful objects into groups • Practice basic strategies to prevent injury (e.g. crossing the street with an adult, wearing helmets while bike riding, locking brakes on wheel chair when it is not moving, or wearing seatbelts) • Avoid touching potentially harmful substances or objects that only adults should use (e.g. knives, cleaning supplies, and hot pans) • Recognize basic hazard symbols such as “Mr. Yuk”
	2. Be aware of and follow universal safety rules	<ul style="list-style-type: none"> • Follow classroom and school rules • Practice appropriate emergency drills (fire, tornado, bomb, 911, bus) in different environments with guidance from teacher • Follow basic safety rules with guidance from teacher (e.g. bus, bicycle, playground, crossing the street, and stranger awareness) • Recognize basic traffic symbols and signs

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:532 (February 2011).

§369. Health and Physical Development—Gross Motor

Standard: Develop gross motor skills		
Head Start Performance Standards: 1304.21(a)(5) <i>ECERS-R</i> Items: 7, 8, & 9 Kindergarten P.E. Standards: 1-P-1; 1-P-2; 1-P-3; 2-P-2; 2-P-3; 2-P-4; 2-P-5; 3-P-2; 3-P-3; 4-P-1; 4-P-2; 4-P-3; 4-P-4; 5-P-1; 5-P-2; 5-P-3; 5-P-4; & 7-P-3		
Indicator	Grade-level Expectation	Examples
NOTE: PreK Indicators do not apply to this Standard	1. Develop coordination, balance and spatial awareness	<ul style="list-style-type: none"> Engage in large motor activities, such as climbing stairs/slide ladders (alternating feet), marching, hopping, running, jumping, dancing, riding tricycles/scooters, pulling or pushing wagons, and painting with large strokes Use adaptive equipment, such as scooter boards, modified tricycles, and walker ponies to participate in motor activities Walk on balance beam or straight tape line on the floor Balance on one foot Avoid obstacles while running or maneuvering a walker or wheel chair by controlling starts, stops, and sudden changes in direction Engage in activities that encourage crossing the midline, such as touching the left ear or right ear with the opposite hand or crossing one foot over the other foot
	2. Coordinate movements to perform tasks and try new skills indoors and/or outdoors	<ul style="list-style-type: none"> Walk, gallop, jump, run and/or move to exercise CDs/videos Tolerate support or assistance for movement activities (e.g. assisted movement of arms, legs or trunk or balancing on a large ball) Use open-ended materials (e.g. planks, wooden boxes, or hollow blocks) to move about, build and construct Engage in large motor activities that promote basic non-locomotor skills (e.g. bending and stretching), spatial awareness and balance Engage in activities that develop skills with a ball (e.g. moving body into position to catch or kick a ball, bouncing, kicking, throwing, catching, or rolling) Participate in a number of indoor and outdoor activities that increase strength, endurance, and flexibility, such as running for increasing amounts of time, participating in stretching activities, or climbing through tunnels Use outdoor/indoor large motor equipment daily to enhance strength and stamina in movement activities Play simple group games

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:533 (February 2011).

§371. Health and Physical Development—Fine Motor

Standard: Develop fine motor skills		
Head Start Performance Standards: 1304.21(a)(5) <i>ECERS-R</i> Items: 19 and 20		
Indicator	Grade-level Expectation	Examples
NOTE: PreK Indicators do not apply to this Standard	1. Strengthen and control small muscles in hands	<ul style="list-style-type: none"> Tear paper Use adaptive materials, such as triangle crayons or adaptive scissors Work with play dough and clay Squeeze wet sponges or use tongs or large tweezers to pick up objects Spin a top
	2. Exhibit manual coordination	<ul style="list-style-type: none"> Use hands and fingers to act out finger plays and songs Use scissors and art materials Snap, button, or zip on clothing or clothing materials Use large tweezers to move objects from one place to another
	3. Participate in eye-hand coordination activities and develop spatial awareness	<ul style="list-style-type: none"> Use beads, laces, and pegs Cut paper with scissors Complete simple puzzles Use computer mouse or touch screen Scoop dry sand and pour into a bottle Use a variety of items/textures Use plastic links to make a necklace

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2330 (November 2003), LR 37:533 (February 2011).

Subchapter G. Language and Literacy

§373. Language and Literacy Development

A. Language and literacy are composed of listening, speaking, writing, thinking, and reading. The foundations of language and literacy are critical to all other curriculum areas as well as to the individual's social and emotional development. Children develop the basis for communication in the early childhood years, beginning with nonverbal and social exchanges, then developing spoken language, moving to an understanding of how oral language is translated into written symbols, and finally learning to decode and create written symbols to develop literacy. A solid foundation in language development in the years before a child enters school will promote success in reading and writing in the future. Young children who have rich language and literacy experiences are less likely to have difficulties learning to read.

B. Strategies to support an inclusive learning environment:

1. provide good models of communication;
2. use special or adaptive devices to increase level of communication and/or participation;
3. use a favorite toy, activity or person to encourage communication and/or participation;
4. provide opportunities for interaction with typically developing peers.

NOTE: To facilitate the inclusion of all children, including those with varying abilities, IEPs, and/or English Language Learners, some sample accommodations are embedded within the examples provided for the indicators. Please see Appendix A and Appendix B for further information and suggested modifications and/or accommodations.

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§375. Beginning Reading Skills

A. Scientifically based reading research shows that it is important for preschool age children to experience the following language, cognitive, and early reading skills for continued school success.

1. Phonological Awareness includes:
 - a. identifying and making oral rhymes;
 - b. identifying and working with syllables in spoken words through segmenting and blending;
 - c. identifying and working with "onsets" (all sounds of a word that come before the first vowel) and "rimes" (the

§379. Language and Literacy Development—Listening

first vowel in a word and all the sounds that follow) in spoken syllables;

d. identifying and working with individual sounds in spoken words (phonemic awareness).

2. Oral Language—development of expressive and receptive language, including vocabulary, the contextual use of speech and syntax, and oral comprehension abilities.

3. Print Awareness—knowledge of the purposes and conventions of print.

4. Alphabet Knowledge—recognize letters of the alphabet (not rote memory).

Source: Early Reading First Guidelines

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:534 (February 2011).

§377. Stages of Written Language Development

A. Children learn to write through a natural developmental progression. Each child should be allowed to progress at their own pace. There are at least six different stages of writing.

Stage 1—Random Scribbling: (2 and 3 years old)
Children make marks on paper with little muscular control.
Stage 2—Controlled Scribbling: (3 years old)
Children "write" across the paper in linear fashion, repeating patterns over again, showing increased muscular control.
Stage 3—Letter-like Forms: (3 and 4 year olds)
Children make mock letters. These are written lines of letters that have letter characteristics, but they are misshapen and written randomly, even covering the page. They pretend they are writing; in their work they separate writing from drawing. They have purpose to their letter-like forms.
Stage 4—Letter and Symbol Relationship: (4 year olds)
Children write letters to represent words and syllables. They can write their names. They know the word that represents their names. They can copy words. Reversals are frequent.
Stage 5—Invented Spelling: (4 and 5 year olds)
Children make the transition from letter forms to invented spelling. This requires organization of letters and words on the page. They use a group of letters to form a word. Many of the letters will be consonants. They understand that letters relate to sounds. Some punctuation appears. They can copy words from their environment.
Stage 6—Standard Spelling: (5, 6, and 7 year olds)
Most of the words the children use are written correctly; some add punctuation. They organize their words in lines with spaces between the words; they move from left to right, and from the top of the to the bottom.

Source: The Portfolio and Its Use: A Road Map for Assessment by Southern Early Childhood Association

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Standard: Develop and expand listening skills		
Louisiana K-4 Content Standards: ELA-1-E1; ELA-4-E2, E3, E5, E6, E7 ECERS-R Items: 18 Head Start Performance Standards: 1304.21 (a)(4)(iii) & (a)(4)(iv) 1304.21(c)(1)(ii)		
Indicator	Grade-level Expectation	Examples
PK-LL-L1 Listen with understanding to directions and conversations	8. Listen to a story and state orally what the story is about 10. Share related life experiences after stories are read aloud	<ul style="list-style-type: none"> • Respond to stories read to the whole class • Understand changes in the morning activity schedule being described by the teacher • Carry on a conversation with another person that develops a thought or idea expressed by the group earlier • Listen to tapes or CD's and show understanding through body language or

Standard: Develop and expand listening skills		
Louisiana K-4 Content Standards: ELA-1-E1; ELA-4-E2, E3, E5, E6, E7 <i>ECERS-R</i> Items: 18 Head Start Performance Standards: 1304.21 (a)(4)(iii) & (a)(4)(iv) 1304.21(c)(1)(ii)		
Indicator	Grade-level Expectation	Examples
		by interacting with such
PK-LL-L2 Follow directions that involve two- or three-step sequence of actions	24. Follow one- and two-step verbal and nonverbal directions 8. Listen to a story and state orally what the story is about	<ul style="list-style-type: none"> Repeat an instruction to a friend Follow these instructions, "Wash you hands, then sit at the table" Follow these instructions, "Get your coat, put it on, then sit next to your friend" Follow directions given to the class, such as "Take this note about our class trip home, have a family member sign it, and bring it back to me"
PK-LL-L3 Hear and discriminate the sounds of language in the environment to develop beginning phonological awareness	<p>1. Demonstrate understanding of phonological awareness by doing the following:</p> <ul style="list-style-type: none"> Manipulating endings of words and nonsense words to make rhyming sounds Manipulating syllables in spoken words (segment/blend) Identifying and manipulating onset and rime in words with three sounds (onset of the word cake is /k/ and the rime of the word cake is /-ake/) Repeating each word in a simple sentence <p>2. Demonstrate understanding of phonemic awareness by manipulating and identifying individual sounds (phonemes) in spoken words with three sounds</p> <p>3. Demonstrate understanding of alphabetic principle by doing the following:</p> <ul style="list-style-type: none"> Identifying own first name in print Identifying at least eight uppercase or lowercase letters, focusing on those in the student's name <p>18. Participate in group-shared writing activities that include rhyming and descriptive words</p> <p>27. Actively participate in role-playing, creative dramatics, finger plays, nursery rhymes and choral speaking</p>	<ul style="list-style-type: none"> Listen to and participate in many nursery rhymes, chants, poems, fingerplays, and songs Make up silly rhymes, such as funny bunny or silly willy Clap hands for each syllable in a word, such as clap hands three times when saying Su-zan-na Sing songs that segment words or accent beginning sounds, and with teacher, clap to the syllables Play with sounds to create new words, such as "Pass the bapkin napkin" (rhymes) Notice words that begin in the same way, such as "My name begins the same as popcorn and pig" (onsets)
PK-LL-L4 Demonstrate understanding of new vocabulary introduced in conversations, activities, stories or books	<p>5. Orally respond to questions using new vocabulary introduced in conversations, activities, stories, or books</p> <p>27. Actively participate in role-playing, creative dramatics, finger plays, nursery rhymes and choral speaking</p>	<ul style="list-style-type: none"> Listen to a variety of literature genre, including narratives, nursery rhymes, other poems, and informational books Listen to read-aloud books that are characterized by less common vocabulary, more complex sentences, and concepts
PK-LL-L5 Engage in activities that offer the opportunity to develop skills associated with technology by viewing, comprehending, and using non-textual information	<p>28. Listen and orally respond to questions about media, including music and videos</p> <p>30. Identify a computer mouse and its purpose (i.e., to navigate the screen)</p>	<ul style="list-style-type: none"> Listen to a story on a tape or a CD Listen to recordings of age-appropriate stories while looking at a book Use age-appropriate and interactive software programs when available

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:534 (February 2011).

§381. Language and Literacy Development—Speaking

Standard: Communicate experiences, ideas, and feelings through speaking		
Louisiana K-4 Content Standards: ELA-2-E1 & E2 ELA-4-E1, E2, E5, E6, E7 ECERS-R Items: 15 & 17 Head Start Performance Standards: 1304.21 (a)(4)(iii) & (a)(4)(iv) 1304.21(c)(1)(ii)		
Indicator	Grade-level Expectation	Examples
PK-LL-S1 Develop and expand expressive language skills	<p>7. Role-play using different voices to represent characters in familiar stories</p> <p>10. Share related life experiences after stories are read aloud</p> <p>11. Orally express thoughts about characters or events in a story</p> <p>21. Use words, phrases, and/or sentences to express feelings, ideas, needs, and wants</p> <p>22. Carry on a conversation about a topic, thought, or idea from the classroom, home, or community</p> <p>23. Repeat an instruction given orally</p> <p>29. Recognize and follow agreed-upon rules for discussing, such as raising one's hand, waiting one's turn, and speaking one at a time</p> <p>31. Identify and use information that is formatted in a chart or graph, such as a daily schedule</p>	<ul style="list-style-type: none"> Use different voices for characters in stories read aloud or told, such as <i>The Three Bears</i> and <i>The Three Billy Goats Gruff</i> Role play activities where different levels of volume would be used, such as when a baby is sleeping or when calling to someone standing far away Participate as an equal partner in conversations by responding to others, making relevant comments, or providing more information when message is not understood Talk through or explain reasoning when problem-solving (classroom materials or behaviors)
PK-LL-S2 Use new vocabulary in spontaneous speech	<p>11. Orally express thoughts about characters or events in a story</p> <p>21. Use words, phrases, and/or sentences to express feelings, ideas, needs, and wants</p> <p>27. Actively participate in role-playing, creative dramatics, finger plays, nursery rhymes and choral speaking</p>	<ul style="list-style-type: none"> Incorporate words and phrases from books, stories, and activities into play Incorporate story elements into play Participate in class discussions of books, stories, and activities Use new vocabulary introduced in a thematic study during play
PK-LL-S3 Ask and answer relevant questions and share experiences individually and in groups	<p>9. Answer simple questions about a story read aloud</p> <p>14. Use simple reasoning skills, including asking simple questions about a story read aloud</p> <p>22. Carry on a conversation about a topic, thought, or idea from the classroom, home, or community</p> <p>26. Speak about life experiences or topics of interest</p>	<ul style="list-style-type: none"> Dictate stories during small group time about experiences they have had Ask simple questions, such as “What’s for lunch?” or “Can we play outside today?” Ask questions to further their understanding, such as “Where does the snow go when it melts?” or “Why does that man wear a uniform?” Answer questions with a complete thought, such as “I took a bus to school” or “I want purple and blue paint”
PK-LL-S –Prekindergarten – Language and Literacy Development – Speaking		

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:536 (February 2011).

§383. Language and Literacy Development—Reading

Standard: Engage in activities that promote the acquisition of emergent reading skills		
Louisiana K-4 Content Standards: ELA-2-E1, E2 & ELA-4-E1, E2, E5, E6, E7 <i>ECERS-R</i> Items: 15 Head Start Performance Standards: 1304.21(a)(4)(iii) and (a)(4)(iv) 1304.21(c)(1)(ii)		
Indicator	Grade-level Expectation	Examples
PK-LL-R1 Actively engage in reading experiences	14. Use simple reasoning skills, including identifying reality and fantasy in texts read aloud 27. Actively participate in role-playing, creative dramatics, finger plays, nursery rhymes and choral speaking	<ul style="list-style-type: none"> Listen with interest to a story read or told by an adult or another child Track along and verbalize as teacher points to individual words in shared reading (e.g. big books, songs, poems, or recipes) Retell familiar stories Complete phrases about familiar stories Ask questions about the illustrations in a book or about details in a story just heard Choose and look at books independently Act out familiar stories with props
PK-LL-R2 Retell information from a story	11. Orally express thoughts about characters or events in a story 12. Demonstrate understanding of texts read aloud using a variety of strategies, including: Sequencing two or three pictures to illustrate events in a story Participating in a group discussion to predict what a book will be about determining whether the prediction was accurate 13. Identify problems and solutions in stories that are read aloud 14. Use simple reasoning skills, including determining why something happens in a story read aloud 25. Retell part of a favorite story	<ul style="list-style-type: none"> Use words or pictures to begin to retell some story events in sequence Dramatize familiar stories, such as <i>Caps for Sale</i> or <i>Brown Bear, Brown Bear</i> Relate the main thought of a story read several days before Stage a puppet show based on a story read or told to the group
PK-LL-R3 Demonstrate an understanding of print concepts and beginning alphabetic knowledge	5. Demonstrate understanding of book and print concepts by doing the following: <ul style="list-style-type: none"> Recognizing that a book has a cover and identifying the cover and title of a book Holding a book right side up Differentiating between an illustration and printed text Recognizing that print is read left-to-right and top-to-bottom 	<ul style="list-style-type: none"> Recognize and begin writing own name, demonstrating that letters are grouped to form words Pretend to read by pointing with a finger while reciting text Look at books appropriately, turning one page at a time, left to right over text, going from top to bottom, front to back of book Recognize familiar logos, such as McDonald's or Wal-Mart Recognize book by cover
PK-LL-R4 Use emerging reading skills to make meaning from print	6. Relate pictures to characters 9. Answer simple questions about a story read aloud	<ul style="list-style-type: none"> Use illustrations to predict printed text, such as saying "And the wolf blew down the pig's house" Make predictions about print content by using prior knowledge, pictures, text heard, and story structure skills
PK-LL-S –Prekindergarten – Language and Literacy Development – Speaking		

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:537 (February 2011).

§385. Language and Literacy Development—Writing

Standard: Engage in activities that promote the acquisition of emergent writing skills		
Louisiana K-4 Content Standards: ELA-1-E5; ELA-2-E1, E2, E6; & ELA-3-E1 <i>ECERS-R</i> Items: 16 & 19 Head Start Performance Standards: 1304.21(a)(4)(iii) and (a)(4)(iv) 1304.21(c)(1)(ii)		
Indicator	Grade-level Expectation	Examples
PK-LL-W1 Experiment with a variety of writing tools, materials, and surfaces	15. Use scribble writing, letter-like forms, dictation, or drawing to represent a word or concept	<ul style="list-style-type: none"> • Draw or write using pencils, crayons, chalk, markers, rubber stamps, and computers • Draw or write using materials, such as brushes and water, feathers, roll-on bottles, shaving cream, and zip-lock bags filled with hair gel or paint • Draw or write on paper, cardboard, chalkboard, dry erase boards, wood, and concrete
PK-LL-W2 Use forms of shapes and letter-like symbols to convey ideas	15. Use scribble writing, letter-like forms, dictation, or drawing to represent a word or concept 17. Write informal notes, lists, and letters using scribble writing and/or pictures 19. Scribble write or draw a picture of a life experience or response to a text read aloud 20. Demonstrate consistent top-to-bottom formation for letters or letter-like forms	<ul style="list-style-type: none"> • Use scribble writing and letter-like forms, especially those letters in their own name • Begin to represent ideas and experiences through drawing and early stages of writing, such as “I ms u” • Attempt to connect the sounds in words with their written letter forms
PK-LL-W3 Participate in a variety of writing activities focused on meaningful words and print in the environment	15. Use scribble writing, letter-like forms, dictation, or drawing to represent a word or concept 16. Orally generate words, ideas, and lists for group writing activities 17. Write informal notes, lists, and letters using scribble writing and/or pictures 18. Participate in group-shared writing activities that include rhyming and descriptive words	<ul style="list-style-type: none"> • Use a variety of writing utensils and props to encourage writing in different centers, such as <ul style="list-style-type: none"> ○ Journals, sign-in sheets, name cards, cards with words and pictures in the writing center ○ Counter checks, grocery store advertisements with paper to make grocery list in the dramatic play center ○ Materials to make books, cards, or write messages in the art center ○ Paper, tape, dowels, and play dough to make signs or enhance structures in the block center • Paper or blank books to record observations of animals or results of experiments in the science center
PK-LL-W4 Demonstrate an interest in using writing for a purpose	17. Write informal notes, lists, and letters using scribble writing and/or pictures 18. Participate in group-shared writing activities that include rhyming and descriptive words 19. Scribble write or draw a picture of a life experience or response to a text read aloud	<ul style="list-style-type: none"> • Pretend to write a prescription while playing clinic • Scribble writes next to picture • Tell teacher, “Write it down so everyone can read it.” • Ask teacher, “How do I write Happy Birthday?” • Write own name on a drawing for a friend • Make deliberate letter choices during writing attempts • Draw a representation of a school bus with a flat and explains picture. Make a book from the paper and write the school bus story using scribbles, letter-like symbols or letters to retell the school bus incident. • Create a recipe for a favorite snack • Compose notes/invitations to family/friends
*PK-LL-W –Prekindergarten – Language and Literacy Development — Writing		

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:538 (February 2011).

Subchapter H. Social and Emotional

§387. Social and Emotional Development

A. This domain supports the social and emotional development of children. The standards in this domain promote self-regulation, positive self-identity, self-reliance, respect for others, and interpersonal relationships. These skills are essential because the foundations of social competence developed during the first five years of life are linked to emotional well-being and affect later ability and functionality to adapt in school and form successful relationships. Strong social and emotional development programming significantly raises test scores and lowers

levels of distress, disruptive behavior, and future substance abuse. ¹ Prekindergarten children need proper guidance to develop the ability to negotiate issues that occur, to take turns, to lead and follow, and to be a friend. They also need to learn how to manage and express their feelings in a socially acceptable manner.

B. Effective prekindergarten programs:

1. offer opportunities for appropriate social and emotional development in a safe and supportive climate that minimizes stress and conflict;
2. introduce concepts and model techniques that promote positive identity and social interactions;
3. provide consistency and predictability in daily routines, environment, and staff;
4. integrate social and emotional development into all curriculum areas.

C. Strategies to support an inclusive learning environment:

1. create an environment that encourages participation based upon interest, ability, language, and culture;
2. plan opportunities for social interactions with all peers;
3. prepare children for transitions that occur within the daily routine;
4. model and reinforce respect for individual differences.

NOTE: To facilitate the inclusion of all children, including those with varying abilities, IEPs, and/or English Language Learners, some sample accommodations are embedded within the examples provided for the indicators. Please see Appendix A and Appendix B for further information and suggested modifications and/or accommodations.

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

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§389. Social and Emotional Development—Self-Regulation

Standard: Develop self-regulation by increasing one’s ability to control actions, thinking processes, and emotions		
Head Start Performance Standards: 1304.21(a)(3); (c)(1)(iv); and (c)(1)(vi) <i>ECERS-R</i> Items: 29, 31, and 33 Kindergarten Health Standards: 1-E-2; 4-E-1; 4-E-2 Kindergarten P.E. Standards: 5-P-1 and 5-P-2		
Indicator	Grade-level Expectation	Examples
NOTE: PreK Indicators do not apply to this Standard	1. Follow rules and routines and adapt to changes in rules and routines	<ul style="list-style-type: none"> • Follow simple rules, such as walking in the hallway, keeping hands and feet to oneself, and speaking nicely to others • Separate easily from parents/caregivers upon arrival and departure • Manage daily routines appropriately (e.g., participate in snack time, nap or other routine activities) without much delay or protest • Manage daily transitions by moving from one activity to another without much delay or protest • Can change routine and adapt when daily activities are interrupted unexpectedly
	2. Express feelings, needs, and wants in a manner that is age appropriate to the situation	<ul style="list-style-type: none"> • Identify common emotions (such as happy, sad, mad) using any form of communication, such as verbal communication, gestures, motions, signs, communication devices, or various languages • Use words or other modes of communication to express anger, instead of a negative physical behavior, such as hitting, biting, etc. • Communicate with appropriate body language and facial expressions (e.g., smile or raise hand upon completion of a task)
	3. Demonstrate control over impulsive behaviors in various settings	<ul style="list-style-type: none"> • Pay attention as required by a task • Wait for turn to touch class pet • Follow the teacher’s instructions not to touch a knife during a cooking activity

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§391. Social and Emotional Development—Self-Identity

Standard: Develop positive self-identity by valuing oneself and feeling a sense of belonging		
Head Start Performance Standards: 1304.21(a)(3); (c)(1)(iv); & (c)(1)(vi) Kindergarten Health Standards: 1-E-2 and 2-E-1 Kindergarten P.E. Standards: 7-P-1; 7-P-2; and 7-P-3		
Indicator	Grade-level Expectation	Examples
NOTE: PreK Indicators do not apply to this Standard	1. Recognize oneself as having unique characteristics and preferences	<ul style="list-style-type: none"> • Share personal information, such as name, gender, eye color • Communicate awareness and acceptance of individual differences between children by commenting, “Michael uses a hearing aid, but I don’t” or “Tommy says things differently than I do” • Indicate favorite books, foods, or songs
	2. Recognize and express feelings	<ul style="list-style-type: none"> • Create drawings, stories, and songs to illustrate emotions (e.g., If you’re sad and you know it...) • Talk about or act in ways to express emotions without harming self, others, or property (e.g., dancing or exercising until out of breath, relaxing in a cozy area) • Stand up for own rights (e.g. “I don’t like it when you take my ball” if toy is taken away or “I am supposed to be the leader today” if another child pushes to the front of the line) • Participate in discussions of a character from a story

Standard: Develop positive self-identity by valuing oneself and feeling a sense of belonging		
Head Start Performance Standards: 1304.21(a)(3); (c)(1)(iv); & (c)(1)(vi) Kindergarten Health Standards: 1-E-2 and 2-E-1 Kindergarten P.E. Standards: 7-P-1; 7-P-2; and 7-P-3		
Indicator	Grade-level Expectation	Examples
	3. Discuss his/her own family	<ul style="list-style-type: none"> Identify members of his/her family and their roles in the family Tell stories, draw pictures, or verbally describe family practices, such as “My family eats rice with every meal” Tell the class that his/her family uses the word “casa” instead of “house” Talk about family experiences, such as weekend activities or trips
	4. Demonstrate confidence in range of abilities and express pride in accomplishments	<ul style="list-style-type: none"> Say, “Watch me! I can do it by myself!” Ask a friend or adult to look at what he/she has painted Use home language to label objects in the classroom for peers
	5. Attempt new experiences	<ul style="list-style-type: none"> Move away from adults to play alone or with peers, checking back as needed Investigate new materials without teacher prompting Initiate play with a new classmate Try a new outdoor game

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§393. Social and Emotional Development—Self-Reliance

Standard: Develop self-reliance by demonstrating independence and self-help skills		
Head Start Performance Standards: 1304.21(a)(3); (c)(1)(iv); & (c)(1)(vi) Kindergarten Health Standards: 1-E-3 Kindergarten P.E. Standards: 5-P-2; & 5-P-4		
Indicator	Grade-level Expectation	Examples
NOTE: PreK Indicators do not apply to this Standard	1. Develop independence during activities, routines, and play	<ul style="list-style-type: none"> Self select a center to play in using words, picture cues, home language, sign, gestures Upon arrival, place items in cubbies, wash hands independently, and dry hands Put on a jacket without help
	2. Choose activities and use materials appropriately, purposefully, respectfully, and safely	<ul style="list-style-type: none"> Choose puzzle, use puzzle, and put puzzle back on shelf Choose a center, play in that center, clean up and move to another center Put tapes/CDs in player to listen to music Use markers, crayons, scissors, and paint only on paper or other appropriate materials
	3. Show increasing competence in a wide range of self-care activities	<ul style="list-style-type: none"> Brush his/her own teeth Indicate to an adult when he/she has to go to the bathroom When cold, get his/her own coat and put it on independently
	4. Seek guidance from peers and adults when needed	<ul style="list-style-type: none"> Ask an adult before touching something that might not be safe Seek assistance when having trouble putting on shoes Seek assistance when dealing with a difficult conflict

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§395. Social and Emotional Development—Respect for Others

Standard: Develop a respect for and understanding of others		
Head Start Performance Standards: 1304.21(a)(3); (c)(1)(iv); and (c)(1)(vi) <i>ECERS</i> : 28 Kindergarten P.E. Standards: 6-P-1; 6-P-2; & 6-P-3		
Indicator	Grade-level Expectation	Examples
NOTE: PreK Indicators do not apply to this Standard	1. Recognize and respect the feelings, needs, and rights of others	<ul style="list-style-type: none"> • Laugh or smile when others are happy • Indicate that another child is sad because her parent/caregiver left • Bring a truck book to someone who loves trucks • Be respectful of another’s personal space and belongings • Be respectful of others’ cultures, languages, customs, appearances, and needs
	2. Demonstrate growing understanding of how one’s actions affect others	<ul style="list-style-type: none"> • With encouragement from an adult, give a pat, friendly word, or toy to a peer to whom he/she has caused distress • Begin to recognize the feelings reflected by others’ facial expressions • Invite another child to play when other children have rejected that child
	3. Demonstrate awareness of and respect for uniqueness of others	<ul style="list-style-type: none"> • Show interest in how people in different cultures live • Participate in various cultural activities (e.g. stories, cooking, songs) • Interact appropriately with others different from oneself • Accept peers with different abilities

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§395. Social and Emotional Development—Interpersonal Skills

Standard: Develop interpersonal skills that foster positive relationships		
Head Start Performance Standards: 1304.21(a)(3); (c)(1)(iv); & (c)(1)(vi) <i>ECERS-R</i> : 31, 32, & 33 Kindergarten P.E. Standards: 5-P-2; 5-P-3; 5-P-4; & 6-P-2		
Indicator	Grade-level Expectation	Examples
NOTE: PreK Indicators do not apply to this Standard	1. Play cooperatively with peers for a sustained time	<ul style="list-style-type: none"> • Take turns • Successfully enter a group • Participate successfully in group activities • Work with others to complete a task, such as building a block tower
	2. Build conflict resolution skills	<ul style="list-style-type: none"> • Move from physical to verbal responses in conflicts with other children • Engage another child in a conversation about a toy he/she wants • Trade one toy for another • Seek assistance from the teacher for help when dealing with others who are less able to resolve a conflict
	3. Develop and maintain positive relationships with peers and adults	<ul style="list-style-type: none"> • Tells someone, “Mary is my friend” • Share a book with a friend • Give teacher a hug or a smile • Separate from parents to greet teacher • Demonstrate happiness when reunited with parents at the end of the day

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Chapter 5. Pre-K Standards at a Glance

§501. Approaches to Learning

Reasoning and Problem-Solving	
GLE 1	Demonstrate an intrinsic motivation to learn by displaying interest in real world experiences
GLE 2	Demonstrate the ability to think systematically and use reasoning skills
GLE 3	Use a variety of strategies to investigate possible solutions when problem-solving
GLE 4	Approach tasks and experiences with flexibility, imagination, and inventiveness to create new ideas outside of his/her own experience
GLE 5	Discuss ideas and experiences with others, utilizing any form of communication
GLE 6	Reflect on investigations and their results by making observations and possibly forming new ideas
Initiative, Engagement, and Persistence	
GLE 1	Show curiosity and interest in learning new things and trying new experiences
GLE 2	Demonstrate initiative and independence in selecting and carrying out activities
GLE 3	Maintain attention in child-initiated and teacher-initiated activities for short periods of time, despite distractions and interruptions
GLE 4	Demonstrate an increasing ability to plan and work towards completion of tasks and activities, even when faced with frustration because the task or activity is difficult
Curiosity and Eagerness to Learn	
GLE 1	Make choices about play activities, materials, and playmates/companions
GLE 2	Engage in unfamiliar activities during play
GLE 3	Use prior knowledge and experiences to learn new skills during play
GLE 4	Use manipulatives and other hands-on materials to learn concepts and skills related to core content areas
GLE 5	Describe play experiences using English or another language or another mode of communication

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§503. Cognitive Development—Mathematics

Number and Number Relations	
PK-CM-N1	Compare numbers of objects
PK-CM-N2	Perform one-to-one correspondence
PK-CM-N3	Count by rote
PK-CM-N4	Begin to count objects
PK-CM-N5	Begin to recognize numerals
PK-CM-N6	Begin to demonstrate estimation skills
Measurement	
PK-CM-M1	Experience, compare, and use language relating to time
PK-CM-M2	Anticipate, remember, and describe sequences of events
PK-CM-M3	Use mathematical language to describe experiences involving measurement
PK-CM-M4	Measure objects in the physical world using non-standard units of measurement
Geometry	
PK-CM-G1	Recognize, name, describe, compare, and create basic shapes
PK-CM-G2	Identify shapes to describe physical world
PK-CM-G3	Describe and interpret spatial sense: positions, directions, distances, and order

Data Analysis	
PK-CM-D1	Sort and classify materials by one or more characteristics
PK-CM-D2	Collect and organize data about themselves, their surroundings, and meaningful experiences
PK-CM-D3	Interpret simple representations in data
Patterns and Relationships	
PK-CM-P1	Recognize patterns in the physical world
PK-CM-P2	Describe, copy, extend, create patterns and make predictions about patterns
PK-CM-P3	Serialize objects

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§505. Cognitive Development—Science

Science as Inquiry	
PK-CS-I1	Use prior knowledge and experiences to hypothesize, predict, generate questions, and draw conclusions about organisms and events in the environment
PK-CS-I2	Conduct simple scientific experiments
PK-CS-I3	Make observations using senses
PK-CS-I4	Employ equipment and tools to gather data and extend sensory observations
PK-CS-I5	Collect, interpret, communicate data and findings from observation and experiments in oral and written format
PK-CS-I6	Use appropriate scientific vocabulary related to topics
Physical Science	
PK-CS-P1	Begin investigating states of matter: solids, liquids, and gases
PK-CS-P2	Describe objects by their physical properties
PK-CS-P3	Explore the physical world using five senses
PK-CS-P4	Explore simple machines, magnets, and sources of energy
Life Science	
PK-CS-L1	Explore, observe, and describe a variety of living things
PK-CS-L2	Explore, observe, describe, and participate in a variety of non-living things
PK-CS-L3	Explore, observe, describe, and participate in a variety of activities related to preserving their environment
PK-CS-L4	Begin to develop an awareness and understanding of plant and animal life cycles and how the life cycles vary for different reasons
Earth and Space Science	
PK-CS-ES1	Investigate, compare, and contrast seasonal changes in their immediate environment
PK-CS-ES2	Discover through observation that weather can change from day to day
PK-CS-ES3	Use vocabulary to describe major features of the earth and sky

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§507. Cognitive Development—Social Studies

Geography	
PK-CSS-G1	Include representations of roads, bodies of water, and buildings in their play
PK-CSS-G2	Use words to indicate directionality, position, and size
PK-CSS-G3	Develop awareness of the world around them
Civics	
PK-CSS-C1	Recognize community workers and increase awareness of their jobs
PK-CSS-C2	Identify his/her role as a member of family/class
Economics	
PK-CSS-E1	Demonstrate an awareness of money being used to purchase items
History	
PK-CSS-H1	Use words to describe time (yesterday, today, tomorrow)

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§509. Creative Arts Development

Music	
GLE 1	Respond to variations in music – pitch, volume, tempo, beat, rhythm, or patterns
GLE 2	Express thoughts and feelings in response to a variety of diverse types of music
GLE 3	Make music
Movement	
GLE 1	Observe or participate in various forms of movement
GLE 2	Show creativity through movement
Visual Arts	
GLE 1	Observe and/or describe various forms of art
GLE 2	Create individual and/or group art
Dramatic Art	
GLE 1	Experience and respond to a variety of dramatic performances (puppetry, story-telling, dance, plays, pantomime, theater)
GLE 2	Role play or use puppets to express feelings, dramatize stories, mimic social behaviors observed in adults, re-enact real-life roles and experiences
GLE 3	Participate in activities using symbolic materials and gestures to represent real objects and situations

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§511. Health and Physical Development

Health and Hygiene	
GLE 1	Demonstrate an awareness of healthy practices
GLE 2	Exhibit good hygiene and self-help skills
Environmental Hazards	
GLE 1	Identify potentially harmful objects, substances, or behaviors, and/or situations
GLE 2	Be aware of and follow universal safety rules
Gross Motor	
GLE 1	Develop coordination, balance and spatial awareness
GLE 2	Coordinate movements to perform tasks and try new skills indoors and/or outdoors
Fine Motor	
GLE 1	Strengthen and control small muscles in hands
GLE 2	Exhibit manual coordination
GLE 3	Participate in eye-hand coordination activities and develop spatial awareness

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§513. Language and Literacy Development

Listening	
PK-LL-L1	Listen with understanding to directions and conversations
PK-LL-L2	Follow directions that involve two- or three-step sequence of actions

PK-LL-L3	Hear and discriminate the sounds of language in the environment to develop beginning phonological awareness
PK-LL-L4	Demonstrate understanding of new vocabulary introduced in conversations, activities, stories or books
PK-LL-L5	Engage in activities that offer the opportunity to develop skills associated with technology by viewing, comprehending, and using non-textual information
Speaking	
PK-LL-S1	Develop and expand expressive language skills
PK-LL-S2	Use new vocabulary in spontaneous speech
PK-LL-S3	Develop appropriate listening skills
Reading	
PK-LL-R1	Actively engage in reading experiences
PK-LL-R2	Retell information from a story
PK-LL-R3	Demonstrate an understanding of print concepts and beginning alphabetic knowledge
PK-LL-R4	Use emerging reading skills to make meaning from print
Writing	
PK-LL-W1	Experiment with a variety of writing tools, materials, and surfaces
PK-LL-W2	Use forms of shapes and letter-like symbols to convey ideas
PK-LL-W3	Participate in a variety of writing activities focused on meaningful words and print in the environment
PK-LL-W4	Demonstrate an interest in using writing for a purpose

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§515. Social and Emotional Development

Self-Regulation	
GLE 1	Follow rules and routines and adapt to changes in rules and routines
GLE 2	Express feelings, needs, and wants in a manner that is age appropriate to the situation
GLE 3	Demonstrate control over impulsive behaviors in various settings
Self-Identity	
GLE 1	Recognize oneself as having unique characteristics and preferences
GLE 2	Recognize and express feelings
GLE 3	Discuss his/her own family
GLE 4	Demonstrate confidence in range of abilities and express pride in accomplishments
GLE 5	Attempt new experiences
Self-Reliance	
GLE 1	Develop independence during activities, routines, and play
GLE 2	Choose activities and use materials appropriately, purposefully, respectfully, and safely
GLE 3	Show increasing competence in a wide range of self-care activities
GLE 4	Seek guidance from peers and adults when needed
Respect for Others	
GLE 1	Recognize and respect the feelings, needs, and rights of others

GLE 2	Demonstrate growing understanding of how one's actions affect others
GLE 3	Demonstrate awareness of and respect for uniqueness of others
Interpersonal Skills	
GLE 1	Play cooperatively with peers for a sustained time
GLE 2	Build conflict resolution skills
GLE 3	Develop and maintain positive relationships with peers and adults

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Chapter 7. Glossary of Terms

§701. Glossary of Terms

Accommodations—changes in the curricular material and experiences to accommodate a child's particular needs. Adaptations are not intended to alter the difficulty of the skill or area of development addressed. Such adaptations may enable children with disabilities to have experiences similar to those of their peers.

Child Initiated Activity—children are able to select their own centers, activities, materials, and companions, and are able to manage their own play independently. There is adult interaction in response to the children's developmental needs, as well as to introduce and reinforce concepts. This is also known as *free play*. (Note: When children are assigned to centers by staff or the staff selects the activities, materials, etc., for the children, this is not considered a child-initiated or free play activity.)

Concrete Hands-On Learning Experiences—learning experiences that emphasize choice, free exploration, interaction, and authenticity within a relevant and meaningful context. Such experiences emphasize the development of children's thinking, reasoning, decision-making and problem-solving abilities. Curriculum areas and skills are integrated in the context of the learning activities and experiences as opposed to being taught in isolation.

Content Standards—describes the broad outcomes that children should achieve through a high-quality preschool experience. Each Content Standard is aligned with the Louisiana K-4 Content Standards and other relevant state and national standards.

Developmental Profile—specifies what most preschool children should be able to know and be able to do by the end of their preschool experiences.

Developmentally Appropriate Practice—quality care and education of young children based on:

1. knowledge of how children develop and learn. This includes information about ages and stages of development as well as what materials, activities and interactions are important for each;
2. knowledge of the individual child, including disabilities; and
3. knowledge about the social, cultural and familial cultural context in which children are growing up.

Domain—describe the aspect of development for each standard. content areas are specified for each domain.

Early Childhood Environment Rating Scale-Revised (ECERS-R)—a reliable and valid research based program quality assessment instrument. This scale is designed for use in classrooms serving children 2 1/2 to 5 years of age. It is

used to evaluate classroom environment as well as programmatic and interpersonal features that directly affect children and adults in the early childhood setting. The seven sub-scales of the ECERS-R include: *Space and Furnishings, Personal Care Routines, Language-Reasoning, Activities, Interactions, Program Structure, and Parents and Staff.*

Emerging Skills—skills or abilities, which are not shown as being mastered but are present in a modified or limited form. Attention to emerging skills allows teachers to assess the developmental process and progress of students. Additionally, a focus on emerging skills is important in the planning of the environment and activities to facilitate development of skills.

Examples—tips on how to structure the curriculum and environment to assist a child's optimal performance.

Free Play—see *Child-Initiated Activity*.

Grapheme—the smallest part of *written* language that represents a phoneme in the spelling of a word.

Grade-level Expectation—specifies what most preschool children should be able to know and be able to do by the end of their preschool experience.

Head Start Performance Standards—these standards used in Head Start Programs are based on sound child development principles about how children grow and learn. The varied experiences provided by the program support the continuum of children's growth and development in all domains.

Indicators—define a Standard more specifically so that it can be measured. Each indicator is coded by domain, or content area and strand. For example, PK-CM-N1 means PreKindergarten-Cognitive Math-Number 1.

Interest Center—an area in the classroom used during free play/ child-initiated activities. In each area, the materials are organized by type and are stored so that they are accessible to the children, shelves have picture/word labels, and the area is appropriately furnished. Interest centers can also be established outdoors.

Louisiana Literacy Profile—provides teachers of children in grades K-3 with the means of observing and recording progress in a continuum of growth that is based on literacy behaviors. It informs instruction and promotes development of literacy behaviors.

Manipulatives—materials that allow children to explore, experiment, and interact by using their hands or by mechanical means. These learning materials promote dexterity and eye-hand coordination while promoting problem-solving and higher levels of critical thinking. Such items include, but are not limited to, beads and laces, puzzles, small blocks, playdough, lacing cards, and items that can be snapped, zipped or hooked together to name a few.

Modifications—limiting, restricting, or altering materials, the environment or experiences without fundamentally changing the outcome or use of such. Modifications may enable children who are experiencing difficulty with a particular skill or an area of development to successfully achieve competence in these areas. Examples of modifications include offering a variety of levels of puzzles such as interlocking and pegged puzzles.

Multisensory Experiences—experiences that allow children to respond to physical stimuli relating to more than one of the five senses. Included in these types of experiences

would be cooking activities where the senses of sight, smell, taste, touch and hearing would all be involved.

National Association for the Education of Young Children (NAEYC)—This national organization provides policy and research information on the growth and development of children from birth to age eight.

Non-Standard Units of Measurement—methods of measurement that do not include traditional means such as rulers, scales, clocks, etc. Non-standard units of measurement allow children to explore and thus understand the concept of measurement without being tied to exact numerical data. Items such as pieces of string, rows of blocks or pencils may serve as non-standard units to measure length; balances may help promote understanding of varying weights, and picture-graphs of daily routines allow children to understand the concept of time and passage of time.

Non-Textual Information—information expressed through the use of pictures, symbols or icons. Such information may be used by children to process information and to create mental images symbolic of real-world situations without the use of written text.

Onset—this is a part of spoken language that is smaller than a syllable but larger than a phoneme. It is the initial consonant sound of a syllable (The onset of *bag* is *b-*; of *swim*, *sw-*).

Open-Ended Questioning—questioning that promotes a child's development, as opposed to mere information gathering. This method of questioning is used to motivate children to learn, inquire about and discover their world. Open-ended questioning prompts students to think about their responses and requires a more in-depth level of critical thinking in order to respond. These questions help the student to recognize a problem, analyze contributing factors and to consider a choice of optimal solutions. Open-ended questions are characterized by the words "What if?", "How?", "What would happen if?", "Why do you think?", "Is there another way?" etc.

Phoneme—the smallest part of spoken language that makes a difference in the meaning of words.

Phonemic Awareness—the ability to hear, identify, and manipulate the individual sounds (phonemes) in spoken words. A child who possesses phonemic awareness can segment sounds in words and blend strings of isolated sounds together to form recognizable words.

Phonological Awareness—a broad term that includes phonemic awareness. In addition to phonemes, phonological awareness activities can involve work with rhymes, words, syllables, and other onsets and rimes.

Play-Based Environment—an interactive learning environment in which play is the medium that children learn and make sense of their world. It provides a forum for children to learn to deal with the world on a symbolic level—the foundation for all subsequent intellectual development. In a play-based environment, children have the opportunity to gain a variety of social, emotional and physical skills. This type of environment is in contrast to the environment where learning is compartmentalized into the traditional content areas and children have little opportunity to actively explore, experiment and interact.

Print Concepts—materials, activities, and props, etc. that prompt the ongoing process of becoming literate; that is, learning to read and write. Print concepts include exposure

to textual information through books, stories, field trips, notes, labels, signs, chants, etc., and should be part of the emergent-literacy environment of all preschool classrooms.

Props—materials used throughout the classroom to extend learning in any one of the interest areas or centers. Props added to an interest center are generally placed in the area in addition to standards items. Examples of props include: puppets that correlate with stories in the library center or phone books and recipe cards in the dramatic play center. Such props allow children to engage in activities in which they can interact with other children, share and take turns, role-play and exercise their imaginations. Additionally, props added to interest centers help children accept responsibility for clean-up, break barriers for sex/culture stereotyping, and deal with age/stage personal relations.

Rime—the part of a syllable that contains the vowel and all that follows it (the rime of *bag* is *-ag*; of *swim*, *-im*).

Self-Help Tasks or Skills—these skills or tasks comprise a large portion of a young child's daily living tasks and are important in all areas of development. These skills include toileting, serving and eating meals and snacks, cleaning up their environment and grooming and dressing.

Spatial Sense or Spatial Awareness—the sense of orienting to one's environment. A child has sense of awareness in terms of directionality, as well as his/her relationship to self, the environment, and others in that environment.

Standard—The broad outcomes that children should achieve through a high quality preschool experience.

Strand—defines each content area or domain more specifically.

Substantial Portion of the Day—free play/child-initiated activities are available to the children at least one third or 35 percent of the instructional day. For example: During a 6 hour instructional day, these activities are available at least 2 hours of the instructional day.

Syllable—a part of a word that contains a vowel or, in spoken language, a vowel sound.

Teacher-directed Activity—the activities and/or materials are chosen for the children by the teacher to engage in educational interaction with small groups and individual children, as well as with the whole group. (Examples: read a story, cooking activity, or science activity.)

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Chapter 9. Appendices

§901. Appendix A

A. Strategies to support children who are English Language Learners in program activities.

1. English Language Learners (ELL) are those children who speak a language other than English at home. Teachers can support the ELL students in their classes by providing a language-rich environment, by supporting the social/emotional development of the students, and by having an understanding of the cultures of the ELL students. The ELL student who is learning a new language will progress through four developmental stages.

a. Stage 1: Home Language—The children will use their home language in the beginning because that is the only language they know. If there are several children in the

class with the same home language, then they may continue to use it among themselves. Home language is important, because research has shown that if ELL children continue to build on their home language while learning a new language, the development of both languages is greatly enhanced.

b. Stage 2: Non-Verbal—Many ELL children will go through a “silent” period, in which they will listen and observe more than they speak. These children will often use gestures to communicate with adults and the other children. The children may also need more time when answering questions, in order to process the meaning of the question and formulate an answer.

c. Stage 3: Emerging—The children will begin to use one or two word responses to questions and will also begin to use expressions such as “What’s happening?” or “Wanna play?” This is important because it helps the ELL children become more socially interactive with other children.

d. Stage 4: Productive—Young ELL children will begin to engage in English conversation and use more spontaneous and productive sentences when speaking. There will still be pronunciation errors or an accent when saying certain sounds. They will also have errors in vocabulary, but this is developmental and is common with all young learners of English.

2. The following strategies, though not an exhaustive list, are recommended practices for helping teachers meet the needs of ELL children, as well as their families.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:545 (February 2011).

§903. Appendix B

A. Strategies for Including Children with Special Needs in Program Activities

1. There are many ways of adapting or modifying activities for children with special needs, including those with disabilities and those whose home language is other than English. It is important that every staff member consider the uniqueness of each child and that all children have different approaches, preferences and skill levels. The following strategies, though not an exhaustive list, are recommended practices for helping teachers meet the diverse needs of each of their students.

What Teachers can do for the Children
<ul style="list-style-type: none"> • Provide a warm, welcoming learning environment • Learn some phrases in the child’s home language that you can use when greeting the child or during daily activities • Encourage children to play and interact with one another • Provide environmental print in English and the home language • Model language by labeling your actions and the child’s actions • Use visual cues or gestures when demonstrating a new skill or concept and repeat instructions more than once • Connect new concepts with familiar experiences • Provide books and songs within the classroom in the child’s home language <ul style="list-style-type: none"> • At storytime, choose repetitive books or books with simpler language • Establish and maintain daily routines and schedules • Organize small group activities exclusively for your ELL children • Provide props in dramatic play that represent the child’s culture • Provide an English-speaking buddy or partner for the ELL child • Provide a quiet space in the classroom where the children can use manipulatives, puzzles, or playdough
What teachers can do for the families:
<ul style="list-style-type: none"> • Understand the importance of the role you play and the impression you make on the family • Show interest in the child’s family and culture • Gain information and knowledge about the child’s community and culture <ul style="list-style-type: none"> • Have an open door policy • Use informal notes and phone calls to communicate with the family (you may need to use an interpreter) • Post information on a bulletin board for parents in or near the classroom and include a display of children’s artwork or photos <ul style="list-style-type: none"> • Develop family-friendly newsletters with pictures and photos • Invite the families to the classroom to share their culture with the children • Organize family and community meetings and gatherings to learn more about cultural values and beliefs <ul style="list-style-type: none"> • Consider home visits • Encourage families to continue the use of the native language at home • Consider the dietary, cultural and religious practices associated with the culture of the family when planning events

Cognitive Delays or Learning Challenges
<ul style="list-style-type: none"> • Reduce distractions (background noise, clutter, etc.); provide access to areas that are quiet and offer relief from pressures of the environment • Give clear instructions, repeat and demonstrate when necessary; combine verbal, visual cues <ul style="list-style-type: none"> • Use concrete materials/experiences; use modeling and demonstrations • Break down difficult tasks into smaller parts; make suggestions that give cues or choices for next steps in an activity • Establish routines without being rigid; post picture and word sequences of schedules and routines <ul style="list-style-type: none"> • Plan for and limit the number of transitions • Allow time for meaningful repetition and practice • Provide encouragement and frequent feedback • Model appropriate use of materials, tools and activities in classroom
Hearing Impairments
<ul style="list-style-type: none"> • Get children’s attention and use visual cues • Face children when possible, and use clear voice and facial expressions <ul style="list-style-type: none"> • Use objects or pictures to demonstrate what is being talked about • Provide many opportunities for communication with adults and peers • Give feedback to be sure messages are understood • Limit background noise and other auditory distractions • Use other forms of communication, such as gestures, printed words, objects when needed <ul style="list-style-type: none"> • Learn about adaptive aids or communication systems children use; learn basic signs to communicate and to model appropriate behaviors • Sing along with tapes, CDs, etc. to encourage children to lip read
Orthopedic, Motor or other Health Challenges
<ul style="list-style-type: none"> • Adapt/modify materials, equipment, toys, etc. by stabilizing/enlarging them, adding handles or grips; use adapted battery or electric operated toys/materials <ul style="list-style-type: none"> • Ensure that environment accommodates wheelchairs, body boards, etc.; monitor pathways/floor space to promote accessibility and movement • Keep classroom uncluttered; ensure easy access to shelves, cubbies, sinks, etc. <ul style="list-style-type: none"> • Learn about adaptive equipment; seek inexpensive solutions if adaptive equipment is not available (e.g., support child’s feet, by using a telephone book as a footrest, tray on walker to move toys) • Provide additional time for children to get to materials/activities • Use non-locomotor movement activities, such as moving arms, even when feet are in place
Communication Challenges
<ul style="list-style-type: none"> • Plan many experiences/opportunities that motivate children to give and receive messages with adults and peers <ul style="list-style-type: none"> • Verbalize what children tell you with their actions; ask open-ended questions • Add new information slowly and clearly; give only one verbal direction at a time <ul style="list-style-type: none"> • Provide language experiences with repetitive sounds, phrases, sentences, rhymes, chants, etc. • Staff should be familiar with any AAC (augmentative and alternative communication systems) used by children • Repeat and expand on children’s thinking; introduce concepts and add new information slowly and clearly

<ul style="list-style-type: none"> Support children’s communication in other areas, such as writing or drawing
Visual Impairments
<ul style="list-style-type: none"> Evaluate the environment, including the lighting, to ensure that pathways are unobstructed, furnishings are consistently located and materials are positioned so children can see them clearly <ul style="list-style-type: none"> Describe and label demonstrations, objects or events that children cannot readily see Give clear and specific directions, using children’s names; provide additional directional language when possible (<i>near, forward, next to, etc.</i>) Use pictures/books that are bold and uncluttered; try to use high-contrast colors (black and yellow or black and orange) Use auditory or tactile cues; plan activities to help children strengthen all of their senses Use large, clear, tactile labels to identify materials, activities, etc.
Challenging Behaviors/Emotional Disturbances
<ul style="list-style-type: none"> Provide a warm, inviting, and supportive classroom atmosphere; have appropriate expectations of children’s behaviors Establish consistent routines and transitions; limit waiting or unoccupied time between activities Limit classroom rules; establish clear consequences for violations and follow through on them; use positive guidance techniques Anticipate problems and have action plans in place to avoid them; develop signals for when particular behaviors should stop or when a child needs help <ul style="list-style-type: none"> Model and role-play appropriate social behaviors and coping strategies; label feelings behind children’s actions and help children to label the feelings themselves Provide soft lighting, cozy spaces and calming activities (e.g. water play, soothing music)

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:546 (February 2011).

Brad Smith
Finance/Legislative Specialist

1102#032

RULE

Board of Elementary and Secondary Education

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

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 741—Louisiana Handbook for School Administrators*: §2318. The College and Career Diploma and §2319. The Career Diploma. These policy changes require the EOC tests scores to count a percentage of the students’ final course grades. This requirement was recommended by the High School Redesign Commission. Also changed is the test requirement for the diploma endorsements. This change is necessitated by the switch to EOC tests.

**Title 28
EDUCATION**

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

**Chapter 23. Curriculum Instruction
§2318. The College and Career Diploma
A. - B.1.c. ...**

2. For incoming freshmen in 2010-2011 and beyond, students must meet the assessment requirements below to earn a standard diploma.

a. Students must pass three end-of-course tests in the following categories:

- i. English II or English III;
- ii. Algebra I or Geometry;
- iii. Biology or American History.

b. Students enrolled in a course for which there is an EOC test must take the EOC test.

i. The EOC test score shall count a percentage of the student’s final grade for the course.

ii. The percentage shall be between 15 percent and 30 percent inclusive, and shall be determined by the LEA.

iii. The grades assigned for the EOC test achievement levels shall be as follows.

EOC Achievement Level	Grade
Excellent	A
Good	B
Fair	C
Needs Improvement	D or F

iv. The DOE will provide conversion charts for various grading scales used by LEAs.

c. 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 twelfth 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.

B.3. - C.5.a.i. ...

* * *

ii. Assessment Performance Indicator

(a) Students graduating prior to 2013-2014 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:

- (i) one *Approaching Basic*, one *Mastery* or *Advanced*, *Basic* or above in the remaining two; or
- (ii) two *Approaching Basic*, two *Mastery* or above.

(b) Students graduating in 2013-2014 and beyond shall achieve a score of *Good* or *Excellent* on each of the following EOC tests:

- (i). English II and English III;
- (ii). Algebra I and Geometry;
- (iii). Biology and American History.

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, articulated 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. Assessment Performance Indicator

(a). 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 prior to 2013-2014 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:

(i). one approaching basic, one mastery or advanced, and basic or above in the remaining two;

(ii). two approaching basic, two mastery or above.

(b) Students graduating in 2013-2014 and beyond shall achieve a score of *Good* or *Excellent* on each of the following EOC tests:

(i). English II and English III;

(ii). Algebra I and Geometry;

(iii). Biology and American History.

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 37:547 (February 2011).

§2319. The Career Diploma

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

2. For incoming freshmen in 2010-2011 and beyond, students must meet the assessment requirements below to earn a 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. Students enrolled in a course for which there is an EOC test must take the EOC test.

i. The EOC test score shall count a percentage of the student's final grade for the course.

ii. The percentage shall be between 15 percent and 30 percent inclusive, and shall be determined by the LEA.

iii. The grades assigned for the EOC test achievement levels shall be as follows.

EOC Achievement Level	Grade
Excellent	A
Good	B
Fair	C
Needs Improvement	D or F

iv. The DOE will provide conversion charts for various grading scales used by LEAs.

c. 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 twelfth 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.

B.3. - C.3. ...

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.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1291 (June 2005), amended LR 31:2211 (September 2005), LR 31:3070 (December 2005), LR 31:3072 (December 2005), LR 32:1414 (August 2006), LR 33:429 (March 2007), LR 33:432 (March 2007), LR 33:2050 (October 2007), LR 33:2354 (November 2007), LR 33:2601 (December 2007), LR 34:1607 (August 2008), LR 35:1230 (July 2009), LR 35:1876 (September 2009), LR 35:2321 (November 2009), LR 35:2750 (December 2009), LR 36:1490 (July 2010), LR 37:548 (February 2011).

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.

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., December 9, 2010, to: Nina A. Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Brad Smith
Finance/Legislative Specialist

1102#0033

RULE

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel
(LAC 28:CXXXI.Chapters 2 and 6)

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*: §233. The Practitioner Teacher Program Alternative Path to Certification (Minimum Requirements); §235. The Master's Degree Program Alternative Path to Certification (Minimum Requirements); §237. Certification-Only Program Alternative Path to Certification; §241. PRAXIS I Scores; §243. ACT/SAT Scores in Lieu of PRAXIS I Scores; §625. Requirements to add Early Interventionist Birth to Five Years; §627. Requirements to add Hearing Impaired K-12; §629. Requirements to add Mild/Moderate; §630. Requirements to add Mild/Moderate (1-5), (4-8), and (6-12) – Mandatory 7/1/2010; §631. Requirements to add Significant Disabilities 1-12; and §633. Requirements to add Visual Impairments/Blind K-12. This revision in policy will allow the replacement of the current special education pedagogy exams in early interventionist, hearing impaired, mild/moderate, visually impaired and significant disabilities with new editions of the following Praxis exams: Special Education: Core Knowledge and Applications (#0354), Special Education: Core Knowledge Mild to Moderate Applications (#0543), and Special Education: Core Knowledge and Severe to Profound Applications (#0545). The current Praxis exams required for Louisiana licensure in early interventionist, hearing impaired, mild/moderate, visually impaired and significant disabilities will be phased out by Educational Testing Service.

Title 28

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 §233. The Practitioner Teacher Program Alternative Path to Certification (Minimum Requirements)

A. - H. ...

I. Program requirements must be met within a three year time period. For certification purposes, private providers and colleges or universities will submit signed statements to the Department of Education indicating that the student completing the Practitioner Teacher Program alternative certification path met the following requirements:

1. passed the PPST components of the Praxis (Note: This test was required for admission.);

2. completed all program requirements including the internship with a 2.50 or higher GPA (this applies to candidates in a university program);

3. completed prescriptive plans (if weaknesses were demonstrated);

4. passed the Praxis specialty examination for the area(s) of certification. (Note: This test was required for admission):

a. grades PK-3—Elementary Education: Content Knowledge (#0014);

b. grades 1-5 (regular and special education)—Elementary Education: Content Knowledge (#0014);

c. grades 4-8 (regular and special education)—Middle school subject-specific licensing examination(s) for the content area(s) to be certified;

d. grades 6-12 (regular and special education)—Secondary subject-specific examination(s) for the content area(s) to be certified. General-Special Education Mild/Moderate candidates must pass a Praxis core subject area exam (English/language arts, foreign language, mathematics, the sciences, or social studies). If no examination has been adopted for Louisiana in the certification area, candidates must present a minimum of 31 semester hours of coursework specific to the content area for admission to the program;

e. all-level K-12 areas (art, dance, foreign language, health and physical education, and music)—Subject-specific examination(s) for content area(s) to be certified. If no examination has been adopted for Louisiana in the certification area, candidates must present a minimum of 31 semester hours of coursework specific to the content area for admission to the program;

5. passed the pedagogy examination (Praxis):

a. grades PK-3—Principles of Learning and Teaching Early Childhood (#0521)

b. grades 1-5—Principles of Learning and Teaching K-6 (#0522);

c. grades 4-8—Principles of Learning and Teaching 5-9 (#0523);

d. grades 6-12—Principles of Learning and Teaching 7-12 (#0524);

e. all-level K-12 Certification—Principles of Learning and Teaching K-6, 5-9, or 7-12;

f. general-special education mild/moderate—Special Education: Core Knowledge and Mild to Moderate Applications (#0543); In addition to one of the following aligned to candidates grade level:

i. grades 1-5—Principles of Learning and Teaching K-6 (#0522);

ii. grades 4-8—Principles of Learning and Teaching 5-9 (#0523);

iii. grades 6-12—Principles of Learning and Teaching 6-12 (#0524);

I.6. - L. ...

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 32:1790 (October 2006), amended LR 34:1387 (July 2008), LR 35:1477 (August 2009), LR 37:549 (February 2011).

§235. The Master's Degree Program Alternative Path to Certification (Minimum Requirements)

A. - D.5.a. ...

E. Certification Requirements. Colleges/universities will submit signed statements to the Louisiana Department of Education indicating that the student completing the Master's Degree Program alternative certification path met the following requirements:

1. passed PPST components of Praxis (as required for admission);

2. completed all coursework in the Master's Degree alternate certification program with a 2.50 or higher grade point average (GPA);

3. passed the specialty examination (Praxis) for the area of certification (this test was required for admission):

a. grades PK-3 (regular education)—Elementary Education: Content Knowledge (#0014);

b. grades 1-5 (regular education and mild/moderate)—Elementary Education: Content Knowledge (#0014);

c. grades 4-8 (regular education and mild/moderate)—Middle school subject-specific licensing examination for content area to be certified;

d. grades 6-12 (regular education and mild/moderate)—Secondary subject-specific examination for content area(s) to be certified. General-Special Education Mild/Moderate candidates must pass a Praxis core subject area exam (English/language arts, foreign language, mathematics, the sciences, or social studies). If no examination has been adopted for Louisiana in the certification area, candidates must present a minimum of 31 semester hours of coursework specific to the content area for admission to the program;

e. all-level K-12 Certification—Subject-specific examination for content area(s) to be certified. If no examination has been adopted for Louisiana in the certification area, candidates must present a minimum of 31 semester hours of coursework specific to the content area for admission to the program;

f. Special Education Early Interventionist (Birth to Five Years), Significant Disabilities 1-12, Hearing Impaired K-12, and Visual Impairments/Blind K-12—Elementary Education: Content Knowledge (#0014) specialty examination;

4. passed the pedagogy examination (Praxis):

a. grades PK-3—Principles of Learning and Teaching Early Childhood (#0521);

b. grades 1-5—Principles of Learning and Teaching K-6 (#0522);

c. grades 4-8—Principles of Learning and Teaching 5-9 (#0523);

d. grades 6-12—Principles of Learning and Teaching 7-12 (#0524);

e. all-level K-12 Certification—Principles of Learning and Teaching K-6, 5-9, or 7-12;

f. General-Special Education Mild/Moderate—Special Education: Core Knowledge and Mild to Moderate Applications (#0543); in addition to one of the following aligned to candidates grade level:

i. grades 1-5—Principles of Learning and Teaching K-6 (#0522);

ii. grades 4-8—Principles of Learning and Teaching 5-9 (#0523);

iii. grades 6-12—Principles of Learning and Teaching 6-12 (#0524);

g. Special Education Early Interventionist Birth to Five Years—Special Education: Core Knowledge and Applications (#0354) and Principles of Learning and Teaching: Early Childhood (#0521);

h. Special Education Significant Disabilities 1-12—Special Education: Core Knowledge and Severe to Profound Applications (#0545);

i. Special Education Hearing Impaired K-12—Special Education: Core Knowledge and Applications (#0354) and Education of Exceptional Students: Hearing Impairment (#0271);

j. Special Education Visual Impairments/Blind K-12—Special Education: Core Knowledge and Applications (#0354);

5. - 5.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 32:1792 (October 2006), amended LR 35:1480 (August 2009), LR 37:550 (February 2011).

§237. Certification-Only Program Alternative Path to Certification

A. - D.7. ...

E. Licensure Requirements

1. Practitioner License (PL2)—a program candidate that is hired as a full-time teacher in an approved Louisiana school will be issued a Practitioner License 2. This license is issued at the request of the Louisiana employing school system for a specific grade level and content area once successful completion of the classroom readiness component has been verified. The teacher is restricted to the specific grade level and content area as designated on the Practitioner License 2.

2. Standard Professional License—a standard Level certificate may be issued after the applicant has:

a. completed all program requirements with a 2.50 or higher GPA (this applies to candidates in a university program); and

b. passed the pedagogy examination (Praxis):

- i. grades PK-3—Principles of Learning and Teaching Early Childhood (#0521);
- ii. grades 1-5—Principles of Learning and Teaching K-6 (#0522);
- iii. grades 4-8—Principles of Learning and Teaching 5-9 (#0523);
- iv. grades 6-12—Principles of Learning and Teaching 7-12 (#0524);
- v. all-level K-12 certification—Principles of Learning and Teaching K-6, 5-9, or 7-12;
- vi. Special Education Early Interventionist Birth to Five Years—Special Education: Core Knowledge and Applications and Principles of Learning and Teaching Early Childhood (#0521);
- vii. Special Education Significant Disabilities 1-12—Special Education: Core Knowledge and Severe to Profound Applications (#0545);
- viii. Special Education Hearing Impaired K-12—Special Education: Core Knowledge and Applications

(#0354) and Education of Exceptional Students: Hearing Impairment (#0271);

ix. Special Education Visual Impairments/Blind K-12—Special Education: Core Knowledge and Applications (#0354);

c. completed all requirements of the Certification-Only Alternative Certification path as verified to the Louisiana Department of Education by the program provider.

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 32:1794 (October 2006), amended LR 35:1482 (August 2009), LR 37:550 (February 2011).

§241. PRAXIS I Scores

A. - C.2. ...

D. Special Education Areas

Area	Content Exam	Score	Pedagogy Requirement	Score
All Special Education Area(s)			Prior to 6/1/04: PLT K-6 (161), PLT 5-9 (154) or PLT 7-12 (161)	
Early Interventionist	Elementary Education: Content Knowledge (0014) Effective 7/1/05	150	Educ. of Exceptional Students: Core Content Knowledge (0353) Effective 6/1/04 Educ. of Exceptional Students: Core Content Knowledge (0353) and Early Childhood Education (0020) Effective 7/1/05 Principles of Learning and Teaching: Early Childhood (0521) Effective 1/1/08 Special Education: Core Knowledge and Applications (0354) and Principles of Learning and Teaching: Early Childhood (0521) Effective 1/1/11	143 143 510 172 145 172
Hearing Impaired	Elementary Education: Content Knowledge (0014) Effective 7/1/05	150	Educ. of Exceptional Students: Core Content Knowledge (0353) and Educ. of Deaf and Hard of Hearing Students (0271) Effective 6/1/04 Special Education: Core Knowledge and Applications (0354) and Education of Deaf and Hard of Hearing Students (0271) Effective 1/1/11	143 160 145 160
Mild to Moderate Disabilities	Effective 6/1/04 ALL Candidates must pass a content area exam appropriate to certification level 1-5, 4-8, 6-12 (e.g., 0014, or core subject-specific exams for middle or secondary grades) Prior to 6/1/04, a content area exam was required only for entry into a Mild/ Moderate 1-12 Practitioner Teacher Program, Non-Master's Certification-Only Alternate Program, and Master's Alternate Program.		*Educ. of Exceptional Students: Core Content Knowledge (0353) and Educ. of Exceptional Students: Mild/Moderate Disabilities (0542) *Note: (0353) and (0542) are not content area exams. Special Education: Core Knowledge and Mild to Moderate Applications (0543) Effective 1/1/11	143 141 153
Significant Disabilities	Elementary Education: Content Knowledge (0014) Effective 7/1/05	150	Educ. of Exceptional Students: Core Content Knowledge (0353) and Educ. of Exceptional Students: Severe to Profound Disabilities (0544) Special Education: Core Knowledge and Severe to Profound Applications (0545) Effective 1/1/11	143 147 153
Visual Impairments/Blind	Elementary Education: Content Knowledge (0014) Effective 7/1/05	150	Educ. of Exceptional Students: Core Content Knowledge (0353) Effective 6/1/04 Special Education: Core Content Knowledge and Applications (0354) Effective 1/1/11	143 145

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 36:484 and 487 (March 2010), LR 37:551 (February 2011).

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

A. - C.2. ...

D. Special Education Areas

Area	Content Exam	Score	Pedagogy Requirement	Score
All Special Education Area(s)			Prior to 6/1/04: PLT K-6 (161), PLT 5-9 (154) OR PLT 7-12 (161)	
Early Interventionist	Elementary Education: Content Knowledge (0014) Effective 7/1/05	150	Educ. of Exceptional Students: Core Content Knowledge (0353) Effective 6/1/04 Educ. of Exceptional Students: Core Content Knowledge (0353) and Early Childhood Education (0020) Effective 7/1/05 Special Education: Core Knowledge and Applications (0354) and Principles of Learning and Teaching: Early Childhood (0521) Effective 1/1/11	143 143 510 145 172
Hearing Impaired	Elementary Education: Content Knowledge (0014) Effective 7/1/05	150	Educ. of Exceptional Students: Core Content Knowledge (0353) and Educ. of Deaf and Hard of Hearing Students (0271) Effective 6/1/04 Special Education: Core Knowledge and Applications (0354) and Education of Deaf and Hard of Hearing Students (0271) Effective 1/1/11	143 160 145 160
Mild to Moderate Disabilities	Effective 6/1/04 ALL Candidates must pass a content area exam appropriate to certification level 1-5, 4-8, 6-12 (e.g., 0014, or core subject-specific exams for middle or secondary grades) Prior to 6/1/04, a content area exam was required only for entry into a Mild/ Moderate 1-12 Practitioner Teacher Program, Non-Master's Certification-Only Alternate Program, and Master's Alternate Program.		*Educ. of Exceptional Students: Core Content Knowledge (0353) and Educ. of Exceptional Students: Mild/Moderate Disabilities (0542) Effective 6/1/04 *Note: (0353) and (0542) are not content area exams. Special Education: Core Knowledge and Mild to Moderate Applications (0543) Effective 1/1/11	143 141 153
Significant Disabilities	Elementary Education: Content Knowledge (0014) Effective 7/1/05	150	Educ. of Exceptional Students: Core Content Knowledge (0353) and Educ. of Exceptional Students: Severe to Profound Disabilities (0544) Effective 1/1/11 Special Education: Core Knowledge and Severe to Profound Applications (0545) Effective 1/1/11	143 147 153
Visual Impairments/Blind	Elementary Education: Content Knowledge (0014) Effective 7/1/05	150	Educ. of Exceptional Students: Core Content Knowledge (0353) Effective 6/1/04 Special Education: Core Content Knowledge and Applications (0354) Effective 1/1/11	143 145

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 36:485 and 488 (March 2010), LR 37:551 (February 2011).

Chapter 6. Endorsements to Existing Certificates
Subchapter B. Special Education Level and Area
Endorsements

§625. Requirements to add Early Interventionist Birth to Five Years

A. Individuals holding a valid early childhood certificate (e.g., PK-K, PK-3), elementary certificate (e.g., 1-4, 1-5, 1-6, 1-8), upper elementary or middle school certificate (e.g., 4-8, 5-8, 6-8), secondary certificate (e.g., 6-12, 7-12, 9-12), special education certificate, or an all-level K-12 certificate (art, dance, foreign language, health, physical education, health and physical education, and music) must achieve the following:

1. passing score for Praxis exams: Principles of Learning and Teaching; Early Childhood (#0521) and Special Education: Core Content Knowledge and Applications (#0354);
2. 18 credit hours that pertain to infants, toddlers, and preschoolers, as follows:
 - a. foundations in early childhood education and early intervention;
 - b. understanding and working with families of young children;
 - c. assessment in early intervention;
 - d. early intervention methods;

e. teaming, physical and medical management in early intervention;

f. communication and literacy in early intervention;

3. nine semester hours of reading coursework.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1817 (October 2006), LR 37:552 (February 2011).

§627. Requirements to add Hearing Impaired K-12

A. Individuals holding a valid early childhood certificate (e.g., PK-K, PK-3), elementary certificate (e.g., 1-4, 1-5, 1-6, 1-8), upper elementary or middle school certificate (e.g., 4-8, 5-8, 6-8), secondary certificate (e.g., 6-12, 7-12, 9-12), special education certificate, or All-Level K-12 certificate (art, dance, foreign language, health, physical education, health and physical education, and music) must achieve the following:

1. 21 semester credit hours that pertain to children with hearing impairments, as follows:
 2. introduction to special education;
 3. physiological, psychosocial, historical, sociological, and cultural aspects of deafness;
 4. language development that includes linguistic principles and assessment strategies in language acquisitions for deaf and hard of hearing;
 5. speech and speech reading;
 6. educational audiology, auditory assistive devices and technology;
 7. instructional strategies and curriculum development for deaf and hard of hearing students;
 8. communication methodology.

B. Three semester hours of internship of students with hearing impairments; or three years of successful teaching experience of students with hearing impairments.

C. Proficiency in signed, cued, or oral communication, as evidenced by one or more of the following means:

1. signed—one of the following:
 - a. Intermediate on the Educational Sign Skills Evaluation: Teacher (ESSE:T);
 - b. Advanced on the Signed Communication Proficiency Interview (SCPI);
 - c. Level III of the Educational Interpreter Performance Assessment;
2. cued—mini-proficiency, as measured on the Basic Cued Speech Proficiency Rating Test (BCSPR c1983, Beaupre); or
3. oral—successfully passing an additional course in Methods in Oral/Auditory Education.

D. Passing score for Praxis exams: Special Education: Core Content Knowledge and Applications (#0354) and Education of Exceptional Students: Hearing Impairment (#0271).

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 32:1817 (October 2006); LR 37:552 (February 2011).

§629. Requirements to add Mild/Moderate

A. Individuals holding a valid early childhood certificate (e.g., PK-K, PK-3), elementary certificate (e.g., 1-4, 1-5, 1-6, 1-8), upper elementary or middle school certificate (e.g., 4-8, 5-8, 6-8), secondary certificate (e.g., 6-12, 7-12, 9-12), special education certificate, or an All-Level K-12 certificate (art, dance, foreign language, health, physical education, health and physical education, and music) must achieve the following:

1. 15 semester hours of special education coursework, as follows:
 - a. methods/materials for mild/moderate exceptional children;
 - b. assessment and evaluation of exceptional learners;
 - c. behavioral management of mild/moderate exceptional children;
 - d. vocational and transition services for students with disabilities;
 - e. practicum in assessment and evaluation of M/M exceptional learners; or three years of successful teaching experience in mild/moderate;
2. passing score for Praxis exams: Special Education: Core Knowledge and Mild to Moderate Applications (#0543);
3. individuals who have completed all stipulations listed above will have until 7/1/2010 to have this endorsement added to their standard teaching certificate.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1817 (October 2006), amended LR 35:221 (February 2009), LR 35:1485 (August 2009), LR 37:553 (February 2011).

§630. Requirements to add Mild/Moderate (1-5), (4-8) and (6-12)—Mandatory 7/1/2010

A. Mild/Moderate: 1-5—Individuals holding a valid early childhood certificate (e.g., PK-K, PK-3), elementary certificate (e.g., 1-4, 1-5, 1-6, 1-8), or Early Interventionist certificate must achieve the following:

1. 18 semester hours to include the following coursework:
 - a. Assessment and Evaluation of Students with Disabilities—three semester hours. This course is designed for teachers to learn how to select, adapt, and use instructional interventions and behavioral strategies with students in a variety of settings. Students are required to apply knowledge and skills in a 45-hour field-based experience. Theoretical approaches, screening/identification, educational placement considerations, and assessment and evaluation issues will be addressed;
 - b. Fundamentals of Instructional Technology—three semester hours—instructional, utility, and management software applications for school use. Development of instructional materials, incorporation of commercially available software into lesson and unit structure. Addresses the use of technology as it relates to UDL (Universal Design for Learning) and how UDL can be used to meet the needs of all students with language development issues;
 - c. Behavior Support and Intervention—three semester hours. This course should address the knowledge, skills and dispositions necessary for teachers to proactively and systematically address student needs that underlie the presence of problem behaviors in schools and class rooms;
 - d. Collaborative Teaming—three semester hours. This course should focus on developing effective partnerships with parents, family members, general educators and related service providers;
 - e. Instructional Practices in Special Education—three semester hours. This course should provide teachers with the ability to select and utilize appropriate instructional strategies, assistive technologies, and instructional materials to address the strengths and needs of diverse learners in grades 1-5;
 - f. Reading and Literacy—three semester hours. This course should cover all aspects of state reading competencies at the elementary level, to include literacy intervention for students with disabilities;

2. passing score for Praxis exams—Special Education: Core Knowledge and Mild to Moderate Applications (#0543).

B. Mild/Moderate: 1-5—Individuals holding a valid upper elementary or middle school certificate (e.g., 4-8, 5-8, 6-8), secondary certificate (e.g., 6-12, 7-12, 9-12), all-level special education certificate (Significant Disabilities, Visually Impaired or Hearing Impaired), or an all-level K-12 certificate (art, dance, foreign language, health, physical education, health and physical education, and music) must achieve the following:

1. 18 semester hours to include the following coursework:
 - a. Assessment and Evaluation of Students with Disabilities—three semester hours. This course is designed for teachers to learn how to select, adapt, and use instructional interventions and behavioral strategies with

students in a variety of settings. Students are required to apply knowledge and skills in a 45-hour field-based experience. Theoretical approaches, screening/identification, educational placement considerations, and assessment and evaluation issues will be addressed;

b. Fundamentals of Instructional Technology—three semester hours. Instructional, utility, and management software applications for school use. Development of instructional materials, incorporation of commercially available software into lesson and unit structure. Addresses the use of technology as it relates to UDL (Universal Design for Learning) and how UDL can be used to meet the needs of all students with language development issues;

c. Behavior Support and Intervention—three semester hours. This course should address the knowledge, skills and dispositions necessary for teachers to proactively and systematically address student needs that underlie the presence of problem behaviors in schools and class rooms;

d. Collaborative Teaming—three semester hours. This course should focus on developing effective partnerships with parents, family members, general educators and related service providers;

e. Instructional Practices in Special Education—three semester hours. This course should provide teachers with the ability to select and utilize appropriate instructional strategies, assistive technologies, and instructional materials to address the strengths and needs of diverse learners in grades 1-5;

f. Reading and Literacy—three semester hours. This course should cover all aspects of state reading competencies at the elementary level, to include literacy intervention for students with disabilities;

2. passing score for Praxis exams—Special Education: Core Knowledge and Mild to Moderate Applications (#0543), Principles of Learning and Teaching (PLT): K-6, and Elementary Content Knowledge Exam (0014).

C. Mild/Moderate: Middle Grades 4-8 and Secondary 6-12. Individuals holding a valid early childhood certificate (e.g., PK-K, PK-3), elementary certificate (e.g., 1-4, 1-5, 1-6, 1-8), or early interventionist certificate must achieve the following:

1. 18 semester hours to include the following coursework:

a. Assessment and Evaluation of Students with Disabilities—three semester hours. This course is designed for teachers to learn how to select, adapt, and use instructional interventions and behavioral strategies with students in a variety of settings. Students are required to apply knowledge and skills in a 45-hour field-based experience. Theoretical approaches, screening/identification, educational placement considerations, and assessment and evaluation issues will be addressed;

b. Fundamentals of Instructional Technology—three semester hours. Instructional, utility, and management software applications for school use. Development of instructional materials, incorporation of commercially available software into lesson and unit structure. Addresses the use of technology as it relates to UDL (Universal Design for Learning) and how UDL can be used to meet the needs of all students with language development issues;

c. Self-Determination and Transition—three semester hours. This course presents self-determination and

development, implementation, and evaluation of self-management instructional programs for students. Emphasis is upon using self-management and learning strategies to facilitate self-determination. Provides the teacher with an understanding of the special education transition process as specified by federal and state guidelines and the focus on the design and implementation of transition planning that meets students' physical, affective, cognitive and communicative needs across the contexts of school, community, family life, career and vocation and recreation/leisure;

d. Behavior Support and Intervention—three semester hours. This course should address the knowledge, skills and dispositions necessary for teachers to proactively and systematically address student needs that underlie the presence of problem behaviors in schools and class rooms;

e. Collaborative Teaming—three semester hours. This course should focus on developing effective partnerships with parents, family members, general educators and related service providers;

f. Instructional Practices in Special Education—three semester hours. This course should provide teachers with the ability to select and utilize appropriate instructional strategies, assistive technologies, and instructional materials to address strengths and needs of diverse learners in grades 6-12 with concentration in areas of literacy and numeracy;

2. passing score for Praxis exams:

a. Mild/Moderate (4-8) and (6-12)—Special Education: Core Knowledge and Mild to Moderate Applications (#0543); and

b. Mild/Moderate (4-8)—Principles of Learning and Teaching (PLT): 5-9 and Middle School Content Exam(s); or

c. Mild/Moderate (6-12)—Principles of Learning and Teaching (PLT): 7-12 and High School Content Exam(s).

D. Mild/Moderate: Middle Grades 4-8 and Secondary 6-12. Individuals holding a valid upper elementary or middle school certificate (e.g., 4-8, 5-8, 6-8) must achieve the following:

1. 18 semester hours to include the following coursework:

a. Assessment and Evaluation of Students with Disabilities—three semester hours. This course is designed for teachers to learn how to select, adapt, and use instructional interventions and behavioral strategies with students in a variety of settings. Students are required to apply knowledge and skills in a 45-hour field-based experience. Theoretical approaches, screening/identification, educational placement considerations, and assessment and evaluation issues will be addressed;

b. Fundamentals of Instructional Technology—three semester hours. Instructional, utility, and management software applications for school use. Development of instructional materials, incorporation of commercially available software into lesson and unit structure. Addresses the use of technology as it relates to UDL (Universal Design for Learning) and how UDL can be used to meet the needs of all students with language development issues;

c. Self-Determination and Transition—three semester hours. This course presents self-determination and development, implementation, and evaluation of self-management instructional programs for students. Emphasis is upon using self-management and learning strategies to

facilitate self-determination. Provides the teacher with an understanding of the Special Education transition process as specified by federal and state guidelines and the focus on the design and implementation of transition planning that meets students' physical, affective, cognitive and communicative needs across the contexts of school, community, family life, career and vocation and recreation/leisure;

d. Behavior Support and Intervention—three semester hours. This course should address the knowledge, skills and dispositions necessary for teachers to proactively and systematically address student needs that underlie the presence of problem behaviors in schools and class rooms;

e. Collaborative Teaming—three semester hours. This course should focus on developing effective partnerships with parents, family members, general educators and related service providers;

f. Instructional Practices in Special Education—three semester hours. This course should provide teachers with the ability to select and utilize appropriate instructional strategies, assistive technologies, and instructional materials to address strengths and needs of diverse learners in grades 6-12 with concentration in areas of literacy and numeracy;

2. passing score for Praxis exams:

a. Mild/Moderate (4-8) and (6-12)—Special Education: Core Knowledge and Mild to Moderate Applications (#0543); and/or

b. Mild/Moderate (6-12)—Principles of Learning and Teaching (PLT): 7-12 and High School Content Exam(s).

E. Mild/Moderate: Middle Grades 4-8 and Secondary 6-12. Individuals holding a valid secondary certificate (e.g., 6-12, 7-12, 9-12), all-level special education certificate (Significant Disabilities, Visually Impaired, or Hearing Impaired), or an all-level K-12 certificate (art, dance, foreign language, health, physical education, health and physical education, and music) must achieve the following:

1. 18 semester hours to include the following coursework:

a. Assessment and Evaluation of Students with Disabilities—three semester hours. This course is designed for teachers to learn how to select, adapt, and use instructional interventions and behavioral strategies with students in a variety of settings. Students are required to apply knowledge and skills in a 45-hour field-based experience. Theoretical approaches, screening/identification, educational placement considerations, and assessment and evaluation issues will be addressed;

b. Fundamentals of Instructional Technology—three semester hours. Instructional, utility, and management software applications for school use. Development of instructional materials, incorporation of commercially available software into lesson and unit structure. Addresses the use of technology as it relates to UDL (Universal Design for Learning) and how UDL can be used to meet the needs of all students with language development issues;

c. Self-Determination and Transition—three semester hours. This course presents self-determination and development, implementation, and evaluation of self-management instructional programs for students. Emphasis

is upon using self-management and learning strategies to facilitate self-determination. Provides the teacher with an understanding of the Special Education transition process as specified by federal and state guidelines and the focus on the design and implementation of transition planning that meets students' physical, affective, cognitive and communicative needs across the contexts of school, community, family life, career and vocation and recreation/leisure;

d. Behavior Support and Intervention—three semester hours. This course should address the knowledge, skills and dispositions necessary for teachers to proactively and systematically address student needs that underlie the presence of problem behaviors in schools and class rooms;

e. Collaborative Teaming—three semester hours. This course should focus on developing effective partnerships with parents, family members, general educators and related service providers;

f. Instructional Practices in Special Education—three semester hours. This course should provide teachers with the ability to select and utilize appropriate instructional strategies, assistive technologies, and instructional materials to address strengths and needs of diverse learners in grades 6-12 with concentration in areas of literacy and numeracy;

2. passing score for Praxis exams:

a. Mild/Moderate (4-8) and (6-12)—Special Education: Core Knowledge and Mild to Moderate Applications (#0543); and/or

b. Mild/Moderate (4-8)—Principles of Learning and Teaching (PLT): 5-9 and Middle School Content Exam(s).

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 35:1485 (August 2009), amended LR 37:553 (February 2011).

§631. Requirements to add Significant Disabilities 1-12

A. Individuals holding a valid early childhood certificate (e.g., PK-K, PK-3), elementary certificate (e.g., 1-4, 1-5, 1-6, 1-8), upper elementary or middle school certificate (e.g., 4-8, 5-8, 6-8), secondary certificate (e.g., 6-12, 7-12, 9-12), special education certificate, or All-Level K-12 certificate (art, dance, foreign language, health, physical education, health and physical education, and music) must achieve the following:

1. 21 semester hours that pertain to children with significant disabilities, as follows:

a. assessment and evaluation;

b. curriculum development, modifications, and transition planning;

c. behavior support;

d. instructional strategies;

e. communication;

f. collaborative techniques and family partnerships;

g. characteristics of students with significant disabilities, physical support, health and safety;

2. three semester hours of internship of students with significant disabilities; or three years of successful teaching experience of students with significant disabilities; and

3. passing score for Praxis exams: Special Education: Core Knowledge and Severe to Profound Applications (#0545).

RULE

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel—Alternate Teacher Preparation Programs (LAC 28:CXXXI.243)

Editor's Note: Section 243 is being reprinted to correct an error. The original Rule can be viewed on pages 2262-2267 of the October 20, 2010 *Louisiana Register*.

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 746—Louisiana Standards for State Certification of School Personnel*: §233. The Practitioner Teacher Program Alternative Path to Certification (Minimum Requirements), §235. The Master's Degree Program Alternative Path to Certification (Minimum Requirements), §237. Certification-Only Program Alternative Path to Certification, §241. PRAXIS I SCORES, §243. ACT/SAT Scores in Lieu of PRAXIS I SCORES, §611. Requirements to add a Secondary (grades 6-12) Specialty Core Content Area as defined in the No Child Left Behind (NCLB) Act of 2001 (English, Math, Foreign Language, Science, and Social Studies), and §615. Requirements to Add an All-Level (K-12) Area (Art, Dance, Foreign Language, Health and Physical Education, and Music). This revision of the Praxis examination policy will allow the replacement of the current Praxis exams in Business Education and Foreign Languages in French, German, and Spanish with new editions of the following Praxis exams: Business Education: Content Knowledge (#0101), French: World Language (#0174), German: World Language (#0183) and Spanish: World Language (#0195) effective September 1, 2010. In addition, the revision would phase out the use of the Principles of Learning and Teaching K-6, 5-9 or 7-12 exams for all-level (grades K-12) foreign language candidates with the World Languages Pedagogy (#0841) effective July 1, 2013. The current Praxis exams required for Louisiana licensure in Business Education, French German and Spanish will be phased out by Educational Testing Service.

Title 28

EDUCATION

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

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

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 37:555 (February 2011).

§633. Requirements to add Visual Impairments/Blind K-12

A. Individuals holding a valid early childhood certificate (e.g., PK-K, PK-3), elementary certificate (e.g., 1-4, 1-5, 1-6, 1-8), upper elementary or middle school certificate (e.g., 4-8, 5-8, 6-8), secondary certificate (e.g., 6-12, 7-12, 9-12), special education certificate, or All-Level K-12 certificate (art, dance, foreign language, health, physical education, health and physical education, and music) must achieve the following:

1. 21 semester hours that pertain to children with visual impairments:
 - a. educational implications of low vision and blindness;
 - b. orientation and mobility for the classroom teacher;
 - c. assessment and evaluation techniques, including functional vision evaluation and reading media assessment;
 - d. assistive technology for students with visual impairments;
 - e. instructional strategies and materials for students with visual impairments;
 - f. introduction to Braille, including literary and Nemeth codes;
 - g. Braille II;
2. three semester hours of internship of students who are visually impaired; or three years of successful teaching experience of students who are visually impaired or blind;
3. a passing score for Praxis Special Education: Core Knowledge and Applications (#0354).

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 37:556 (February 2011).

Brad Smith
Finance/Legislative Specialist

1102#034

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

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

Grades 6-12 Certification Areas						
			Score		PLT 7-12	
Business	Business Education (0100)	Prior to 5/31/04	540	---	---	161
	Business Education: Content Knowledge (0101)	Effective 6/1/04 Effective 9/18/10	570 154			
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
	Pedagogy (0043)		130	---	---	
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	PLT7-12 (Score 161) until 6/30/13; After 6/30/13 World Languages Pedagogy 0841 (Score 158)		
	French: Content Knowledge (0173)	Effective 6/1/04	156			
	French: World Language (0174)	Effective 10/15/10	157			
General Science	Biology & General Science (0030) –OR– Chemistry/Physics/General Science (0070) Prior to 6/30/05		580 530	---	---	161
	General Science: Content Knowledge (0435)		156			
German	German (0180)		500	PLT7-12 (Score 161) until 6/30/13; After 6/30/13 World Languages Pedagogy0841 (Score 158)		
	German: Content Knowledge (0181)	Effective 7/1/06	151			
	German: World Language (0183)	Effective 10/15/10	157			
Mathematics	Mathematics (0060)	Prior to 5/31/04	550	---	---	161
	Mathematics: Content Knowledge (0061)	Effective 6/1/04	125			
		Effective 6/1/07	130			
		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			
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			
Spanish	Spanish (0190)	Prior to 5/31/04	540	PLT7-12 (Score 161) until 6/30/13; After 6/30/13 World Languages Pedagogy0841 (Score 158)		
	Spanish: Content Knowledge (0191)	Effective 6/1/04	160			
	Spanish: World Language (0195)	Effective 10/15/10	157			
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

2. All-Level K-12 Certification

All-Level K-12 Certification Areas								
			Score	PLT K-6		PLT 5-9		PLT 7-12
Grades K-12 Art	Art: Content Knowledge (0133)	Effective 7/1/05	155	161	or	154	or	161
Grades K-12 Dance	None Available**		---	161	or	154	or	161
Grades K-12 Foreign Languages	French (0170)	Prior to 5/31/04	520	PLT K-6 (Score 161) or PLT 5-9 (Score 154) or PL7-12 (Score 161) until 6/30/13; After 6/30/13 World Languages Pedagogy 0841 (Score 158)				
	French: Content Knowledge (0173)	Effective 6/1/04	156					
	French: World Language (0174)	Effective 10/15/10	157					
	German (0180)		500					
	German: Content Knowledge (0181)	Effective 7/1/06	151					
	German: World Language (0183)	Effective 10/15/10	157					
Grades K-12 Music	Spanish (0190)	Prior to 5/31/04	540	161	or	154	or	161
	Spanish: Content Knowledge (0191)	Effective 6/1/04	160					
	Spanish: World Language (0195)	Effective 10/15/10	157					
Grades K-12 Health and Physical Education	Music Education (0110)	Prior to 5/31/04	530	161	or	154	or	161
	Music: Content Knowledge (0113)	Effective 6/1/04	151					
Grades K-12 Health and Physical Education	Physical Education (0090)	Prior to 5/31/04	550	161	or	154	or	161
	Phys. Education: Content Knowledge (0091)	Effective 6/1/04	146					

**At this time, a content area exam is not required for certification in Louisiana.

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 and 488 (March 2010), LR 36:2265 (October 2010), repromulgated LR 37:556 (February 2011).

Brad Smith
Finance/Legislative Specialist

1102#031

RULE

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel—Louisiana Teacher Assistance and Assessment Program (LaTAAP)
(LAC 28:CXXXI.233, 303, 305, 307, 309, 315, and 1003)

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*: §233. The Practitioner Teacher Program Alternative Path to Certification (Minimum Requirements); §303. Introduction, §305. Professional Level Certificates, §307. Type C, B, and A Certificates, §309. Out-of-State (OS) Certificate, §315. Standard Certificates for Teachers in Nonpublic Schools, and §1003. Acronyms.

This revision in policy of Bulletin 746 aligns the state's new evaluation program with standards contained in Act 54 of the 2010 Louisiana Legislative Session which repeals the Louisiana Teacher Assistance and Assessment Program (LaTAAP). This revision in Bulletin 746 clarifies the new evaluation process.

Title 28 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 §233. The Practitioner Teacher Program Alternative Path to Certification (Minimum Requirements)

A. - C.7. ...

D. Teaching Internship and First-Year Support (12 credit hours or equivalent 180 contact hours)

1. ...

2. For all-level areas (art, dance, foreign language, health and physical education, and music), field experiences should be provided across grades K-12.

3. For General-Special Education Mild/Moderate Grades 1-5, Grades 4-8 and Grades 6-12 seminars will cover instructional strategies in core content areas, state reading competencies with alignment to state literacy plan; numeracy strategies; classroom management; lesson plans—development and implementation; assessment; collaboration between special education and general education (e.g., co-planning, co-teaching, behavior intervention, accommodations, services/support); collaboration with

parents; and data-driven decision making or any other identified needs. Technology will be addressed in all grade levels.

D.4. - J. ...

K. Professional License. A practitioner teacher will be issued a practitioner license in a specific level and area upon entrance to the program and completion of the summer or fall teacher preparation session. The practitioner teacher is restricted to the specific level and area as designated on the practitioner license. He/she will be issued a Level 1 professional license upon successful completion of all program requirements.

L. ...

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 32:1790 (October 2006), amended LR 34:1387 (July 2008), LR 35:1477 (August 2009), LR 37:558 (February 2011).

Chapter 3. Teaching Authorizations and Certifications

Subchapter A. Standard Teaching Authorizations

§303. Introduction

A. - A.6. ...

B. A Level 1 certificate is the entry-level professional certificate typically held during the first three years of the teaching career.

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 32:1797 (October 2006), amended LR 37:558 (February 2011).

§305. Professional Level Certificates

A. Level 1 is the entry-level professional certificate, valid for three years. The Level 2 and Level 3 certificates are valid for five years, with renewal involving completion of a specified number of continuing learning units (CLUs) of professional development.

1. - 1.d.i.(c). ...

2. Renewal Guidelines. A Level 1 certificate is valid for three years and may be renewed upon the request of a Louisiana employing authority.

B. Level 2 Professional Certificate—valid for five years and renewable with continuing learning units (CLUs) of approved professional development during the five year period immediately preceding request for renewal.

1. Eligibility requirements:

a. ...

b. successfully complete the local evaluation plan mandated by Act 54 of the Louisiana 2010 Legislative Session; and

B.1.c. - E.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 32:1797 (October 2006), amended LR 33: 433 (March 2007), LR 34:233 (February 2008), LR 34:1611 (August 2008), LR 35:222 (February 2009), LR 37:558 (February 2011).

§307. Type C, B, and A Certificates

A. Effective July 1, 2002, these certificates are no longer issued for initial certification. The Type C certificate is valid for three years and may be renewed upon the request of the Louisiana employing authority. Teachers who hold Type B and Type A lifetime certificates will continue to hold these certificates.

B. - B.2. ...

C. Type B Certificate—a lifetime certificate for continuous service, provided the holder does not allow any period of five or more consecutive years of disuse to accrue in which he is not a regularly employed teacher for at least one semester, or 90 consecutive days, and/or the certificate is not revoked by the State Board of Elementary and Secondary Education (BESE).

1. Eligibility requirements:

a. hold or meet eligibility requirements for a Type C certificate;

b. successfully complete the local evaluation plan mandated by Act 54 of the Louisiana 2010 Legislative Session; and

1.c. - 2. ...

D. Type A Certificate—a lifetime certificate for continuous service, provided the holder does not allow any period of five or more consecutive years of disuse to accrue in which he/she is not a regularly employed teacher for at least one semester, or 90 consecutive days, and/or the certificate is not revoked by the state Board of Elementary and Secondary Education (BESE).

1. Eligibility requirements:

a. ...

b. successfully complete the local evaluation plan mandated by Act 54 of the Louisiana 2010 Legislative Session;

D.1.c. - E.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 32:1798 (October 2006), amended LR 37:559 (February 2011).

§309. Out-of-State (OS) Certificate

A. - B.5. ...

C. Advancing from OS to Professional Level 1, 2, or 3 Certificate

1. - 1.c.iv.(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 32:1799 (October 2006), amended LR 33:433 (March 2007), LR 34:1611 (August 2008), LR 35:222 (February 2009), LR 35:894 (May 2009), LR 37:559 (February 2011).

§315. Standard Certificates for Teachers in Nonpublic Schools

A. A standard certificate with an asterisk (*) following the certificate type is issued to a teacher in a non-public school. The asterisk (*) refers to a statement printed at the bottom of the certificate: "If this teacher enters a public/charter school system in Louisiana, he/she will be required to successfully complete the local evaluation plan mandated by Act 54 of the Louisiana 2010 Legislative Session".

B. Level 2* (2-asterisk) Certificate—valid for five years and renewable with Continuing Learning Units (CLUs) of approved professional development during the five year period immediately preceding request for renewal.

1. Eligibility requirements:

a. - b. ...

c. completed a teacher evaluation program for three years at the same nonpublic school, with the principal as evaluator and the teacher performance rated as satisfactory in the areas of planning, management, instruction, and professional development.

2. ...

3. The Level 2* certificate is valid in a nonpublic school setting. If the teacher enters a Louisiana public/charter school he/she will be required to successfully complete the local evaluation plan mandated by Act 54 of the Louisiana 2010 Legislative Session.

C. Level 3* (3-asterisk) Certificate—valid for five years and renewable with Continuing Learning Units (CLUs) of approved professional development during the five year period immediately preceding request for renewal.

1. Eligibility requirements:

a. - c. ...

d. completed a teacher evaluation program for three consecutive years at the same nonpublic school, with the principal as evaluator and the teacher performance rated as satisfactory in the areas of planning, management, instruction, and professional development.

2. ...

3. The Level 3* certificate is valid in a nonpublic school setting. If the teacher enters a Louisiana public/charter school he/she will be required to successfully complete the local evaluation plan mandated by Act 54 of the Louisiana 2010 Legislative Session.

4. Renewal Guidelines for Level 2* and Level 3* Certificates

a. A teacher must complete 150 continuing learning units (CLUs) of district-approved and verified professional development over the five year time period during which he/she holds the certificate, or during the five year time period immediately preceding the request for renewal. The Louisiana employing authority must request renewal of a Level 2* or Level 3* certificate.

b. A teacher with an existing Level 2* or Level 3* teaching certificate may renew that certificate based upon completion of NBC during the period of certificate validity, as satisfaction in full of the 150 CLUs required for renewal.

c. If the holder of an expired Level 2* or Level 3* certificate has not earned the required 150 CLUs of professional development, the expired certificate may be reactivated upon request of the employing authority (at the level that was attained prior to expiration) for a period of one year, during which time the certificate holder must present evidence of successful completion of the required 150 CLUs to the Division of Teacher Certification and Higher Education. Failure to complete necessary CLUs during the one year reactivation period will result in an expired certificate that cannot be reinstated until evidence is provided of completed professional development requirements.

d. A continuing learning unit (CLU) is a professional development activity that builds capacity for

effective, research-based, content-focused teaching and learning that positively impacts student achievement. As a unit of measure, the CLU is used to quantify an educator's participation in a district- or system-approved, content-focused professional development activity aligned with the educator's individual professional growth plan.

D. Type B* (B-asterisk) Certificate—a lifetime nonpublic school certificate for continuous service, provided the holder does not allow any period of five or more consecutive years of disuse to accrue in which he is not a regularly employed teacher for at least one semester, or 90 consecutive days, and/or certificate is not revoked by the Louisiana Board of Elementary and Secondary Education (BESE).

1. Eligibility requirements:
 - a. - b. ...
 - c. completed a teacher evaluation program for three consecutive years at the same nonpublic school, with the principal as evaluator and the teacher performance rated as satisfactory in the areas of planning, management, instruction, and professional development.
 2. ...
 3. The Type B* certificate is valid for life of continuous service in a nonpublic school setting. If the teacher enters a Louisiana public/charter school he/she will be required to complete the local evaluation plan mandated by Act 54 of the Louisiana 2010 Legislative Session.

E. Type A* (A-asterisk) Certificate—a lifetime nonpublic school certificate for continuous service, provided the holder does not allow any period of five or more consecutive years of disuse to accrue in which he is not a regularly employed teacher for at least one semester, or 90 consecutive days, and/or certificate is not revoked by the State Board of Elementary and Secondary Education (BESE).

1. Eligibility requirements:
 - a. - c. ...
 - d. completed a teacher evaluation program for three consecutive years at the same nonpublic school, with the principal as evaluator and the teacher performance rated as satisfactory in the areas of planning, management, instruction, and professional development.
 2. ...
 3. The Type A* certificate is valid for life of continuous service in a nonpublic school setting. If this teacher enters a Louisiana public school he/she will be required to successfully complete—the local evaluation plan mandated by Act 54 of the Louisiana 2010 Legislative Session.

F. - G3. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1801 (October 2006), amended LR 36:752 (April 2010), LR 37:559 (February 2011).

Chapter 10. Definitions

§1003. Acronyms

* * *

LaTAAP—Repealed.

* * *

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 37:560 (February 2011).

Brad Smith
Finance/Legislative Specialist

1102#035

RULE

Board of Elementary and Secondary Education

Bulletin 996—Standards for Approval of Teacher and/or Educational Leader Preparation Programs
(LAC 28:XLV.Chapters 3-13)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 996—Standards for Approval of Teacher and or Educational Leader Preparation Programs*: Chapters 3-13. This policy outlines requirements for submission, review, and board approval of proposals for alternate teacher preparation programs and educational leader programs from non-university private providers. There was a need for policy to be developed that would provide for a fair and timely review and approval process for non-university private provider teacher and educational leader preparation programs.

**Title 28
EDUCATION**

Part XLV. Bulletin 996—Standards for Approval of Teacher and/or Educational Leader Preparation Programs

Chapter 3. State Approval for Public and Private University Teacher and/or Educational Leader Preparation Units

§301. Process/Procedures

A. The Louisiana Department of Education (LDOE) and Board of Regents (BOR) staff reviews proposals from public and private, new or reinstated teacher and/or educational leader preparation units/programs for entry into Level I and Level II. When an application is judged satisfactory, a recommendation is made to BESE and BOR for approval to enter the appropriate level. Upon approval by BESE and BOR, the teacher and/or educational leader preparation program will move to the appropriate level.

B. The state may conduct scheduled and/or unscheduled reviews of the teacher and/or educational leader preparation unit/program, including on-site visits, at any time during the process.

C. Public and out-of-state private institutions must submit duplicate documents to the Board of Regents for program approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10); R.S. 17:7(6), and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:2452 (November 2004), amended LR 35:2327 (November 2009), LR 37:560 (February 2011).

§303. Level I Approval

A. Level I is entered upon approval by BESE and BOR of a proposal submitted to the Department of Education's Division of Teacher Certification and Preparation.

B. For public and private institutions of higher education, the proposal will include the following items:

1. official declaration of intent in the form of a letter from the head of the institution;

2. evidence of regional accreditation status (e.g. Southern Association of Colleges and Schools);

3. a narrative that follows state-approved guidelines, which are available from the Louisiana Department of Education or the Board of Regents. These guidelines include:

a. documentation describing general education classes (e.g., number of general education course hours by discipline and catalog course descriptions) according to Bulletin 746 and R.S. 17:7.1 and 7.2;

b. documentation describing certification areas to be offered, with required courses to meet state certification requirements, according to Bulletin 746 and R.S. 17:7.1 and 7.2;

c. evidence of collaboration with school districts, including a plan for development of an advisory board of community, district and university representatives. The written plan should describe how the council would be used and should name members and/or potential members;

d. evidence to show that the institution's governing structure will endorse and financially support a teacher and/or educational leader preparation unit and programs (e.g., budget detail showing funding sources);

e. documentation showing expertise of individuals directed to guide the unit and its programs (e.g., vitae of the dean or chair, department heads, director of field experiences, faculty, etc.);

f. an articulation agreement to transfer credit hours with another Louisiana-approved teacher and/or educational leader preparation institution that agrees to recommend the institution's candidates for certification, as needed, for continuous progress and program completion.

C. Upon BESE and BOR approval of the proposal, the institution is authorized, for a period of up to one year, to proceed with developing the teacher and/or educational leader preparation unit and programs identified in the proposal, and to admit candidates to programs. This does not authorize the recommendation of graduates for certification.

D. External reviews of education programs by a team comprised of national consultants and Board of Regents and LDOE staff will be conducted to ensure adherence to guidelines developed and approved by LDOE and the Board of Regents.

E. The institution must apply for Level II approval within one year, or receive a one-year extension of Level I from BESE to address unforeseen circumstances.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10); R.S. 17:7(6), and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:561 (February 2011).

§305. Level II Approval

A. Level II authorizes the institution to recommend candidates for certification, and begins with the joint review by the Louisiana Department of Education and Board of Regents and approval by BESE of the following items

submitted to the LDOE's Division of Teacher Certification and Preparation:

1. a narrative describing the missions of the institution and the teacher and/or educational leader preparation program, reflecting that the program is an integrated and integral part of the university. The narrative should specify beliefs that drive the institution and unit and may include the knowledge bases from which these beliefs developed;

2. a written description of the professional education unit or education program that is primarily responsible for the preparation of teachers and other professional education personnel. This may be a chart or a narrative that specifies all professional education programs offered by the institution and degrees awarded for each program, and an organizational chart showing the professional education unit's or education program's relationship to other administrative units within the institution;

3. evidence that a dean, director, or chair is officially designated to represent the education unit or education program and has been assigned authority and responsibility for its overall administration and operation (e.g., a job description for the head of the professional education unit or education program);

4. evidence of written policies and procedures that guide education unit or education program operation, including policies or procedures pertaining to candidates. This may be submitted as hard copy (e.g., catalogs, handbooks) or as instructions for accessing a website;

5. a description of the education unit's or education program's system of monitoring and evaluating its candidates, programs, operations, and the performance of its graduates. This will reflect how the education unit or education program will assess programs, unit effectiveness, and candidates as well as how the education unit or education program will provide follow-up data on its graduates;

6. instrument(s) for assessing candidates for admission to and exit from the teacher and/or educational leader preparation program. This would include requirements for entrance to teacher and/or educational leader preparation programs, through transition points, and for successful program completion as well as procedures for remediation, if necessary;

7. full budget report for the implementation of programs, including internal and external sources of funding, and including both hard and soft monies.

B. Level II must be completed within a period of one to three years. The BESE may grant only one extension, for a period of one year, when problems are identified that require solution prior to notification of intent to seek full state approval and national accreditation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10); R.S. 17:7(6), and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:561 (February 2011).

§307. Level III Approval

A. Level III begins when the teacher and/or educational leader preparation program is notified by the accrediting agency that it is eligible for candidacy for national accreditation.

B. A copy of the verification from the national accrediting agency must be submitted to the Louisiana

Department of Education's Division of Teacher Certification and Preparation.

C. Within three years or less from the time at which an institution is notified of eligibility for candidacy, the unit must host a joint visit with a national accreditation agency and state representatives (see guidelines provided by state-approved national accrediting agencies, identified in §107 of this document).

D. The institution remains in Level III until the accreditation process is complete.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10); R.S. 17:7(6), and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:561 (February 2011).

§309. Level IV Approval

A. Level IV begins with notification of final accreditation by the national accrediting agency.

B. The LDOE's division of teacher certification and preparation receives notification of accreditation of the teacher and/or educational leader preparation program by the national accrediting agency. The LDOE will verify that the teacher and/or educational leader preparation program meets state standards and will forward this information to BESE for final state approval.

C. The BESE will notify the institution of final state approval.

D. The national accrediting agency defines the cycle for continued accreditation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10); R.S. 17:7(6), and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:562 (February 2011).

Chapter 5. State Approval for Non-University Private Provider Teacher and/or Educational Leader Preparation Programs

§501. Process/Procedures

A. In-state and out-of-state non-university private providers seeking state approval may submit proposals to the Louisiana Department of Education for a Practitioner Teacher Program, Certification-Only Alternate Teacher Program and Educational Leader Practitioner Program that leads to Louisiana licensure as a teacher or educational leader.

B. Proposals must be submitted using the private provider application packet available at www.teachlouisiana.net and must include the following:

1. cover page signed by the program director;
2. program overview briefly describing the program, including goals of the program and the design to accomplish the goals;
3. documentation of collaborative agreements with school districts/charter schools to develop and implement the program, provide mentoring for candidates and improve the program once implemented;
4. a description of the process used to recruit, screen and select outstanding candidates and support program completers;
5. evidence that the curriculum is aligned to the requirements set forth in *Bulletin 746—Louisiana Standards for State Certification of School Personnel*;
6. measurable objectives that clearly identify the most critical competencies candidates will demonstrate and a

description of instruments and processes used to assess performance;

7. a list of proposed resources and materials;
8. names and credentials of staff, including curriculum vitae of key personnel;
9. an audited financial statement. If one is not currently available, then the applicant must submit a written assurance that one will be provided within the first year of the program. Additionally, the proposal should delineate any costs to individual program participants and procedures for handling of all fees.

C. Private providers are limited to the submission of one proposal every 12 months. The 12 month cycle begins on the date that the proposal is received by the Louisiana Department of Education.

D. Private providers with programs established in other states must provide verification that their teacher preparation or educational leader programs are approved in the states in which they operate. In addition, the following data must be provided:

1. number of program completers;
2. certification areas approved and offered in other states;
3. letters of references from employing school districts; and
4. teacher effectiveness data, if available.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10); R.S. 17:7(6), and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:562 (February 2011).

§503. Preliminary Review

A. Upon receipt, program proposals will undergo a preliminary review by the LDOE for completeness. Programs that meet all initial submission requirements will undergo the evaluation process by an external and internal team. Programs that don't meet all initial submission requirements will receive a notice of pending denial. Applicants will have seven days to provide the required material.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10); R.S. 17:7(6), and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:562 (February 2011).

§505. Evaluation Process

A. A panel of internal and external reviewers will evaluate written proposals to ensure they meet professional, state and national standards for quality and state certification policy.

B. An interview with the program provider and collaborators involved in the development and design of the program will be conducted within 30 days of the receipt of the proposal.

C. Recommendations relative to approval of the proposal will be sent by the LDOE to the provider. Program proposal recommendations will be categorized as follows: recommended for approval, recommended for approval with stipulations, or not recommended for approval.

1. Recommended for Approval
 - a. A proposal that is recommended for approval meets all structural and policy requirements according to the program proposal guidelines and does not require any revisions or additional clarification.

b. Programs categorized as recommended for approval are recommended for provisional two-year approval at the next available BESE meeting.

2. Recommended for Approval with Stipulations

a. A proposal that is recommended for approval with stipulations is one that generally meets all structural and policy requirements according to the program proposal guidelines but does require additional clarification and adjustments.

b. Proposal will only be recommended for provisional two-year approval at the next available BESE meeting when the LDOE has determined that all stipulations identified by the review team have been addressed.

c. A listing of the stipulations identified by the review team and evidence that each one has been addressed will be provided to the board and included with the recommendation for approval.

3. Not Recommended for Approval

a. A proposal that is not recommended for approval is one that does not meet the policy or structural requirements according to the program proposal guidelines in significant ways and is in need of major program redesign.

b. Providers that are not recommended for approval may resubmit redesigned proposals to the department for reconsideration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10); R.S. 17:7(6), and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:562 (February 2011).

§507. Board Approval

A. Programs recommended for approval by the review team or programs that have successfully addressed all stipulations identified by the review team are recommended for provisional two-year approval at the next available BESE meeting.

B. Once BESE has granted provisional two-year approval of the program, the provider is authorized, for a period of up to two years to proceed with developing the teacher and/or educational leader preparation programs identified in the proposal, admit candidates to the program and recommend completers for certification.

C. After one year of implementation of the program, an on-site monitoring visit will be conducted by the LDOE to ensure compliance with policy and quality of delivery. A report of the monitoring visit will be presented to BESE.

D. For state approval beyond the provisional two years, private providers must maintain value added assessment results at Level 3 or higher as described in Chapter 11.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10); R.S. 17:7(6), and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:563 (February 2011).

§509. Board Denial

A. If a program recommended by the department is not approved by BESE, the provider will be notified of the denial in a formal letter. The provider will be allowed one additional opportunity to resubmit a redesigned proposal to the LDOE according to the 12 month submission cycle.

B. Redesigned programs that are denied by BESE for a second time, may not re-apply until two years after the date of the program’s original application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10); R.S. 17:7(6), and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:563 (February 2011).

Chapter 7. Louisiana State Standards for Teacher Preparation Programs

§701. Introduction

A. Each teacher preparation program seeking approval from the Board of Elementary and Secondary Education (BESE) is required to incorporate and adhere to the NCATE standards or TEAC’s principles and standards and to track closely the NCATE or TEAC accreditation process. It is the responsibility of the teacher preparation program to prepare and present a clear description of how it is responding to each of the Louisiana standards within the accreditation process.

B. The rubrics, as listed, develop a continuum of quality regarding a beginning teacher’s ability to meet effectively the requirements of the five domains in *The Louisiana Components of Effective Teaching*. The integration of the Louisiana Content Standards is to be evidenced in the teacher education curricula of each teacher education unit. Each teacher education program must show evidence of integration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10); R.S. 17:7(6), and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:563 (February 2011).

Chapter 9. The Components of Effective Teacher Preparation

Subchapter A. Standard A: Candidates Provide Effective Teaching for All Students

§901. Planning

A. Candidates at both the initial and advanced levels of the teacher education program provide effective instruction and assessment for all students.

1. The teacher education program provides candidates¹ at both the initial and advanced levels with knowledge and skills in the following planning processes:

- a. specifying learner outcomes;
- b. developing appropriate activities which lead to the outcomes;
- c. planning for individual differences;
- d. identifying materials and media for instruction;
- e. specifying evaluation strategies for student achievement; and
- f. developing Individualized Education Plans (IEPs) as needed.

Unacceptable	Acceptable	Target
Candidates recognize the components of planning and know that they are expected to meet the learning needs of each student.	Candidates demonstrate knowledge of the steps in developing plans to meet the learning needs of each student.	Candidates develop and implement plans as needed to meet the learning needs of each student.

¹Candidates. Individuals admitted to or enrolled in programs for the First preparation of teachers. Candidates are distinguished from students in P-12 school.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10); R.S. 17:7(6), and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:563 (February 2011).

§903. Management

A. The teacher education program provides candidates at both the initial and advanced levels with knowledge and skills in the management component, which includes maintaining an environment conducive to learning, maximizing instructional time, and managing learner behavior.

Unacceptable	Acceptable	Target
Candidates understand various approaches to classroom/behavior management.	Candidates create a positive learning environment, maximize instructional time, and manage learner behavior.	Candidates create a positive learning environment, maximize instructional time, and manage learner behavior, making adjustments as necessary to meet the learning needs of each student.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10); R.S. 17:7(6), and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:564 (February 2011).

§905. Instruction

A. The teacher education program provides candidates at both the initial and advanced levels with skills for delivering effective instruction, presenting appropriate content, providing for student involvement, and assessing and facilitating student growth.

Unacceptable	Acceptable	Target
Candidates recognize the components of instruction that meet the learning needs of each student.	Candidates demonstrate use of instructional components that meet the learning needs of each student.	Candidates demonstrate effective instruction that results in positive learning outcomes for each student.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10); R.S. 17:7(6), and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:564 (February 2011).

§907. Curriculum

A. The teacher education curricula provide candidates at both the initial and advanced levels with knowledge and skills to effectively incorporate the Louisiana content standards and grade level expectations in instructional delivery.

Unacceptable	Acceptable	Target
Candidates understand the basic components of the Louisiana Content Standards and Grade Level Expectations.	Candidates demonstrate knowledge of the Louisiana Content Standards and Grade Level Expectations in lessons for each content area they are preparing to teach.	Candidates implement instruction and assessment reflective of content standards, grade level expectations, local curricula, and each student's needs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10); R.S. 17:7(6), and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:564 (February 2011).

§909. Curriculum—Reading (Specifically but not Exclusively for K-3 Teachers)

A. The teacher education program provides candidates at both the initial and advanced levels with knowledge and skills in the Louisiana reading competencies and the curriculum process.

Unacceptable	Acceptable	Target
Candidates understand the components of the Louisiana Reading Competencies.	Candidates utilize the Louisiana Reading Competencies in K-12 classrooms.	Candidates effectively utilize the Louisiana Reading Competencies in K-12 classrooms to impact learning.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10); R.S. 17:7(6), and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:564 (February 2011).

§911. Curriculum—Mathematics (Specifically but not exclusively for K-3 teachers)

A. The teacher education program provides candidates at both the initial and advanced levels with knowledge and skills in the curriculum process.

Unacceptable	Acceptable	Target
Candidates understand the elements of reform mathematics.	Candidates use reform mathematics content and pedagogy in providing instruction.	Candidates effectively use reform mathematics content and pedagogy in instruction and assessment, including the use of manipulatives and/or the application of content to real life situations, resulting in improved student learning.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10); R.S. 17:7(6), and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:564 (February 2011).

§913. Technology

A. The teacher education program provides candidates at both initial and advanced levels with skills to plan and deliver instruction that integrates a variety of software, applications, and related technologies appropriate to the learning needs of each student.

Unacceptable	Acceptable	Target
Candidates understand how to use technology.	Candidates create and use instruction and assessment that integrate technology into the curriculum.	Candidates effectively integrate technology into the curriculum with instruction and assessment that result in improved student learning.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10); R.S. 17:7(6), and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:564 (February 2011).

§915. Professional Development

A. The teacher education program provides candidates at both the initial and advanced levels with information and skills for planning professional self-development.

Unacceptable	Acceptable	Target
No evidence exists that candidates were exposed to the need for ongoing professional development.	Candidates plan and pursue professional development activities required by the university and/or first employing school system.	Candidates develop an individualized professional development plan based upon their self-assessment, reflection, and long term professional goals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10); R.S. 17:7(6), and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:564 (February 2011).

§917. School Improvement

A. The teacher education program provides candidates at both the initial and advanced levels with preparatory experiences in school improvement that includes taking an active role in school decision-making and creating relevant partnerships.

Unacceptable	Acceptable	Target
Candidates understand the processes of school improvement.	Candidates review and are familiar with school improvement efforts at the school and district levels.	Candidates participate in school improvement efforts by serving on committees and forming partnerships with community groups.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10); R.S. 17:7(6), and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:565 (February 2011).

Subchapter B. Standard B: Candidates and/or Graduates of Teacher Education Programs Participate in the Accountability and Testing Process

§919. School and District Accountability System

A. The teacher education program provides candidates at both the initial and advanced levels with knowledge and skills regarding the utilization of the Louisiana School and District Accountability System (LSDAS).

Unacceptable	Acceptable	Target
Candidates understand the basic components of the LSDAS.	Candidates investigate documents, data, and procedures used in LSDAS.	Candidates take an active role in the school growth process as related to the LSDAS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10); R.S. 17:7(6), and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:565 (February 2011).

§921. Testing

A. The teacher education program provides candidates at both the initial and advanced levels with information on the Louisiana Educational Assessment Program (LEAP 21) to enhance their testing and measurement practices related to learning and instruction.

Unacceptable	Acceptable	Target
Candidates understand the basic components of the Louisiana Educational Assessment Program (LEAP 21).	Candidates plan and implement instruction that correlates with LEAP 21.	Candidates interpret LEAP 21 test data and apply results to impact student achievement positively.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10); R.S. 17:7(6), and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:565 (February 2011).

Chapter 11. Teacher Preparation Program Accountability

§1101. Programmatic Intervention

A. In order to offer a state-approved teacher preparation program that allows teachers to become certified by the LDOE, public and private higher education institutions must follow the process/procedures detailed in Chapter 3 of this document. Private providers wishing to offer a state-approved teacher preparation program must meet all requirements contained in the Program Standards and Approval Process for Private Providers document available from <http://www.teachlouisiana.net>. For continued state approval, public and private higher education institutions and private providers must maintain value added assessment results at Level 3 or higher.

B. The Louisiana Value Added Assessment of Teacher Preparation Programs (VAA-TPP) assesses the impact of new teachers from specific teacher preparation programs on student achievement. Based on this assessment, teacher preparation programs are identified as Level 1 (program completers performing above experienced teachers), Level 2 (program completers performing similarly to experienced teachers), Level 3 (program completers performing similarly to new average teachers), Level 4 (program completers performing more poorly than average new teachers) or Level 5 (program completers performing significantly more poorly than average new teachers). The VAA-TPP has been developed and is supported by the BOR and BESE.

C.1. Any teacher preparation program that receives a Level 4 or 5 result in any content area shall immediately be assigned a designation of programmatic intervention. Programmatic intervention will include a review of the existing program in that content area by a team composed of key personnel within the program, a nationally recognized expert from within or outside the state identified by the program provider and a content area specialist designated by the State Superintendent of Education. The review must be completed within one year of the Programmatic Intervention designation and be used to create a corrective action plan to address the needs. Subsequent to the review, the public or private higher education institution or private provider will make a brief report to BESE that will specify:

- a. the findings of the review;
- b. the corrective action plan;
- c. the time frame for implementation of the corrective action plan and when changes in their value added assessment results would be anticipated to occur based on

these actions; time frames may vary depending on the program type;

d. the institution's plan to assess implementation of the corrective action plan and what evidence will be collected demonstrating impact on current teacher candidates.

2. Upon BESE approval of Subparagraphs a-d listed above, the program will be allowed to continue to certify teachers under the designation of programmatic intervention until value added assessment results improve to a Level 3 or higher.

D. BESE will conduct a progress review of any state approved teacher preparation program that fails to improve its value added assessment results to a Level 3 or higher within the BESE approved time frame identified in the corrective action plan. This progress review may result in an extended deadline for the teacher preparation program to improve its value added assessment results or loss of state approval. Any state-approved teacher preparation program that loses state-approval will not be allowed to offer teacher preparation programs that result in certification in the content area(s) that received the Level 4 or 5. A value added assessment Level 4 or 5 in reading could impact state approval in multiple content areas. In order to re-establish state approval to certify teachers in the content area(s), public and private universities must follow the process/procedures developed by the BOR. Private providers wishing to re-establish state approval in content areas must follow guidelines developed by the DOE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10); R.S. 17:7(6), R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:565 (February 2011).

Chapter 13. Identifications of Acronyms

§1301. Acronyms

A. Listed below are the full identifications of acronyms used in this publication.

BESE—Board of Elementary and Secondary Education.

BOR—Board of Regents.

CHEA—Council for Higher Education.

IEP—Individualized Education Plan.

K-3—kindergarten through third grade.

K-12—kindergarten through twelfth grade.

LDOE—Louisiana Department of Education.

LEAP 21—Louisiana Educational Assessment Program for the 21st century.

LSDAS—Louisiana School and District Accountability System.

NCATE—National Council for the Accreditation of Teacher Education.

P-12—pre-kindergarten through twelfth grade.

TEAC—Teacher Education Accreditation Council.

USDOE—U.S. Department of Education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10); R.S. 17:7(6), R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:566 (February 2011).

Brad Smith
Finance/Legislative Specialist

1102#036

RULE

Board of Elementary and Secondary Education

Bulletin 1196—Louisiana Food and Nutrition Programs,
Policies of Operation
(LAC 28:XLIX.Chapters 3, 5, 7, 25, 29, 33, 34, and 35)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 1196—Louisiana Food and Nutrition Programs, Policies of Operation*: Chapters 3, 5, 7, 25, 29, 33, 34, and 35. Bulletin 1196 is the policy manual designed to provide useful guidance and information for the purpose of improving regulatory compliance and to enhance the understanding and operation of the Child Nutrition Programs in Louisiana. Due to policy changes from USDA, as well as the state agency, it was imperative to revise chapters. The revisions will consolidate necessary changes to Child Nutrition Programs and, therefore, make it more useful to the local systems throughout the state. The changes are mostly technical in nature and address areas such as: appeals procedure, free and reduced eligibility, a La Carte sales available for teachers, and audit threshold.

Title 28

EDUCATION

Part XLIX. Bulletin 1196—Louisiana Food and Nutrition Programs, Policies of Operation

Chapter 3. Financial Management and Accounting **§351. Resolution of Financial Obligations Established by Program Reviews, Audits, or Other Compliance Reviews**

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

d. the appeal procedures. (Refer to the LAC 28:I.Chapter 34, National School Lunch Program and Child and Adult Care Food Program Appeals Procedures.

A.3 - C.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2120 (December 2001), amended LR 32:1421 (August 2006), LR 37:566 (February 2011).

Chapter 5. Free and Reduced Price Meals **§503. Policy Statements**

A. - A.2.f. ...

g. the notice of selection for verification and other forms of supporting documentation to assist in verification which include the following:

i. the SFA guidance/acceptable income documentation to assist household selected for verification in gathering income information;

ii. social security numbers;

iii. the verification letter for SNAP (supplemental nutrition assistance program, formerly the food stamp program)/family independent temporary assistance program (FITAP) to complete;

iv. the verification letter for Social Security office to complete;

v. the verification letter for employer to complete;

h. the benefit change/termination notice;

- i. SFA letter to the FITAP office;
 - j. documentation results (the verification tracker form);
3. - 3.c. ...
- d. agrees to set reduced price charges for lunch and breakfast at or below the maximum reduced price allowed by federal regulations and below the full price of the lunch or breakfast;
 - e. ...
 - f. agrees that in the operation of child nutrition programs, no child shall be discriminated against because of race, sex, color, national origin, age, or disability and agrees to have on file procedures for handling discrimination complaints;
 - g. agrees to designate a school official to review applications and make determinations of eligibility. Such official will use the criteria outlined in the eligibility guidelines;
 - h. agrees to establish and use a fair hearing procedure under which a family can appeal a decision made by the SFA with respect to the child's free and reduced price meal application; the SFA can challenge the continued eligibility of any child for free or reduced price meals. During the appeal and hearing, the child, who was determined to be eligible based on the face value of the application submitted, will continue to receive free or reduced price meals; prior to initiating the hearing procedure, the school official(s), the parent(s), or guardian(s), may request a conference to discuss the situation, present information, and obtain an explanation of data submitted on the application and the decisions rendered; such a conference shall not in any way prejudice or diminish the right to a fair hearing; the designated hearing official must be someone who is not involved in the original eligibility determination in any way, such as advising or answering questions for the approving official. It is suggested that this person hold a higher position than the determining official; the hearing official for the free and reduced application procedure and the hearing official for verification must be the same person; the hearing procedure shall provide the following for both the family and the SFA:
 - h.i. - j.i. ...
 - ii. an application that lists a valid SNAP/FITAP case number should be approved free for all students listed on the application. Parent(s) or guardian(s) will be promptly notified of the acceptance or denial of their application(s);
 - iii. - vi. ...
 - k. agrees to submit a public release containing both the free and reduced price income eligibility guidelines and all other information outlined in the letter to households to the local news media, local unemployment offices and major employers contemplating or experiencing large layoffs;
 - l. agrees to establish a procedure to collect money from children who pay for their meals and to count by category at the point of service, the number of free, reduced price and full price meals. The procedure used must avoid overt identification; overt identification means any act that openly identifies children as eligible for free or reduced price benefits in child nutrition programs;
 - m. agrees to use state agency prototype documents or accept responsibility for variations;
 - n. agrees to:

- i. verify eligibility for free and reduced price meals regulations;
- ii. complete the verification process by November 15 of each year;
- iii. maintain a summary of the verification efforts that indicates the total number of applications on file October 1, the number of free and reduced-price eligibles as of the last day of October, the percentage or number of applications verified, techniques used, documentation submitted by households, documentation of any changes in eligibility and reasons for changes, and all relevant correspondence with households.

B. - B.1.b.i. ...

- ii. Income Eligibility Guidelines for Free and Reduced Price Meals;

2. - 2.f. ...
- g. agree to keep on file, where a child nutrition program is in operation, a master list indicating the name, date of birth, income, and eligibility category of all children; the date the child entered the school or institution and the date the child withdrew from enrollment must be included.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2121 (December 2001), amended LR 29:2025 (October 2003), LR 32:1421 (August 2006), LR 37:566 (February 2011).

§505. Application Materials and Process

- A. Application Design
 - 1. The application and all supporting materials must be clear and simple in design and in an understandable and uniform format. The application materials must also conform to the requirements described in this Section.
- B. Foreign Language Translations
 - 1. The application materials and other communications with households concerning eligibility determinations must be, to the maximum extent practicable, in a language that parents and guardians can understand. Where households need information in a language other than English, SFAs must make reasonable efforts, considering the number of such households, to provide household letters and application forms to them in languages other than English.
 - 2. The FNS web site (www.fns.usda.gov/cnd) has the prototype application and materials translated in several languages. SFAs are encouraged to provide households with assistance in completing applications through the use of personnel proficient in foreign languages.
- C. Informing Households/ Letter to the Household
 - 1. Each year at the beginning of school, letters must be distributed to the households of children attending the school. This letter tells families which school nutrition programs are available and that meals may be available free or at a reduced price. All SFAs must be able to provide households with paper applications and materials.
 - 2. The letter should be sent to households of all school children before the beginning of the school year or as early as possible in the school year so that eligibility determinations may be made, and free and reduced price benefits provided as soon as possible. SFAs should send out the letter no earlier than four calendar weeks prior to the time students start school. Letters cannot be sent home at the end of the school year for the next year, nor can the SFA begin accepting and processing applications before the

beginning of the federally defined school year which is July 1 through June 30. Year-around schools that follow the July 1 - June 30 school year would distribute letters in June.

3. Households enrolling new students in an SFA after the start of the school year must be provided a letter and an application form and materials when they enroll.

4. If the SFA uses paper applications, an application form and instructions must be included with the letter to households.

5. If the SFA uses a computer or web-based system to process applications, the letter must inform the household how to access the system in order to apply for benefits. In addition, the letter must explain to the household how to obtain and submit a paper application. This may be done by including a telephone number or a form to return requesting that an application be sent.

6. The letter must contain the following information:

a. income eligibility guidelines:

i. for schools participating in the NSLP or SBP only, the reduced price guidelines may be included, with an explanation that households with incomes at or below the reduced price limits are eligible for either free or reduced price meals;

ii. for schools participating in the NSLP or SBP and also participating in the SMP with the free milk option for their split-session kindergarten students, both the free and the reduced price guidelines must be included;

b. instructions on how to apply for free or reduced price meals, including that only one application is required for all children in the household;

c. an explanation that an application for free or reduced price benefits cannot be approved unless it contains complete eligibility information as indicated on the application and instructions;

d. a statement that foster children may be eligible for free or reduced price meals regardless of the income of the households with whom they reside and an explanation about how to contact the SFA for assistance or how to complete the application for a foster child;

e. an explanation that households with children who are members of currently certified SNAP, FDPIR or FITAP households may submit applications for these children with the abbreviated information as indicated on the applications and instructions;

f. an explanation that households with children who are enrolled in the Head Start/Even Start Program or the Migrant Education Program or who are considered homeless or runaway by the school district's homeless liaison should contact the school for assistance in receiving benefits;

g. an explanation that the information submitted on the application may be subject to verification;

h. a statement that a household may apply for benefits at any time during the school year;

i. a statement that children of parents or guardians who become unemployed may be eligible for free or reduced price meals during the period of unemployment;

j. a statement to the effect that the Special Supplemental Nutrition Program for Women, Infants and Children (WIC) participants may be eligible for free or reduced price meals;

k. an explanation that a household may appeal the decision of the SFA with respect to the application using the hearing procedure described in the SFA's free and reduced price policy statement;

l. the following two statements must be included as written:

i. in accordance with federal law and U.S. Department of Agriculture policy, this institution is prohibited from discrimination on the basis of race, color, national origin, sex, age or disability;

ii. to file a complaint of discrimination write USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW, Washington, DC 20250-9410 or call (800) 795-3272 or (202) 720-6382 (TTY). USDA is an equal opportunity provider and employer;

m. the SFA should also include local contact information if the household has questions about the application process.

D. Household Applications

1. SFAs must provide household applications to families applying for free or reduced price meal benefits. The federal or state prototype household application may be used by all SFAs. SFAs that choose to create a household application (such as a scannable application) must ensure that all information from the prototype application is present on the SFA application. A household application is submitted by a household for all children in that household that attend schools in the same SFA. Unless a child/family meets criteria to be exempt from household applications, SFAs cannot require one application for each child in a household. Further, SFAs cannot require separate applications for households with some children who are eligible based on categorical eligibility and some who are applying based on household income.

2. The following are exemptions to household applications.

a. Foster Children

i. Each foster child is considered a household of one and an application must be completed for each foster child in the household.

ii. In lieu of individual applications, the SFA may accept a list from the court or the agency responsible for the placement of foster children. The list must provide information indicating the child's name, any personal income received by the child, the child's current address, and, if known, the school that child is currently attending. The list must be signed by an appropriate official and provide the official's title and contact information.

b. Residents of RCCIs

i. Each child residing in an RCCI is considered a household of one. An application must be completed for each child or the RCCI may use an eligibility documentation sheet for all children residing in the RCCI. The documentation sheet must provide information indicating the child's name and personal income received by the child. The documentation sheet must be signed by an appropriate official and provide the official's title and contact information.

ii. Children attending but not residing in an RCCI are considered members of their household and their

eligibility is determined using a household application or through direct certification.

E. Electronic Applications/Scanning Paper Applications

1. The SFA may make the application and supporting materials available electronically via the Internet. In addition, the SFA may accept applications electronically and may provide for electronic signatures for such submissions. All disclosure restrictions must be met and acceptance of the application and electronic signatures must be in accordance with federal guidance.

2. The SFA may also scan paper applications submitted. The scanning process must meet all regulatory requirements as well as perform functions as outlined in this guidance. The software/scanner system must be able to recognize and accept less than whole dollar amounts.

3. Neither the federal or state agencies evaluate, recommend, approve, or endorse any software used for certification or verification purposes. There are no federal specifications for software vendors. SFAs are responsible for assuring that the certification and verification processes meet all regulatory requirements and policies. If software is used to perform all or part of the certification or verification process, the SFA must assure the software used is performing correctly and meets all requirements.

F. Contents of the Application

1. Except for the information in the attesting statement, the required information on the application form may be separate from the signature block. The application form must contain:

a. privacy act statement:

i. a statement explaining the protections of the Privacy Act which addresses the following:

(a). the disclosure of a social security number is voluntary; however, a social security number, or an indication of "none", is required for approval of the application;

(b). the social security number is required under provisions of the National School Lunch Act (NSLA); and

(c). all potential uses that may be made of the social security number;

b. foster child statement:

i. a statement explaining how a foster child applies which says:

(a). "In certain cases, foster children are eligible for free or reduced price meals regardless of the household's income. If you have foster children living with you and wish to apply for such meals for them, please contact us";

(b). in lieu of this statement, the SFA may include instructions on how to apply for a foster child;

c. attesting statement:

i. a statement directly above the signature block for the signing adult to certify that:

(a). the person signing is furnishing true information and to advise that person that the application is being made in connection with the receipt of federal funds;

(b). school officials may verify the information on the application;

(c). deliberate misrepresentation of the information may subject the applicant to prosecution under state and federal statutes; and

(d). the Privacy Act statement or a reference to the Privacy Act statement and where the complete statement can be found in the application materials.

2. The application must provide space for identifying each child separately.

3. A school or SFA wishing to require income information from all households with enrolled children must secure that income information through means other than the household's application for free or reduced price school meal benefits. If schools or SFAs collect such information for non-NSLP or SBP purposes, the applications may not be labeled as applications for benefits under the school meals program or give any indication that such benefits are contingent upon a household returning the application. If SFAs provide households with multi-use applications, which include both meal program benefits as well as non-food benefits, they must ensure that the process does not require submission of an application for free or reduced price meal benefits. Distribution and processing applications solely for information about household income to determine the school district's funding for programs other than the schools meals programs or to determine eligibility for other assistance programs is not a requirement for NSLP or SBP purposes. Therefore, funds in the nonprofit school food service account cannot be used to pay the costs associated with collecting and processing such information.

G. Submitting an Application

1. Unless the children in a household are determined eligible through direct certification with SNAP or directly certified as categorically eligible through the SFA's homeless or Migrant Education Program (MEP) liaison or other official sources, the family must submit an application to receive free or reduced price meals. The information that the household must provide depends on whether the children are categorically eligible based on receipt of other benefits or must be determined eligible on the household's income. The information provided by the household on the application must be the most recent available. Households cannot be required to submit applications for free or reduced price benefits.

H. Benefits Prior to Processing/ Processing Timeframe

1. Before applications are processed for the school year, the SFA can only claim and be reimbursed for free and reduced price meals served to:

a. children from households with approved applications on file from the previous year;

b. new children in an SFA from households with children who were approved for benefits the previous year; and/or

c. previously approved children who transfer from one school to another under the jurisdiction of the same SFA. If the applications are not centrally maintained, both the sending and the receiving school must maintain a copy of the child's application.

2. SFAs must carryover the eligibility status from the previous year for any child described above. The carryover is for up to 30 operating days (beginning with the first day of school) into the current school year. This applies to direct certification, categorical eligibility determinations and income applications. However, the new eligibility

determination supersedes the carryover eligibility. Local school officials are encouraged to expedite eligibility determinations for all new enrollees. SFAs must process the applications submitted for the current school year in a timely manner. SFAs cannot establish a shorter time frame for carryover. However, once an application is processed and approved or denied, the SFA must implement that determination.

3. Except during the initial carryover period, in order to be eligible for free or reduced price meals, a child must:

- a. be directly certified with SNAP;
- b. be directly certified as categorically eligible through the SFA's homeless or Migrant Education Program (MEP) liaison or other official sources; or
- c. submit a complete application that qualifies the child as either categorically eligible or income eligible.

4. For each child served a meal that is claimed for federal reimbursement at the free or reduced price rate, the SFA must have one of the following on file:

- a. a list of children directly certified with SNAP;
- b. a list of children directly certified as categorically eligible through the SFA's homeless or Migrant Education Program (MEP) liaison or other official sources; or
- c. an approved application.

5. Applications must be reviewed in a timely manner. The application process must be completed no later than 30 operating days from the first day of school. This process includes the distribution of applications and letters to the parent, the return of the application, eligibility determination, and notification to the parent. Within this timeframe, an eligibility determination must be made and implemented within 10 working days of the receipt of the application. Whenever possible, applications should be processed immediately, particularly for children who do not have approved applications on file from the previous year.

6. Early childhood education, pre-kindergarten, and kindergarten students are not included in the previous year's enrollment; therefore, local school officials are encouraged to distribute a free/reduced application during the early "round-up" enrollment for processing prior to the first day of school and for use during the first 30 operating days of the new school year. New applications will need to be distributed upon the first day of school.

I. Determining if Submitted Applications are Complete

1. Categorical Eligibility (SNAP, FITAP or FDPIR Benefits)

a. These sources of categorical eligibility may be determined based on an application submitted by a household because these programs provide distinct case numbers. For these situations, a complete application must provide:

- i. the names of the children for whom the application is made;
- ii. a valid SNAP, FDPIR or FITAP case number or other FDPIR identifier for the child(ren) for whom the application is made; and
- iii. the signature of an adult household member.

b. A child must be considered a member of household as established by SNAP, FITAP or by FDPIR. The composition of the SNAP, FITAP or FDPIR household may be different than that of the household applying for school meals.

c. While children may be categorically eligible due to their migrant, homeless or runaway status or due to enrollment in Head Start/Even Start, they cannot be determined eligible based on self-declaration of such status on an application. There is no provision for establishing eligibility for these programs based on case numbers as is permitted for SNAP, FITAP or FDPIR, even if the sponsoring agency provides case numbers. These children must be directly certified as categorically eligible through the school district's homeless or Migrant Education Program (MEP) liaison or other official sources. If there is an indication on the application that a child may be categorically eligible due to one of these categories, SFA officials must contact the household and then, if needed, contact the appropriate agency to confirm enrollment in that program. SFA officials must determine eligibility under these circumstances through the appropriate officials.

2. Income Eligibility

- a. A complete application must provide:
 - i. the names of all household members;
 - ii. the amount and source of current income by each member and the frequency of the income;
 - iii. the signature of an adult household member; and
 - iv. the complete social security number of the adult household member who signs the application or an indication that the household member does not have a social security number.

3. Foster Child Eligibility

a. A complete application must provide the name of the child, the child's personal income, and the signature of an adult household member (this may be an official of a court or other agency with responsibility for the child).

4. Reviewing Submitted Applications for Completeness

a. The determining official must review each incoming application to ensure that the household has submitted a complete application. If the application is complete, the official must then determine whether the household is categorically eligible or income eligible for benefits, based on the information provided on the application.

b. Any application that is missing required information, that contains inconsistent information, or is unclear is considered an incomplete application and cannot be processed. The SFA should make reasonable efforts to contact the household in order to obtain or clarify required information. The SFA must not delay approval of the application if the household fails to provide any information that is not required.

J. Citizenship/Legal Status

1. United States citizenship or immigration status is not a condition of eligibility for free and reduced price benefits. SFAs must apply the same eligibility criteria for citizens and non-citizens. USDA has determined that the NSLP and SBP are not subject to Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), which restricts certain welfare and public benefits for aliens.

K. Current Income/Conversion of Different Income Frequencies

1. For the purposes of certification of eligibility for free and reduced price meals, the household must provide their current income which is based on the most recent information available. This may be for the current month, the amount projected for the first month the application is made for, or for the month prior to application. If the household's current income is not a reflection of income that will be available over the school year, the household should contact the SFA for assistance. The SFA would determine the amount and frequency of income available during the school year for the household.

2. Households may have income from different sources which is paid on different schedules. These situations may or may not require conversion of income.

a. No Conversion Required

i. If there is only one source of income or if all sources are received in the same frequency, no conversion is required. The SFA would total all sources and compare them to the appropriate IEG

b. Conversion Required

i. If there are multiple income sources with more than one frequency, the SFA must annualize all income by multiplying:

(a). weekly income by 52;

(b). bi-weekly income (received every two weeks) by 26;

(c). semi-monthly income (received twice a month) by 24;

(d). monthly income by 12.

ii. Do not round the values resulting from each conversion.

iii. Add all of the un-rounded converted values and compare the un-rounded total to the appropriate IEG for annual income for the household size.

iv. SFAs cannot use conversion factors such as 4.33 to convert weekly income or 2.15 to convert bi-weekly income to monthly amounts. Software used must reflect this policy.

3. Each household must provide the total amount of their current income. Income must be identified with the individual who received it, and the source of the income. Each household member who does not have income must also be identified and must have an indication of zero income on the application. Zero income may be indicated by checking a "no income" box, by writing in "zero" or "no income" or by inserting \$0.

L. Determining Eligibility

1. Categorical Eligibility Using Case Numbers

a. The determining official must assure that the SNAP or FITAP case number or the FDPIR case number or other identifier is valid. SFA officials must be familiar with the format of valid case numbers/other identifiers. If there is any doubt concerning the validity of a case number/other identifier submitted on an application, an SFA official should contact local SNAP, FITAP or FDPIR officials. Applications with invalid case numbers or FDPIR identifiers must not be approved. However, for any child with a valid case number/other identifier, the SFA must approve that child as eligible for free benefits.

b. Only the case number may be used to determine eligibility. The electronic benefit (EBT) card number used by SNAP cannot be used to establish categorical eligibility.

2. Categorical Eligibility Without Case Numbers

a. SFA officials must determine eligibility under these circumstances through the appropriate officials. If an SFA official or an official of the school district has knowledge that a child is a migrant, homeless or runaway child, that official may apply on that child's behalf.

3. Income Eligibility

a. It is the responsibility of the determining official to compute the household's total current income and compare the total amount to the appropriate IEG

i. SFA officials must determine countable income.

ii. Households that submit a complete application indicating total household income at or below the income limits for free or reduced price benefits must be approved for free or reduced price benefits, as appropriate.

iii. Households that submit an incomplete application cannot be approved. If any required information is missing, the information must be obtained before an eligibility determination can be made.

iv. To get the required information, the school may return the application to the household or contact the household either by phone or in writing. The determining official should document the details of the contact, and date and initial the entry.

v. Applications missing the signature of an adult household member must be returned for signature.

vi. Every reasonable effort should be made to obtain the missing information prior to denying the application.

4. Verification for Cause

a. The SFA has an obligation to verify all approved applications that may be questionable (verification "for cause"). Such verification efforts cannot delay the approval of applications. If an application is complete and indicates that the child is eligible for free or reduced price benefits, the application must be approved. Only after the determination of eligibility has been made can the SFA begin the verification process.

M. Duration of Eligibility

1. Unless given a temporary approval, a child's eligibility is in effect from the date of eligibility for the current school year and for up to 30 operating days in the subsequent school year. However, this does not apply when the initial eligibility determination was incorrect or when verification of household eligibility does not support the level of benefits for which the household was approved. In those instances, officials must make appropriate changes in eligibility.

N. Temporary Approval

1. Even though there is year-long eligibility, temporary approvals are very important in situations where households will be experiencing changes in income or household size that would affect children's eligibility for free or reduced price meals. Therefore, when warranted, SFAs are encouraged to approve households on a temporary basis when their need for assistance appears to be short-term.

a. The suggested time period for temporary approvals is 30 calendar days unless a shorter timeframe is more appropriate for the household's circumstances.

b. When a household reports zero income or a temporary reduction in income, eligibility must be

determined based on the present rate of income rather than on regular annual income.

c. At the end of the temporary approval, school officials must re-evaluate the household's situation and should contact the household to determine if the household's circumstances have changed.

d. If the household's situation at the end of the temporary approval remains the same, the SFA may either:

i. continue eligibility on a temporary basis and re-evaluate the situation at another interval; or

ii. make the approval valid for the duration of the current school year which would allow for carry-over of that status into the next school year.

e. If the household's situation at the end of the temporary approval has changed, school officials must request that the household file a new application or have the household update the information on the existing application and initial and date the changes. The SFA must implement the new status within three operating days. Because these are temporary approvals that expire at the end of the time period, a notice of adverse action is not required.

2. Eligible children should receive temporary approval in the following types of economic situations:

a. zero income, for whatever reason (except foster children and institutionalized children);

b. temporary layoffs;

c. strikes (voluntary work stoppages);

d. temporary disability.

O. Unapproved Applications

1. Any child who is not categorically eligible or who is in a household that does not meet the income eligibility standards cannot be approved for benefits. If there are any inconsistencies or questions concerning the required eligibility information provided, the household's application must be denied unless the inconsistencies or questions are resolved. School officials may contact the household prior to denial, document the details of the contact, and date and initial the entry.

P. Households That Fail to Apply

1. Local school officials may complete an application for a child known to be eligible if the household fails to apply. When exercising this option, the school official must complete an application on behalf of the child based on the best household size and income information available. The source of the information must be noted on the application. Names of household members, social security number, and signature of an adult household member need not be secured. These applications are excluded from verification. However, the household must be notified that the child has been certified to receive free or reduced price benefits. This option is intended for limited use in individual situations and must not be used to make eligibility determinations for categories or groups of children. School officials should consider providing temporary approval if circumstances warrant.

2. Because of delays in receiving documentation from appropriate agencies or officials, a school principal or other school official may submit an application on behalf of a child that they know to be categorically eligible due to their status as a migrant, homeless or runaway child. These applications must be done in accordance with the temporary approval procedures.

3. Once the documentation is received, that information must be noted on the application and the child's eligibility status is effective for the remainder of the school year and also would carryover for up to 30 operating days in the next school year. If no documentation is received to confirm the child's status as a migrant, homeless or runaway child, the child's benefits are terminated and a new application must be filed either by a school official or by the child's parent or guardian.

Q. Notification of Eligibility Determination

1. All households must be notified of their eligibility status. Households with children who are approved for free or reduced price benefits may be notified in writing or orally. Households with children who are denied benefits must be given written notification of the denial. The notification must advise the household of:

a. the reason for the denial of benefits;

b. the right to appeal;

c. instructions on how to appeal; and

d. a statement that the family may re-apply for free and reduced price benefits at any time during the school year.

R. Changes in Household Circumstances

1. Because of year-long duration of eligibility, households are no longer required to report changes in income or household size, or changes with regard to participation in a program that makes the children categorically eligible. However, families may voluntarily report changes. If a change is reported that will increase benefits, the SFA must put that change into effect. If the change will decrease benefits (free to reduced price) or terminate free or reduced price benefits (free or reduced price status to paid status), the SFA must explain to the household that the change does not have to go into effect but, that the household may request that the lower benefits go into effect. If so, the household would then be provided a written notice of adverse action.

S. Appeals

1. A household may appeal either the denial of benefits or the level of benefits for which they have been approved. When a household requests an appeal, the hearing procedures outlined in the SFA's free and reduced price policy statement must be followed.

T. Recordkeeping

1. Applications

a. SFA officials must do the following for approved applications:

i. indicate the approval date;

ii. indicate the level of benefit for which each child is approved;

iii. sign or initial the application.

b. For denied applications, SFA officials must:

i. indicate the denial date;

ii. indicate the reason for the denial;

iii. indicate the date the denial notice was sent;

iv. sign or initial the application.

c. For computerized operations, where the computer generates the determination, the determining official may sign or initial and date a sheet of paper that would then be attached to a batch of applications. The computer system should be able to capture the original date of approval, the

basis for the determination, and to update the status of applications to account for transfers, withdrawals, terminations, and other changes.

2. Updating Records for Changes during the School Year

a. If any change, such as a transfer to another school within the SFA or if the household voluntarily requests that a change be made, is made after the initial approval for the current school year, the SFA officials must:

- i. note the change;
- ii. write the date of the change on the application;
- iii. implement the change by updating rosters or other methods used at the point of sale, if necessary.

b. When a child transfers to another school within the SFA, the date of the transfer must be noted on the application.

3. Record Retention

a. All free and reduced price applications, including applications from households denied benefits and inactive applications, must be kept on file for a minimum of three (3) years after the final claim is submitted for the fiscal year to which they pertain. Files must be kept longer if they are required by an audit, as long as required for resolution of the issues raised by the audit. If audit findings have not been resolved, the applications must be retained as long as required for resolution of the issues raised by the audit.

b. Applications may be maintained either at the school or at a central location with a list of eligible children maintained at the school. If an SFA maintains applications at a central location, applications must be readily retrievable by school, and the SFA must ensure that any changes in eligibility status and transfers in and out of the school are accurately and promptly reflected on each school's list. If the applications are not maintained in the central office, the school from which the student transferred shall retain a copy of the student's application on file and the original application shall be transferred with the child.

U. Transferring Eligibility between SFAs

1. When a student transfers to another school district, the new SFA may accept the eligibility determination from the student's former SFA without incurring liability for the accuracy of the initial determination. When a copy of the application is provided, the accepting SFA should review the application for arithmetic errors and compare the income and household size to the applicable IEGs to assure that the correct level of benefits was assigned. If the accepting SFA determines that an arithmetic error occurred when determining the child's benefit level, the accepting SFA must notify the household that it must file an application in the new SFA in order to receive benefits. Also, the accepting SFA must make changes that occur as a result of any verification activities or review findings conducted in that SFA.

2. Local officials may wish to develop a cooperative transfer system between the private schools and the public school system within the same parish or city to provide eligibility information for students transferring between these schools.

V. Other Uses of Information from the Application

1. The information provided by families will be used only for determining eligibility for meal benefits and verification of eligibility. SFAs that plan to disclose

children's eligibility status for purposes other than for determining and verifying free or reduced price eligibility must inform households of this potential disclosure. Additionally, in some cases, the SFA must obtain parental consent prior to the disclosure. SFAs that anticipate disclosure specifically to Medicaid or the Louisiana Children's Health Insurance Program (LaCHIP) must notify households of this potential disclosure and give households the opportunity to decline the disclosure.

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§507. Income Eligibility

A. Determining Household Composition

1. Economic Units

a. Household composition for the purpose of making an eligibility determination for free and reduced price benefits is based on economic units. An economic unit is a group of related or unrelated individuals who are not residents of an institution or boarding house but who are living as one economic unit, and who share housing and/or significant income and expenses of its members.

b. Generally, individuals residing in the same house are an economic unit. However, more than one economic unit may reside together in the same house. Separate economic units in the same house are characterized by prorating expenses and economic independence from one another.

2. Special Situations

a. Adopted Child

i. An adopted child for whom a household has accepted legal responsibility is considered to be a member of that household. If the adoption is a "subsidized" adoption, which may include children with special needs, the subsidy is included in the total household income.

ii. Because some adopted children were first placed in families as foster children, parents may not be aware that, once the child is adopted, s/he must be determined eligible based on the economic unit and all income available to that household, including any adoption assistance, is counted when making an eligibility determination.

b. Child Attending an Institution

i. A child who attends but does not reside in an institution is considered a member of the household in which she/he resides.

c. Child Residing in an Institution

i. A child residing in an RCCI participating in the NSLP and/or the SBP is considered a household of one.

d. Child Away at School

i. A child who is temporarily away at school (e.g., attending boarding school or college) is included as a member of the household.

e. Child Living With One Parent, Relative, or Friends

i. In cases where no specific welfare agency or court is legally responsible for the child or where the child is living with one parent, other relatives, or friends of the family, the child is considered to be a member of the household with whom she/he resides. Children of divorced

or separated parents are generally part of the household that has custody.

f. Joint Custody

i. When joint custody has been awarded and the child physically changes residence, the child is considered part of the household where she/he resides. In these situations, if both parents apply for benefits in the same SFA for the child, and different eligibility statuses result, the greatest benefit level is used.

g. Emancipated Child

i. A child living alone, or as a separate economic unit is considered to be a household of one.

h. Foreign Exchange Student

i. A foreign exchange student is considered to be a member of the household in which she/he resides, i.e., the household hosting the student.

i. Foster Child

i. A foster child is a child who is living with a household but who remains the legal responsibility of the welfare agency or court. Such a child is considered a household of one.

j. Family Members Living Apart

i. Family members living apart on a temporary basis are considered household members. Family members not living with the household for an extended period of time are not considered members of the household for purposes of determining eligibility, but any money made available by them or on their behalf for the household is included as income to the household.

k. Deployed Service Personnel

i. While family members not living with the household for an extended period of time are not usually considered household members, any member of the armed services who is activated or deployed in support of any military combat operation is still counted as a household member.

B. Determining Household Income

1. Reportable Income

a. Income is any money received on a recurring basis, including gross earned income, unless specifically excluded by statute. Gross earned income means all money earned before such deductions as income taxes, employee's social security taxes, insurance premiums and bonds. Income includes but is not limited to:

- i. wages, salaries, tips, commissions or fees;
- ii. net income from self-owned business and farms;
- iii. strike benefits, unemployment compensation and worker's compensation;
- iv. public assistance payments/welfare benefits (FITAP, General Assistance, General Relief, etc.);
- v. alimony or child support payments;
- vi. pensions, retirement income, veterans' benefits;
- vii. social security;
- viii. supplemental security income;
- ix. disability benefits;
- x. net rental income, annuities, net royalties;
- xi. interest; dividend income;
- xii. cash withdrawn from savings; income from estates, trusts and/or investments;

xiii. any other money that may be available to pay for the child(ren)'s meals.

2. Current Income

a. Households must report current income on a free and reduced price application. Current income means income received by the household for the current month, the amount projected for the first month the application is made for or the month prior to application. If this income is higher or lower than usual and does not fairly or accurately represent the household's actual circumstances, the household may, in conjunction with SFA officials, project its annual rate of income.

3. Special Situations

a. Projected Income for Seasonal Workers and Others

i. Seasonal workers and others whose income fluctuates usually earn more money in some months than in other months. Consequently, the previous month's income may distort the household's actual circumstances. In these situations, the household may project its annual rate of income and report this amount as its current income. If the prior year's income provides an accurate reflection of the household's current annual rate of income, the prior year may be used as a basis for the projected annual rate of income.

b. Income for the Self-Employed

i. Self-employed persons may use last year's income as a basis to project their current year's net income, unless their current net income provides a more accurate measure. Self-employed persons are credited with net income rather than gross income. Net income for self-employment is determined by subtracting business expenses from gross receipts. Gross receipts include the total income from goods sold or services rendered by the business. Deductible business expenses include the cost of goods purchased, rent, utilities, depreciation charges, wages and salaries paid, and business taxes (not personal, federal, state, or local income taxes). Non-deductible business expenses include the value of salable merchandise used by the proprietors of retail businesses.

ii. Net income for self-employed farmers is figured by subtracting the farmer's operating expenses from the gross receipts. Gross receipts include the value of all products sold, money received from the rental of farm land, buildings, or equipment to others, and incidental receipts from the sale of items such as wood, sand or gravel. Operating expenses include cost of feed, fertilizer, seed and other farming supplies, cash wages paid to farmhands, farm building repairs and farm taxes (but not local, state and federal income taxes).

c. Income from Wages and Self-Employment

i. For a household with income from wages and self-employment, each amount must be listed separately. When there is a business loss, income from wages may not be reduced by the amount of the business loss. If income from self-employment is negative, it should be listed as zero income.

d. Military Benefits

i. Benefits received in cash, such as housing allowances and food or clothing allowances, are considered income.

- e. Deployed Service Members
 - i. Only that portion of a deployed service member's income made available by them or on their behalf to the household will be counted as income to the household.
 - f. Foster Child's Income
 - i. Only the child's personal income is considered for eligibility purposes.
 - g. Income for a Child Residing in an RCCI
 - i. Only the income a child earns from full-time or regular part-time employment and/or personally receives while in residence at the RCCI as income.
 - h. Child's Income
 - i. The earnings of a child who is a full-time or regular part-time employee must be listed on the application as income.
 - i. Alimony and Child Support
 - i. Any money received by a household in the form of alimony or child support is considered as income to the receiving household.
 - ii. Any money paid by a household in the form of alimony or child support is not excluded from income for that household.
 - j. Garnished Wages and Bankruptcy
 - i. Income is the gross income received by a household before deductions. In the case of garnished wages and income ordered to be used in a specified manner, the total gross income must be considered regardless of whatever portions are garnished or used to pay creditors.
4. Income Exclusions
- a. General Exclusions
 - i. Income not reported or counted as income in the determination of a household's eligibility for free and reduced price meal benefits includes:
 - (a). any cash income or value of benefits excluded by statute, such as the value of SNAP or FDPIR benefits and some federal educational benefits;
 - (b). payments received for the care of foster children;
 - (c). student financial assistance provided for the costs of attendance at an educational institution, such as grants and scholarships, awarded to meet educational expenses and not available to pay for meals;
 - (d). loans, such as bank loans, since these funds are only temporarily available and must be repaid;
 - (e). the value of in-kind compensation, such as housing for clergy and similar non-cash benefits;
 - (f). occasional earnings received on an irregular basis, such as payment for occasional baby-sitting or mowing lawns.
 - b. Military Benefits
 - i. An in-kind benefit, such as non-privatized on-base housing, where no cash is provided to the household, is not counted as income.
 - ii. Other Sources of Excluded Income Related to the Military
 - (a). Family Subsistence Supplemental Allowance (FSSA) is not counted as income in determining eligibility for free and reduced price meals.
 - (b). Privatized housing allowances received under the Military Housing Privatization Initiative are not counted as income. Under this privatization initiative, a housing allowance appears on the leave and earnings

statement of service members living in privatized housing. The exclusion only applies to service members living in housing covered under the Military Housing Privatization Initiative. Housing allowances for households living off-base in the general commercial/private real estate market are counted as income.

- c. Institutionalized Child's Income
 - i. Payments from any source directly received by the RCCI on a child's behalf are not considered as income to the child.
- d. Child's Income
 - i. Infrequent earnings, such as income from occasional babysitting or mowing lawns, are not counted as income and should not be listed on the application.
- e. Lump Sum Payments
 - i. Lump sum payments or large cash settlements are not counted as income since they are not received on a regular basis. These funds may be provided as compensation for a loss that must be replaced. However, when lump sum payments are put into a savings account and the household regularly draws from that account for living expenses, the amount withdrawn is counted as income.

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

HISTORICAL NOTE Promulgated by the Board of Elementary and Secondary Education, LR 27:2127 (December 2001), amended LR 32:1424 (August 2006), LR 37:573 (February 2011).

§509. Categorical Eligibility

A. Members of SNAP/FITAP/FDPIR Households

1. A child who is a member of a household receiving assistance from SNAP, FITAP or FDPIR is categorically eligible for free meal benefits. SFAs must give households applying for free and reduced price meal benefits for their children the opportunity to indicate on the application that the children are categorically eligible for free benefits and to provide case numbers. In cases where no specific welfare agency or court is legally responsible for the child or where the child is living with a household in which he/she is not a member of the family, the child is considered to be a member of the household with whom he/she resides. If the household receives SNAP benefits, or if other children in the household receive FITAP benefits, the single SNAP or FITAP number provided on the application would qualify the student living in the household for free meals.

2. If a household submits an application for children who were directly certified, the SFA must disregard the paper application. Direct certification takes precedence over an application submitted by the household.

3. Participation in the state's Medicaid Program does not qualify a child as categorically eligible to receive free meal benefits.

B. Head Start/Even Start

1. Children enrolled in federally-funded Head Start centers that meet the low-income criteria of the Head Start Program are considered categorically eligible for free meals in the NSLP. Children enrolled in state-funded pre-kindergarten Head Start programs with eligibility requirements identical to or more stringent than those used by the federally-funded Head Start centers are also considered categorically eligible.

2. For a child to be categorically eligible for free meals based on their participation in Even Start, the child

must be enrolled as a participant in a federally-funded Even Start Family Literacy Program and must be at the pre-kindergarten level.

3. Documentation of a child's participation in a federally-funded Head Start or Even Start program is required to establish categorical eligibility for free meals in the NSLP. Confirmation that the child has not yet entered kindergarten must be included in the documentation from the Even Start official. Acceptable documentation includes:

- a. an approved Head Start or Even Start application for the child's family or statement of enrollment in Head Start or Even Start; or
- b. a list of children participating in Head Start or Even Start; and
- c. in the case of Even Start, confirmation that the child has not yet entered kindergarten.

C. Migrant Education Program

1. A child is considered categorically eligible if she/he is identified as meeting the definition of migrant in section 1309 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6399) by the state or local Migrant Education Program (MEP) coordinator or the local educational liaison. It is not necessary for SFA officials to make the determination about whether a child is considered as migrant for the MEP. State educational agencies and local MEP staff are responsible for identifying (and maintaining supporting documentation on) eligible migrant children.

2. SFAs should work directly with their school district's MEP coordinator or, where appropriate, the state MEP director, to identify migrant children and to document their eligibility for free school meals. SFAs must accept documentation that the children are migrant children from the school district's MEP coordinator. Acceptable documentation for MEP enrollment is a dated list containing each child's name and the signature of the MEP coordinator or the state MEP director. This documentation is in lieu of free and reduced price meal applications and must be sought, as much as possible, prior to a household completing an application. Once documentation is obtained, the SFA must notify the household as soon as possible about the child's free meal eligibility. Because documentation of MEP enrollment is acceptable in lieu of a free and reduced price meal application, any application submitted on behalf of the child would be disregarded.

3. Newly arrived migrant children in the SFA must be documented and certified for free meals as promptly as possible. SFAs must establish procedures with the MEP coordinator to assure prompt notification when a new migrant child is identified.

4. To assure that an eligible migrant child continues to receive benefits, SFAs are encouraged to share the child's free meal eligibility status with the new SFA when a migrant child moves from their jurisdiction.

D. Runaway and Homeless Youth Act

1. A runaway child is one who is identified as a runaway receiving assistance through a program under the Runaway and Homeless Youth Act (RYHA) by the local educational liaison. Acceptable documentation to substantiate participation in a program for runaway children sponsored by RHYA must include the child's name or a list of names of participating children, the effective date(s) and the signature of the school district's homeless liaison.

Because documentation of enrollment in an RHYA-funded program is acceptable in lieu of a free and reduced price meal application, any application submitted on behalf of the child would be disregarded.

2. Runaway children who may be enrolled in an RHYA-funded program must be documented and certified for free meals as promptly as possible. SFAs must establish procedures with the homeless coordinator to assure prompt notification when a homeless child is identified.

E. McKinney-Vento Homeless Assistance Act

1. A child is considered homeless if she/he is identified as lacking a fixed, regular and adequate nighttime residence under the McKinney-Vento Homeless Assistance Act by the local educational agency liaison, or the director of a homeless shelter.

2. The term "homeless" means individuals who lack a fixed, regular and adequate nighttime residence. The definition includes:

a. children and youths who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks or camp grounds due to the lack of alternative adequate accommodations;

b. children and youths who are living in emergency or transitional shelters; are abandoned in hospitals; or are awaiting foster care placement;

c. children and youths who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings;

d. children and youths who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and

e. migratory children who qualify as homeless because the children are living in the circumstances described above.

3. Acceptable documentation that the children are homeless is obtained from the local educational homeless liaison or directors of homeless shelters where the children reside. Documentation to substantiate free meal eligibility must consist of the child's name or a list of names, effective date(s) and the signature of the local educational liaison or the director of the homeless shelter.

4. Homeless Children Residing with another Household

a. A child or family may temporarily reside with another household and still be considered homeless under the definition of homeless in McKinney-Vento. In these cases, the household size and income of the host family is not taken into consideration in determining the free meal eligibility for the child(ren) designated as homeless by the local educational agency liaison.

b. When a host family applies for free and reduced price meals for their own children, the host family may include the homeless family as household members if the host family provides financial support to the homeless family, such as shelter, utilities, clothing or food. In such cases, the host family must also include any income received by the homeless family. School officials must determine eligibility for the host family in the traditional manner. However, free meal eligibility for the homeless child is based on the documentation provided by the local education

liaison, even when the child is included on the host family's free and reduced price meal application.

F. Duration of Categorical Eligibility

1. Because households are not required to report changes in income or household size during the school year, the household is not required to report a change in their categorical eligibility status if they no longer receive benefits or participate in the programs discussed above.

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

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§511. Direct Certification

A. Direct certification is the process under which SFAs certify children who are members of households receiving assistance under SNAP as eligible for free school meals, without further application, based on information provided by the state agency administering the program.

B. Mandatory Direct Certification with SNAP

1. By law, all SFAs, regardless of size, must be directly certifying children from SNAP households.

C. Methods of Direct Certification

1. To perform direct certification, the SFA identifies children eligible for free meals through a computer match with SNAP information, or through a paper-based exchange of information.

2. Since children's eligibility for free meals is based on documentation obtained from SNAP officials, verification of eligibility is not required for children who have been directly certified.

D. Required Documentation for Direct Certification for SNAP

1. Documentation to establish children's eligibility for free meals under direct certification for SNAP, and to substantiate claims for reimbursement, must include:

- a. names of children currently certified to receive SNAP benefits;
- b. a statement certifying that each child is a member of a SNAP household;
- c. at least three pieces of identifying information that will match each child with a child attending a particular school. Examples of identifiers include:
 - i. children's birth dates;
 - ii. addresses;
 - iii. parents' names;
 - iv. social security numbers; or
 - v. other identifiers;
- d. the date; and
- e. the signature of a SNAP official.

E. Notification to Households about Eligibility Established through Direct Certification

- 1. The SFA must notify the household that:
 - a. the child(ren) is/are eligible for free benefits;
 - b. no further application is necessary; and
 - c. how to notify the SFA if it does not want free benefits for directly certified children.
- 2. SFAs must ensure that families receive either a direct certification notification or an application for free and reduced price school meals. SFAs that distribute the application materials through the mail, individual student packets, or other method that prevents the overt

identification of children eligible for direct certification are not required to distribute application materials to families in which all children were determined eligible through the direct certification process.

3. The state agency will obtain documentation from SNAP officials, based on the most current certification information available and as close to the beginning of the school year as possible.

F. Delivery of Benefits

1. The SFA must provide benefits promptly. Eligible children may receive benefits immediately and the SFA may assume consent if refusal has not been received within a certain number of days, as determined by the SFA.

2. If the household refuses benefits, the SFA must discontinue benefits immediately and must document the refusal.

G. Expiration of Categorical Eligibility

1. Because of year-long duration of eligibility, households are no longer required to report changes in their categorical eligibility status. However, households may voluntarily report a change. If a household reports a change that may reduce or terminate benefits, the SFA must explain to the household that the change does not have to go into effect but, that at the household's request, the change will go into effect. If the household wants the change to go into effect, the SFA must provide a notice of adverse action.

H. Recordkeeping

1. SFAs must keep documentation for direct certification on file for a minimum of three years after submission of the final claim for reimbursement for the fiscal year to which they apply. Documentation must be kept longer if required by an audit as long as required for resolution of the issues raised by the audit.

2. Documentation may be maintained either at the school or at a central location with a list of eligible children maintained at the school. If an SFA maintains documentation at a central location, children's categorical eligibility status must be readily retrievable by school, and the SFA must ensure that any changes and transfers in and out of the school are accurately and promptly reflected on each school's list.

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§513. Program Operations

A. Nondiscrimination

- 1. There must not be any discrimination of children receiving free and reduced price benefits.
- 2. The names of the children must not be published, posted or announced in any manner.
- 3. The children must not be required to work for their meals.
- 4. The children must not be required to use a separate dining room, separate serving line, or separate time, etc.
- 5. There must not be any overt identification of any of the children by use of special tokens or tickets, or other means of identification. The SFA must use the collection procedure approved as part of its yearly update to the permanent agreement.

6. There must not be any discrimination on the basis of race, color, national origin, age, sex, or disability in the application approval process or in the selection of applications for verification.

B. Prohibition against Denying Meals to Children as a Disciplinary Action

1. Regulations prohibit the denial of free, reduced price, or paid meals as disciplinary action to any child in attendance at school. This prohibition does not extend to the denial of meals for failure to pay. Denying meals to students for disciplinary reasons associated with disruptive behavior in the cafeteria, selling free meal tickets, etc., is prohibited under federal regulations. Disciplinary action used for other unacceptable behavior could be applied in these situations.

C. Denying Meals to Students for Failure to Pay

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

D. Handling Lost, Stolen, and Misused Meal Tickets

1. SFAs may establish procedures to limit the number of times replacement tickets or special meal arrangements must be provided to needy students who report lost or stolen meal tickets. The term ticket refers to any and all forms of exchange used, including paper tickets, cards, coins, or tokens. It should be noted that, when handling instances of missing tickets, schools need not actually issue a replacement ticket if appropriate meal arrangements are made, such as accompanying the student through the cafeteria line.

2. Any procedures established to limit the number of tickets reissued to needy students must conform to all of the following standards.

a. Parents and students must be advised in writing of the school's policy regarding missing tickets and of the students' corresponding responsibility for their tickets. Such notice shall be provided at the time applications are distributed to households or upon approval for free or reduced price benefits.

b. A minimum of three ticket replacements, or special meal arrangements resulting from three lost or stolen tickets, must be allowed each student within each school year.

c. The school must maintain a list of students who have reported missing original ticket(s) in the current school year and the number of occurrences for each student. Prior to denying a meal to any student without a ticket, the list should always be reviewed to determine whether the student has already had at least three ticket replacements or special meal arrangements for lost or stolen tickets within the school year.

d. At least one advance written warning must be given to the student(s) and the parent(s) prior to refusal to allow additional meals or ticket replacements. The written warning must include an explanation that the student has repeatedly requested replacement tickets and that each subsequent time the student fails to have a ticket, he/she will be expected to pay for the meal.

e. Meals must always be provided to preprimary and young primary students or for any disabled student who may be unable to take full responsibility for a meal ticket.

3. It is recommended that the meal or ticket replacement policy for missing free and reduced price tickets be extended to the loss of full-priced tickets. If such a uniform policy is not implemented, schools should exercise caution to prevent overt identification of needy students, when reissuing tickets or providing meals to students whose tickets are missing.

E. Confidentiality and Disclosure of Eligibility Information

1. General Confidentiality and Disclosure Information

a. SFAs may disclose children's free and reduced price meal eligibility information to programs, activities and individuals that are specifically authorized access under the National School Lunch Act (NSLA). Disclosure is always an option, not a requirement. The SFA must make the decision on whether or not children's information will be disclosed. The SFA may opt to disclose children's eligibility information to Medicaid or Louisiana State Children's Health Insurance Program (LaCHIP) officials if the family does not decline to have their children's eligibility information released.

2. Aggregate Information

a. The SFA may disclose aggregate information to any program or individual when children cannot be identified through release of the aggregate data or by means of deduction. As aggregate data does not identify individual children, parental notification and parental consent are not needed. However, SFAs are cautioned about the release of aggregate data when individual children's eligibility may be deduced, such as the release of data about a specific classroom or subset, when the number of eligible children is very small.

3. Disclosure Chart

a. The NSLA specifies that persons directly connected with the administration or enforcement of certain programs or activities are permitted to have access to children's eligibility information. Refer to USDA's publication, *Eligibility Guidance for School Meals*, for additional information.

4. Need to Know

a. Although a program or person may be authorized under the NSLA to receive free and reduced price eligibility information, there must be a legitimate need to know to provide a service or carry out an authorized activity.

b. State Medicaid and LaCHIP agencies and health insurance program operators receiving children's free and reduced price meal eligibility information must use that information to enroll children in state Medicaid or LaCHIP. The state Medicaid or LaCHIP enrollment process may include seeking to identify and identifying children from low income households, who are potentially eligible for state Medicaid or LaCHIP for the purpose of enrolling them in state Medicaid or LaCHIP.

5. National Assessment of Educational Progress (NAEP)

a. SFAs may disclose, without parent/guardian consent, children's names and eligibility status to persons who are directly connected to the administration or

enforcement of NAEP because NAEP is a federal education program.

b. Additionally, SFAs may disclose children's names and eligibility status to persons directly connected with the administration or enforcement of state educational assessment programs to the extent that the state assessment is part of the NAEP, or the assessment program is established at the state, not local level. Other state education programs also are eligible to have access to participants' names and eligibility status, without parent/guardian consent, but the program must be established at the state, not local level.

c. The term "persons directly connected" for the purpose of disclosure to NAEP includes federal, state and local program operators responsible for NAEP program administration or program compliance and their contractors. This does not imply that these persons have routine access to participants' eligibility status. There must be a "need to know" for legitimate NAEP purposes.

d. SFAs are encouraged to inform households when they plan to disclose or use eligibility information outside the originating program and to have a written agreement with NAEP officials.

6. No Child Left Behind (NCLB)

a. Because NCLB is a federal education program, SFA officials may disclose a child's eligibility status to persons directly connected with, and who have a need to know, a child's free and reduced price meal eligibility status in order to administer and enforce the NCLB requirements. However, other information obtained from the free and reduced price school meal application or obtained through direct certification cannot be disclosed. SFA officials must keep in mind that the intent of the confidentiality provisions is to limit the disclosure of a child's eligibility status to those who have a "need to know" for proper administration and enforcement of a federal education program. SFAs must establish procedures that limit access to a child's eligibility status to as few individuals as possible.

b. SFA officials, prior to their disclosing information on the eligibility of individual children, should enter into a memorandum of understanding or other agreement to which all involved parties (including both officials who administer the school meals programs and officials who administer the overall education functions) would adhere. This agreement would specify the names of individuals who would have access to the information, how the information would be used in implementing NCLB and how the information will be protected from unauthorized uses and third-party disclosures, and should include a statement of the penalties for misuse of the information.

7. Family Educational Rights and Privacy Act (FERPA)

a. The Federal Department of Education has established that education records are under the purview of FERPA. However, for the schools meals programs, the restrictions imposed by the laws governing these programs, not FERPA, apply.

8. Parental Notification for Disclosure

a. Unless otherwise indicated, SFAs must inform households if they plan to disclose or use eligibility information outside the originating program (NSLP or SBP). This may be done as either a general notification of potential

disclosure or a specific notification to disclose information to a particular program.

b. The notice of potential disclosure or specific disclosure may be in the Letter to Households that accompanies the free and reduced price meal application, on the application, or, for children directly certified, in the document informing households of the participants' eligibility through direct certification. The notification should state that the children's names, eligibility status and other information provided on the application or obtained through direct certification may be disclosed to certain federal, state or local agencies as authorized by the NSLA. A list of the specific programs is not necessary.

c. Parents/guardians must be notified of the potential disclosure or specific disclosure and given the opportunity to elect not to have their children's information disclosed. The notification of potential disclosure or specific disclosure must inform the parents/guardians:

i. that they are not required to consent to the disclosure;

ii. that the information will be used to facilitate the enrollment of eligible children in a health insurance program or other programs; and

iii. that their decision will not affect their children's eligibility for free and reduced price meals.

d. The notice of either potential or specific disclosure must be given prior to disclosure and parents/guardians given a reasonable time limit to respond. For children who are determined eligible through direct certification, the notice of potential or specific disclosure may be in the document informing parents/guardians of their children's eligibility for free meals through direct certification.

9. Agreements/Memoranda of Understanding

a. An agreement is not needed for federal, state or local agencies evaluating or reviewing Child Nutrition Program operations. Similarly, an agreement is not necessary for disclosures to the Comptroller General. These activities are part of routine operations of the Child Nutrition Programs and enforcement.

b. For non-Medicaid/LaCHIP agencies, the SFA should enter into a written agreement with other entities, including NAEP, requesting the information prior to disclosing children's eligibility information. The agreement should:

i. be signed by both the SFA and receiving entity;

ii. identify the entity receiving the information;

iii. describe the information to be disclosed and how it will be used;

iv. describe how the information will be protected from unauthorized uses and disclosures; and

v. describe the penalties for unauthorized disclosure.

c. For any disclosures to Medicaid and LaCHIP, the SFA and receiving agency must have an agreement or Memorandum of Understanding which includes:

i. the health insurance program or health agency receiving the children's eligibility information;

ii. the information that will be disclosed and specify that the information must only be used to seek to enroll children in state Medicaid or LaCHIP;

- iii. how the information will be used and how it will be protected from unauthorized uses and disclosures;
- iv. the penalties for unauthorized disclosure; and
- v. the signature of the determining agency and the state Medicaid/LaCHIP program or agency receiving the children's eligibility information.

d. In all cases, the receiving entity must be informed in writing that:

- i. eligibility information may only be used for the purpose for which the disclosure was made;
- ii. further use or disclosure to other parties is prohibited; and
- iii. a violation of this provision may result in a fine of not more than \$1000 or imprisonment of not more than one year, or both.

10. Other Disclosures that Require Parental Consent

a. Children's parents or guardians may always provide consent for the disclosure of any or all of the information related to their children's eligibility status, or the information that the household provided through the free and reduced price meal eligibility process.

b. A disclosure of all eligibility information to any other federal, state or local program or individual not included in the NSLA requires parental consent. Other programs that require parental consent are local health and local education programs and other local level activities. The disclosure of information other than names and eligibility status to the programs authorized only to receive participants' names and eligibility status also requires written consent.

11. Consent Statement Requirements

a. The consent statement must be in writing. It may be obtained at the time of application, or at a later time. The consent statement must:

- i. identify the information that will be shared and how the information will be used;
- ii. be signed and dated. In the case of a child participant, the consent statement must be signed by the parent or guardian of the applicant household, even though the application for free and reduced price meals may be signed by any adult household member;
- iii. state that failing to sign the consent statement will not affect eligibility or participation for the program and that the information will not be shared by the receiving program with any other entity or program; and
- iv. enable the parent/guardian/adult to limit consent to only those programs with which he or she wishes to share information.

12. Social Security Numbers

a. The free and reduced price application requires the complete social security number of the adult household member who signs the application. Most programs that request children's free and reduced price meal eligibility information will not need the adult's social security number. However, when disclosing or using the social security number provided by the household on the application for any purpose other than the program for which the number was collected (NSLP, SBP, etc.), the determining agency must modify the notice required by the Privacy Act of 1974 concerning the potential uses of the social security number. The notice must inform households of the additional intended uses of the number.

13. Penalties for Improper Disclosure

a. The NSLA establishes a fine of not more than \$1000 or imprisonment of not more than one (1) year, or both, for publishing, divulging, disclosing, or making known in any manner or extent not authorized by federal law, any eligibility information. This includes the disclosure of eligibility information by one entity authorized under the NSLA to receive the information to any other entity, even if that entity would otherwise be authorized to receive the information directly from the determining agency.

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§515. Verification of Eligibility for School Meals

A. General

1. Verification is confirmation of eligibility for free and reduced price meals under the NSLP and SBP. Verification is only required when eligibility is determined through the application process, not through direct certification. Verification must include either confirmation of income eligibility, or confirmation that the child is a member of a family (household) receiving assistance under SNAP, FITAP or FDPIR. Verification may include confirmation of any other information required on the application.

B. Exceptions from Verification Requirements

- 1. Verification efforts are not required:
 - a. for children who have been certified under direct certification procedures including children documented as eligible migrant, runaway or homeless children;
 - b. for children in RCCIs except for applications for any day students attending the institution;
 - c. in schools in which the FNS has approved special cash assistance claims based on economic statistics regarding per capita income;
 - d. in schools in which all children are served with no separate charge for food service and no special cash assistance is claimed;
 - e. in SFAs in which all schools participate in Provisions 1, 2 or 3 except in those years in which applications are taken for all students in attendance (base years).

C. Initial Verification Procedures

1. Each SFA must annually verify eligibility of children from a sample of household applications approved for free and reduced price meal benefits for that school year. The SFA may begin verification activity once the application approval process for the current school year is underway and there are approved applications on file. To do so, the SFA may project the number of approved applications that it anticipates will be on file on October 1. The projected number is based on prior years' experience. However, the final sample pool is the actual number of approved applications on file as of October 1. The sample size must be based on the October 1 sample pool. Any estimates must be compared with the actual number of applications on file on October 1 and the sample pool and sample size adjusted accordingly.

2. The sample pool uses the total number of approved applications on file as of October 1 of the current school

year. SFAs may choose not to count applications for students in split-session kindergarten programs participating in the Special Milk Program when determining the verification sample pool. The sample pool depends on the number of applications (paper or electronic) and is not based on the number of children eligible for free and reduced priced meals.

3. Once the sample pool is determined, the SFA calculates the sample size—the number of applications that must be verified. When calculating the sample size, all fractions or decimals are rounded upward to the nearest whole number. At least one application must always be verified. With the exception of verification for cause, SFAs must not verify more than or less than the standard sample size or the alternate sample size (when used) and must not verify all (100 percent of) applications. Verification conducted “for cause” is done in addition to the required verification sample size.

4. The SFA must complete the verification activities specified in this Section not later than November 15 of each school year. However, the SFA may request an extension of the November 15 deadline, in writing, from the SA. The SA may approve, in writing, an extension up to December 15 of the current school year due to natural disaster, civil disorder, strike or other circumstances that prevent the SFA from the timely verification activities.

D. Verification for Cause

1. The SFA has an obligation to verify all questionable applications (verification “for cause”). Such verification efforts cannot delay the approval of applications. If an application is complete and indicates that the child is eligible for free or reduced price benefits, the application must be approved. Only after the determination of eligibility has been made can the SFA begin the verification process.

2. To verify an approved application for cause, the SFA must send the household a letter explaining that it must submit verification of eligibility information with the application for continued eligibility. The verification letter may be sent at the same time as a notice of eligibility.

3. The SFA verifies applications for cause following the same procedures used for verifying the regular sample of applications used for verification. Any household that fails to submit requested verification information by the date specified by the SFA or that submits verification information that does not support the initial determination of eligibility must be sent a Notice of Adverse Action. Once households have been requested to provide documentation for cause, the SFA must complete the verification process for these households.

E. Application Selection Procedures

1. There are three sample sizes established for verification activities. The standard sample size must be used by SFAs unless it qualifies to use one of the alternate sample sizes.

a. Standard Sample Size

i. The standard sample size is the lesser of:

(a). 3 percent of all applications approved by the SFA for the school year, as of October 1 of the school year, selected from error prone applications; or

(b). 3000 error prone applications approved by the SFA for the school year, as of October 1 of the school year.

b. Alternate Sample Sizes

i. The Alternate One sample size equals the lesser of:

(a). 3000 of all applications selected at random from applications approved by the SFA as of October 1 of the school year; or

(b). 3 percent of all applications selected at random from applications approved by the SFA as of October 1 of the school year.

ii. The Alternate Two sample size equals the lesser of the sum of:

(a). 1000 of all applications approved by the SFA as of October 1 of the school year, selected from error prone applications; or

(b). 1 percent of all applications approved by the SFA as of October 1 of the school year, selected from error prone applications; plus

(c). the lesser of:

(i). 500 applications approved by the SFA as of October 1 of the school year that provide a case number in lieu of income information; or

(ii). 1/2 of 1 percent of applications approved by the SFA as of October 1 of the school year that provide a case number in lieu of income information.

2. For sample sizes based on error prone applications, there may not be enough applications that meet this criterion. When this happens, the SFA must select, at random, additional approved applications (from both income and case numbers applications) to complete the required sample size. In other situations, the number of error prone applications may exceed the required sample size. When this happens, the SFA must randomly select the required number of applications from all error prone applications.

F. Qualifying to Use an Alternate Sample Size

1. There are two ways an SFA may annually qualify to use an alternate sample size based on lowered non-response rates.

a. Any SFA may use an alternate sample size for any school year when its non-response rate for the preceding school year is less than 20 percent.

b. An SFA with more than 20,000 children approved by application as eligible for free or reduced price meals as of October 1 of the school year may use an alternate sample size for any school year when its non-response rate for the preceding school year is at least 10 percent below the non-response rate for the second preceding school year.

2. The SFA must annually determine if it is eligible to use one of the alternate sample sizes. If the SFA determines it is eligible, it must contact the SA in accordance with any procedures established by the state agency for use of alternate sample sizes.

G. Post Selection Procedures

1. There are two procedures that the SFA completes prior to contacting the household to obtain documentation of eligibility. These are the required confirmation reviews and the optional replacement of certain applications.

a. Confirmation Reviews

i. Prior to any other verification activity, an SFA official, other than the official who made the initial eligibility determination, must review each approved

application selected for verification to ensure that the initial determination was accurate. This requirement is waived if the SFA uses a technology-based system that demonstrates a high level of accuracy in processing an initial eligibility determination. SFAs must contact the state agency to determine if their system qualifies them for this waiver. Further, any SFA that conducts a confirmation review of all applications at the time of certification is not required to conduct confirmation reviews.

b. Outcome of Confirmation Reviews

i. Depending on the outcome of each confirmation review, the SFA takes one of the following actions.

(a). No Change in Status

(i). If the initial eligibility status was correct, the SFA verifies the application.

(b). Status Changes from Reduced Price to Free

(i). The SFA makes the increased benefits available immediately, notifies the household of the change in benefits, and verifies the application. If verification reduces the level of benefits (from free to reduced price or paid), the household is sent a notice of adverse action.

(c). Status Changes from Free to Reduced Price

(i). The SFA does not change the child's status, and verifies the application. If the child's free status is verified, the SFA does not notify the household. However, if the child's status changes from free to either reduced price or paid, the household is sent a notice of adverse action.

(d). Status Changes from Free or Reduced Price to Paid

(i). The SFA immediately sends the household a notice of adverse action, does not verify the application, selects a similar application (ex. another error-prone application) for verification, and follows the confirmation review procedures for the newly selected application.

c. Replacing Applications

i. After completing the confirmation reviews, the SFA may, on a case-by-case basis, replace up to five percent of applications selected. Applications may be replaced when the SFA believes that the household would be unable to satisfactorily respond to the verification request. Any applications removed must be replaced with another approved application selected on the same basis (i.e., an error-prone application must be substituted for a withdrawn error-prone application). The newly selected application must then have confirmation review.

ii. In those SFAs where five percent of total applications result in less than one, one application may still be replaced. All results of the five percent calculation are rounded up to the next whole number.

H. Household Notification of Selection

1. When a household is selected for verification and is required by the SFA to submit documents or other forms of evidence to document eligibility, the household must be sent a letter informing them of their selection and of the types of information acceptable to the SFA. The letter must include the following:

a. that the household was selected for verification;

b. that the household must provide the complete social security number for each adult household member or indicate that an adult household member does not possess

one; an adult member is anyone who is 21 years of age or older;

c. a Privacy Act statement;

d. the types of acceptable information that may be provided to confirm current income, including pay stubs, award letters from assistance agencies, social security, and support payment decrees from courts;

e. that the household may provide proof that the child is a member of a household receiving assistance under SNAP, FITAP, or FDPIR instead of providing income information and social security numbers of adult household members;

f. that documentation of income or receipt of assistance may be provided for any point in time between the month prior to application and the time the household is required to provide income documentation;

g. that information must be provided by a date specified by the SFA and that failure to do so will result in termination of benefits; and

h. the name of an SFA official who can answer questions and provide assistance; and

i. a telephone number that is available at no cost to the household. The SFA may establish a toll-free number or allow the household to reverse charges if any households in that SFA are outside the local calling area. The SFA may also provide different telephone numbers for each local calling area within the SFA.

2. When the SFA uses agency records or direct verification to confirm eligibility, a letter informing the household of its selection for verification is not required, since the household will not have to provide documents.

I. Sources of Verification

1. Written Evidence

a. Written evidence is the primary source of eligibility confirmation for all households including SNAP and FITAP households. Written evidence is most often pay stubs from employers or award letters from welfare departments or other government agencies submitted by the household to the verifying officials as confirmation of eligibility.

i. Acceptable written evidence for income eligible households contains the name of the household member, amount of income received, frequency received, and the date the income was received.

ii. Acceptable written evidence for categorically eligible households contains a written statement from the SNAP or FITAP agency that specifies that the child is a member of a household which is receiving benefits, such as a notice of eligibility. The verifying official should examine this notice of eligibility to ensure that the child for whom application was made is part of a household currently participating in SNAP or FITAP. Electronic Benefit Transfer (EBT) cards cannot be used to confirm SNAP eligibility, and therefore cannot be used for categorical eligibility purposes. A SNAP or FITAP document that does not specify the certification period is not adequate for documentation. A household that does not have satisfactory SNAP or FITAP documentation may request a signed, dated letter from the SNAP or FITAP office, certifying that the child for whom the application is being submitted is part of a household currently receiving SNAP or FITAP benefits.

b. If a household is selected for regular verification or verification for cause and the application indicates zero income, the SFA must request an explanation of how living expenses are met and may request additional written documentation or collateral contacts.

2. Collateral Contacts

a. A collateral contact is a person outside of the household who is knowledgeable about the household's circumstances and can give confirmation of a household's income, SNAP or FITAP status, or other categorical eligibility such as Head Start. Collateral contacts include employers, social service agencies, migrant worker' agencies, and religious or civic organizations.

b. The verifying official should request a collateral contact only in cases when the household has not been able to provide adequate written evidence. A collateral contact would not be expected to provide social security numbers of the adult household members. These still must be provided by the household.

c. The verifying official must give the household the opportunity to designate the collateral contact. However, the verifying official may select a collateral contact if the household fails to designate one or designates one who is unacceptable to the verifying official. In either case, no contact may be made without first notifying the household and obtaining their permission.

d. All collateral contacts may be written or oral and must be documented, dated, and initialed. The SFA will examine any written information provided by the collateral contact or evaluate any oral information. If the collateral contact is unwilling or unable to provide the requested information, the SFA must contact the household to complete the verification process.

e. Verification of eligibility for households that provide a SNAP or FITAP case number on the application may be accomplished by submitting a list of names and SNAP or FITAP case numbers to the local SNAP or welfare office for confirmation of certification of receipt of benefits from agency records.

3. Agency Records

a. A household's eligibility may be confirmed through the use of information maintained by other government agencies to which the SA, SFA, or school has legal access. Although USDA regulations do not require that households be notified of selection when verification is made through agency records, such agencies may have their own notification requirements.

b. One source of agency records is the wage and benefit information maintained by the state employment agency if that information is available to the verifying official. Such records are state records, and the release of information maintained by state employment offices is governed by state law.

c. Acceptable documentation of income or receipt of assistance from any of the above sources may be provided for any point in time between the month prior to application and the time the household is required to provide income documentation.

J. Continuing the Verification Process Subsequent to Household Notification

1. To continue the verification process, the SFA must either determine if the household has submitted adequate

information to complete its individual verification activity or if a follow-up with the household is needed.

a. When Verification is Considered Complete

i. The following list shows how the SFA determines if the household adequately responded and follow-up is not required:

(a). The household submits the required social security numbers (income applications only) and there is either adequate written evidence or collateral contact corroboration of income or categorical eligibility. Verification is considered complete for this household.

(b). The household submits the required social security numbers (income applications only) and there is either adequate written evidence or collateral contact corroboration of income which indicates that the child(ren) should receive either a greater or lesser level of benefits. Verification is considered complete for this household when the notice of adverse action is sent or the household is notified that its benefits will be increased. If verification results in higher benefits, this change is effective immediately and must be implemented no later than three operating days later. Parents should be notified through whatever channels the SFA uses to notify the household of approval for benefits.

(c). The household indicates, verbally or in writing, that it no longer wishes to receive free or reduced price benefits. Verification is considered complete when the notice of adverse action is sent.

(d). When it is determined that a child is not part of a household currently certified to receive SNAP or FITAP benefits. Verification is considered complete when the notice of adverse action is sent.

b. When Follow-up is Needed

i. The SFA must make at least one follow-up attempt to contact the household when the household does not adequately respond to the request for verification.

ii. The follow-up attempt may be in writing (including emails) or by telephone and the SFA must document that a contact was attempted. The SFA must inform the household that failure to provide adequate written evidence or to designate an adequate collateral contact will result in termination of benefits. The follow-up contact must attempt to obtain the missing written evidence or obtain collateral contact information. If the collateral contact is unwilling or unable to provide the requested information, the SFA must contact the household to complete the verification process.

iii. The SFA must make a follow-up attempt when the household does not respond to the request for verification, submits insufficient or obsolete written evidence, does not designate collateral contacts, or the collateral contacts are unable or unwilling to provide the requested evidence.

iv. If after at least one follow-up attempt:

(a). the household responds and provides all needed evidence, Verification is considered complete for this household if there is no change in benefits, the household is notified that its benefit will be increased, or when the notice of adverse action is sent;

(b). the household does not respond. Verification is considered complete for this household when the notice of adverse action is sent;

(c). the SFA is unable to continue its verification activities because the household fails to provide adequate written evidence or knowledgeable collateral contacts. Verification is considered complete for this household when the notice of adverse action is sent.

K. Notice of Adverse Action

1. All households for whom benefits are to be reduced or terminated must be given 10 calendar days' written advance notice of the change. The first day of the advance notice period is the day the notice is sent. The notice must advise the household of the following:

- a. the change in benefits;
- b. the reasons for the change;
- c. that an appeal must be filed within the 10 calendar day advance notice period to ensure continued benefits while awaiting a hearing and decision;
- d. the instructions on how to appeal;
- e. that the household may reapply for benefits at any time during the school year; and
- f. that SNAP and FITAP households may submit an application containing household names and income information and provide written evidence of current household income and the social security numbers of adult household members.

L. Benefits During an Appeal

1. When a household appeals a reduction or termination in benefits within the 10 calendar day advance notice period, the SFA must continue to provide the benefits for which the child was originally approved until a final determination is made. The SFA may continue to claim reimbursement at that level during this period.

2. When a household does not appeal a reduction or termination in benefits during the 10 calendar day advance notice period, or the hearing official rules that benefits must be reduced, the actual reduction or termination of benefits must take place no later than 10 operating days after the 10 calendar day advance notice period, or 10 operating days after the decision by the hearing official.

M. Hearing Procedure

1. The hearing procedure in the SFA's free and reduced price policy statement must be followed. The hearing official must be an individual who was not connected with the approval or verification process. The household may request a school conference prior to a formal hearing. Any such conference must not prejudice a later appeal.

N. Households that Reapply for Program Benefits

1. Households affected by a reduction or termination of benefits may reapply for benefits at any time during the school year. However, if benefits to a household have been terminated and the household reapplies in the same school year, the household is required to submit income documentation or proof of participation in SNAP or FITAP at the time of reapplication. These are not considered new applications.

O. Recordkeeping

1. Documentation must be kept by the SFA to demonstrate compliance with the verification requirements when SFAs are reviewed by state or federal reviewers, including documentation concerning any appeals. SFAs must maintain a description of their verification efforts. The description must include a summary of the verification

efforts, including the selection process; the total number of applications on file on October 1, and the percentage or number of applications that are/will be verified by November 15. The SFA must also be able to demonstrate compliance with the confirmation review requirement and provision of a no-cost telephone number for assistance in the verification process.

2. For each application, the SFA must keep records of the source of information used to verify the application, such as wage stubs or names and titles of collateral contacts. The SFA must retain:

- a. copies of all relevant correspondence between the households selected for verification and the SFA;
- b. one of the following for all documentation used to verify eligibility:
 - i. all documents submitted by the household or reproductions of those documents; or
 - ii. in cases where the actual documents or photocopies cannot be kept, the verifying official must make a written record of the documents submitted by the household, including the type of document, e.g., wage stubs or letter from an employer, income shown on the document, time period of the income, and the date of the document and any changes in eligibility as a result of verification procedures, the reasons for the changes, and the date the change was made;
- c. any change in eligibility as a result of verification procedures, the reason for the change and the date the household was notified, if necessary, and the date it became effective;
- d. records of follow-up attempts and results.

3. SFAs should also record:

- a. any additional information necessary to show the efforts made by the SFA to meet the verification requirements;
- b. the title and signature of the verifying official; and
- c. the criteria for replacing applications for verification.

4. When verification information is needed for coordinated review effort (CRE) purposes, the SFA must be able to provide this information for each school selected for review.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2132 (December 2001), amended LR 32:1427 (August 2006), LR 37:580 (February 2011).

§517. Direct Verification

A. General

1. Direct verification is using records from public agencies to verify income and program participation. Direct verification may be completed at the state or local level or through a joint effort at both levels.

2. SFAs are not required to conduct direct verification. However, any SFA that wishes to conduct direct verification must contact the state agency for assistance with establishing a direct verification method.

3. SFAs may conduct direct verification activities with SNAP. Direct verification must be conducted prior to contacting the household for documentation. The public agency's records may document income for any point in

time between the month prior to application and the time the household is required to provide income documentation.

B. Names Submitted for Direct Verification

1. The SFA must only submit the names of school children certified for free or reduced price meal benefits listed on the application. These names are submitted to the agency administering SNAP. The names of other household members (all adults, children who are not attending school, or children not approved for free or reduced price meals) cannot be submitted for direct verification purposes.

C. Direct Verification with SNAP

1. If information obtained through direct verification of an application for free or reduced price meal benefits indicates a child is participating in SNAP, no additional verification is required. The eligibility status of the child or children listed on the application is considered verified.

D. Documentation Timeframe

1. The information used for direct verification must be the most recent information available, which is defined as data which is no older than 180 days prior to the date of the free and reduced price application. To be consistent with policy established for "regular" verification, direct verification efforts may use information from any point in time between the month prior to application and the time the SFA conducts direct verification.

E. Incomplete or Inconsistent Information from Direct Verification

1. If information provided by the public agency does not verify eligibility, the SFA must proceed with regular verification activities.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2132 (December 2001), amended LR 29:2026 (October 2003), LR 32:1427 (August 2006), LR 37:584 (February 2011).

Chapter 7. Meal Planning Service

§737. Extra Sales

A. Extra items may be sold only to those students who have received a complete meal. The purchase of extras must occur at the time the meal is received unless the SFA has a procedure in place to determine that a student has received a complete meal. À-la-carte meal service is prohibited for students. Extra sale items must meet component requirements as defined by Enhanced Food-Based Menu regulations for the Child Nutrition Programs or must be an item offered on the menu that day. The only exceptions are that milkshakes, yogurt, frozen yogurt, ice cream, and ice milk (as defined by the Louisiana Sanitary Code) may be sold as extras. Full-strength juice, and milk, and bottled water (unflavored with no additives) may be sold at any time during the day to students and adults whether or not they have purchased a meal.

B. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2151 (December 2001), amended LR 29:2029 (October 2003), LR 31:1973 (August 2005), LR 32:806 (May 2006), LR 37:585 (February 2011).

Chapter 25. Summer Food Service Program

§2502. Participation Deadline

A. Any agency wishing to participate in the SFSP must submit a signed Summer Food Service Program Agreement by April 15. Sponsors are also required to attend the annual SFSP Workshop, conducted by the state agency. If the agency wishing to participate in the SFSP does not comply with these requirements, permission to participate in the SFSP will not be granted.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:585 (February 2011).

§2503. Sponsor

A. ...

1. Organizations that may sponsor the SFSP must make available upon request documentation demonstrating financial viability, administrative capability and program accountability, and are limited to the following:

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

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2201 (December 2001), amended LR 37:585 (February 2011).

§2519. Summer Food Service Program (SFSP) Appeals Procedures

A. The state agency shall notify the sponsor or food service management company in writing, of the action(s) being taken, and the grounds upon which the state agency based the action(s). The notice of action shall be sent via certified mail, return receipt requested, and by email or as otherwise established by USDA or the state agency. The notice of action shall state that the sponsor or food service management company has the right to appeal the State's action(s) and will specify the date which the request for an appeal must be received from the sponsor or food service management company. The appellant (sponsor or food service management company) may review all information upon which the action(s) were based.

B. Any sponsor or food service management company wishing to request an appeal must submit a written request for an appeal within the timeframe specified in the notice of action.

C. The appellant may refute the charges and/or appeal proposed actions contained in the notice of action either in person or by filing written documentation with the appeals officer. To be considered, written documentation must be submitted by the appellant within seven days of submitting the appeal, must clearly identify the state agency action being appealed, and must include a photocopy of the notice of action issued by the state agency.

D. A hearing will be held by an appeals officer in addition to, or in lieu of, a review of written information submitted by the appellant only if the appellant so specifies in the letter appealing the action. The appellant may retain legal counsel or may be represented by another person. Failure of the appellant's representative to appear at a scheduled hearing shall constitute the appellant's waiver of the right to a personal appearance before the appeals officer,

unless the appeals officer agrees to reschedule the hearing. A representative of the state agency shall be allowed to attend the hearing to respond to the appellant's testimony and written information and to answer questions from the appeals officer.

E. If the appellant has requested a hearing, the appellant and the state agency shall be notified of the date, time and place of the hearing.

F. The appeals officer is independent of the original decision-making process.

G. The appeals officer will make a determination based on information provided by the state agency and the appellant, and on Program regulations.

H. The state agency's action will remain in effect during the appeal process. However, participating sponsors and sites may continue to operate the program during an appeal of termination, and if the appeal results in overturning the state agency's decision, reimbursement shall be paid for meals served during the appeal process. However, such continued program operation shall not be allowed if the state agency's action is based on imminent dangers to the health or welfare of children. If the sponsor or site has been terminated for this reason, the state agency shall so specify in its notice of action.

I. The determination by the state appeals officer is the final administrative determination to be afforded to the appellant.

J. Appealable actions include: a denial of an application for participation; a denial of a sponsor's request for an advance payment; a denial of a sponsor's claim for reimbursement [except for late submission under 7 CFR 225.9(d)(5)]; a state agency's refusal to forward to the United States Department of Agriculture, Food and Nutrition Services (FNS) office an exception request by the sponsor for payment of a late claim or a request for an upward adjustment to a claim; a claim against a sponsor for remittance of a payment; the termination of the sponsor or a site; a denial of a sponsor's application for a site; a denial of a food service management company's application for registration; or the revocation of a food service management company's registration. Appeals shall not be allowed on decisions made by FNS with respect to late claims or upward adjustments under 7 CFR 225.9(d)(5). For more information refer to 7 CFR 225.13 appeal procedures.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2203 (December 2001), amended LR 37:585 (February 2011).

§2521. Information

A. For more information, refer to the USDA Summer Food Service Program for Children, Administrative Guidance for Sponsors or visit USDA's web site at www.usda.gov.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2203 (December 2001), amended LR 37:586 (February 2011).

Chapter 29. Child and Adult Care Food Program

§2911. Audit Requirements for the Child and Adult Care Food Program

A. ...

B. Reporting to the Louisiana Department of Education. If a participating sponsoring institution's federal expenditures are less than \$500,000 in a fiscal year, that sponsoring institution shall annually report this information to the Louisiana Department of Education, to ensure compliance with federal audit requirements.

1. ...

C. While a sponsoring institution that does not meet the annual federal expenditure threshold of \$500,000 is not required to have an audit of such funds, records must be available for review or audit by appropriate officials of any federal, state, or local government agency.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1737 (August 2002), amended LR 29:2034 (October 2003), LR 37:586 (February 2011).

Chapter 33. Financial Management and Accounting for Child and Adult Care Food Program Family Day Care Homes (FDCH)

§3313. Audit/Review

A. ...

1. Audit Requirement. A sponsor that expends \$500,000 or more of federal funds in a fiscal year must have an audit conducted for that year. The Louisiana Revised Statutes contain additional audit requirements for institutions that receive state or local funds.

2. Reporting to the Louisiana Department of Education. If a participating sponsor's federal expenditures are less than \$500,000 in a fiscal year, that sponsor shall annually report this information to the Louisiana Department of Education, to ensure compliance with federal audit requirements.

a. ...

b. While a sponsoring institution that does not meet the annual federal expenditure threshold of \$500,000 is not required to have an audit of such funds, records must be available for review or audit by appropriate officials of any federal, state, or local government agency.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 27:2213 (December 2001), amended LR 28:1738 (August 2002), LR 29:2035 (October 2003), LR 37:586 (February 2011).

§3403. Service

A. The service of the notice of proposed action, request for appeal and decision shall be made personally or by official U.S. postal certified mail, return receipt requested, or by regular U.S. mail, or email or otherwise established by USDA or the signed Child Nutrition Program Agreement between the institution and the state agency. Refer to the glossary for specific definition of notice.

B. - C.1. ...

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1738 (August 2002), amended LR 29:2035 (October 2003), LR 37:586 (February 2011).

Chapter 34. National School Lunch Program and Child and Adult Care

§3405. Notice of Proposed Action

A. The state agency shall notify the institution, in writing, of the actions being taken through a notice of proposed action. This notice shall contain the following information:

1. ...
2. the specific amount of the fiscal sanction assessed against the institution, if any and/or the state action being taken;
3. a statement specifying what action the institution must take to correct the violation(s) to avoid further proceedings if any;

A.4. - C. ...

1. the effective date of suspension
2. the date that the institution's written request for a suspension review must be received by the hearing along with written documentation opposing the proposed suspension.

D. ...

AUTHORITY NOTE: Promulgated in accordance with 7 CFR, 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1739 (August 2002), amended LR 29:2035 (October 2003), LR 37:

§3407. Request for Appeal

A. Institutions wishing to appeal proposed actions (except suspension of CACFP participation) shall serve a written request for appeal upon the state agency not later than the date specified in the notice of proposed action.

B. ...

1. a listing of what specific violations or state agency action(s) set forth in the notice of proposed action are being appealed together with a short and plain statement of each contested issue of fact or law concerning each violation or state agency action;

2. - 2.b....

3. a statement as to the relief or remedy the institution seeks from the appeal.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with 7 CFR, 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1739 (August 2002), amended LR 29:2035 (October 2003), LR 37:587 (February 2011).

§3410. Notice and Time of Hearing

A. If a hearing (not suspension review) is requested in writing, the hearing officer shall schedule the hearing and shall notify the institution and the state agency in writing of the time, date, and place of the hearing.

B. ...

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1739 (August 2002), repromulgated LR 28:1950 (September 2002), amended LR 29:2036 (October 2003), LR 37:587 (February 2011).

§3415. Decision, Judicial Review, Records

A. The hearing officer shall render a decision which shall include findings of fact, conclusions, and a statement as to

the reasons for the decision. The decision shall be served on the institution and the state agency by the hearing officer and shall constitute the final state agency action for purposes of judicial or other review. The decision of the hearing officer can be appealed as provided by law.

B. The appeal record, where the institution chooses to submit written information to dispute the state agency action taken against it, shall consist of that written information together with such written information as the state agency chooses to likewise submit to support its notice of proposed action and the decision thereon.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR, 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1740 (August 2002), amended LR 29:2037 (October 2003), LR 37:587 (February 2011).

§3417. Hearing Conduct and Decorum

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR, 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1740 (August 2002), repealed LR 37:587 (February 2011).

§3419. Decision, Judicial Review, Records

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR, 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1740 (August 2002), amended LR 29:2037 (October 2003), repealed LR 37:587 (February 2011).

Chapter 35. Glossary

§3501. Definitions/Abbreviations

Notice—a letter sent by certified mail, return receipt (or the equivalent private delivery service), by facsimile, or by email, that describes an action proposed or taken by a state agency or the United States Department of Agriculture, Food and Nutrition Service with regard to an institution's Program reimbursement or participation. Notice also means a letter sent by certified mail, return receipt (or the equivalent private delivery service), by facsimile, or by email, that describes an action proposed or taken by a sponsoring organization with regard to a day care home's participation. The notice must specify the action being proposed or taken and the basis for the action, and is considered to be received by the institution or day care home when it is delivered, sent by facsimile, or by email. If the notice is undeliverable, it is considered to be received by the institution, responsible principal or responsible individual, or day care home five days after being sent to the addressee's last known mailing address, facsimile number, or email address.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(5); R.S. 17:10; R.S. 17:82; R.S. 17:191-199. R.S. 1792.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2220 (December 2001), amended LR: 29:2037 (October 2003), LR 37:587 (February 2011).

Brad Smith
Finance/Legislative Specialist

1102#037

RULE

Student Financial Assistance Commission Office of Student Financial Assistance

Scholarship/Grant Programs—Applications, Federal Grant Aid and ACT Test (LAC 28:IV.505)

The Louisiana Student Financial Assistance Commission (LASFAC) has amended and re-promulgated the rules of the Scholarship/Grant programs (R.S. 17:3021-3025, R.S. 3041.10-3041.15, and R.S. 17:3042.1.1-3042.8, R.S. 17:3048.1, R.S. 56:797.D(2)).

Title 28 EDUCATION

Part IV. Student Financial Assistance—Higher Education

Scholarship and Grant Programs

Chapter 5. Applications, Federal Grant Aid and ACT Test

§505. Application Deadlines for High School Graduates and Home Study Completers of 2004 and Later and Eligible Non-Graduates

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

2. Beginning with the 2007-2008 academic year (college), students will be eligible to receive the full benefits of a TOPS award as provided in §701.E beginning with the academic year (college) immediately after the student's one year anniversary of high school graduation if their initial FAFSA or on-line application is received after the July 1 immediately following the academic year (high school) of high school graduation and no later than the final deadline set forth in Subsection C, below, and if the student was enrolled during the preceding academic year (college), the student has met the requirements for continuing eligibility.

3.i. Beginning with the 2010-2011 academic year (college), students whose initial FAFSA or on-line application is received on or before July 1 immediately following the one year anniversary of high school graduation will receive payment of their TOPS award as provided in §701.E beginning with the first semester, quarter or term the student enrolls for the first time as a full time student in an eligible college or university; provided that no payment of a TOPS award shall be made until the initial FAFSA or on-line application has been received and the applicant has been determined eligible for a TOPS award.

ii. If the initial FAFSA or on-line application is received after July 1 immediately following high school graduation, the payment of the TOPS award could be delayed depending on the date the application is received and the date the student enrolls for the first time as a full time student in an eligible college or university.

iii. A student who enrolls for the first time as a full time student before his FAFSA or on-line application is received must meet the requirements for maintaining eligibility in §705 to receive payments of his TOPS award after the first semester, quarter or term of full time enrollment at an eligible college or university.

4. Examples

a. A 2009-2010 academic year (high school) high school graduate, who enrolls in the fall semester of 2010,

will be eligible to receive the full benefits of a TOPS award beginning the fall semester of 2010 if the initial FAFSA or on-line application is received on or before July 1, 2010.

b. A 2009-2010 academic year (high school) high school graduate, who enrolls during the 2010-2011 academic year, will be eligible to receive the full benefits of a TOPS award beginning the fall semester of 2010 if the initial FAFSA or on-line application is received no later than July 1, 2011, and if he has met the requirements for continuing eligibility.

C. - G. ...

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 24:635 (April 1998), amended LR 24:1901 (October 1998), repromulgated LR 27:1847 (November 2001), amended LR 30:2017 (September 2004), LR 31:37 (January 2005), LR 32:2238 (December 2006), LR 33:83 (January 2007), LR 33:2357 (November 2007), LR 34:235 (February 2008), LR 37:588 (February 2011).

George Badge Eldredge
General Counsel

1102#012

RULE

Department of Environmental Quality Office of the Secretary Legal Affairs Division

Removal of Pesticide Application Exemption from LPDES Permitting Requirements (LAC 33:IX.2315)(WQ082)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Water Quality regulations, LAC 33:IX.2315.A.8. (WQ082).

On November 27, 2006, EPA issued a final Rule [hereinafter called the "2006 NPDES Pesticides Rule", 40 CFR 122.3(h)] in which an NPDES permit is not required for pesticide applications to or around water, provided that the application is consistent with relevant Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) requirements. The Rule became effective on January 26, 2007.

On January 9, 2009, the Sixth Circuit vacated EPA's 2006 NPDES Pesticides Rule [40 CFR 122.3(h)]. *National Cotton Council of America v. EPA*, 553 F.3d 927 (6th Cir., 2009).

This rule-making action will suspend (delete) LAC 33:IX.2315.A.8 which is identical to the 2006 NPDES Pesticide Rule [40 CFR 122.3 (h) which was vacated by the January 9, 2009 court decision. It will eliminate the exemption which says you do not need a LPDES permit when applying a pesticide in accordance with the FIFRA label. The suspension of the state rule will require LDEQ to issue a general permit for the application of pesticides in Louisiana. This Rule change shall become effective April 11, 2011. The basis and rationale for this Rule is to bring our regulations in line with the federal regulations and court decisions.

On April 11, 2011, the two-year stay will end and anyone applying a pesticide without a permit will be in violation of the Clean Water Act and EPA's NPDES Regulations. In conjunction this action to suspension of this state regulations, LDEQ will need to issue a general permit for the application of pesticides. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33

ENVIRONMENTAL QUALITY

Part IX. Water Quality

Subpart 2. The Louisiana Pollutant Discharge

Elimination System (LPDES) Program

Chapter 23. Definitions and General LPDES Program Requirements

§2315. Exclusions

A. - A.7. ...

8 - 8.b. repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:230 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2069 (October 2007), LR 37:589 (February 2011).

Herman Robinson, CPM
Executive Counsel

1102#070

RULE

Office of the Governor Office of Financial Institutions

Residential Mortgage Lending Program (LAC 10:XII.Chapter 1)

In accordance with R.S. 49:950 et seq., of the Administrative Procedure Act, and pursuant to his authority under R.S. 6:121, and R.S. 6:1085 and 6:1088.1 of the Louisiana SAFE Residential Mortgage Lending Act, R.S. 6:1081 et seq., the Commissioner of the Office of Financial Institutions has repealed Louisiana Administrative Code, LAC 10:XII.101-113, regarding the minimum requirements for certified continuing education facilitators. This action is being effectuated because the statute pertaining to continuing education has been amended and now requires providers to obtain approval through the Nationwide Mortgage Licensing System and Registry. Thus, the Rule is rendered obsolete and no longer necessary.

Title 10

FINANCIAL INSTITUTIONS, CONSUMER CREDIT, INVESTMENT SECURITIES AND UCC

Part XII. Residential Mortgage Lending

Chapter 1. Residential Mortgage Lending Program

§101. Purpose

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:1085 and R.S. 6:1094(A).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 27:688 (May 2001), repealed by the Office of the Governor, Office of Financial Institutions, LR 37:589 (February 2011).

§103. Procedures and Standards for Facilitator Course Certification

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:1085 and R.S. 6:1094(A).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 27:688 (May 2001), repealed by the Office of the Governor, Office of Financial Institutions, LR 37:589 (February 2011).

§105. Course Requirements

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:1085 and R.S. 6:1094(A).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 27:688 (May 2001), repealed by the Office of the Governor, Office of Financial Institutions, LR 37:589 (February 2011).

§107. Training Facility Requirements for Live Class Settings

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:1085 and R.S. 6:1094(A).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 27:689 (May 2001), repealed by the Office of the Governor, Office of Financial Institutions, LR 37:589 (February 2011).

§109. Procedures for Verifying Continuing Education Credits

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:1085 and R.S. 6:1094(A).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 27:689 (May 2001), repealed by the Office of the Governor, Office of Financial Institutions, LR 37:589 (February 2011).

§111. Program Review-Disciplinary Action

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:1085 and R.S. 6:1094(A).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 27:689 (May 2001), repealed by the Office of the Governor, Office of Financial Institutions, LR 37:589 (February 2011).

§113. Facilitators for Courses Conducted Out of State

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:1085 and R.S. 6:1094(A).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 27:689 (May 2001), repealed by the Office of the Governor, Office of Financial Institutions, LR 37:589 (February 2011).

John Ducrest, CPA
Commissioner

1102#014

RULE

**Department of Health and Hospitals
Board of Dentistry**

Licenses; Authorized Duties; Nitrous Oxide Inhalation
(LAC 46:XXXIII.419, 701 and 1509)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Dental Practice Act, R.S. 37:751, et seq., and particularly R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry has amended LAC 46:XXXIII.419, 701, and 1509. No preamble has been prepared.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XXXIII. Dental Health Profession

Chapter 4. Fees and Costs

Subchapter D. Fees for Dental Hygienists

§419. Licenses, Permits and Examinations (Dental Hygienists)

A. For processing applications for licensure, permits, and examinations, the following fees shall be payable in advance to the board:

- 1. - 11. ...
- 12. Examination and permitting of dental hygiene applicants for administration of nitrous oxide inhalation analgesia \$50
- 13. Renewal fee for dental hygienists administration of nitrous oxide inhalation analgesia \$50

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760 (8), R.S. 37:768, and R.S. 37:795.

HISTORICAL NOTE: Promulgated by Department of Health and Hospitals, Board of Dentistry, LR 14:792 (November 1988), amended LR 16:566 (June 1990), LR 18:741 (July 1992), LR 23:1527 (November 1997), LR 24:1115 (June 1998), LR 25:1478 (August 1999), LR 26:691 (April 2000), LR 28:1778 (August 2002), LR 32:243 (February 2006), LR 33:846 (May 2007); LR 34:2564 (December 2008); LR 37:590 (February 2011).

Chapter 7. Dental Hygienists

§701. Authorized Duties

A. - E. ...

F. Under general supervision, a dental hygienist may provide to patients of record, for not more than five consecutive business days, all dental hygiene services (except local anesthesia and root planning which must be under direct supervision) if all of the following conditions are satisfied.

1. The dental hygienist has at least one year of full time practice of dental hygiene.

2.-7. ...

8. Dental hygienists may perform light enhanced teeth whitening procedures such as Zoom® under general supervision.

G. - G.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 14:791 (November 1988), amended LR 15:965 (November 1989), LR 19:206 (February 1993), LR 22:22 (January 1996), LR 22:1217 (December 1996), LR 24:1116 (June 1998), LR 27:1892 (November 2001), LR 32:2056 (November 2006); LR 37:590 (February 2011).

Chapter 15. Conscious Sedation with Parenteral Drugs

§1509. Minimal Educational Requirements for the Granting of Permits to Administer Nitrous Oxide Inhalation Analgesia, Conscious Sedation with Parenteral or Enteral Drugs and General Anesthesia/Deep Sedation

A. Nitrous Oxide Inhalation Analgesia

1. - 2. ...

3. A dentist who has been trained to administer nitrous oxide inhalation analgesia in a dental school approved by the American Dental Association or a course accepted by the Louisiana State Board of Dentistry and has been administering nitrous oxide inhalation analgesia in another state without any disciplinary or malpractice action being taken against him regarding the administration of anesthesia may be permitted to administer same in the state of Louisiana by providing documentation of experience in the previous two years, and by gaining approval of the board.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:659 (June 1994), amended LR 22:1216 (December 1996), LR 32:244 (February 2006), LR 37:590 (February 2011).

C. Barry Ogden

Executive Director

1102#017

RULE

**Department of Health and Hospitals
Board of Examiners of Nursing Facility Administrators**

Nursing Facility Administrators
(LAC 46:XLIX.Chapters 1-16)

The Louisiana Board of Examiners of Nursing Facility Administrators does hereby amend LAC 46:XLIX.Chapters 1-16 relative to the administration of nursing facility administrators and their licensure to make certain technical changes, to provide for creation of a “conditional license”, to implement statutes, to modify time limits on training, testing and licensure, to establish record retention guidelines, to make changes to Continuing Education Unit requirements from biennially to annual, to insert a chapter delineating a fee schedule range as authorized by statute, and provides for statutorily authorized criminal background checks.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLIX. Nursing Facility Administrators

Chapter 1. General Provisions

§103. General Definitions Title 46

A. ...

Act of Administration—encompasses the decision-making process in the planning, organizing, directing and/or controlling the operation of a *nursing home* whether or not there is an ownership interest in the home. The administrator:

a. - d.i. ...

ii. *Administrator-in-Training*—here and after known as AIT, one who has met the provisions of §§503, 505 and 507; and is under the general supervision of a full-time *nursing home administrator*, duly licensed in the state of Louisiana, for a period of at least six consecutive months and who is preparing for licensing.

iii. - iv. ...

* * *

National Association of Long Term Care Administrator Boards—the nationally leading authority on licensing, credentialing, and regulating administrators of organizations along the continuum of long term care here and after known as NAB.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:501 and R.S. 37:2504.C.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Home Administrators, April 1970, amended and promulgated LR 6:276 (June 1980), amended LR 16:258 (March 1990), repealed and repromulgated by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators, LR 18:181 (February 1992), amended by the Board of Examiners of Nursing Facility Administrators, LR 37:590 (February 2011).

§105. Notification of Change

A. Every licensed nursing home administrator shall immediately notify in writing the office of the Louisiana Board of Examiners of Nursing Facility Administrators of any and all changes in name, address, position, or other information originally submitted on their initial registration and any subsequent changes thereto. Failure to comply with this rule within 10 days of the change will result in a penalty as set forth in this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Home Administrators, April 1970, amended and promulgated by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators, LR 16:199 (February 1990), repealed and repromulgated LR 18:181 (February 1992), amended by the Board of Examiners of Nursing Facility Administrators, LR 37:591 (February 2011).

Chapter 3. Board of Examiners

§301. Meetings

A. - C. ...

D. The board as a public body operates in accord with R.S. 42:1-R.S. 42:13. The conduct of meetings, notices, voting, record keeping, and so on shall be in accord with these statutes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2503 and R.S. 37:2504.C.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Home Administrators, April 1970, repealed and promulgated by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators, LR 18:181 (February 1992), amended by the Board of Examiners of Nursing Facility Administrators, LR 20:790 (July 1994), amended by the Board of Examiners of Nursing Facility Administrators, LR 37:591 (February 2011).

§303. General Powers

A. ...

B. From time to time the board may e-mail or distribute a newsletter, promulgate and publish such rules and

regulations not inconsistent with law as it may deem necessary and proper for the execution and enforcement of the law and rules and regulations governing the licensing and registration of nursing facility administrators.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Home Administrators, April 1970, repealed and promulgated by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators, LR 18:181 (February 1992), amended by the Board of Examiners of Nursing Home Administrators, LR 20:790 (July 1994), amended by the Board of Examiners of Nursing Facility Administrators, LR 37:591 (February 2011).

§305. Officers and Duties

A. ...

B. The chairman shall preside at all meetings of the board and shall sign all official documents of the board. In the absence of the chairman, the vice-chairman or member designated by the chairman shall preside at meetings and perform all duties usually performed by the chairman.

C. ...

D. The executive director shall conduct all routine correspondence for the board, shall issue all notices of meetings and hearings, shall have custody of all books, records and property of the board and shall perform all duties pertaining to the office of executive director. The executive director shall annually, in accordance with the directives of the State Office of the Legislative Auditor, submit financial records for audit. The audit results, on receipt, will be promptly distributed to all members of the board for review.

E. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2503 and R.S. 37:2504.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Home Administrators, April 1970, amended and promulgated LR 6:276 (June 1980), amended LR 9:461 (July 1983), repealed and repromulgated by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators, LR 18:181 (February 1992), amended by the Board of Examiners of Nursing Home Administrators, LR 20:790 (July 1994), amended by the Board of Examiners of Nursing Facility Administrators, LR 37:591 (February 2011).

Chapter 5. Examinations

§501. Scheduling of Examinations and Re-Examinations

A. ...

B. Examinations

1. State examinations may be held at such times and places, and by entities designated by the board.

2. National examinations shall be conducted by NAB for state-approved candidates.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504 and R.S. 37:2505.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Home Administrators, April 1970, amended and promulgated LR 6:276 (June 1980), repealed and repromulgated by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators, LR 18:181 (February 1992), amended by the Board

of Examiners of Nursing Facility Administrators, LR 37:591 (February 2011)

§503. Pre-Examination Requirements: Conditions Precedent

A. - A.2. ...

3. has no convictions for a felony or crimes involving moral turpitude as provided in R.S. 14:80;

4. - 5.a. ...

b. 60 hours of college education from an accredited institute of higher learning with an overall C average and three years of experience in nursing or administration in a licensed nursing home; or

A.5.c. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2505.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Home Administrators, April 1970, amended and promulgated LR 6:276 (June 1980), repealed and repromulgated by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators, LR 18:181 (February 1992), amended by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators, LR 20:789 (July 1994), LR 33:2423 (November 2007), amended by the Board of Examiners of Nursing Facility Administrators, LR 37:592 (February 2011).

§504. Pre Examination Criminal Background Check

A. At the applicant's expense the board may require fingerprints taken by an appropriate law enforcement agency. Such fingerprints are to be submitted by the enforcement agency to the State Police Bureau of Criminal Identification or such other appropriate authority.

B. The applicant shall request the result of such background check to be submitted to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2505.1.

HISTORICAL NOTE: Adopted by the Board of Examiners of Nursing Facility Administrators, LR 37:592 (February 2011).

§505. Application for Examination

A. An applicant for examination to secure a license as a nursing home administrator shall apply in writing, on forms provided by the board, and shall furnish evidence satisfactory to the board that he has met the pre-examination requirements as provided for in the state licensing statutes and §503 of these rules and regulations; and

1. a candidate for examination shall submit with his notarized application, the application fee, all waiver requests, and two letters from individuals engaged in either business or professional work, but not related by blood or marriage, who shall certify to the good moral character of the applicant;

2. an applicant for examination who has been convicted of, plead guilty to, no contest to, or has a trial pending for a misdemeanor involving abuse, neglect, or misappropriation of property or any felony or crimes involving moral turpitude as provided in R.S. 14:80 by any court in this state, or by any court of the United States, or by any court of any other state of the United States, shall not be admitted to, or be permitted to take the examination provided for herein, unless he shall request a formal hearing before the board and provide evidence establishing a full pardon or parole granted by an appropriate authority authorized to grant such;

3. ...

4. an applicant who withdraws his application for licensing after it has been received, processed and submitted to the board, shall not be entitled to a refund of their application fee.

B. - C. ...

D. The applicant shall attach to his application a finished unmounted recent photograph of himself. This photograph must not be less than 2 inches by 3 inches in size and taken within the last six months.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Home Administrators, April 1970, repealed and promulgated by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators, LR 18:181 (February 1992), amended by the Board of Examiners of Nursing Facility Administrators, LR 37:592 (February 2011).

§507. Conditional Admission to Examination

A. The board may authorize the executive director to conditionally admit to examination for licensing as a nursing home administrator an applicant who, on the date of a scheduled examination, has not fully established his qualifications if, in the judgment of the board, it appears that he is otherwise qualified.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504 and R.S. 37:2505.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Home Administrators, April 1970, amended and promulgated LR 6:276 (June 1980), repealed and repromulgated by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators, LR 18:181 (February 1992), amended by the Board of Examiners of Nursing Facility Administrators, LR 37:592 (February 2011).

§509. Subjects for Examination and Continuing Education

A. - B. ...

C. The board may conduct courses on nursing home administration, especially designed for applicants and for licensees, when the demand is sufficient to defray expenses. Individuals who desire this course shall pay a fee as provided for in Chapter 12 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504 and R.S. 37:2505.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Home Administrators, April 1970, amended and promulgated LR 9:684 (October 1983), amended LR 14:23 (January 1988), repealed and repromulgated by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators, LR 18:181 (February 1992), amended by the Board of Examiners of Nursing Home Administrators, LR 20:789 (July 1994), amended by the Board of Examiners of Nursing Facility Administrators, LR 37:592 (February 2011).

Chapter 7. Administrator-in-Training (AIT)

§701. Program

A. - D. ...

Department	Weeks	Hours
Administration	9	360
Nursing	5	200
Dietary	4	160
Resident Activity	2	80
Social Work	2	80
Medical Records	2	80
Environmental Management	2	80

A week is defined as seven days, Sunday through the following Saturday.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Home Administrators, April 1970, amended and promulgated LR 6:276 (June 1980), amended LR 12:511 (August 1986), repealed and repromulgated by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators, LR 18:181 (February 1992), amended by the Board of Examiners of Nursing Home Administrators, LR 20:790 (July 1994) repromulgated LR 21:175 (February 1995), amended by the Board of Examiners of Nursing Facility Administrators, LR 37:592 (February 2011).

§703. Preceptor

A. - E. ...

F. Preceptor Update. Preceptors must undertake update training every three years sponsored by the board in order to maintain this certification. The training qualifies as required continuing education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Home Administrators, April 1970, amended and promulgated LR 6:276 (June 1980), amended LR 9:62 (February 1983), LR 10:499 (July 1984), LR 12:512 (August 1986), repealed and repromulgated by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators, LR 18:181 (February 1992), amended by the Board of Examiners of Nursing Home Administrators, LR 19:1023 (August 1993), amended by the Board of Examiners of Nursing Facility Administrators, LR 37:593 (February 2011).

§709. Oral Examination

A. Upon completion of the program and receipt of the Certificate of Completion the AIT undergoes an oral examination to ensure she/he is sufficiently knowledgeable to be licensed. The examination is conducted by the executive director, a board member, or other authorized person. The AIT will receive his license upon passage of the oral examination, completion of initial registration form, and payment of registration fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Home Administrators, April 1970, amended and promulgated LR 6:276 (June 1980), amended LR 9:62 (February 1983), LR 10:499 (July 1984), LR 12:512 (August 1986), repealed and repromulgated by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators, LR 18:181 (February 1992), amended by the Board of Examiners of Nursing Facility Administrators, LR 37:593 (February 2011).

§711. Time Limitation

A. Failure to begin the six-month AIT within one year of the date an applicant passes the licensing examinations will

results in loss of all accomplishments and fees, unless otherwise authorized by the board.

B. Failure to complete the licensure process within 24 months from the date of application will result in loss of all accomplishments and fees unless authorized by the board.

C. Record Retention

1. In accordance with R.S. 44:411, the board shall secure written approval from the state archivist or his designee prior to the disposing of any records of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504 and R.S. 44:405.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Home Administrators, April 1970, amended and promulgated LR 6:276 (June 1980), amended LR 9:62 (February 1983), LR 10:499 (July 1984), LR 12:512 (August 1986), repealed and repromulgated by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators, LR 18:181 (February 1992), amended LR 20:1110 (October 1994), amended by the Board of Examiners of Nursing Facility Administrators, LR 37:593 (February 2011).

§713. Waivers

A. All waiver requests shall be submitted with applicant's notarized application.

B. Provisions for the six-month AIT, or portions thereof, may be waived on the basis of:

1. education. Full waiver may be granted if applicant has a Bachelor of Science/Bachelor of Art or Master of Science/Master of Art degree in health care administration that included an internship or the internship was waived by the college or university on the basis of experience and successfully passes an oral exam;

2. experience. Waiver may be granted for any portion of the AIT for experience in the healthcare field that meets or exceeds AIT requirements in their specialty and such areas as approved by the board. Request for waivers are to be submitted with the application and properly documented on forms supplied by the board.

a. - b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Home Administrators, April 1970, amended and promulgated LR 6:276 (June 1980), amended LR 9:62 (February 1983), LR 10:499 (July 1984), LR 12:512 (August 1986), repealed and repromulgated by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators, LR 18:181 (February 1992), amended by the Board of Nursing Examiners of Facility Administrators, LR 37:593 (February 2011).

Chapter 9. Continuing Education

§903. Requirements

A. Number of Hours. Each licensee must complete 15 hours of approved continuing education, or the portion thereof designated by the board, during the 12 month period preceding the date of re-registration of licenses.

B. - B.2. ...

C. Certificates. Each approved provider of continuing education shall provide each participant with a certificate indicating topic, number of hours, or parts of hours participating, and date of program. Transcripts from accredited institutions of higher learning are considered as having met this provision.

1. ...

2. Licensees are required to attach the original of these certificates to their annual re-registration applications to verify they have completed the required continuing education unless prior approval is obtained.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504 and R.S. 37:2506.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Home Administrators, April 1970, amended and promulgated LR 6:276 (June 1980), amended LR 11:864 (September 1985), LR 13:240 (April 1987), repealed and repromulgated by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators, LR 18:181 (February 1992), amended by the Board of Examiners of Nursing Home Administrators, LR 19:1023 (August 1993), repromulgated LR 19:1322 (October 1993), amended by the Board of Examiners of Nursing Facility Administrators, LR 37:593 (February 2011).

§905. Registration of Institutions as Providers of Continuing Education Courses

A. - B. ...

C. A fee, as provided for in Chapter 12 of this Part, shall be paid annually providers who impose charges to course participants. Government agencies are exempt from the fee.

D. National Continuing Education Review Services (NCERS) approved programs are exempt from the requirement that providers be approved by the board. The approval of programs by NCERS, operated by the National Associations of Boards of Examiners For Long Term Care Administrators, Inc., meets board requirements.

E. ...

F. Programs offered by non-approved provider organizations that do not seek provider approval may be approved on an individual basis. Individual licensees may seek this approval by applying to the board. When the organization or individual licensee applies there is a fee as provided for in Chapter 12 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504 and R.S. 37:2506.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Home Administrators, April 1970, repealed and repromulgated by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators, LR 18:181 (February 1992), amended by the Board of Examiners of Nursing Home Administrators, LR 19:1023 (August 1993), LR 20:788 (July 1994), amended by the Board of Examiners of Nursing Facility Administrators, LR 37:594 (February 2011).

§907. Approval of Programs of Study

A. - A.7. ...

8. Credit will not be given for courses offered by an organization for its administrators only; and

9. the program is submitted for approval prior to the beginning date.

B. - B.2. ...

C. Monitoring may be done to observe quality of content of presentation by the board or its representative.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504 and R.S. 37:2506.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Home Administrators, April 1970, repealed and promulgated by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators, LR 18:181 (February 1992), amended by the Board of Examiners of Nursing Home Administrators, LR 20:788 (July 1994), amended by the Board of

Examiners of Nursing Facility Administrators, LR 37:594 (February 2011).

§908. Approval of NAB Standards

A. Should the board elect to utilize the standards set forth by the National Continuing Education Resource Service in affiliation with the NAB, the board shall notify all licensed administrators, AITs and applicants of such decision in writing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2505.

HISTORICAL NOTE: Adopted by the Department of Health and Hospitals, Board of Examiners of Nursing Facility Administrators, LR 37:594 (February 2011).

§909. Exception

A. Nothing contained in this Chapter shall preclude the board from providing for any program of study which excludes subjects which are in conflict with, the teachings and practice of any recognized religious faith. Any applicant seeking to be admitted to such program of study hereunder shall submit evidence satisfactory to the board that he is, in fact, an adherent of such recognized religious faith.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504 and R.S. 37:2506.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators, LR 18:181 (February 1992), amended by the Board of Examiners of Nursing Facility Administrators, LR 37:594 (February 2011).

Chapter 11. Licenses

§1101. Initial License

A. An applicant for a license as a nursing home administrator who has successfully complied with the requirements of the licensing laws and the standards provided for herein, passed the examinations provided by the board and submitted notarized forms certifying to the AIT prerequisite shall be issued a license on a form provided for that purpose by the board, certifying that such applicant has met the requirements of the laws, rules and regulations entitling him to serve, act, practice and otherwise hold himself out as a duly licensed nursing home administrator.

A.1. - B. ...

C. Each nursing facility in the state shall operate under the supervision of an administrator who holds a current valid nursing facility administrator license and current registration certificate, or a current temporary license issued pursuant to this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504 and R.S. 37:2506.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Home Administrators, April 1970, repealed and promulgated by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators, LR 18:181 (February 1992), amended by the Board of Examiners of Nursing Home Administrators, LR 20:789 (July 1994), repromulgated LR 20:1110 (October 1994), amended by the Board of Examiners of Nursing Facility Administrators, LR 37:594 (February 2011).

§1103. Registration of Licenses and Certificates

A.1. Every person who holds a valid license as a nursing home administrator issued by the board shall immediately upon issuance thereof be deemed registered with the board and issued an annual certificate of registration.

1.a. - 2....

3. Charges for replacement and/or second copies of permanent licenses, re-registration certificates, or licensee

cards shall be assessed as provided for in Chapter 12 of this Part.

B.1. Upon making an application for a new certificate of registration such licensee shall pay an annual registration fee as provided for in Chapter 12 of this Part and, at the same time, shall submit evidence satisfactory to the board that, during the annual period immediately preceding such application for registration, they have attended a continuing education program or course of study as provided in Chapter 9 of these rules and regulations. Unless prior approval is obtained, originals of the certificate(s) of attendance for 15 hours of approved continuing education shall be attached to the annual re-registration application.

2. A licensed nursing home administrator no longer practicing in Louisiana may place his license in an inactive or conditional status. He shall continue to register his license annually but is exempt from continuing education requirements. Should a licensee wish to reactivate their license they shall undergo 60 days of on-site re-orientation under supervision of a board-approved preceptor, unless such person has been actively practicing in another state and meets Louisiana continuing education requirements. In either case, to change a conditional license or inactive license to active status, an applicant must meet all requirements for an active license. Conditional licensure as used in this subparagraph shall mean an individual who meets at least one of the following:

- a. administrator not actively running a facility and age 65 or older;
- b. administrator not actively running a facility in Louisiana and possessing an active license in another state.

3. The annual conditional licensure fee shall be assessed as provided for in Chapter 12 of this Part.

C. ...

D. The license of a nursing home administrator who fails to comply with the provisions of this Section shall be suspended by the board and the license shall automatically lapse.

E. Only an individual who has qualified as a licensed and registered nursing home administrator and who holds a valid current registration certificate pursuant to the provisions of these rules for the current annual registration period, shall have the right and the privilege of using the title "nursing home administrator" and have the right and the privilege of using the abbreviation "NFA." after his name. No other person shall use or shall be designated by such title or such abbreviation or any other words, letters, sign, card, or device tending to, or intended to indicate that such person is a licensed and registered nursing home administrator.

F. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Home Administrators, April 1970, amended and promulgated LR 9:461 (July 1983), repealed and repromulgated by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators LR 18:181 (February 1992), amended LR 25:1627 (September 1999), LR 25:2407 (December 1999), repromulgated LR 26:82 (January 2000), LR 26:316 (February 2000), amended by the Board of Examiners of Nursing Facility Administrators, LR 37:594 (February 2011).

§1105. Refusal, Suspension and Revocation of License

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

x. has failed to re-register his license as required by the board.

b. - b.ii. ...

iii. has committed acts of misconduct in the operation of a nursing home, which includes but is not limited to discrimination, sexual harassment, or failure to attend to duties of the administrator;

iv. has impersonated another licensee; and

v. has violated any of the provisions of the law pertaining to the licensing of administrators, or rules and regulations of the board pertaining thereto.

c. - c.iv. ...

d. Category Four

i. has failed to notify the board in writing of any and all changes in name, address, position, and other such information included on their initial registration and any subsequent changes thereto.

2.e. - 3.a. ...

i. A fine of not less than 150 nor more than \$2,000, and/or probation not to exceed three years, and/or suspension of license for not less than 30 days nor more than three years, and/or remedial training or revocation of license.

ii. Failure to re-register a license as required by the board results in a suspension. Provided further the licensee shall not practice until re-registered. Failure to re-register within 6 months of annual re-registration deadline will result in the lapse of such license unless extended by the board at its discretion.

b. - c. ...

d. Category Four. A fine of not less than \$25 nor more than \$150.

A.3.e. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504, R.S. 37:2509 and R.S. 37:2510.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Home Administrators, April 1970, amended and promulgated LR 6:276 (June 1980), amended LR 9:461 (July 1983), LR 12:366 (June 1986), amended by Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators, LR 15:195 (March 1989), repealed and repromulgated LR 18:181 (February 1992), amended by the Board of Examiners of Nursing Facility Administrators, LR 37:595 (February 2011).

§1107. Reciprocity

A. The board, in its discretion, and otherwise subject to the law pertaining to the licensing of nursing home administrators and prescribing the qualifications for a nursing home administrator license, may endorse a nursing home administrator license issued by proper authorities of any other state, upon payment of any fee determined by the board, and passing a state examination and upon submission of evidence satisfactory to the board:

A.1. - E. ...

F. A Louisiana licensee who applies for reciprocity in another state shall pay a fee as provided for in Chapter 12 of this Part to the board to cover costs of completing and mailing necessary forms to the other state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504 and R.S. 37:2508.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Home Administrators, April 1970, amended and promulgated LR 9:461 (July 1983), repealed and repromulgated by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators, LR 18:181 (February 1992), amended by the Board of Examiners of Nursing Home Administrators, LR 19:1024 (August 1993), amended LR 20:1002 (September 1994), amended by the Board of Examiners of Nursing Facility Administrators, LR 37:595 (February 2011).

§1109. Restoration and Reinstatement of Licenses

A. A license may be restored after revocation by the board at its discretion upon submission of evidence satisfactory to the board that the applicant for such restoration of license has removed the disability. The requirements of §505.A.2 shall be applicable to applicants for license who have been convicted of a felony. In the case of revocation of license due to a six-month suspension (§1105.C.4) or voluntary surrender, the applicant shall file a new application based on current requirements, as a new applicant, including sitting for examinations as the board deems necessary.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504 and R.S. 37:2511.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Home Administrators, April 1970, amended and promulgated LR 11:864 (September 1985), repealed and repromulgated by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators, LR 18:181 (February 1992), amended by the Board of Examiners of Nursing Facility Administrators, LR 37:596 (February 2011).

§1111. Display of Licenses and Re-Registration Certificates

A. Every person licensed as a nursing home administrator actively engaged in the profession shall display such license and certificate of annual registration in a conspicuous place in the office or place of business or employment of such licensee. The current certificate of annual re-registration shall be displayed adjacent to the facility's license issued by Department of Health and Hospitals. Such license and certificate of annual re-registration shall be shown, when requested, to a member of the board, a legally constituted officer of the board, or a law enforcement officer of the state of Louisiana or of a political subdivision thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Home Administrators, April 1970, amended and promulgated LR 6:276 (June 1980), repealed and repromulgated by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators, LR 18:181 (February 1992), amended by the Board of Examiners of Nursing Facility Administrators, LR 37:596 (February 2011).

Chapter 12. Fees and Assessments

§1201. Fee Schedule

A. The board hereby establishes the following fees and costs to be imposed for the purpose of implementing and enforcing the provisions of this Part.

Administrator address labels/page	\$8
Annual Conditional Registration Fee	\$200

Annual Registration Fee	\$375
Application Packet	\$50
Certification of document as true copy	\$10
CNA / DSW Card	\$12
Continuing Education Provider(Annually)	\$600
Delinquent fee	\$150
Directory of Administrators	\$15
Failure to maintain current information	\$75
Handling and mailing per page	\$2
Initial Registration Fee	\$350
Minimum Licensure Standards Book	\$15
National Prep Course Fee	\$250
NFA Application Fee	\$500
NFA Replacement Card(with photo)	\$17
NSF Fee	\$25
Photocopies of document/page	\$0.50
Reciprocity Fee(to another state)	\$50
Reciprocity Fee(to Louisiana)	\$125
Replace License Card	\$12
Replace License(original)	\$30
Replace Registration Certificate or 2nd copy	\$25
Request for CEU Approval(applicant)	\$25
Request for CEU Approval(vendor)	\$75
Rules and Regulations Book	\$15
Seminars (per hour of instruction)	\$30
State Exam Fee	\$100

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Nursing Facility Administrators, LR 37:596 (February 2011).

Chapter 16. Certified Nurses Aide Register §1603. Certificate of Certification

A. If requested, the board shall impose a fee for issuing a certificate, or a card of certification as provided in Chapter 12 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators, LR 21:1082 (October 1995) , amended by the Board of Examiners of Nursing Facility Administrators, LR 37:596 (February 2011).

Mark A. Hebert
Executive Director

1101#018

RULE

**Department of Health and Hospitals
Board of Medical Examiners**

Clinical Laboratory Personnel, Licensure and Certification (LAC 46:XLV.3509)

The Louisiana State Board of Medical Examiners, in accordance with the provisions of the Louisiana Administrative Procedure Act, R.S. 49:950 *et seq.*, and pursuant to the authority of the Louisiana Medical Practice Act, R.S. 37:1261-1292 and the Louisiana Clinical Laboratory Personnel Law, R.S. 37:1311-1329, has amended its administrative rules governing licensure and certification of clinical laboratory personnel, LAC 46:XLV, Subpart 2,

Chapter 35, Subchapter B, Section 3509. The amended rule is set forth below.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLV Medical Professions

Subpart 2. Licensure and Certification

**Chapter 35. Clinical Laboratory Personnel
Subchapter B. Licensure and Certification Requirements
§3509. Qualifications for Licensure and Certification**

A. Clinical Laboratory Scientist-Generalist. To be eligible for licensure as a clinical laboratory scientist-generalist an applicant, in addition to satisfaction of the procedural requirements for licensure under this Chapter, shall have successfully completed an approved nationally recognized certification examination for such clinical laboratory personnel classification as developed and administered:

1. on or before June 30, 2011, by one of the following organizations or their successor organizations:

- a. American Society of Clinical Pathologists (ASCP);
- b. National Certification Agency (NCA);
- c. American Medical Technologists (AMT); or
- d. International Society of Clinical Laboratory

Technology (ISCLT) provided, however, that an applicant for licensure as a CLS-G who has, prior to January 1, 1995, successfully completed the certification examination for such clinical laboratory personnel classification developed and administered by the United States Department of Health, Education, and Welfare (HEW) (predecessor to the Department of Health and Human Services) shall also be eligible for licensure as a clinical laboratory scientist-generalist.

2. after June 30, 2011, by the ASCP.

B. - B.2.g. ...

C. Clinical Laboratory Scientist-Technician. To be eligible for licensure as a clinical laboratory scientist-technician, an applicant, in addition to satisfaction of the procedural requirements for licensure under this Chapter, shall have successfully completed an approved nationally recognized certification examination for such clinical laboratory personnel classification, as developed and administered:

1. on or before June 30, 2011, by one of the following organizations or their successor organizations:

- a. American Society of Clinical Pathologists (ASCP);
- b. National Certification Agency (NCA);
- c. American Medical Technologists (AMT); or
- d. International Society of Clinical Laboratory

Technology (ISCLT).

2. after June 30, 2011, by the ASCP.

D. - F.2.h. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(5) and R.S. 37:1311-1329.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1286 (November 1994), amended, LR 37:597 (February 2011).

Robert L. Marier, M.D.
Executive Director

1102#019

RULE

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

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

The Department of Health and Hospitals, Bureau of Health Services Financing has adopted LAC 50:V.909 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 Hospitals

Chapter 9. Non-Rural, Non-State Hospitals

Subchapter A. General Provisions

§909. Children’s Specialty Hospitals

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:597 (February 2011).

Bruce D. Greenstein
Secretary

1102#084

RULE

**Department of Health and Hospitals
Office of Public Health**

Tuberculosis Control Program—Inmate Health
(LAC 51:XVIII.301)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health, pursuant to the authority in R.S. 40:5, and based on the amendment and reenactment of R.S. 40:1156, has amended Part XVIII (Jails, Prisons and Other Institutions of Detention and Incarceration) of the Louisiana State Sanitary Code (LAC 51). This Rule adds the approved blood assay for Mycobacterium tuberculosis to the purified protein derivative skin test as an acceptable alternative screening test for tuberculosis among incarcerated persons in Louisiana jails or prisons.

Title 51

PUBLIC HEALTH—SANITARY CODE

Part XVIII. Jails, Prisons and Other Institutions of Detention and Incarceration

Chapter 3. Health Requirements for Incarceration

§301. Inmate Health

A. ...

B. [Formerly paragraph 18:022] Any person entering any Louisiana parish jail as an inmate for 14 days or more shall be screened for tuberculosis, where funding is available, with a purified protein derivative skin test, five tuberculin unit strength, given by the Mantoux method, or by the blood assay for Mycobacterium tuberculosis, and a chest x-ray if the skin test or the blood assay for Mycobacterium tuberculosis is positive. If the individual is known to be infected with the human immunodeficiency virus (HIV) or has acquired immunodeficiency syndrome (AIDS), he or she shall be required to have a chest x-ray in addition to a skin test for tuberculosis or in addition to a blood assay for Mycobacterium tuberculosis, regardless of the results. If an individual has a positive skin test or a positive result of a blood assay for Mycobacterium tuberculosis or a positive x-ray, he or she shall be evaluated by a physician to determine whether he or she should receive a course of chemotherapy for tuberculosis. If evaluation is desired before 14 days, a chest x-ray is acceptable for screening.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(2) and R.S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 20:301 (March 1994), repromulgated LR 29:1099 (July 2003), amended LR 37:598 (February 2011).

Bruce D. Greenstein
Secretary

1102#087

RULE

**Department of Health and Hospitals
Office of Public Health**

**Tuberculosis Control Program—Mandatory Testing
(LAC 51:II.503)**

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health, pursuant to the authority in R.S. 40:5, and based on the amendment and reenactment of R.S. 40:1156, has amended Part II (Health Examinations of Employees, Volunteers and Patients at Certain Medical and Residential Facilities) of the Louisiana State Sanitary Code (LAC 51).

Title 51

PUBLIC HEALTH—SANITARY CODE

Part II. The Control of Diseases

**Chapter 5. Health Examinations for Employees,
Volunteers and Patients at Certain
Medical Facilities**

§503. Mandatory Tuberculosis Testing

A. [Formerly paragraph 2:022] All persons prior to or at the time of employment at any hospital or nursing home (as

defined in Parts XIX and XX, respectively, herein, and including intermediate care facilities for the developmentally disabled) requiring licensing by the Department of Health and Hospitals or at any Department of Health and Hospitals, Office of Public Health parish health unit or Department of Health and Hospitals, Office of Public Health out-patient health care facility or any person prior to or at the time of commencing volunteer work involving direct patient care at any hospital or nursing home (as defined in Parts XIX and XX, respectively, herein, and including intermediate care facilities for the developmentally disabled) requiring licensing by the Department of Health and Hospitals or at any Department of Health and Hospitals, Office of Public Health parish health unit or Department of Health and Hospitals, Office of Public Health out-patient health care facility shall be free of tuberculosis in a communicable state as evidenced by either:

A.1. - D. ...

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(2) and R.S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1220 (June 2002), amended LR 32:98 (January 2006), LR 33:93 (January 2007), LR 37:598 (February 2011).

Bruce D. Greenstein
Secretary

1102#088

RULE

**Department of Insurance
Office of the Commissioner**

**Regulation Number 47—Actuarial Opinion and
Memorandum Regulation (LAC 37:XIII.2111)**

Under the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Commissioner of the Louisiana Department of Insurance has amended its current Regulation 47 entitled “Actuarial Opinion and Memorandum Regulation” as promulgated in the October 20, 2005 *Louisiana Register*, Volume 31, Number 10, page 2543, et seq. The amendment was necessary for the Louisiana Department of Insurance to comply with the national asset adequacy analysis standard of the NAIC Accreditation Team.

Title 37

INSURANCE

Part XIII. Regulations

**Chapter 21. Regulation Number 47—Actuarial
Opinion and Memorandum Regulation**

**§2111. Statement of Actuarial Opinion Based On an
Asset Adequacy Analysis**

A. - E.1. ...

F. Alternate Option

1. The commissioner may provide an alternative filing option for single state domestic insurance companies that allows for the preparation of an alternative form of opinion. The commissioner shall provide specific criteria for such an alternative filing option and instructions for the associated

testing and documentation. However, all multi-state domestic insurance companies are subject to the standard asset adequacy analysis requirement.

2. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.22:3, 22:752 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:2545, amended LR 37:598 (February 2011).

James J. Donelon
Commissioner

1102#053

RULE

Department of Public Safety and Corrections Corrections Services

Telephone Use and Policy on Monitoring of Calls (LAC 22:I.315)

In accordance with the provisions of the Administrative procedure Act (R.S. 49:950), the Department of Public Safety and Corrections, Corrections Services, has amended the contents of Section 315 Telephone Use and Policy on Monitoring of Calls.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part I. Corrections

Chapter 3. Adult Services

§315. Telephone Use and Policy on Monitoring of Calls

A. Purpose. To state the secretary's policy regarding the use of telephones by offenders and the monitoring of offender telephone calls at all adult institutions.

B. Applicability—deputy secretary, chief of operations, regional wardens and wardens. Each warden is responsible for ensuring that appropriate unit written policy and procedures are in place to comply with the provisions of this regulation and for implementing and notifying all affected persons of its contents.

C. Policy. It is the secretary's policy that uniform telephone procedures, including the ability to monitor and/or record offender telephone calls to preserve the security and orderly management of the institution and to protect public safety, shall be adhered to at all institutions. Each institution shall offer offenders (including the hearing and/or speech impaired) reasonable access to telephone communication without overtaxing the institution's ability to properly maintain security and to avoid abuse of this privilege on the part of any offender. Offenders with hearing and/or speech disabilities and offenders who wish to communicate with parties who have such disabilities shall be given access to appropriate auxiliary aids and services. It is further the secretary's policy to encourage offenders to maintain telephone communications while incarcerated in order to maintain family connections that will promote unification upon release.

D. Procedures

1. General

a. Each offender shall be assigned a personal identification number (PIN) which must be used when placing outgoing telephone calls; the PIN shall be the offender's DOC number.

b. Each offender will provide his assigned institution a master list of up to 20 frequently called telephone numbers inclusive of all family, personal and legal calls. Each offender's outgoing telephone calls shall be limited to those telephone numbers he has placed on his master list. Changes may be made to the master list at the discretion of the warden, but no less than once each quarter. These changes may be entered by the contractor or by appropriately trained institutional staff. No offender shall place the telephone number of the family of another offender on his master list "except for verified members of his own family."

c. For new offenders, PIN and master list numbers shall be entered into the telephone system upon intake at the reception and diagnostic centers.

d. All offender telephone calls made through use of the offender telephone system shall be recorded and are subject to monitoring, this includes calls made to attorneys using the offender telephone system. (See Clause D.6.a.iii for additional information.)

e. A visible sign by each offender telephone shall place offenders on notice that all calls shall be recorded and are subject to monitoring.

f. A recorded message shall notify all parties that all calls shall be recorded and are subject to monitoring and that the call originated from a correctional facility.

g. Use of the offender telephone system shall constitute consent by all parties to the recording and/or monitoring of the call.

h. Upon the request of a telephone subscriber, the institution shall block a telephone number and prevent the subscriber from receiving calls from an offender housed in the facility. To accomplish a block of a particular number for all state facilities, the institution should contact the contractor to request that a universal block be put into place.

i. Offenders are allowed to make collect calls to cell phones. These calls must be set up as direct remit accounts with the department's phone service provider. This shall be done after approval is received from the department to add the cell number. Prepaid cell phones are not allowed to set up the direct bill accounts. Cell phones must have a provider from a major wireless company i.e., AT and T, Sprint, Verizon, T-Mobile, etc.

2. Dormitory Housing (Minimum or Medium Custody)

a. Personal or Family Calls (routine)—Collect telephone access should be available on a relatively non-restricted basis. The specific hours in the various living areas at the individual institutions shall be established by the warden of each institution. The warden shall communicate the telephone schedule to the offender population. A time limit should be established.

b. Personal or Family Calls (emergency)—Requests for access outside of normally scheduled hours may be made

through the dormitory officer, shift supervisor or other appropriate staff who decides if the justification the offender presents warrants the request. That decision is then logged. No frequency for this type call is established as the severity and duration of the emergency may vary.

c. Legal Calls. The warden shall establish a schedule for legal calls. Offenders are generally able to place legal calls during the lunch period "non-working hours," or after the afternoon count (when "normal office hours" are in effect for attorneys.) The warden shall establish an alternate procedure if this is not adequate.

3. Cellblock Housing (Maximum Custody)

a. Personal or Family Calls (Routine). Collect telephone access is generally located in the cellblock lobby. (In those situations where the telephone is on the tier, the offender may be allowed access during the shower or exercise period.) Lobby placement may restrict offender access. Therefore, posted policy may limit routine personal calls for offenders assigned to cellblocks. Access may vary by offender classification status. A time limit should be established.

b. Personal or Family Calls (Emergency). In all subclasses of maximum custody, the offender is required to request consideration for this type call from the warden's designee (shift supervisor, unit major, or program staff) who decides if the justification the offender presents warrants the request. That decision is then logged. No frequency for this type call is established as the severity and duration of the emergency may vary.

c. Legal Calls. The warden shall establish a procedure for placing legal calls on a reasonable basis during "normal office hours." Each housing unit shall maintain a legal telephone log for the purpose of monitoring the number of legal calls made by offenders on a weekly basis. All legal calls are to be logged with the attorney's full name, bar number, telephone number called, date, time and whether completed.

4. Incoming Calls

a. Personal or Family calls (Routine). Messages are not accepted or relayed on a routine basis for any offender.

b. Legal Calls. Offenders may be given notice that their attorney has requested contact. Complete verification is required prior to processing. If minimum or medium custody, the offender may call from the dormitory during lunch or after work. If maximum custody, the offender may be allowed to call during "normal office hours" at a time which does not interfere with the orderly operation of the unit.

5. Emergency Messages/Important Telephone Calls Based upon Faith-Based Programs and Services

a. Emergency messages concerning a serious illness, injury, death or other family crisis, etc. shall be delivered to an offender by the chaplain or other person designated by the warden. Exceptions to this paragraph shall only be granted by the warden or designee.

b. Notification to an offender's emergency contact (or other appropriate person as the situation warrants) of an offender's serious illness, injury or death shall be made in a timely manner by the chaplain or other person designated by the warden.

c. Chaplains are allowed discretion to make telephone calls for offenders for the purposes of dealing with emergency matters.

6. Monitoring

a. Offenders shall be put on notice of the following:

i. telephone calls in housing areas shall be recorded and are subject to monitoring and that "use" constitutes "consent";

ii. it is the offender's responsibility to advise all other parties that conversations are subject to being monitored and/or recorded;

iii. telephone calls to the offender's designated attorney(s) will not be routinely monitored. Any telephone calls placed on offender telephones to attorneys shall be recorded but not monitored unless the warden determines a security need exists. Prior to examination of the content of the conversation with the attorney, the party requesting examination must put in writing the factors supporting the good cause and submit to the warden for approval. Only after approval has been received, shall the conversation be examined. Only investigators approved by the chief of operations shall be allowed to monitor the calls.

b. The telephone system will normally terminate a call at the end of the authorized period (normally 15 minutes); however, the warden or designee may authorize calls of a longer duration as circumstances warrant. Persons using the TDD system shall be allowed one hour telephone calls.

c. Offenders shall not be allowed access to home telephone numbers nor be allowed to call any staff member of the department (including volunteers, contract workers, etc.) by any means whether through call forwarding, texting, web based or similar communication platforms or systems.

d. Only authorized (i.e., those who have been assigned a login/password) personnel approved by the warden or designee may monitor offender telephone calls. Information gained from monitoring calls which affects the security of the institution or threatens the protection of the public shall be communicated to the warden and other law enforcement agencies.

e. Offenders being processed into the system through the reception and diagnostic centers shall be required to give "consent" in writing, acknowledging that they are aware that their telephone calls shall be recorded and are subject to monitoring. A copy of this "consent" shall be placed in the offender's master record.

f. Each institution's orientation manual shall include the information contained in this regulation as a means to notify the offender population of its contents and verbal notification shall be given during the orientation program. A sign shall be posted at each offender telephone which states the following information:

ATTENTION

This telephone has been electronically programmed to monitor and/or record telephone calls. By using this telephone, you consent to the monitoring and/or recording of your conversation. Telephone calls to your designated attorney(s) will not be routinely monitored.

Department of Public Safety and Corrections
Department Regulation No. B-08-001

7. Remote Call Forwarding

a. Remote Call Forwarding (RCF) is a mechanism by which offenders may employ a local telephone number that automatically forwards the telephone call to a pre-selected number generally located out of the local calling area code or long distance. RCF in essence is an automated 3-way call.

b. RCF is also known as automated call forwarding or PBX call forwarding. Use of this automated and remote mechanism represents significant security risks for several reasons. The telephone call terminated number (the end destination of the call) cannot be readily identified or verified. This number is not a traditional telephone number located at a residence, business or other such location but merely a number within the telephone switching equipment local to the facility where the offender is housed.

c. RCF initiated calls to an unidentified terminated number can and are being easily forwarded to unauthorized telephones. This forwarding is done through the normal 3-way call hook ups. This in fact negates the security mechanisms achieved by the requirement of approved telephone lists. Safeguards to prevent calls to victims, to blocked or restricted numbers or to prevent other unauthorized call activities are defeated by the use of an RCF number.

d. RCF usage creates an opportunity to conduct criminal or illegal or unauthorized activities since the end call location is not readily being identified, verified or its actual location known. This affords untold opportunity for offenders to engage in potential scams, to call victims, to facilitate escape attempts and to engage in other conduct representing significant security risks to the facility.

e. The offender population shall be put on notice that all third-party telephone calls, including RCF calls, are strictly prohibited and such activity shall result in appropriate disciplinary action.

f. Wardens shall develop a monitoring system to analyze the frequency of local calls. High frequency may indicate RCF utilization. When RCF calls are discovered, a system-wide block of the number shall be initiated pursuant to Subparagraph D.1.i. of this regulation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:829.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 29:360 (March 2003), amended LR 29:2849 (December 2003), LR 35:87 (January 2009), LR 37:599 (February 2011).

James M. Le Blanc
Secretary

1102#052

RULE

**Department of Public Safety and Corrections
Office of the State Fire Marshal
State Uniform Construction Code Council**

State Uniform Construction Code
(LAC 55:VI.301)

In accordance with the provisions of R.S. 40:1730.26, relative to the authority of the Louisiana State Uniform Construction Code Council (LSUCCC) to promulgate and enforce rules, the Office of State Fire Marshal hereby amends the following Rule regarding the establishment of minimum standards.

Title 55

PUBLIC SAFETY

Part VI. Uniform Construction Code

Chapter 3. Adoption of the Louisiana State Uniform Construction Code

§301. Louisiana State Uniform Construction Code

A. - A.3.b.i.(b). ...

c. Additionally, IRC shall be amended as follows and shall only apply to the International Residential Code.

i. Substitute Chapter 3, Section R317, Dwelling Unit Separation of the 2006 IRC, in lieu of the Section 313, Automatic Fire Sprinkler Systems of the 2009 IRC.

ii. In addition, Chapter 3, Section R 302.2, Townhouses of the 2009 IRC, is amended as follows:

(a). exception:

(i). a common 2-hour fire-resistance-rated wall is permitted for townhouses if such walls do not contain plumbing or mechanical equipment, ducts or vents in the cavity of the common wall;

(ii). electrical installations shall be installed in accordance with Chapters 34 through 43.;

(iii). penetrations of electrical outlet boxes shall be in accordance with Section R302.4.

iii. Furthermore, Chapter 3, Section R302.2.4, Structural Independence of the 2009 IRC, is amended as follows:

(a). exception:

(i). Number 5, Townhouses, separated by a common 2-hour fire-resistance-rated wall as provided in Section R302.2.

iv. Amend Chapter 3, Section R315.2, Where Required in Existing Dwellings:

(a). when alterations, repairs or additions occur or where one or more sleeping rooms are added or created in existing dwellings that have attached garages or in existing dwellings within which fuel fired appliances exist, carbon monoxide alarms shall be provided in accordance with Section R315.1.

4. - 7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D) and 40:1730.26(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:291 (February 2007), amended LR 34:93 (January 2008), LR 34: 883 (May 2008), LR 34:2205 (October 2008), LR 35:1904 (September 2009), LR 37:601 (February 2011).

Jill Boudreaux
Undersecretary

1102#054

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Wildlife Rehabilitation Program (LAC 76:V.131)

The Wildlife and Fisheries Commission has amended the regulations for the permitting and operation of wildlife rehabilitators.

Title 76

WILDLIFE AND FISHERIES

Part V. Wild Quadrupeds and Wild Birds

Chapter 1. Wild Quadrupeds

§131. Wildlife Rehabilitation Program

A. Purpose

1. The purpose of this Section is to establish rules for the permitting and operation of wildlife rehabilitators.

B. Definitions

Rabies Vector Species (RVS)—mammalian species defined by Louisiana Department of Wildlife and Fisheries (LDWF) as potential carriers of the rabies virus including, but not limited to the following:

- a. raccoons;
- b. foxes;
- c. coyotes;
- d. skunks; and
- e. bats.

Subpermittee—person authorized to conduct rehabilitation activities under the supervisory responsibility of a wildlife rehabilitator.

Supervisory Responsibility—to direct actions and accept responsibility for the actions of a named individual engaged in wildlife rehabilitation activities.

Wildlife Rehabilitation—activity that provides housing, treatment and temporary care of injured and/or orphaned indigenous animals with the goal of subsequent release of those healthy animals to appropriate habitats in the wild.

Wildlife Rehabilitator—a person who is permitted by the LDWF to engage in the practice of wildlife rehabilitation.

C. Permits

1. It shall be unlawful for any person to keep, hold or possess in captivity any sick, injured or orphaned wildlife (except fish) or otherwise engage in wildlife rehabilitation without first obtaining at no charge, a LDWF Wildlife Rehabilitation Permit (WRP). In addition to the WRP, a United States Fish and Wildlife Service (USFWS) rehabilitation permit must be in possession to rehabilitate

species covered by the Migratory Bird Treaty Act or Endangered Species Act.

2. A WRP authorizes the permittee to transport; temporarily possess; rehabilitate; transfer to a practicing veterinarian or another wildlife rehabilitator for treatment or euthanasia; release; or euthanize an injured, diseased, disabled, orphaned or otherwise debilitated live wildlife specified on their permit. Animals held under a WRP shall not be displayed for educational purposes or otherwise displayed or exposed to the public unless that individual animal has been permitted by LDWF or USFWS for that purpose.

D. Exemptions

1. Employees of the LDWF are exempt from all state wildlife rehabilitation permit requirements while they are on duty.

2. Licensed veterinarians are exempted, provided they are treating an animal under the authorization of a wildlife rehabilitator or LDWF employee, or are treating an animal taken in from the public, provided the animal is released into an appropriate habitat or accepted by a wildlife rehabilitator within 72 hours after receiving.

E. Permit Requirements

1. All applicants must be 18 years of age or older.

2. Anyone who has been convicted of a Class II or greater wildlife violation in Louisiana, or the equivalent in another state within the past five years, or has been convicted of a felony in Louisiana or another state, shall not be eligible for a WRP.

3. All applicants must complete a WRP application, liability release, and financial responsibility statement.

4. Prior to licensure or renewal, all applicants must show proof of completion of a LDWF-approved wildlife rehabilitation course and must be currently certified under the approved organization's guidelines. Failure to provide proof of successful completion of the course and subsequent continuing education requirements will result in non-licensure or revocation of the WRP.

5. All applicants must provide verification of having access to veterinary services by submitting a Statement of Veterinary Support Form provided by LDWF.

6. All facilities where animals will be housed or maintained will be inspected by LDWF prior to receiving a WRP.

F. General Rules

1. The WRP will not exempt the holder from regulations of other state, federal, parish or municipal governments or agencies.

2. Sale of any animal held under a WRP is prohibited.

3. No animal held under a WRP may be used for human consumption, unless specifically approved.

4. No Louisiana S1-ranked species may be held under a WRP, without written authorization from the LDWF Wildlife Division.

5. No animal intended for wildlife rehabilitation may be imported into or exported out of the state of Louisiana without written authorization by LDWF Wildlife Division.

6. The WRP does not authorize the possession of white-tail deer, bears, wild turkeys or alligators unless specifically stated on the permit.

7. Request for an Extension

a. WRP holders shall not possess a non-migratory bird for more than 90 days, other injured wildlife longer than 45 days, or other orphaned wildlife no longer than required to prepare the animal for release, but not to exceed 120 days, except that a permit holder may submit a written request for extension of possession if:

i. the specified animal will likely be releasable after the time frame listed above but is currently non-releasable because of biological reasons; or

ii. a licensed veterinarian determines, due to medical reasons, the animal requires additional rehabilitation time.

b. All extension requests should include a proposed release date and be submitted in writing to LDWF Wildlife Division. The permit holder may continue to house the specified animal while LDWF is reviewing the request. LDWF will provide a written response and include specific dates and instructions regarding disposition of the animal.

8. WRP holders must ensure that animals are exposed to minimal handling and other human contact, except as necessary to maintain sanitary conditions, provide food and water, provide medical care, and prepare the animal for release.

9. Animals that are determined medically non-releasable by a licensed veterinarian, exhibit signs of adjusted life in captivity and pose minimum zoonotic disease potential may be considered for educational animal designation. A LDWF Special Purpose and Possession permit application must be submitted to LDWF Wildlife Division by the end of the 90 day rehabilitation period to be considered for educational animal status.

10. All WRPs shall expire on December 31 of the year of issue unless otherwise noted.

11. Permits are non-transferable but may include up to five listed subpermittees. Subpermittees are authorized to transport, house, and provide care for animals away from the wildlife rehabilitation facility. A person caring for animals at the wildlife rehabilitation facility is not required to be a subpermittee. WRP holders desiring to add subpermittees, must submit a subpermittee application form. Subpermittee forms will only be accepted by the LDWF at the original time of permitting, renewal and during June 1-30 each year. Individuals may be removed as subpermittees at any time of the year. A subpermittee removal form must be submitted. All subpermittees:

a. must be 18 years of age or older;

b. are exempt from the testing requirement but are subject to all other rules governing WRP holders including animal housing and care requirements;

c. must work under the direction and supervision of the WRP holder;

d. may be removed at any time by the supervising WRP holder or LDWF and in such cases must surrender any animals to the WRP holder or LDWF;

e. must have a valid subpermittee permit on the premises where animals are housed if animals are housed away from the supervising WRP holder's facility; and

f. must not transport or possess RVS species away from the supervising WRP holder's facility.

12. WRP holders are subject to non-renewal or revocation of their WRP if LDWF determines that any of

their listed subpermittees are not properly supervised or fail to abide by applicable WRP rules.

13. LDWF provides no financial or material assistance to wildlife rehabilitators.

14. Euthanasia of any animal held under a WRP is to be performed under the guidelines adopted by the American Veterinary Medical Association (AVMA).

15. Animals held under a WRP shall not be released on private land without written permission of the landowner or landowner designee. Licensed rehabilitators shall keep on file for perpetuity, an original document signed by the landowner, permitting the licensed rehabilitator to release animals upon their property. This document should include the name, address and phone number of the landowner, the physical location of the property, the size of the property (in acres), and the duration of the permission to release rehabilitated animals there. This document shall be presented upon request for review by LDWF personnel. A copy of all landowner permission documents shall be submitted to LDWF with the annual WRP report.

16. Animals held under a WRP shall not be released on public land without first obtaining written permission from the governmental entity owning or administering the property.

17. All permitted animals and facilities in which they are housed shall be maintained within the minimum standards as provided by the National Wildlife Rehabilitators Association (NWRA) and International Wildlife Rehabilitation Council (IWRC) publication of Minimum Standards for Wildlife Rehabilitation.

18. It is strongly recommended that any wildlife rehabilitator working with rabies vector species receive pre-exposure rabies immunization.

G. Reporting and Renewal Requirements

1. All animals held under a WRP must be fully documented on Wildlife Rehabilitation Report Form provided by LDWF.

2. A permanent record of each animal admitted by a permitted rehabilitator must be maintained. This record should include the name, address, phone number and email address of the person finding the animal, species, age, sex, date of admission, treatment performed, method of euthanasia if performed or date and location of release. These records must be maintained in perpetuity and must be available for inspection by LDWF personnel.

3. Wildlife Rehabilitation Report Forms for the permit period must be submitted to the LDWF no later than 30 days following the expiration of the permit and the WRP will not be renewed until these forms are received. Reports will cover the period from December 1 of the prior license year to November 30 of the current license year. Any wildlife rehabilitator who does not submit his/her report by the thirtieth day after the expiration date of the WRP, or who submits a false or materially incomplete report intentionally may be issued a citation for violation of Louisiana Wildlife and Fisheries Commission rules and regulations. If the citation does not result in a conviction, plea of guilty, or plea of no contest, the wildlife rehabilitator may be considered for reapplication upon receipt of the late wildlife rehabilitation form(s).

4. Report forms must be current and shall be available for inspection at all times by Wildlife Enforcement Agents or any other authorized representatives of the department.

5. Upon expiration of a WRP and if the WRP has not been renewed, all animals held under the permit must be disposed of by transferring to a currently licensed WRP, released into the wild, or euthanized.

H. Penalties

1. Violations of this Rule constitute a Class 2 offense.

2. Violation of these Rules may result in citation and/or revocation of the WRP.

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Constitution, Article IX, Section 7, R.S. 56:1, R.S. 56:5, R.S. 56:6 (10), and (15), and R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 36:852 (April 2010), amended LR 37:602 (February 2011).

Robert J. Barham
Secretary

1102#066

Notices of Intent

NOTICE OF INTENT

Department of Children and Family Services Division of Programs

Child Care Assistance Program—Employment and Training
(E and T) Hours (LAC 67:III.5103 and 5105)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Children and Family Services (DCFS), proposes to amend the Louisiana Administrative Code (LAC), Title 67, Part III, Subpart 12 Child Care Assistance Program (CCAP), Chapter 51, Section 5103 and Section 5105. Adoption is pursuant to the authority granted to the department by the Child Care and Development Fund (CCDF).

The department finds it necessary to increase the number of hours participants must work or attend a job training or educational program and to reduce the maximum income limit for eligibility which is based on a percentage of the State Median Income (SMI). This aligns with the department's requirement to provide core services where they are most needed.

Section 5103 is being amended to increase the required number of countable Employment and Training (E&T) hours a Training or Employment Mandatory Participant (TEMP) must work or attend a job training or an educational program, from a minimum average of 25 hours per week to a minimum average of 30 hours per week, and to reduce the maximum income limit from 75 percent of the SMI to 65 percent SMI in order for clients to be eligible for CCAP.

Section 5105 is being amended to allow the Secretary of DCFS to authorize an application "freeze" based on the lack of available child care funds to operate CCAP.

Title 67

SOCIAL SERVICES

Part III. Economic Stability and Self-Sufficiency

Subpart 12. Child Care Assistance Program

Chapter 51. Child Care Assistance Program

Subchapter A. Administration, Conditions of Eligibility, and Funding

§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. effective June 1, 2011, employed for a minimum average of 30 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 June 1, 2011, 30 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 June 1, 2011, at least 30 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 30 activity hours per week.

5. Household income does not exceed 65 percent of the state median income for a household of the same size. Income is defined as:

B.5.a. - G. ...

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 36:1278 (June 2010), amended by the Department of Children and Family Services, Division of Programs, LR 37:

§5105. Funding Availability

A. - A.3.a. ...

B. The secretary of the Department of Children and Family Services (DCFS) has the authority to implement an application "freeze" based on the lack of available child care funds to operate the Child Care Assistance Program.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and P.L. 104-193; Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:356 (February 1998), amended LR 26:2827 (December 2000), LR 30:496 (March 2004), LR 36:845 (April 2010), amended by the Department of Children and Family Services, Division of Programs, LR 37:

Family Impact Statement

1. What effect will this Rule have on the stability of the family? TEMPs will be required to work or attend job training or an educational program for more hours per week to be eligible for CCAP. However, by working these additional hours, TEMPs will earn more income that may help them become self-sufficient and better able to support the needs of their family. Due to the reduction of the maximum income limit for CCAP eligibility, households at the upper level of the current income limits will no longer be eligible for CCAP. The department's goal is to assist as many low-income families as possible so that they can remain employed or continue attending school or a job training program that will lead to self-sufficiency.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? This proposed Rule will not have an 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? Some families will no longer be eligible to receive CCAP due to the reduction of the income limit or the increase in the required number of countable E&T hours for child care paid through CCAP. It will be necessary for these families to assume a greater cost of their child care.

4. What effect will this have on family earnings and family budget? It will be necessary for families that are no longer eligible to receive CCAP due to the reduction of the income limit for CCAP to assume their cost of child care.

5. What effect will this have on the behavior and personal responsibility of children? This proposed 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 may have a slight impact on child care 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 any negative impact on child care businesses.

Public Comments

All interested persons may submit written comments through, March 29, 2011, to Sammy Guillory, Deputy Assistant Secretary, Department of Children and Family Services, Post Office Box 94065, Baton Rouge, LA, 70804-9065.

Public Hearing

A public hearing on the proposed Rule will be held on March 29, 2011, at the Department of Children and Family Services, Iberville Building, 627 N. Fourth Street, Seminar Room 1-129, Baton Rouge, LA, beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call Area Code 225-342-4120 (Voice and TDD).

Ruth Johnson
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Child Care Assistance Program Employment and Training (E and T) Hours

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This rule proposes to amend the Louisiana Administrative Code (LAC), Title 67, Part III, Subpart 12 Child Care

Assistance Program (CCAP), Chapter 51, Section 5103 and Section 5105. Adoption is pursuant to the authority granted to the department by the Child Care and Development Fund (CCDF).

The proposed rule makes amendments to CCAP program that are necessary for CCAP clients to participate in and be eligible for CCAP benefits with the available childcare funding within the department's budget. The required number of countable Employment and Training (E&T) hours are increasing from 25 hours per week to 30 hours per week and the maximum income limit for eligibility that is based on a percentage of the State Median Income (SMI) is being reduced from 75% to 65%. Also, an amendment to allow the secretary of DCFS to implement an application "freeze" based on the lack of available child care funds is being added.

As a result of these amendments DCFS estimates that an annual savings of \$1,713,419 in Federal Funds will be realized in State Fiscal Year (SFY) 2011 and \$20,561,028 Federal Funds in SFY 2012 and SFY 2013 from increasing the required number of weekly E&T hours and reducing the income limit to 65% SMI.

- \$20,561,028 year/12 months = \$1,713,419/month x 1 month = \$1,713,419/year for FY 2011.
- \$15,365,760/year + \$5,195,268/year = \$20,561,028 /year for FY 2012 and 2013.

The only cost of publishing rulemaking is estimated to be approximately \$1,000 for SFY 2010/2011 (\$500 State General Fund/\$500 Federal Child Care Block Grant funds). This is a one-time cost that is routinely covered in the Agency's budget.

There are no anticipated costs to any other state or local governmental units.

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)

Households who do not meet the 30 hours per week E&T requirement or who exceed the 65% SMI income limit for their household size will no longer be eligible for CCAP benefits. An estimated 3,752 clients whose CCAP benefits will end due to the increase in the required number of weekly E&T hours and an estimated 1,269 clients whose CCAP benefits will end due to the reduction of the income limit to 65% SMI will no longer have their child care paid for through CCAP and must find other means of payment to assist with child care assistance.

Those low-income households who are most vulnerable and need child care assistance may continue to receive CCAP and may remain employed or continue to attend school or job training which will lead to self-sufficiency, if a waiting list is not implemented.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Continuing to utilize childcare services may not be feasible for an estimated 5,021 clients to care for their children without CCAP due to the increase in the required weekly E&T hours and the reduction of the income limit to 65% SMI. These clients may lose employment or may not be able to participate in a job training or educational activity due to a lack of affordable childcare.

Sammy Guillory
Deputy Assistant Secretary
1102#073

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Children and Family Services Division of Programs Licensing Section

Class "A" Regulations (LAC 67:III.Chapter 73)

Notice is hereby given in accordance with provisions of the Administrative Procedure Act R.S. 49:950 et seq., the Department of Children and Family Services (DCFS), Division of Programs, Licensing Section proposes to amend the Louisiana Administrative Code (LAC) Title 67, Part III, Subpart 21, Chapter 73, Subchapter A. Licensing Class A Regulations for Child Care Centers.

This Rule is mandated by R.S. 46:1401 et seq. which states that periodically the department must publish the current regulations or standards for Licensing Class "A" Regulations for Child Care Centers.

This Subchapter A. Licensing Class "A" Regulations for Child Care Centers are being repealed and replaced and are being revised to supersede any previous regulations heretofore published. This Rule will become effective on August 1, 2011.

Title 67

SOCIAL SERVICES

Part III. Economic Stability and Self-Sufficiency

Subpart 21. Child Care Licensing

Chapter 73. Day Care Centers

Subchapter A. Licensing Class "A" Regulations for Child Care Centers

§7301. Purpose

A. It is the intent of the legislature to protect the health, safety, and well-being of the children of the state who are in out-of-home care on a regular or consistent basis. Toward that end, it is the purpose of Chapter 14 of Title 46 of the Louisiana Revised Statutes of 1950 to establish statewide minimum standards for the safety and well-being of children, to ensure maintenance of these standards, and to regulate conditions in these facilities through a program of licensing. It shall be the policy of the state to ensure protection of all individuals under care in child care facilities and to encourage and assist in the improvement of programs.

B. It is the further intent of the legislature that the freedom of religion of all citizens shall be inviolate. This Chapter shall not give DCFS jurisdiction or authority to regulate, control, supervise, or in any way be involved in the form, manner, or content of any curriculum or instruction of a school or facility sponsored by a church or religious organization so long as the civil and human rights of the children are not violated. In order for the State to ensure protection of children in care, it is essential that it have access to complete and accurate information regarding a facility or agency's operations. For this reason, it is of critical importance to DCFS' mission that a facility maintains and makes available for inspection at all times complete and accurate child, staff, and facility records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 37:

§7302. Authority

A. Legislative and Programmatic Provisions

1. The State of Louisiana, Department of Children and Family Services is charged with the responsibility for developing and publishing standards for the licensing of child care facilities. The licensing authority of DCFS is established by R.S. 46:1401 et seq. making mandatory the licensing of all child care facilities.

2. R.S. 46:1403 defines a child care facility as any place or facility operated by any institution, society, agency, corporation, person or persons, or any other group for the purpose of providing care, supervision, and guidance of seven or more children, not including those related to the caregiver, unaccompanied by parent or guardian, on a regular basis for at least 12.5 hours in a continuous seven-day week. Related or relative is defined as the natural or adopted child or grandchild of the caregiver or a child in the legal custody of the caregiver.

3. All child care facilities, as defined by R.S. 1401 et seq., including facilities owned or operated by any governmental, profit, nonprofit, private, or church agency, shall be licensed. Before beginning operation, it is mandatory to obtain a license from the DCFS Licensing Section.

4. If the provider arranges or provides transportation to or from the facility, either directly through its own employees and/or vehicles or indirectly by contract with third parties, all hours in which a child is being transported are included in calculating the facility's hours of operation. A facility is in operation from the moment the first child is taken into care or received onto a bus, van, or any other vehicle owned or operated, directly or indirectly, by the facility until the last child is released to the parent or individual authorized by the parent.

5. Licensure is required for a prekindergarten program approved by the Department of Education, operated by a private or public day school serving children in grades one and above, and in which all children have not reached the age of four years by September 30 of the current year.

6. Programs operated on the school premises by a non-school provider (non-profit, for-profit, community, faith-based organization, etc.) for 12.5 or more hours per week shall be licensed unless the provider has a written contract in which the school, public school district, or the Department of Education assumes regulatory responsibility and liability.

7. Programs operated by a school (public, non-public, or parochial), public school district, or a non-school provider for 12.5 or more hours per week, but not on school premises, shall be licensed.

B. Exemptions from Licensure

1. A recognized religious organization that is qualified as a tax-exempt organization under Section 501(c) of the Internal Revenue Code and does not operate more than 24 hours in a continuous seven-day week shall be exempt from licensure under the provisions of R.S. 1429.

2. In accordance with R.S. 46:141, private or public day schools serving children in grades one and above or operating kindergartens or prekindergarten programs are exempt from licensure, if the prekindergarten program is a program approved by the Department of Education, operated

by a private or public day school serving children in grades one and above, and in which all children have reached the age of four years by September 30 of the current year.

3. Schools recognized as accredited or certified as a Montessori School by the Board of Elementary and Secondary Education pursuant to R.S. 17:3401 et seq. or public Montessori schools regulated by the Department of Education are exempt from licensure.

4. Camps are exempt from licensure. Camps are programs operated only when school is not in session for the summer months and/or school holidays.

5. All care given without charge is exempt from licensure. Care given subject to an onerous or remunerative donation is not exempt from licensure.

6. Programs operating less than 12.5 hours in a continuous seven-day week shall be exempt from licensure. If the provider arranges or provides transportation to or from the facility, either directly through its own employees and/or vehicles or indirectly by contract with third parties, all hours in which a child is being transported are included in calculating the facility's hours of operation. For the purposes of this Section, a facility is in operation from the moment the first child is taken into care or received onto a bus, van, or any other vehicle owned or operated, directly or indirectly, by the facility until the last child is released to the parent or individual authorized by the parent.

7. Programs operating less than 12.5 hours per week, even if operating during the summer months and school holidays, shall be exempt from licensure.

8. Vacation Bible schools (operated on or off the same premises of a licensed day care facility) shall be exempt from licensure.

9. Before/after school programs operated by a school (public, non-public, or parochial) or a public school district for 12.5 or more hours per week on school premises shall be exempt from licensure.

10. Before/after school programs operated by a non-school provider (non-profit, for-profit, community, faith based organization, etc.) for 12.5 or more hours per week on school premises shall be exempt from licensure if the provider has a written contract in which the school, public school district, or the Department of Education assumes regulatory responsibility and liability.

C. Penalties. In accordance with LA R.S. 46:1421, whoever operates a child care facility as defined in R.S. 46:1403 without a valid license issued by DCFS shall be fined not less than \$75 per day nor more than \$250 per day for each day of operation without a license.

D. Waiver Request. In specific instances, the secretary of the DCFS may waive compliance with a minimum standard if it is determined that the economic impact is sufficiently great to make compliance impractical, as long as the health and well-being of the staff and/or children are not imperiled.

1. Standards shall be waived only when the secretary determines, upon clear and convincing evidence, that the demonstrated economic impact is sufficient to make compliance impractical for the provider despite diligent efforts, and when alternative means have been adopted to ensure that the intent of the regulation has been met ensuring the health, safety, and well being of the children served.

2. An application for a waiver shall be submitted by a provider using the Request for Waiver from Licensing

Standards form. The form shall be submitted to the DCFS Licensing Section. A request for a waiver shall provide the following information: a statement of the provisions for which the waiver is being requested, an explanation of the reasons why the provisions cannot be met and why a waiver is being requested, including information demonstrating that the economic impact is sufficiently great to make compliance impractical, and a description of alternative methods proposed for meeting the intent of the regulation sought to be waived.

3. All requests for a waiver will be responded to in writing by the DCFS secretary or designee. A copy of the waiver decision shall be kept on file at the facility and presented to licensing staff during all licensing inspections.

4. A waiver is issued at the discretion of the secretary and continues in effect at his/her pleasure. The waiver may be revoked by the secretary at any time, either upon violation of any condition attached to it at issuance, or upon occurrence of any resolutive or suspensive condition affecting the waiver, or upon failure of any of the statutory prerequisites to issuance of a waiver (i.e., the cost of compliance is no longer so great as to be impractical or the health or safety of any staff or any child in care is imperiled), or upon his/her determination that continuance of the waiver is no longer in the best interest of the DCFS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 37:

§7303. Definitions

Affiliate—

1. with respect to a partnership, each partner thereof;
2. with respect to a corporation, each officer, director and stockholder thereof;
3. with respect to a natural person:
 - a. that person and any individual related by blood, marriage or adoption within the third degree of kinship to that person;
 - b. any partnership, together with any or all its partners, in which that person is a partner; and
 - c. any corporation in which that person is an officer, director or stockholder, or holds, directly or indirectly, a controlling interest;
4. with respect to any of the above, any mandatory, agent, or representative or any other person, natural or juridical acting at the direction of or on behalf of the licensee or applicant; or
5. director of any such day care facility.

Anniversary—the last day of the month in which the original license was issued to the provider/facility and is the date by which the license is eligible for renewal each year.

Behavior Guidance—the ongoing positive process of helping children develop inner control (self regulation) so that they can manage their own behavior in an appropriate and acceptable manner by using corrective action to change the undesired behavior.

Camp—a program operated only when school is not in session for the summer months and school holidays.

Capacity—the number of children the provider is licensed to care for at any given time as determined by the Licensing Section.

Change of Location (CHOL)—change in physical address/location of the facility.

Change of Ownership (CHOW)—a transfer of ownership of a currently licensed facility that is in operation and caring for children.

Child Care Health Consultant—qualified health and safety professional approved by DHH to provide training, consultation and technical assistance to out-of-home child care facilities and early childhood education staff (and parents) on health and safety topics.

Child Care Staff—repealed.

Clock Hour—involvement or participation in a learning situation for 60 minutes.

Comparable Setting—experience working in an organized daily program with children or the operator of a registered family day home. Directors working with children less than nine years of age shall document experience with prekindergarten, kindergarten, or first grade children.

Complaint—an allegation that an owner, provider, or staff person is violating any provision of these standards or laws, or engaging in conduct, either by omission or commission, that negatively affects the health, safety, or well-being of any child for which the provider has responsibility.

Corporation—any entity incorporated in Louisiana or incorporated in another state, registered with the Secretary of State in Louisiana, and legally authorized to do business in Louisiana.

Culturally Appropriate—environments and activities that reflect home values, attitudes, and norms of children enrolled in the program as determined with input and interaction with the families that attend the program.

DCFS—Louisiana Department of Children and Family Services.

Department (DCFS)—Louisiana Department of Children and Family Services.

Developmentally Appropriate—practices that use knowledge of child development appropriate activities, materials and behavioral expectations for a specific age group.

DHH—the Department of Health and Hospitals of the State of Louisiana.

Director—refers to the director or the director designee.

1. *Director*—the staff who is responsible for the day-to-day operation, management and administration of the facility as recorded with the Licensing Section. For the purpose of these regulations, the term “director” means facility director or director designee, if applicable.

2. *Director Designee*—the individual appointed by the director to act in lieu of the director when the director is not an on-site staff person at the licensed location. This individual shall meet director qualifications.

Disqualification Period—the prescriptive period during which DCFS shall not accept an application for a provider. Any unlicensed operation during the disqualification period shall interrupt running of prescription until DCFS has verified that the unlicensed operation has ceased.

Documentation—written evidence or proof, signed and dated by the parties involved (director, parents, staff, etc.), and available for review.

Employee—a full or part-time paid staff person.

Existing Facility—a provider with a valid license at a particular location prior to the effective date of these standards.

Extra-Curricular Personnel/Therapeutic Professionals—individuals who are not employees of the facility, but who come to the facility to provide therapy, services or enrichment activities for an individual child or group of children. Individual is not required to be under the supervision of facility staff. Examples: computer instructor, dance instructor, librarian, tumble bus personnel, occupational therapist, physical therapist, speech therapist, mental health consultant, nutritionist, early interventionist, nurse, etc.

Facility—a child day care center as defined in R.S. 46:1403.

Foster Grandparents—a program organized by an agency that recruits and trains seniors to provide one-on-one attention to a child or to assist a group of children.

Full-Time—physical presence at the facility Monday through Friday for at least 32 hours.

Group Size—the number of children assigned to a caregiver or team of caregivers and recognized by both staff and children who occupy an individual classroom or well-defined space within a larger room. This space shall be divided into designated activity areas for each group using a variety of means appropriate for defining limits and reducing distraction, including but not limited to a temporary wall or physical barrier.

Individual Owner—a natural person who directly owns a facility without setting up or registering a corporation, LLC, partnership, church, university or governmental entity. The spouse of a married owner is also an owner unless the business is the separate property of the licensee acquired before his/her marriage, acquired through authentic act of sale from spouse of his/her undivided interest; or acquired via a judicial termination of the community of acquets and gains.

Juridical Person—corporation, partnership, limited-liability company, church, university or governmental entity.

License—any license issued by DCFS to operate any child care facility as defined in R.S. 46:1403;

Licensing Section—DCFS, Division of Programs, Licensing Section.

Mandated Reporter—professionals who may work with children in the course of their professional duties and who consequently are required to report all suspected cases of child abuse and neglect. This includes any person who provides training and supervision of a child, such as a public or private school teacher, teacher’s aide, instructional aide, school principal, school staff member, social worker, probation officer, foster home parent, group home or other child care institution staff member, personnel of residential home facilities, a licensed or unlicensed day care provider, any individual who provides such services to a child, or any other person made a mandatory reporter under Article 603 of the Children’s Code or other applicable law.

Medication—all drugs administered internally and/or externally, whether over-the-counter or prescribed.

Monitor—staff with specific responsibilities for assisting the driver in ensuring the safety of the children while they

ride, board, or exit the vehicle and for assisting the driver during emergencies.

Montessori School—a facility recognized as accredited or certified as a Montessori School by the Board of Elementary and Secondary Education pursuant to R.S. 17:3401 et seq. or a public Montessori School regulated by the Department of Education.

Motor Skills—refers to fine or gross motor skills.

1. *Fine*—the abilities required to control the smaller muscles of the body for writing, playing an instrument, artistic expression and craft work. The muscles required to perform fine motor skills are generally found in the hands, feet and head.

2. *Gross*—the abilities required in order to control the large muscles of the body for walking, running, sitting, crawling, and other activities. This involves the larger movements of arms, legs, feet or the entire body (crawling, running and jumping).

NR—not regulated.

Nighttime Care—care provided after 9 p.m. and prior to 5 a.m. in which no individual child remains for more than 24 hours in one continuous stay.

Non-Porous—a smooth, solid surface that limits the penetration of liquids beyond the immediate surface.

Non-Vehicular Excursion—any activity that takes place outside of the licensed area (play yard and facility), that is within a safe, reasonable walking distance and that does not require transportation in a motor vehicle. This includes walking children to and from schools.

Owner or Operator—the individual who exercises ownership or control over a child day care facility, whether such ownership/control is direct or indirect.

Ownership—the right that confers on a person direct, immediate, and exclusive authority over a thing. The owner of a thing may use, enjoy, and dispose of it within the limits and under the conditions established by law. Refers to direct or indirect ownership.

1. *Direct Ownership*—when a natural person is the immediate owner of a child day care facility, i.e., exercising control personally rather than through a juridical person.

2. *Indirect Ownership*—when the immediate owner is a juridical entity.

Partnership—includes any general or limited partnership licensed or authorized to do business in this state. The owners of a partnership are its limited or general partners and any managers thereof.

Parent—parent(s) or guardian with legal custody of the child.

Posted—prominently displayed in an area accessible to and regularly used by parents.

Prekindergarten program—a program as defined by R.S. 17:24.8.

Premises—building(s) and the land upon which the building(s) sits including but not limited to play yards and parking areas.

Provider—all owners or operators of a facility, including the director of such facility.

Reasonable Suspicion—licensing section personnel has or acquires information containing specific and articulable facts indicating that an owner, operator, or current or potential

employee or volunteer has been investigated and determined to be the perpetrator of abuse or neglect against a minor in an investigation with a justified (valid) finding currently recorded on the state central registry.

Rest Time—a daily period for children over 12 months of age during which children are placed on mats or cots or in cribs as age appropriate.

Safety Interventions—an immediate time limited plan to control the factor(s) that may result in an immediate or impending serious injury/harm to a child(ren).

School Age—a child who is at least five years of age.

Shall or Must—mandatory.

Should—urged, advised or may.

Signature—the act of signing one's full given name, to include at a minimum their first and last name acknowledging that some first names are only an initial.

Special Needs Child—a child who has a chronic physical, developmental, behavioral, or emotional condition and who also requires assistance beyond that generally required by a child to perform tasks that are within the typical chronological range of development, including but not limited to movement of large or small muscles, learning, talking, communicating, self-help, social development, emotional development, seeing, hearing, and breathing.

Staff—all full or part-time paid or unpaid staff who perform services for the child care facility and have direct or indirect contact with children at the facility. Facility staff includes the director and any other employees of the facility including, but not limited to the cook, housekeeper, driver, substitutes, custodian, secretary, bookkeeper and foster grandparents excluding extra-curricular personnel.

Staff-In-Charge—the on-site staff appointed by the director as responsible for supervising the operation of the facility during the temporary absence of the director.

State Central Registry—repository that identifies any individual reported to have a justified (valid) finding of abuse or neglect of a child or children by DCFS.

Student Trainee—an individual at least 16 years of age in the facility as an educational course requirement, and is never left alone with children, nor counted in the child/staff ratio.

Supervision—the function of observing, overseeing, and guiding a child and/or group of children. This includes awareness of and responsibility for the ongoing activity of each child and being near enough to intervene if needed. It requires physical presence, accountability for their care, knowledge of activity requirements, and knowledge of the children's abilities and needs.

Temporary Absence—absence for errands, conferences, minor illnesses, etc.

Time-Out—a technique for temporarily separating a child where inappropriate behavior has occurred, and is intended to give a child time to calm down, thereby discouraging such behavior.

Transportation—the arranging or providing transportation of children (whether facility-provided, parent-provided or contract-provided) for any reason, including daily transportation, transportation for field trips or transportation for any other activity that takes place away from the licensed facility.

Unlicensed Operation—operation of any child care facility as defined by R.S. 14:403 at any location, without a valid, current license issued by DCFS.

Use Zone—the surface under and around a piece of equipment onto which a child falling from or exiting from the equipment would be expected to land. These areas are also designated for unrestricted circulation around the equipment.

Visitor—anyone who enters the facility other than an enrolled or prospective child's parent, facility staff, therapeutic professionals, extracurricular personnel, and in the case of a church or school, any other routine employees, including but not limited to a pastor, principal, teacher, etc. who are never left alone with children.

Volunteer—a full or part-time non-paid staff person.

Water Activity—a water related activity in which children are in, on, near and accessible to, or immersed in, a body of water, including but not limited to a swimming pool, wading pool, water park, river, lake, beach, etc.

Water Play Activity—a water-related activity in which there is no standing water, including but not limited to fountains, sprinklers, water slip and slides, water tables, etc.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 37:

§7304. General Provisions

A. Anyone applying for a license after the effective date of these standards shall meet all of the requirements herein, unless otherwise stated.

B. Any owner/owners of a child day care facility shall provide documentation of a satisfactory criminal record check, as required by R.S. 46:51.2 and 15:587.1. A copy of the criminal background check shall be submitted for each owner of a facility with an initial application, a change of ownership (CHOW) application, a change of location (CHOL) application, and/or an application for renewal for a child day care license. No person with a criminal conviction of a felony, or a plea of guilty or nolo contendere of a felony, or plea of guilty or nolo contendere to any offense included in 15:587.1, 14:2, or 15:541, or any offense involving a juvenile victim, shall directly or indirectly own, operate, or participate in the governance of a child care facility. In addition, an owner, a director, or a director designee shall not have a conviction of, or plea of guilty or nolo contendere to any crime in which an act of fraud or intent to defraud is an element of the offense.

1. The following is a listing of individuals by organizational type who are required to submit documentation of a satisfactory criminal background clearance:

- a. Individual ownership—individual and spouse
- b. Partnership—all limited or general partners and managers as verified on the Secretary of State's website
- c. Head Start—individual responsible for supervising center directors
- d. Church owned, governmental entity, or university owned—any clergy and/or board member that is present in the facility during the hours of operation or when children are present

e. Corporation—any individual who has 25 percent or greater share in the business or any individual with less than a 25 percent share in the business and performs one or more of the following functions:

- i. has unsupervised access to the children in care at the facility;
- ii. is present in the facility during hours of operation;
- iii. makes decisions regarding the day-to-day operations of the facility;
- iv. hires and/or fires child care staff including the director/director designee;
- v. oversees child care staff and/or conducts personnel evaluations of the child care staff; and/or
- vi. writes the facility's policies and procedures.

NOTE: If an owner has less than a 25 percent share in the business and does not perform one or more of the functions listed above in Section 7304.B.5.a-f, a signed, notarized attestation form is required in lieu of a criminal background clearance. This attestation form is a signed statement from the owner acknowledging that he/she has less than a 25 percent share in the business and that he/she does not perform one or more of the aforementioned functions as an owner.

C. A license shall be valid only for the address on the license to a particular owner and is not transferable to another person/owner or location or subject to sale. Any change of ownership or change of location automatically renders the license null and void. A change of ownership of the property on which the licensed facility is located shall not affect the license; however, loss of the right to use the premises by the licensee (whether through eviction, termination of lease, etc.) shall void the license as provided above.

D. A new application shall not be processed if an application or license is currently on file with the Licensing Section for the same location, with the exception of a change of ownership application.

E. Two licenses shall not be issued simultaneously for the same physical address. All child care provided at a physical address shall be included under one license. If a facility operates summer and/or holiday camps at the same location, such care shall be included under the same license for that location.

F. Providers applying for State and/or Federal funding shall apply for a Class A license.

G. Licensure fees shall be paid by all providers.

H. The provider shall allow representatives of DCFS access to the facility, the children, and all files and records at any time during hours of operation and/or anytime a child is present. DCFS staff shall be allowed to interview any staff member or child as determined necessary by DCFS. DCFS representatives shall be admitted immediately and without delay, and shall be given free access to all areas of a facility, including its grounds. If any portion of a facility is set aside for private use by the facility's owner, DCFS representatives shall be permitted to verify that no child is present in that portion and that the private areas are inaccessible to children. If as a result of a preliminary investigation, or other DCFS inspection, DCFS determines that one or more safety issues exists, DCFS may require implementation of a safety intervention plan. In such a case, the provider shall cooperate and adhere to any written safety intervention as determined, enumerated, and mandated by DCFS staff.

I. Whenever DCFS is advised or has reason to believe that any person, agency, or organization is operating a non-exempt child care facility without a license, DCFS shall conduct an investigation to ascertain the facts. If necessary, DCFS may apply for an administrative search warrant to obtain entry.

J. Whenever DCFS is advised or has reason to believe that any person, agency, or organization that holds a license or has applied for a license is operating in violation of the Child Care Facility Class A Minimum Standards, DCFS shall conduct an investigation to ascertain the facts. All reports of mistreatment of children coming to the attention of DCFS will be investigated.

K. Once a child day care provider has been issued a license, DCFS shall conduct licensing inspections at intervals (not to exceed one year) deemed necessary by DCFS to determine compliance with licensing standards, as well as other required statutes, laws, ordinances, rules, and regulations. These inspections shall be unannounced.

L. Documentation of the previous 12 months' activity shall be available for review by DCFS staff during inspections to the facility. Records shall be accessible during the hours the facility is open and operating.

M. For licensing purposes, children's information shall be kept on file at the facility for a minimum of one year from the child's date of discharge from the facility and personnel records shall be kept on file at the facility for a minimum of one year from separation of employment from the facility.

N. For licensing purposes, copies of staff training certificates and continuing education certificates shall be kept on file for a minimum of three years for currently employed staff. Originals shall be available upon request.

O. All new construction to a currently licensed facility or renovation requires approval from the Office of State Fire Marshal, Office of Public Health and City Fire (if applicable), and the Licensing Section prior to occupying the new space.

P. The Licensing Section is authorized to determine the period during which the license shall be effective. A license is valid for the period for which it is issued unless it is modified, extended, revoked, suspended, or terminated.

Q. Providers and child care staff shall not permit an individual convicted of a sex offense as defined in R.S. 15:541 to have physical access to a child day care facility as defined in R.S. 46:1403.

R. The owner or director of a child day care facility shall be required to call and notify law enforcement agencies and the Licensing Section management staff if a sex offender is on the premises of the child day care facility or within 1000 feet of the child day care facility. The Licensing Section management staff shall be contacted immediately. The verbal report shall be followed by a written report to the Licensing Section within 24 hours.

S. Provider shall register the facility's information with the Louisiana State Police Sex Offender Registry Search at www.lsp.org to receive updates if/when a sex offender moves within two miles of the child care facility. Such knowledge allows the provider to be fully aware of the individuals in close proximity to the facility. Notices of

offenders shall be maintained in a place that is accessible to staff for easy viewing.

T. The provider shall notify Licensing Section in writing of a temporary closure of facility (closure of more than 14 calendar days but less than 30 calendar days) within one day of closure of the facility.

U. The provider shall notify Licensing Section in writing of a permanent closure of facility (closure of more than 30 calendar days) within one day of closure of the facility.

V. Capacity shall be determined when the following is received and approved by Licensing Section:

1. Current Office of State Fire Marshal approval; current City Fire approval (if applicable); current Office of Public Health approval; local zoning approval (if applicable);

2. documentation of insurance coverage; and a measurement of the provider's indoor and enclosed adjoining outdoor play space by licensing staff.

W. Upon the effective date of these regulations, provider shall register the facility's current email address with the Licensing Section. Provider shall maintain a current email address and notify the Licensing Section immediately on a change request form upon a change in such address. All communication from the Licensing Section will be sent via email to the provider.

X. Providers shall include a mailing address and physical address of the facility's director, director designee, and owners. It shall be the responsibility of the facility's director, director designee, and the facility's owners to notify the Licensing Section in writing of any change of address. All addresses shall include any suite number, apartment number, or other information necessary to locate the physical premises for both mail delivery and/or service of process. A file may be closed if the applicant/licensee, the director, or the facility's owner/owners has moved and failed to notify the Licensing Section of the new address prior to the move. Return/refusal of mail, whether certified or other, and/or failure of hand delivery sent to the current physical address on file with the Licensing Section shall constitute proof that provider has moved and failed to notify the Licensing Section as required. When any notice is returned and the Licensing Section is unable to contact the applicant/licensee, the file shall be closed immediately.

Y. Directors shall register all existing staff with "Louisiana Pathways Child Care Career Development System" within 30 calendar days of the effective date of these regulations and all new hires within 30 calendar days of employment.

Z. DCFS may request that any staff left alone with or having supervisory or disciplinary authority over children provide a statement from a physician that the individual is physically able to care for children.

AA. Any situation that violates the spirit of these regulations and/or is deemed unsafe for the children, even though it may not be specifically mentioned as forbidden, is prohibited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 37:

§7305. Procedures

A. Initial Application Process

1. An application for licensure for a child care facility shall be obtained from DCFS:

Department of Children and Family Services
Licensing Section
P.O. Box 3078
Baton Rouge, LA 70821-3078
Phone: (225) 342-9905
FAX: (225) 342-9690
Web address: www.DCFS.louisiana.gov

2. After the facility's location has been established, a completed licensing packet shall be forwarded to the Licensing Section. A completed initial licensing packet shall include:

- a. completed application form with a \$25 money order or certified check made payable to DCFS – Licensing Section;
- b. local zoning approval, if applicable;
- c. list of all staff to include name, contact information, and responsibilities;
- d. a sketch or drawing of the premises, including buildings and enclosed play area, to be licensed;
- e. documentation of completion of orientation for providers not holding a current child care license at any location;
- f. articles of incorporation if the facility is owned by a corporation;
- g. documentation that director meets qualifications;
- h. documentation that director designee meets qualifications (if applicable);
- i. documentation of a satisfactory criminal record clearance for all owners, directors, and director designees (if applicable); and
- j. documentation of completed state central registry disclosure forms noting no justified (valid) findings of abuse and/or neglect for all owners, directors, and director designees (if applicable).

3. If the initial licensing packet is incomplete, the applicant will be notified of the missing information and will have ten business days to submit the additional requested information. If DCFS does not receive the additional information within the ten business days, the application will be closed and application fee forfeited.

4. Once DCFS has determined that the initial licensing packet is complete, DCFS will attempt to contact the applicant to schedule an initial inspection. However, it is the applicant's responsibility to coordinate the initial inspection. If the applicant fails to coordinate the initial inspection within 45 calendar days of receipt of the complete initial licensing packet, the initial licensing application shall be closed and the application fee shall be forfeited.

5. If DCFS fails to conduct the initial inspection within 90 calendar days of receipt of the completed licensing packet due to reasons beyond the provider's control, the initial licensing application shall not be closed.

6. After an initial licensing application is closed, an applicant who is still interested in becoming a child care provider shall submit a new initial licensing packet.

7. After the completed initial licensing packet has been received by the Licensing Section, DCFS will notify the Office of State Fire Marshal, Office of City Fire Department (if applicable), Office of Public Health, and any known required local agencies that an application for

licensure has been submitted. However, it is the applicant's responsibility to request and obtain these inspections and approvals.

8. An initial licensing inspection, including a measurement of the indoor and outdoor enclosed space, shall be conducted on-site at the facility to assure compliance with all licensing standards. However, if the provider is in operation in violation of the law, the licensing inspection shall not be conducted. In these instances, DCFS shall pursue legal remedies and the application may be denied.

9. In the event that the initial licensing inspection finds that the child care provider is compliant with all licensing laws and standards and is compliant with all other required statutes, laws, ordinances, rules, regulations, and fees, DCFS may issue a license to the provider. The license shall be valid until the expiration date shown on the license, unless the license is modified, extended, revoked, suspended, or terminated.

10.a. In the event that the initial licensing inspection finds that the child care provider is not in compliance with all licensing standards, with the exception of the following standards, DCFS may deny the initial application:

- i. Office of State Fire Marshal approval;
- ii. City Fire approval (if applicable);
- iii. Office of Public Health approval;
- iv. three current, signed references on director attesting affirmatively to his/her character, qualifications, and suitability to care and supervise children;
- v. three current, signed references on director designee (if applicable) attesting affirmatively to his/her character, qualifications, and suitability to care and supervise children;
- vi. documentation of a satisfactory criminal record clearance for all staff;
- vii. documentation of completed state central registry disclosure forms noting no justified (valid) finding of abuse and/or neglect for all staff;
- viii. documentation of insurance coverage for the facility and children;
- ix. documentation of insurance coverage for vehicle(s) if requesting to provide this service.

b. The application may be denied if the above documentation is not received within 90 calendar days of receipt of the completed initial application packet.

11.a. DCFS shall notify the provider of the additional licensure fee due based on the capacity as listed below. The fee shall be received within 90 calendar days of the receipt of the completed initial application packet.

15 or fewer:	\$25
16-50:	\$100
51-100:	\$175
101 or more:	\$250

b. The initial application fee of \$25 will be applied toward the total licensure fee above that is determined by the provider's licensed capacity and due prior to licensure of the provider.

B. Fees and Notification of Changes

1. All fees shall be paid by certified check or money order made payable to DCFS - Licensing Section and are non-refundable.

2. Annual licensure fees are required prior to renewal of the license. License fee schedules (based on capacity) are listed below:

15 or fewer:	\$25
16-50:	\$100
51-100:	\$175
101 or more:	\$250

3. A fee of \$5 is required to issue a duplicate license with no changes.

4. The provider shall notify the Licensing Section on a change request form prior to making changes to facility operations. For changes that require the issuance of a new replacement license, the provider shall be required to submit a change fee of \$25 in addition to the change request form. There is no fee charged when the request is noted on the renewal application; however, the change shall not be effective until the first day of the month following the expiration of the current license. No fee is required to remove a service or reduce the capacity on a license.

a. Capacity increase is effective when the following are received and approved by the Licensing Section: completed change request form; \$25 change fee; additional fee based on capacity (if applicable); current Office of the State Fire Marshal approval for new space; current Office of Public Health approval for new space; current City Fire approval for new space (if applicable); documentation of insurance coverage; and measurement of the additional space by the Licensing Section. New space shall not be utilized until approval has been granted by the Licensing Section.

b. Transportation addition is effective when the following is received and approved by the Licensing Section: completed change request form; \$25 change fee; copy of appropriate driver's license(s) for all staff providing transportation; documentation of current vehicle insurance coverage; and transportation contract (if applicable), as required by Section 7336.

c. Name change is effective when the following is received by the Licensing Section: completed change request form; and \$25 change fee.

d. Age range change is effective when the following is received and approved by the Licensing Section: completed change request form; and \$25 change fee. Licensing Section shall verify provider has appropriate equipment and materials for the ages of children requesting to be served prior to approving the request.

e. Night time care is effective when the following is received and approved by the Licensing Section: completed change request form; and \$25 change fee. Licensing Section shall verify that the provider has equipment appropriate for night time care prior to approving the requested change.

f. Change of provider's hours/months/days of operation with the exception of night time care is effective upon receipt of the completed change request form.

g. Change in director/director designee is effective when the following is received and approved by the Licensing Section: completed change request form; documentation of director/director designee qualifications as noted in Section 7311.B; and three signed, dated letters of reference attesting affirmatively to his/her character, qualifications, and suitability to care and supervise children.

C. Change of Location (CHOL)

1. When a provider decides to change the physical location of the facility, it is considered a new operation and a new license is required prior to opening. The license at the existing location shall not transfer to the new facility.

2. After the facility's new location has been determined, a complete licensing packet shall be submitted to the Licensing Section. A complete CHOL licensing packet shall include:

a. completed application form with a \$25 money order or certified check made payable to DCFS – Licensing Section;

b. local zoning approval (if applicable);

c. list of staff to include name, contact information, and responsibilities;

d. documentation of a satisfactory criminal record clearance for all owners;

e. documentation of completed state central registry disclosure forms noting no justified (valid) finding of abuse and/or neglect for all owners, or documentation from the risk evaluation panel or Division of Administrative Law noting that the individual does not pose a risk to children;

f. a sketch or drawing of the premises, including buildings and enclosed play area, to be licensed;

g. documentation that director meets qualifications;

h. documentation that director designee meets qualifications (if applicable);

i. three current, signed references on director attesting affirmatively to his/her character, qualifications, and suitability to care and supervise children;

j. three current, signed references on director designee (if applicable) attesting affirmatively to his/her character, qualifications, and suitability to care and supervise children; and

k. documentation of insurance coverage for vehicle if requesting to provide this service.

3. If the CHOL licensing packet is incomplete, the applicant will be notified of the missing information and will have ten business days to submit the additional requested information. If DCFS does not receive the additional requested information within the 10 business days, the CHOL application will be closed and the fee forfeited.

4. Once DCFS has determined that the change of location licensing packet is complete, DCFS will attempt to contact the applicant to schedule a CHOL inspection; however, it is the applicant's responsibility to coordinate the CHOL inspection. If the applicant fails to coordinate the CHOL inspection within 45 calendar days of receipt of the complete CHOL licensing packet, the CHOL application shall be closed and the fee forfeited.

5. If DCFS fails to conduct the CHOL inspection within 90 calendar days of receipt of the completed CHOL application due to reasons beyond the provider's control, the CHOL application shall be not closed.

6. After a CHOL application is closed, an applicant who is still interested in moving to a new location shall submit a new CHOL licensing packet to restart the CHOL licensing process.

7. The following shall be submitted to the Licensing Section prior to a license being issued:

a. current Office of State Fire Marshal approval;

b. current City Fire approval (if applicable);

- c. current Office of Public Health approval;
- d. full licensure fee;
- e. proof of transfer of insurance coverage for facility; and
- f. licensure inspection verifying compliance as noted in Section 7305.C.9.

8. CHOL inspection will be conducted between the old and new location to determine compliance with all regulations.

9. All requirements shall be met at the new location with the exception of:

a. Equipment being transferred. A list of all equipment being transferred from currently licensed location to the new location shall be provided to licensing staff at the time of inspection.

b. Personnel and children's records that will be transferred. After closure of the old location and prior to the children being present at the new location, all equipment and personnel/children's records noted above shall be transferred to the new location.

10. Care shall not be provided at both locations.

11. The license for the new location may be issued upon receipt of all items listed in Section 7305.C.7 with the approval of DCFS, but not prior to the first day operations will begin at the new location.

12. The license for the old location shall be closed on the last day care was provided at that location, but no later than the effective date of the new location's license. Provider shall submit documentation noting the last day care will be provided at the old location.

D. Temporary Change of Location

1. If a currently licensed facility closes due to reasons approved by DCFS, including but not limited to fire on the childcare premises and/or structural damage to the facility, and the provider chooses to relocate the children to a temporary location until repairs have been made, it is considered a new operation and a new license is required prior to opening.

2. The license at the existing location shall not transfer to the temporary facility. The license shall be closed on the last day care was provided at that location. Any change of location, however temporary, automatically renders the current license null and void.

3. The following shall be submitted to the Licensing Section prior to occupying the temporary facility and a license being issued:

- a. change of information form;
- b. \$25 application fee;
- c. Office of the State Fire Marshal approval;
- d. Office of Public Health approval;
- e. City Fire approval (if applicable);
- f. local zoning approval (if applicable);
- g. proof of insurance coverage for facility;
- h. list of staff to include name, contact information and responsibilities;
- i. licensure inspection verifying all indoor and outdoor areas are free of hazards and/or unsafe conditions; and
- j. a measurement of the provider's indoor and enclosed adjoining outdoor play space (if applicable) by licensing staff to determine facility capacity and additional licensure fee based on capacity. The application fee of \$25

will be applied toward the total licensure fee noted below that is determined by the provider's licensed capacity and due prior to licensure of the provider.

15 or fewer:	\$25
16-50:	\$100
51-100:	\$175
101 or more:	\$250

4. If applicable, provider shall be allowed to transfer equipment, personnel, and children's records from the currently licensed location to the temporary location to be reviewed by the licensing staff at the time of inspection.

5. The license for the new location may be issued upon receipt of all items listed above with the approval of DCFS; however, the temporary license shall not extend beyond 90 calendar days.

6. The Licensing Section shall be notified in writing, within 30 calendar days of obtaining the license for the temporary location, of the expected timeframe upon which the provider expects to be able to return to the original location.

7. In order for a license to be issued for the previous location and the previous location occupied, the provider shall submit the following:

- a. change of information form;
- b. \$25 application fee;
- c. a sketch or drawing of the premises, including buildings and enclosed play area, to be relicensed;
- d. Office of the State Fire Marshal approval;
- e. Office of Public Health approval;
- f. City Fire approval (if applicable);
- g. local zoning approval (if applicable);
- h. proof of insurance coverage for facility;
- i. licensure inspection verifying compliance with the minimum standards;
- j. a measurement of the provider's indoor and enclosed adjoining outdoor play space by licensing staff to determine facility capacity and additional licensure fee based on capacity.

8. DCFS shall notify the provider of the additional licensure fee due based on the capacity as listed below. The fee shall be received prior to the license being issued. The application fee of \$25 will be applied toward the total licensure fee noted below that is determined by the provider's licensed capacity and due prior to licensure of the provider.

15 or fewer:	\$25
16-50:	\$100
51-100:	\$175
101 or more:	\$250

E. Change of Ownership (CHOW)

1. Any of the following constitutes a change of ownership:

- a. change in the federal tax id number;
- b. change in the state tax id number;
- c. change in profit status;
- d. any transfer of the child care business
- e. from an individual or juridical entity to any other individual or juridical entity; and/or

- f. addition of an individual to the
- g. existing ownership on file with the Licensing Section.

2. Although the following does not constitute a change of ownership for licensing purposes; a change of information form is required. The change of information form shall be submitted to the Licensing Section within 10 business days.

a. If individual ownership, upon death of the spouse and execution of the estate, if the surviving spouse remains as the only owner.

b. If individual ownership, undergoing a separation or divorce until/or upon a judicial termination of the community aquets and gains, signed by both parties.

c. Changes in board members for churches, corporations, limited liability companies, universities, or governmental entities.

d. Any removal of a person from the existing organizational structure under which the child day care facility is currently licensed.

F. Change of Ownership (CHOW) Procedures

1. When a facility changes ownership, the current license is not transferable. Prior to the ownership change and in order for a license to be issued, the new owner shall submit a CHOW application packet containing the following:

a. a completed application and full licensure fee as listed in Section 7305.B.2 based on current licensed capacity or requested capacity, whichever is less;

b. current Office of State Fire Marshal approval;

c. current Office of Public Health approval;

d. current City Fire approval (if applicable);

e. documentation of director qualifications as listed in Section 7311;

f. letter from previous owner noting intention to sell the child care business and the proposed date of the sale;

g. documentation of director designee qualifications as listed in Section 7311;

h. three current, signed references on the director attesting affirmatively to his/her character, qualifications, and suitability to care and supervise children;

i. three current, signed references on director designee (if applicable) attesting affirmatively to his/her character, qualifications, and suitability to care and supervise children;

j. copy of the bill of sale (if applicable);

k. documentation of facility's insurance coverage under new ownership;

l. documentation of insurance coverage for vehicle if requesting to provide this service under new ownership;

m. documentation of a satisfactory criminal record clearance for all owners and staff (the prior owner's documentation of satisfactory criminal background checks is not transferrable);

n. documentation of completed state central registry disclosure forms noting no justified (valid) findings of abuse and/or neglect for all owners and staff or documentation from the risk evaluation panel or Division of Administrative Law that the individual does not pose a risk to children;

o. a sketch or drawing of the premises including classrooms, buildings and enclosed play area; and

p. a list of staff to include name, contact information, and responsibilities.

2. If the above information is not received prior to the sale or day of the sale, the new owner must not operate until a license is issued. The application will be treated as an initial application rather than a change of ownership application.

3. The prior owner's current Office of State Fire Marshal and Office of Public Health approvals are only transferrable for three months. The new owner shall obtain approvals dated after the effective date of the new license from these agencies within 90 calendar days. The new owner will be responsible for forwarding the approval or extension from these agencies to the Licensing Section.

4. A licensing inspection shall be conducted within 60 calendar days to verify that the minimum standards are in compliance. At this time, licensing staff shall complete a measurement of the facility and enclosed, outdoor play yard. Upon review of the space, the capacity of the facility may be reduced or increased.

5. The following personnel information shall be updated under the new ownership within 10 business days of the effective date of the new license:

a. an application and/or a staff information form as required in Section 7310.B.1;

b. job description as required in Section 7310.B.4; and

c. orientation as required in Section 7312.A.1-4.

6. The following children's information shall be updated under the new ownership within 10 business days of the effective date of the new license:

a. child's information form as required in Section 7308.A.1;

b. a written authorization signed and dated by the parent to secure emergency medical treatment as required in Section 7308.A.2;

c. a written authorization signed and dated by the parent noting the first and last names of individuals to whom the child may be released other than the parent(s), including any other child care facilities, transportation services, or any person or persons who removes the child from the facility as required in Section 7308.A.3;

d. a written statement from the child's parent when the child is on a modified diet for religious reasons as required in Section 7308.A.5;

e. the provider shall obtain written informed consent from the parent prior to releasing any information, recordings, or photographs from which the child might be identified, except for authorized state and federal agencies as required in Section 7308.B; and

f. the provider utilizing any type of recordings or taping of children, including but not limited to digital recordings, videotaping, audio recordings, web cam, security monitoring, etc., shall obtain documentation signed and dated by the parent indicating their awareness of such recordings/monitoring and its potential uses as required in Section 7308.C.

G. Class Change

1. When a provider requests to change class type from B to A, the following information shall be submitted to the Licensing Section prior to the issuance of the new license:

- a. a completed application and full licensure fee based on current capacity or requested capacity, whichever is less;
- b. documentation of current insurance coverage in accordance with Section 7306.D and Section 7333.I. and J;
- c. documentation of director qualifications as listed in Section 7311;
- d. documentation of director designee qualifications (if applicable) as listed in Section 7311;
- e. three current, signed references on the director attesting affirmatively to his/her character, qualifications, and suitability to care and supervise children; and
- f. three current, signed references on director designee (if applicable) attesting affirmatively to his/her character, qualifications, and suitability to care and supervise children.

2. When a facility changes class type, the facility's anniversary will change to the month in which the new license is issued.

H. Relicensing

1. The annual relicensing inspection is similar to the initial licensing inspection. Documentation of the previous 12 months' activities shall be available for review. The director will have an opportunity to review the inspection deficiencies (if any) in consultation with licensing staff. If the director is not present at the facility or is unable or unwilling to review the inspection deficiencies, the licensing staff shall review them with any staff of the facility. If licensing staff is unable to conduct such a review due to the absence or refusal of staff to participate, the licensing staff shall leave a copy of the deficiencies at the facility, and this shall constitute notice of the deficiencies to the facility and its owners and/or director.

2. When submitting the application for renewal of the license, the provider shall submit a copy of the satisfactory criminal background check for every owner.

3. Each provider is solely responsible for obtaining forms to apply for the renewal of the license. Providers are encouraged to submit their renewal application and full licensure renewal fee prior to the first day of the month in which the license expires. However, if the application and fee are not received on or postmarked by the last day of the month in which the license expires, the license cannot be renewed and expires. The provider is required to cease operation at the close of business by the expiration date noted on the license.

I. Required Notification. Within 24 hours or on the next business day, the director shall verbally notify Licensing Section management staff of the following reportable incidents. The verbal report shall be followed by a written report within 24 hours:

- 1. death of a child while in the care of the provider;
- 2. illness or injury requiring hospitalization or professional medical attention of a child while in the care of the provider;
- 3. fire on the child care premises;
- 4. structural damage to the facility;
- 5. any emergency situation that requires sheltering in place, implementation of facility lock-down procedures, and/or temporarily relocating children;
- 6. any extended loss of power, water service, gas, etc., while children are in care;

7. any child leaving the facility and/or play yard unsupervised or with an unauthorized person;

8. any child left unsupervised in the facility, on the van, play yard, and/or on a field trip;

9. any child given the wrong medication or an incorrect dosage; and

10. any serious and unusual situation that affects the safety and/or well-being of a child or children in the care of the provider.

J. State Central Registry—Conditions for Owners, Operators, Employees and Volunteers—General

1. Any owner, operator, current or prospective employee, or volunteer of a child care facility requesting licensure by DCFS and/or a child care facility licensed by DCFS is prohibited from working in a child care facility if the individual discloses, or information is known or received by DCFS, that the individual's name is recorded on the state central registry (SCR) as a perpetrator for a justified (valid) finding of abuse or neglect of a child, unless there is a finding by the risk evaluation panel or a ruling by the Division of Administrative Law that the individual does not pose a risk to children.

2. This information shall be reported at the time of application, annually, at any time upon the request of DCFS, and within three business days of any such individual receiving notice of a justified (valid) determination of child abuse or neglect.

3. State central registry disclosure forms, documentation of any disposition of the risk evaluation panel and, when applicable, the Division of Administrative Law ruling shall be maintained in accordance with current DCFS licensing requirements and shall be available for review by DCFS personnel during the facility's hours of operation. This information shall be kept on file for a minimum of one year from termination of the employee or volunteer from the facility.

4. Any information received or knowledge acquired that a current or prospective owner, operator, volunteer, employee, prospective volunteer, or prospective employee has falsified a state central registry disclosure form stating that they are not currently recorded as a perpetrator with a justified (valid) determination of abuse or neglect shall be reported in writing to a Licensing Section management staff as soon as possible, but no later than the close of business on the next business day.

5. Any state central registry disclosure form, risk evaluation panel finding, and Division of Administrative Law ruling that is maintained in a child care facility licensing file shall be confidential and subject to the confidentiality provisions of R.S. 46:56(F) pertaining to the investigations of abuse and neglect.

K. State Central Registry—Conditions for Owners, Operators, Employees, and Volunteers Hired Prior to January 1, 2010

1. An individual owning, operating, employed by, or volunteering in a child care facility, licensed by DCFS, prior to January 1, 2010, shall be required to complete a state central registry disclosure form on or before February 1, 2010.

2. The owner, operator, and current employee/volunteer of the licensed child care facility shall complete, sign, and date the state central registry disclosure

form. The current employee/volunteer shall submit the disclosure form to the owner or operator of the facility. The owner or operator shall also be required to provide documentation of his or her state central registry disclosure form.

3. Any current employee/volunteer hired prior to January 1, 2010, who discloses that their name is recorded on the state central registry with a justified (valid) finding of abuse or neglect, or through reasonable suspicion as the result of information known or received by DCFS, will have 10 calendar days from completion of the state central registry disclosure form to request a risk assessment evaluation in accordance with Louisiana Administrative Code 67:I.305 or shall be terminated immediately.

a. As a condition of continued employment, the employee/volunteer shall be directly supervised by another paid employee of the facility, who has not disclosed that their name appears with a justified (valid) finding on the state central registry. Under no circumstances may the staff person with the justified finding be left alone and unsupervised with the children pending the disposition of the risk evaluation panel that they do not pose a risk to children. When these conditions are met, the employee/volunteer may be counted in child staff ratio.

b. If the risk evaluation panel finds the individual does pose a risk to children and the individual chooses not to appeal the finding, the employee/volunteer shall be terminated immediately.

c. If the risk evaluation panel finds the individual does pose a risk to children and the individual appeals the finding to the Division of Administrative Law within the required timeframe, the employee/volunteer shall continue to be under direct supervision at all times by another paid employee of the facility who has not disclosed that they have a justified finding on the state central registry until a ruling by the Division of Administrative Law that they do not pose a risk to children. Supervision may end upon receipt of the ruling from the Division of Administrative Law that they do not pose a risk to children.

d. If the Division of Administrative Law upholds the risk evaluation panel finding that the individual does pose a risk to children, the individual shall be terminated immediately.

L. Individuals owning, operating, employed by, volunteering after January 1, 2010. (Initial application or prospective employee/volunteer)

1. After January 1, 2010, any prospective owner, operator, or prospective employee/volunteer of a child care facility requesting licensure by DCFS and/or the child care facility licensed by DCFS shall be required to complete a state central registry disclosure form. This information shall be reported at the time of application, annually, at any time upon the request of DCFS, and within three business days of any such individual receiving notice of a justified (valid) determination of child abuse or neglect.

2. The prospective employee/volunteer of a child care facility requesting licensure by DCFS and/or licensed child care facility shall complete, sign, and date the state central registry disclosure form. The prospective employee/volunteer shall submit the disclosure form to the owner or operator of the facility. The owner or operator shall

also be required to provide documentation of his or her state central registry disclosure form.

a. If a prospective operator or employee/volunteer discloses that his or her name is currently recorded as a perpetrator on the state central registry, the child care facility representative/prospective employer shall inform the applicant they will not be considered for employment or volunteer duties at that time due to the state central registry disclosure and the child care facility representative/prospective employer will provide the prospective employee/volunteer with the request for a risk evaluation panel form (SCR 2).

b. Individuals are eligible for employment/volunteer services if and when they provide written documentation from the Risk Evaluation Assessment Panel or the Division of Administrative Law noting that they do not pose a risk to children.

M. Denial, Revocation or Non-Renewal of License. An application for a license may be denied, a license may be revoked, or a license renewal may be denied for any of the following reasons:

1. violation of any provision of R.S. 46:1401 et seq. or failure to meet any of the minimum standards, rules, regulations, or orders promulgated by the DCFS;

2. disapproval from any agency whose approval is required for licensure;

3. disqualification from the DCFS Child Care Assistance Program due to an intentional program violation;

4. disqualification from participation in another state agency's program;

5. presence of an individual with a justified (valid) finding of child/abuse neglect not being directly supervised by another paid employee of the facility, who has not disclosed that their name appears with a justified (valid) finding on the state central registry prior to a determination by the risk evaluation panel or Division of Administrative Law that the individual does not pose a risk to children;

6. presence of an individual on the child care premises with a ruling by the risk evaluation panel that the individual poses a risk to children and the individual has not requested an appeal hearing by the Division of Administrative Law within the required timeframe;

7. presence of an individual on the child care premises with a ruling by the Division of Administrative Law that the individual poses a risk to children;

8. continued employment or ownership of or by any individual (paid or unpaid staff) convicted of, or a plea of guilty or nolo contendere to, any offense included in 15:587.1, 14:2, 15:541, or any offense involving a juvenile victim;

9. ownership by an individual convicted of, or a plea of guilty or nolo contendere to any crime in which an act of fraud or intent to defraud is an element of the offense;

10. falsifying or altering documents required for licensure;

11. cruelty or indifference to the welfare of the children;

12. the owner or director of the facility is not reputable;

13. the owner, director, or a member of the staff is temperamentally or otherwise unsuited for the care of the children in the facility;

14. non-payment of licensure fee and/or failure to submit application for renewal prior to the expiration date of the current license;

15. the facility is closed and there are no plans for immediate reopening and no means of verifying compliance with minimum standards for licensure;

16. failure to adhere to conditions set forth in a waiver granted by the secretary;

17. removal of or failure to notify Licensing Section management staff of the removal of the notice of revocation;

18. failure to maintain the posted notice of revocation required under these standards shall be grounds for denial of a future license and/or revocation or non-renewal of all existing license(s) owned and/or operated by provider;

19. history of noncompliance that includes but is not limited to the revocation of a previous license, the denial of one or more previous applications for licensure, repeated citations for the same area of non compliance, numerous citations for areas of non-compliance on one visit, a serious incident at the facility, a serious incident at another facility in which the same director and/or owner is responsible, or previously operating an unlicensed facility;

20. provider denies DCFS staff entrance to the facility, does not cooperate with DCFS staff in order for duties to be completed, attempts to intimidate DCFS staff, or refuses to allow DCFS to perform mandated duties;

21. failure of required staff to attend any mandatory training session required by the Licensing Section;

22. failure to provide retraining of staff or seek additional training for staff as directed by the Licensing Section or other state agency in response to any incident that adversely affected the health, safety, and/or welfare of a child in care;

23. having knowledge that a convicted sex offender is physically present within 1000 feet of the child care facility and failing to notify law enforcement and licensing management staff immediately upon receipt of such knowledge;

24. failure of the owner, director, or any staff to report a known or suspected incident of abuse or neglect to child welfare authorities;

25. failure of the owner, director, or any staff to cooperate with DCFS staff investigating a known or suspected incident of abuse or neglect which includes, but not limited to, the adherence to any written safety interventions as directed by licensing management staff;

26. presence or use of any recalled product by the provider that is listed in the newsletters issued by the Office of the Attorney General;

27. the facility is not yet licensed and the licensing section has completed an initial licensing inspection and has since been unable to make contact with the owner or director in order to verify compliance with the minimum standards for licensure.

N. Posting of Notice of Revocation

1. DCFS 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 shall remain visible to the parents and guardians of the children who attend the child care facility.

2. The provider shall not permit the obliteration or removal of a notice of revocation that has been posted by

DCFS staff. 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 verbally notify Licensing Section management staff immediately if the notice is removed. The verbal report shall be followed by a written report within 24 hours.

O. Appeal Process

1. The DCFS Licensing Section, shall advise the director or owner by letter of the reasons for non-renewal, revocation, or denial and the right of appeal. If the director or owner is not present at the facility, delivery of the written reasons for such action may be made to any staff of the facility. Notice to a staff shall constitute notice to the facility of such action and the reasons therefore. A request for appeal shall include a copy of the letter from the Licensing Section that notes the reasons for revocation, denial, or non-renewal, together with the specific areas of the decision the appellant believes to be erroneous and/or the specific reasons the decision is believed to have been reached in error, and shall be mailed to: Department of Children and Family Services, Bureau of Appeals, P.O. Box 2944, Baton Rouge, LA 70821-9118.

2. A provider may appeal the revocation or non-renewal of a license by submitting a written request to appeal the decision along with a copy of the letter within 15 calendar days of receipt of the letter notifying of the revocation or non-renewal. Provider may continue to operate legally throughout the appeals process.

3. A provider may appeal the denial of an application for a license by submitting a written request to appeal the decision along with a copy of the letter within 30 calendar days of receipt of the letter notifying of the denial of application.

4. The Bureau of Appeals shall notify the Division of Administrative Law of receipt of an appeal request. Division of Administrative Law shall conduct a hearing. The appellant will be notified by letter of the decision, either affirming or reversing the original decision.

5. If the decision of DCFS is affirmed or the appeal dismissed, the provider shall terminate operation of the child care business immediately. If the provider continues to operate without a license, DCFS may file suit in the district court in the parish in which the facility is located for injunctive relief.

6. If the decision of DCFS is reversed, the license will be reinstated and the appellant may continue to operate.

P. Disqualification of Facility and/or Provider

1. Effective September 4, 2009, if a facility's license is revoked or not renewed due to failure to comply with state statutes and licensing rules, DCFS shall not accept a subsequent application from the provider for that facility, or any new facility, for a minimum period of 24 months after the effective date of revocation or non-renewal, or for a minimum period of 24 months after all appeal rights have been exhausted, whichever is later (the disqualification period). The effective date of a revocation, denial, or non-renewal of a license shall be the last day for applying to appeal the action, if the action is not appealed. Any pending application by the same provider shall be treated as an application for a new facility for purposes of this section and shall be denied and subject to the disqualification period.

Any subsequent application for a license shall be reviewed by the secretary or designee prior to a decision being made to grant a license. DCFS reserves the right to determine, at its sole discretion, whether to issue any subsequent license.

2. If a provider has multiple licensed child care facilities and one of the facility's licenses is revoked or not renewed, a capacity increase shall not be granted at any of the existing licensed facilities for a minimum period of 24 months after the effective date of revocation or non-renewal, or for a minimum period of 24 months after all appeal rights have been exhausted, whichever is later.

3. Any voluntary surrender of a license by a provider facing the possibility of adverse action against its license (revocation or non-renewal) shall be deemed to be a revocation for disqualification purposes and shall trigger the same disqualification period as if the license had actually been revoked.

4. If the applicant has had a history of non-compliance, including but not limited to revocation of a previous license, operation without a license, or denial of one or more previous applications for licensure, DCFS may refuse to accept a subsequent application from that applicant for a minimum period of 24 months after the effective date of denial.

5. With respect to an application in connection with the revoked, denied, or not renewed facility, the disqualification period provided in this section shall include any affiliate of the provider.

6. If a facility's license was revoked due solely to the disapproval from any agency whose approval is required for licensure, the disqualification rule (or period) may not apply. DCFS may accept a subsequent application for a license that shall be reviewed by the secretary or designee prior to a decision being made to grant a license. DCFS reserves the right to determine, at its sole discretion, whether to issue any subsequent license.

7. In the event a license is revoked or renewal is denied, (other than for cessation of business or non-operational status), or voluntarily surrendered to avoid adverse action any owner, officer, member, manager, director or administrator of such licensee shall be prohibited from owning, managing, directing or operating another licensed facility for a period of not less than 24 months from the date of the final disposition of the revocation or denial action. The lapse of 24 months shall not automatically restore a person disqualified under this provision to eligibility for employment. DCFS, at its sole discretion, may determine that a longer period of disqualification is warranted under the facts of a particular case.

Q. The Louisiana Advisory Council on Child Care and Early Education

1. The Louisiana Advisory Council on Child Care and Early Education was created in accordance with R.S. 46:1414 to provide input and guidance to DCFS on matters pertaining to rules, regulations, and standards for licensure of child day care facilities as defined in R.S. 46:1403(A)(4).

2. The Council shall be composed of 12 voting members appointed by the secretary of DCFS, and nine non-voting ex-officio members. The membership shall consist of:

a. one parent of a child currently enrolled in a licensed child care facility;

b. three owners or directors of licensed child care facilities in Louisiana, and one faith based child care provider;

c. two professionals and/or faculty of child development and/or early childhood education programs at community technical colleges or universities located in Louisiana;

d. one representative from each of the following advocacy organizations: the Louisiana Head Start Association, the Louisiana Partnership for Children and Families, the Louisiana Association for the Education of Young Children, the Child Care Association of Louisiana, and the Louisiana Early Childhood Association of Louisiana; and

e. nine non-voting ex-officio members consisting of one representative of each of the following offices or agencies: the Department of Education Pre-Kindergarten Program, the Department of Education Child and Adult Care Food Program, the Louisiana Office of State Fire Marshal, the Department of Health and Hospitals Office of Sanitarian Services, the Louisiana Workforce Commission, the Louisiana State Police Bureau of Criminal Identification, and three representatives from DCFS.

3. Members shall be appointed to serve an initial two-year term on the Council and may be eligible to be reappointed to serve an additional two-year term.

4. A member shall be automatically removed from the advisory council if he/she has two or more unexcused absences during any 12-month period. An absence is excused for purposes of this section when the cause is one which a reasonably-prudent person would deem to take precedence over fulfillment of a solemn public duty, or if the absence is known in advance to be probable, if the member notifies the chairperson of his/her expected absence not less than 24 hours in advance of the scheduled meeting.

5. A quorum shall consist of a simple majority of the active voting members.

6. Whenever a vacancy occurs in any Council seat, whether by death, resignation, or automatic removal, such vacant seat shall no longer be counted as an active voting member in determining a quorum until a successor has been appointed by the secretary to fill the unexpired term.

7. Officers of the council shall include a chairperson, vice-chairperson, and secretary.

8. All meetings shall be conducted in accordance with the state's open meetings law. Procedural matters shall be conducted in accordance with the latest edition of Robert's Rules of Order.

9. Members shall serve without compensation or reimbursement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 37:

§7306. General Requirements

A. Current Louisiana child care license shall be on display in an area accessible to and regularly used by parents and visitors, except for church affiliated facilities (RS 46:1408.D) that choose to keep the license on file and available upon request.

B. All programs shall operate within the licensed capacity, age range, and/or other specific services designated on the license. In addition, the program shall operate within the hours of operation on file with the Licensing Section.

C. The facility's indoor and outdoor space shall be used exclusively by the children and facility staff during operating hours. Exceptions are allowed only for schools or churches regarding the shared use of kitchens, dining rooms, restrooms, and outdoor space. A child care facility, except one located in a church or school, shall be physically separated from any other business or enterprise, preventing access to children in care.

D. The provider shall maintain in force at all times current commercial liability insurance for the operation of a facility to ensure medical coverage for children in the event of accident or injury while in the care of the provider. Documentation shall consist of the insurance policy, current binder, or certificate of insurance that includes the name of the child care facility, physical address of the facility, name of the insurance company, policy number, period of coverage, and explanation of the coverage. An accident policy is acceptable in lieu of medical coverage on the commercial general liability policy if the cost of the policy is incurred by the provider.

E. Provider shall not require parents to waive the provider's responsibility while the child is in the care of the provider. Provider may not issue any disclaimer of responsibility in any of its policies, handbooks, parent contracts, advertising, or any other written or verbal form. This includes activities on or off the premises.

F. The provider shall have documentation of approval from the Office of Public Health, Sanitarian Services. If food is not prepared on site, written approval of the catering/transporting of the food is required from the Office of Public Health.

G. The provider shall have documentation of approval from the Office of State Fire Marshal.

H. The provider shall have documentation of approval from the Office of City Fire Department, if applicable.

I. The provider shall have certificate of occupancy (zoning), if applicable.

J. A daily attendance record for children, including the first and last name of each child, the time of arrival and departure of each child, and the first and last name of the person or entity to whom the child was released, shall be maintained. This record shall accurately reflect the children on the child care premises at any given time.

1. If the record is completed by facility staff, that individual shall write the first and last name of the person to whom the child was released and sign his/her own first and last name. Children who leave and return to the facility during the day shall be signed in and signed out.

2. A computerized sign in/out procedure is acceptable if the record accurately reflects the time of arrival and departure, as well as the first and last name of the person to whom the child was released. A print out of the computer record shall be provided immediately upon request. Information shall be available in the event of a power outage, computer downtime, or an emergency situation.

K. A daily attendance record for staff, including the director and owner, to include the staff's first and last name and the time of arrival and departure shall be maintained.

This record shall accurately reflect persons on the child care premises at any given time. Staff shall document in/out when not on the child care premises.

L. Any visitor to the facility shall be accompanied by a staff person at all times.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 37:

§7307. Policies and Procedures

A. The provider shall have written policies and procedures available to staff and parents that shall include: days and hours of operation, including scheduled days/holidays when the facility is closed; admission policies and criteria; procedure for receiving and releasing a child from the facility; procedure for handling illnesses and injuries, including procedures when away from the child care facility; procedure for transportation of children; disenrollment procedures; and guidelines regarding biting behavior, treatment of bites, and notification to parents of the children involved. The provider shall keep the names of the children involved in the child-biting confidential.

B. The provider shall develop and follow a written daily schedule that includes times of planned activities, allowing for flexibility and change. The written, current, daily schedule for each group of children shall be posted in each room. If different schedules are used seasonally or for night time care, the current schedule shall be posted. All schedules shall be available for review by parents and licensing staff upon request. Activities on the daily schedule shall be age appropriate and shall be adhered to with reasonable closeness, but shall accommodate and have due regard for individual needs and differences among the children. The daily schedule shall list times for indoor and outdoor play (weather permitting) that includes activities that support children's development of social, emotional, physical, language/literacy, cognitive/intellectual and cultural skills, meals/snacks, rest time, and other routines, including but not limited to hand washing and toileting. Indoor and outdoor play shall include periods that incorporate free play, gross motor activities, fine motor activities, and vigorous and quiet activities.

1. Children under two years of age shall be provided time and space for age appropriate physical activity for at least 60 minutes per day (includes indoor and outdoor activities).

2. Children two years of age and older shall be provided 60 minutes of physical activity per day (includes indoor and outdoor activities) that includes a combination of both teacher led and free play.

3. Infants shall be allowed to sleep according to their individual schedules.

4. Children four years of age and younger shall have daily rest time of at least one hour in programs operating more than five hours per day.

5. Children five years of age and older shall be offered the opportunity for quiet time.

6. If there are daily activities involving electronic devices, including but not limited to television, movies, games, videos, computers, hand held electronic devices, etc., these activities shall be included on the written daily schedule. Electronic device activities for children under two

years of age, including but not limited to television, movies, games, videos, computers, hand held electronic devices, etc., shall be prohibited. Time allowed for electronic device activities for children ages two and above, including but not limited to television, movies, games, videos, computers, hand held electronic devices, etc., shall not exceed 60 minutes per day on a daily basis and 2.5 hours per day on school holidays or during the summer months.

7. Computers that allow internet access by the children shall be equipped with monitoring or filtering software, or an analogous software protection, that limits children's access to inappropriate web sites, e-mail, and instant messages.

8. Programs/movies/video games with violent or adult content, including but not limited to soap operas, television news, or sports programs aimed at audiences other than children, shall not be permitted in the presence of children. All television, video/DVD, or other programming shall be suitable for the youngest child present. "PG" or "PG-13" programming or its television equivalent shall not be shown to children under age five. "PG" programming/movies shall only be viewed by children age five and above with written parental authorization. "PG-13" programming/movies shall only be viewed by children age 13 and above with written parental authorization. Parental authorization shall include the name of the program/movie, child's name, parent's signature, and date. Any programming with a rating more restrictive than "PG-13" is prohibited.

9. All video games shall be suitable for the youngest child with access to the games. "E10+" rated games shall be permitted for children age 10 years of age and above. "T" rated games shall not be shown to or played by children under age 13. "M" rated games shall not be permitted.

C. The provider shall establish and follow a written, posted policy describing all methods of behavior guidance and management that will be used by staff to manage children's behavior. The provider shall ensure that the following are adhered to: no child shall be subject to physical punishment, corporal punishment, verbal abuse, or threats. Prohibited actions include but are not limited to yelling, slapping, spanking, yanking, shaking, pinching, requiring a child to exercise, placing a child into uncomfortable positions, exposing a child to extreme temperatures or other measures producing physical pain, putting anything in a child's mouth, using abusive or profane language including but not limited to telling a child to "shut up", or threatening a child with a prohibited action even though there is/was no intent to follow through with the threat. Cruel, severe, unusual, or unnecessary punishment shall not be inflicted upon children. Derogatory remarks shall not be made in the presence of children about family members of children in care or about the children themselves. No child or group of children shall be allowed to discipline another child. No child or group of children shall be allowed to bully another child. No child shall be deprived of food or beverages. Children shall not be restrained by devices, including but not limited to high chairs or feeding tables, for disciplinary purposes. Children shall not have active play time withheld as punishment. Time out, if used, shall take place within sight of staff. The length of each time out session shall be based on the age of the child and shall not exceed one minute per each year of age of the child.

Time out shall not be used for children under age two as these children are too young to cognitively understand the consequence.

D. The provider shall establish and follow a written, posted abuse/neglect policy that includes the following information: As mandated reporters, all staff and owners shall report any suspected abuse or neglect of a child in accordance with R.S. 14:403 to the local Child Welfare Section. The provider shall not delay reporting suspected abuse or neglect to the local Child Welfare Section in an attempt to conduct an internal investigation to verify the abuse/neglect allegations. As required by Louisiana law, the provider shall not require any staff, including unpaid staff, to report suspected abuse/neglect to the provider or management prior to reporting to the Child Welfare Section. Contact the local Child Welfare Section (child protection).

E. Parents shall be advised of the licensing authority of DCFS Licensing Section. Parents shall also be advised that they may call or write the Licensing Section should they have significant, unresolved licensing complaints. This written policy as well as the current telephone number and address of the Licensing Section shall be posted.

Department of Children and Family Services
Division of Programs
Licensing Section
P. O. Box 3078
Baton Rouge, LA 70821
(225) 342-9905 Fax:(225) 342-9690

F. Providers shall post information advising parents that licensing inspections, regulations, and information regarding licensed child care facilities are available online at the DCFS website. In addition, parents shall be advised that licensing inspections are also available upon request to DCFS.

G. The provider shall establish and follow a policy for enrolled children advising parents that they are welcome to visit the facility anytime during regular hours of operation. This written policy shall be posted.

H. The provider shall offer at least three parent involvement opportunities each year. Activities may include but are not limited to open house, parent education session, parent/staff conference, family pot luck dinner, holiday party, parent/grandparent's day, week of the young child, or carnival. Provider shall maintain parent notices of the parent involvement activities offered.

I. The provider shall establish and follow a non-discrimination policy that prohibits discrimination by child care providers on the basis of race, color, creed, sex, national origin, handicapping condition, ancestry, or whether the child is being breastfed. This written policy shall be posted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 37:

§7308. Children's Records

A. A record shall be maintained on each child to include:

1. child's information form signed and dated by the parent and updated as changes occur, listing: the child's name, date of birth, sex, date of admission; name of parent(s) and child's and parent's home address; phone numbers where the parents can be reached while the child is in care; name and phone number of a responsible person to contact in an emergency if parents cannot be located promptly; name and telephone number of child's physician;

name and telephone number of the child's dentist, if applicable; any special concerns, including but not limited to allergies, chronic illness, and any special needs of the child, if applicable; and any special dietary needs, restrictions, or food allergies/intolerances, if applicable.

2. A written authorization signed and dated by the parent to secure emergency medical treatment.

3. A written authorization signed and dated by the parent noting the first and last names of individuals to whom the child may be released other than the parent(s), including any other child care facilities, transportation services, or any person or persons who removes the child from the facility.

a. A child shall never be released to anyone unless authorized in writing by the parent.

b. Any additions/deletions shall be signed and dated by the parent.

c. The provider shall verify the identity of the authorized person prior to releasing the child.

4. A written statement from a medical authority when the child requires a special diet for medical reasons.

5. A written statement from the child's parent when the child is on a modified diet for religious reasons.

B. The provider shall obtain written, informed consent from the parent prior to releasing any information, recordings, or photographs from which the child might be identified, except for authorized state and federal agencies. This one time written consent shall be obtained from the parent and updated as changes occur.

C. The provider utilizing any type of recordings or taping of children, including but not limited to digital recordings, videotaping, audio recordings, web cam, security monitoring, etc., shall obtain documentation signed and dated by the parent indicating their awareness of such recordings/monitoring and its potential uses.

D. The provider shall maintain the confidentiality and security of all children's records. Staff shall not disclose or knowingly permit the disclosure of any information concerning the child or his/her family, directly or indirectly, to any unauthorized person.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 37:

§7309. Required Staff

A. Each facility shall have a qualified director or director-designee who is an on-site, full-time staff person at the licensed location during the day time hours of operation (prior to 9 pm) and who is responsible for planning, managing, and controlling the facility's daily activities, as well as responding to parental concerns and ensuring that minimum licensing requirements are met.

B. When the director or director designee is not on the premises due to a temporary absence, there shall be an individual appointed as staff-in-charge who is at least 21 years of age. This staff shall be given the authority to respond to emergencies, inspections/inspectors, parental concerns, and have access to all required information. All staff shall be notified of this designation.

C. Staff shall be age 18 years or older. However, the provider may include in the child/staff ratio a person 16 or 17 years of age who is never left alone with children and who works under the direct supervision of a qualified adult staff.

D. When children are picked up or dropped off at the facility by a public or private school bus, staff shall be present to safely escort children to and from the bus.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 37:

§7310. Personnel Records/Qualifications

A. At least one staff assigned to a group of children shall provide documentation of a high school diploma or GED. Within three years of effective date of these regulations, all staff having supervisory and /or disciplinary authority over children shall provide documentation of a high school diploma or GED. Staff currently employed as of the effective date of these regulations are not required to meet this standard as long as their employment remains continuous with their current owner.

B. A record for each paid and unpaid staff person, including substitutes and foster grandparents, shall be on file at the facility. Record shall include:

1. an application or a staff information form with the following information: name; date of birth; address; phone number; previous training/work experience; educational background; staff hire date; and staff last date of employment and reason for leaving, if applicable.

2. a copy of a state or federal government issued photo ID.

3. documentation of three current, reference checks or phone notes signed and dated attesting affirmatively to his/her character, qualifications, and suitability to care and supervise children. These references shall be obtained from persons not related to the staff person. A letter from the foster grandparent agency, signed and dated by the agency representative, stating that references were checked and affirmed his/her character, qualifications, and suitability to care and supervise children, is acceptable for foster grandparents.

4. a written job description signed and dated by the staff person for each position, listing specific duties and whether or not the individual has supervisory or disciplinary authority over children.

5. documentation of a satisfactory criminal record check from Louisiana State Police as required by R.S. 46:51.2. This check shall be obtained prior to the individual being present on the child care premises. No person with a criminal conviction of a felony, or a plea of guilty or nolo contendere to a felony, or conviction of or a plea of guilty or nolo contendere to any offense included in R.S. 15:587.1, R.S. 14:2, R.S. 15:541 or any offense involving a juvenile victim, shall be eligible to own, operate, and/or be present in any capacity on the child care premises. For any owner or operator, a clear criminal background check in accordance with 46:51.2 shall be obtained prior to the issuance of a

license or approval of a change of ownership. In addition, an owner, a director, or a director designee shall not have a conviction of, or plea of guilty or nolo contendere to any crime in which an act of fraud or intent to defraud is an element of the offense.

a. An individual that applies for a position of supervisory or disciplinary authority over children in a child care facility may provide a certified copy of their criminal background check obtained from the Louisiana Bureau of Criminal Identification and Information Section of the Louisiana State Police. If an individual provides a certified copy of their criminal background check obtained from the Louisiana State Police to the provider, this criminal background check shall be accepted by DCFS for a period of one year from the date of issuance of the certified copy. A photocopy of the certified copy shall be kept on file at the facility in which the individual is currently employed. However, prior to the one year date of issuance of the certified criminal background check, the provider shall request and obtain a satisfactory criminal check from Louisiana State Police in order for the individual to continue employment at the facility. If the clearance is not obtained by the provider prior to the one year date of issuance of the certified criminal background check, the staff person is no longer allowed on the child care premises until a clearance is received.

6. Prior to employment, each prospective employee or volunteer shall complete a state central registry disclosure form (SCR 1) provided by DCFS as required by R.S. 46:1414.1.

C. The following information shall be kept on file for therapeutic professionals and extracurricular personnel, e.g., computer instructor, dance instructor, tumble bus personnel, speech therapists, licensed health care professionals, state-certified teachers employed through a local school board, art instructors, and other outside contractors:

1. Documentation of a satisfactory criminal record check from Louisiana State Police as required by R.S. 46:51.2. This check shall be obtained prior to the individual being present on the child care premises. No person who has been convicted of, or a plea of guilty or nolo contendere to, any offense included in R.S. 15:587.1, R.S. 14:2, R.S. 15:541 or any offense involving a juvenile victim shall be present in any capacity on the child care premises.

a. Independent contractors, therapeutic professionals, and/or extracurricular personnel may provide a certified copy of their criminal background check obtained from the Louisiana Bureau of Criminal Identification and Information Section of the Louisiana State Police to the provider prior to being present and working with a child or

children at the facility. If an individual provides a certified copy of their criminal background check obtained from the Louisiana State Police to the provider, this criminal background check shall be accepted by the DCFS for a period of one year from the date of issuance of the certified copy. A photocopy of the certified copy shall be kept on file at the facility. Prior to the one year date of issuance of the certified copy, the individual shall request and obtain a current certified copy of their criminal background check obtained from the Louisiana Bureau of Criminal Identification and Information Section of the Louisiana State Police in order to continue providing services to any child the child care facility. If the clearance is not provided to the provider prior to the one year date of issuance of the certified criminal background check, the individual shall no longer be allowed on the child care premises until a clearance is received. This criminal background check shall be accepted by the DCFS for a period of one year from the date of issuance of the certified copy. A photocopy of the certified copy shall be kept on file at the facility.

2. Documentation of their presence at the facility is to include: name; date of visit; arrival and departure times; and purpose of visit.

D. The following information shall be kept on file at the facility for each student trainee:

1. an application or a staff information form to include: name; date of birth; address and phone number; and name of educational facility and course instructor;

2. duties performed while present in the child care facility; and

3. documentation of their presence at the facility to include: name, date of visit, arrival and departure times, and purpose of visit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 37:

§7311. Director Qualifications

A. The director/director designee shall be at least 21 years of age, have a high school diploma or GED, and one year of experience in a licensed child care facility or comparable setting.

B. The director/director designee shall have documentation of meeting 100 points in the three categories of education, experience, and administration related training in accordance with chart below. In obtaining the 100 points, all three categories shall be used. Duplicate trainings provided by the same trainer are not accepted.

Education	Points	Experience 1 point per year – staff without supervisory or disciplinary authority over children. 2 points per year – staff with supervisory or disciplinary authority over children. 4 points per year – director or director designee approved by Licensing (up to maximum number of points)	Maximum Points	Administration & Job Specific Related Training	Maximum Points
Bachelor’s or higher degree from a college or university recognized by the US Department of Education in Early Childhood Education or Child Development	75	Full-time (32 hours or more per week) in a child care facility or comparable setting	40	Administrator Certificate from La. Pathways	60
Bachelor’s or higher degree from a college or university recognized by the US Department of Education related to school age care for a School-Age Only Program	75	Part-time (less than 32 hours per week) in a child care facility or comparable setting	20	3 college credit hours in child care administration and/or business administration	45
Associate’s degree from a college or university recognized by the US Department of Education in Early Childhood Education or Child Development or Bachelor’s degree in child-related field	50	Full-time (32 hours or more per week) in a child development related experience	20	2 college credit hours in child care administration and/or business administration	30
Bachelor’s or higher degree from a college or university recognized by the US Department of Education in non-child related field	40	Part-time (less than 32 hours per week) in a child development related experience	10	1 college credit hour in child care administration and/or business administration	15
Associate’s degree from a college or university recognized by the US Department of Education in non-child related field	30	Experience as a registered family day care home	20	One point awarded for each clock hour of training in child care administration and/or business administration	75
Current Child Development Associate (CDA)	30			Current National Administrator’s Credential	40
Diploma from a vocational school in child development or early education	20			One point awarded for each clock hour in child development or early childhood education	40
Directors grandfathered in prior to (date) that do not meet the above qualifications	10			Approved correspondence course	40

C. Directors who met qualifications prior to the implementation of the current standards shall retain their qualified status as long as their employment remains continuous with their current owner. If the director’s employment is not continuous or the facility undergoes a change of ownership, he/she will have two years from the date of the new director position to meet current director requirements. However, if the facility’s license is revoked, application is denied, or license is not renewed, the director shall be required to meet qualifications under the current standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 37:

§7312. Staff Development and Training

A. Orientation Training

1. Within five business days of employment and prior to assuming sole responsibility for a group of children, each staff member, including substitutes and foster grandparents,

shall receive orientation to facility’s policies and practices to include the following topics: facility policies and practices, including health and safety procedures; emergency preparedness and evacuation planning; supervision of children; behavior guidance and management policy, including prohibited methods; job description; individual needs of the children enrolled; detecting and reporting child abuse and neglect, including the definition of mandated reporter; reporting and documenting incidents (accidents, injuries, illnesses, unusual behavior, etc.); current Child Care Class “A” Minimum Licensing Standards; daily schedule; confidentiality of information regarding children and their families; SIDS training, approved by DCFS, for all staff in facilities licensed to care for children under age 2.

2. All staff responsible for transporting children (drivers and monitors) shall receive additional orientation training in the following areas prior to assuming their transportation duties: transportation regulations, including modeling of how to properly conduct a visual check of the vehicle and demonstration by staff to director on how to

conduct a visual check; the proper use of child safety restraints required by these regulations and state law; the proper loading, unloading, and tracking of children as required by these regulations; the location of the first aid kit; and the emergency procedures for the vehicle, including actions to be taken in the event of accidents or breakdowns.

3. Orientation training (within five business days of employment and prior to assuming sole responsibility for a group of children) shall include four days of supervised work with children.

4. Documentation of the orientation training shall consist of a statement/checklist in the staff record signed and dated by the staff person and director, attesting to having received the applicable orientation training (Section 7312.A.1-4), the dates of the orientation training, and the dates of the supervised work with children.

B. CPR and First Aid

1. A minimum of two staff on the premises shall have documentation of current infant/child/adult certification in CPR. Original cards shall be presented upon request. This training shall be approved by DCFS prior to acceptance. Approved courses are listed on the DCFS website. Staff who maintain current certification as a first responder are considered to have current certification in CPR.

2. In addition to meeting the requirements of Section 7312.B.1, facilities with multiple buildings or floors shall have at least one currently certified staff in approved infant/child/adult CPR in each building and on each floor of the facility. Original cards shall be presented upon request.

3. A minimum of two staff on the premises shall have documentation of current pediatric first aid certification. Original cards shall be presented upon request. This certification shall be approved by the DCFS prior to acceptance. Approved courses are listed on the DCFS website. Staff who maintain current certification as a first responder are considered to have current certification in pediatric first aid.

4. In addition to meeting the requirements of Section 7312.B.3, facilities with multiple buildings or floors shall have at least one currently certified staff in approved pediatric first aid in each building and on each floor of the facility. Original cards shall be presented upon request.

5. For providers that arrange or provide transportation, at least one staff in each vehicle (facility provided or contract) shall have documentation of current infant/child/adult CPR certification and current pediatric first aid certification. Original cards shall be presented upon request.

6. At least two of the staff on the field trip, including water-related field trips, shall have documentation of current infant/child/adult CPR certification and pediatric first aid certification. Original cards shall be presented upon request.

7. Non-vehicular excursions shall require at least one staff in attendance and accessible to children at all times with documented current certification in infant/child/adult CPR and pediatric first aid. Original cards shall be presented upon request.

C. Medication Administration Training. Each facility, whether administering medication or not, shall have at least two staff trained in medication administration; however, all staff that administer medication shall have medication administration training. Training shall be obtained every two

years from an approved Child Care Health Consultant. By virtue of his/her current license, a licensed practical nurse (LPN) or registered nurse (RN) shall be considered to have medication administration training.

D. Ongoing Training

1. The director shall conduct and document at least one staff training monthly in which child care topics are reviewed with facility staff. Training may be in the form of meetings, newsletters, policy memos, or other forms of staff communication. Documentation of all forms of training shall consist of the date of the training, topics of training, and signatures of all staff verifying completion of training. Each quarter, at least one training session shall be conducted face-to-face with the staff. At least quarterly, topics shall include but are not limited to the following: preventive measures to eliminate or decrease the number and severity of incidents or accidents; problem areas identified by licensing personnel, parents, and/or staff; and other child care areas as deemed necessary by the director.

2. When a staff person is re-trained, counseled, or reprimanded in response to an incident, documentation shall include date, topic(s), and signatures of staff and director.

3. The director shall ensure that each paid and unpaid staff, including substitutes and Foster Grandparents, receives training on an annual basis in the following topics: facility policies and practices, including health and safety procedures; emergency preparedness and evacuation planning; supervision of children; behavior guidance and management policy, including prohibited methods; job description; individual needs of the children enrolled; detecting and reporting child abuse and neglect (including the definition of mandated reporter); reporting and documenting incidents (accidents, injuries, illnesses, unusual behavior, etc.); current Child Care Minimum Licensing Standards; daily schedule; and confidentiality of information regarding children and their families. Documentation shall consist of a checklist/statement signed and dated by the staff and the director that these topics have been covered.

E. Continuing Education

1. All paid and unpaid staff who are left alone with the children or who have supervisory or disciplinary authority over children, however temporary, shall complete 24 clock hours of DCFS-approved training each calendar year in job-related subject areas beginning in January 2012. Hours are pro-rated if a staff person has not been employed for the entire 12-month period. DCFS shall make available at least nine clock hours of approved on-line training each calendar year at no cost to the staff. Documentation shall consist of certificates received by staff. Original certificates shall be presented upon request. Medication administration training by a Child Care Health Consultant may count toward fulfilling up to three hours towards the 24 clock hour requirement in the calendar year that the training was completed. Infant/Child/Adult CPR may be counted up to three hours towards the 24 clock hour requirement in the calendar year that the training was completed. Pediatric First Aid may be counted up to three hours towards the 24 clock hour requirement in the calendar year that the training was completed. The required annual training hours from the DHH may be counted up to four hours towards the 24 clock hour requirement in the calendar year that the training was completed.

2. Foster grandparents who are not counted in the child/staff ratio are excluded from this 24 clock hour training requirement.

3. Staff who are not counted in the child/staff ratio, are never left alone with children, or do not have supervisory or disciplinary authority over children are excluded from the 24 clock hour training requirement.

4. Directors/director designees shall complete three hours of DCFS approved training in facility administration practices. These hours may be counted towards the 24 clock hour requirement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 37:

§7315. Required Child/Staff Ratios and Group Size

A. There shall always be a minimum of two staff present during hours of operation when children are present. In addition, child/staff ratios shall be met at all times as the number of children supervised by one staff person shall not exceed the ratios as indicated below. Only those staff members directly involved in child care and supervision shall be considered in assessing child/staff ratio.

Ages of Children	Child/Staff	Child/Staff
Ratio	Ratio	Ratio Effective May 1, 2012
Infants under 12 months	5:1	5:1
One year old	7:1	7:1
Two year old	11:1	9:1
Three year old	13:1	13:1
Four year old	15:1	15:1
Five year old	19:1	19:1
Six year old and up	23:1	23:1

1. When a mixed group includes children less than five years of age, the age of the youngest child determines the ratio for the group to which the youngest child is assigned.

2. An average of the child/staff ratio may be applied to a group of children ages five and older. During rest time, required staffing shall be present in the building and available to assist as needed to satisfy child/staff ratios. (Refer to Section 7317 regarding supervision requirements.)

B. When the nature of a special need or the number of children with special needs warrants added care, the provider shall add sufficient staff as deemed necessary by the Licensing Section in consultation with the provider to accommodate for these needs. Provider shall submit a written proposal for approval to the Licensing Section describing the staffing plan.

C. Child/staff ratios listed below shall apply when children are engaged in water activities, excluding water play activities unless children are participating in swimming lessons with a certified water safety instructor.

Three year old	13:2
Four year old	15:2
Five year old	19:2
Six year old and up	23:2

1. The child/staff ratio for the youngest child determines the ratio when children are of mixed ages in a group.

D. Child/staff ratio as specified in Sections 7315.A plus two additional adults shall be met for all field trips, excluding water activity field trips, for children ages 4 years and younger. An adult staff member from the licensed program shall be present with each group of children. At no time shall a child or group of children be left alone without an adult staff member present unless the child is supervised by his/her own parent or designated representative authorized by the parent.

E. Child/staff ratio as specified in Section 7315.A, plus one additional adult, shall be met for all field trips, excluding water activity field trips for children ages 5 years and older. An adult staff member from the licensed program shall be present with each group of children. At no time shall a child or group of children be left alone without an adult staff member present unless the child is supervised by his/her own parent or designated representative authorized in writing by the parent.

F. Child/staff ratio as specified in Section 7315.A, plus one additional adult, shall be met for all non-vehicular excursions, excluding water activity excursions. An adult staff member from the licensed program shall be present with each group of children. At no time shall a child or group of children be left alone without an adult staff member present unless the child is supervised by his/her own parent or designated representative authorized in writing by the parent.

G. A designated number of children shall relate to a designated staff on a regular and consistent basis.

H. Maximum number of children per group shall not exceed the following:

Ages of Children	Group Size	Group Size Effective May 1, 2013
Infants under 12 months	NR	10
One year old	NR	14
Two year old	NR	18
Three year old	NR	26
Four year old	NR	30
Five year old	NR	NR
Six year old and up	NR	NR

I. A group is determined by the number of children cared for by a caregiver or group of caregivers in a designated area not to exceed the maximum group size.

J. When more than one group of children use the same room, the room is divided into designated activity areas for each group, using a temporary wall or physical barrier that is at least three feet in height and appropriate for defining limits and reducing distraction.

K. Groups with their assigned staff may be combined for special group activities (e.g., movie time, outdoor play, indoor sports activities, meals, rest time, or field trips). Designated area requirements do not apply during these activities.

L. The DCFS form noting child/staff ratios and group size shall be posted in each room included in the facility's licensed capacity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 37:

§7317. Supervision

A. Children shall be supervised at all times on the premises, on field trips, and on non-vehicular excursions, including all water activities. Children shall not be left alone in any room, (excluding the restroom as noted in Section 7317.B) outdoors, or in vehicles, even momentarily, without a staff present. A staff person shall be assigned to supervise specific children whose names and whereabouts that staff person shall know and with whom the staff person shall be physically present. Staff shall be able to hear and see each child in his/her care.

B. Children who are developmentally able may be permitted to go to the restroom on the child care premises independently, provided that: staff member's proximity to children assures immediate intervention to safeguard a child from harm while in the restroom; individuals who are not staff members may not enter the facility restroom area while in use by any child other than their own child; children five years of age and younger shall be supervised by staff members who are able to hear the child while in the restroom; and children six years of age and older may be permitted to go and return from the restroom without staff; however, staff must know whereabouts of child.

C. When children are outside, the staff member shall be able to summon another adult staff without leaving the group unsupervised.

D. Staff shall actively supervise children engaged in water activities and shall be able to see all parts of the swimming pool, including the bottom.

E. Children ages two years and above may be grouped together at rest time with one staff in each room supervising the resting children. If two rooms share a common doorway, one staff may supervise the resting children. If the view of the staff supervising the children is obstructed by an object such as a low shelving unit, children shall be checked by sight by staff continually circulating among the resting children.

F. Areas used by the children shall be lighted in such a way as to allow visual supervision at all times.

G. While on duty with a group of children, staff shall devote their entire time to supervising the children, meeting the needs of the children, and participating with them in their activities. Staff duties that include cooking, housekeeping, and/or administrative functions shall not interfere with the supervision of children.

H. Diaper changing areas shall be situated so that if only one staff is supervising the group, the staff's back shall not be to the remaining children in the group unless a mirror is positioned that allows the staff to see the remaining children.

I. Individuals who do not serve a purpose related to the care of children or who hinder supervision of the children shall not be present in the facility.

J. The entire facility and play yard shall be checked after the last child departs to ensure that no child is left unattended at the facility. Documentation shall include date, time of visual check, and signature of the staff conducting the visual check.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 37:

§7319. Food Service and Nutrition

A. Well-balanced and nourishing meals and snacks that are of sufficient proportions and nutritional value to meet each child's health needs shall be provided and served at the facility as specified under the Child and Adult Care Food Program of the United States Department of Agriculture. A minimum of a breakfast or morning snack, lunch, and afternoon snack shall be served to children; however, meals and snacks shall be served at least every two and one-half to three hour intervals. In addition, if after-school children arrive and have not eaten within the last three hours, they shall be served a meal or snack within 30 minutes of arrival time.

B. Additional servings of nutritious food over and above the required daily minimum shall be provided to children if requested, unless there are special dietary written instructions from the child's doctor, a registered nutritionist, registered dietitian, or parent.

C. Children under 4 years of age shall not have foods that are implicated in choking incidents. Examples of these foods include but are not limited to the following: whole hot dogs, hot dogs sliced in rounds, raw carrot rounds, whole grapes, hard candy, nuts, seeds, raw peas, hard pretzels, chips, peanuts, popcorn, marshmallows, spoonfuls of peanut butter, and chunks of meat larger than what can be swallowed whole.

D. Children shall be allowed the time to eat each meal and snack within a reasonable time. Children shall not be forced to finish all their food.

E. Children shall be encouraged without coercing or negative consequences to eat a well balanced diet.

F. The week's menu shall be planned and prominently posted by the first day of each week and remain posted throughout the week. Posted menus shall be date-specific and shall list the specific food items served. If rotating menus are utilized, documentation shall note which menu is current. Menu substitutions or additions shall be posted on or near the menu. Any substitution shall be of equal nutritional value.

G. Information regarding children's food allergies/special diets shall be posted in the food prep area with special care so that the individual children's names are not in public view. If a parent chooses to allow the provider to post the child's name and allergy information in public view, the provider shall obtain a signed and dated statement from the parent granting such permission.

H. Children's food shall be served on individual plates, napkins, paper towels, or in cups, as appropriate.

I. Providers who do not serve breakfast shall have nutritious food available for children who arrive in the morning without having eaten breakfast.

J. Food shall not be sold to the children. Soft drink vending machines and other food dispensers for personnel use shall be located outside of the areas utilized by children and shall be inaccessible to children.

K. Infants shall be held while being bottle-fed to provide a nurturing experience; however, if written permission is obtained from the parent, an infant or child who can hold a bottle may be placed in a crib, on a mat, in a carrier, etc.

L. A child's bottle shall not be propped at any time.

M. Microwave ovens shall not be used for warming bottles or infant food.

N. Drinking water shall be readily available indoors and outdoors to children at all times. Drinking water shall be offered and children shall be encouraged to drink water at least once between meals and snacks, before going outdoors, and upon returning from outdoors. Water shall be given to infants only with written instructions from parents or child's physician.

O. Parents/children are not allowed to bring food into the facility with the exception of bottled formula, breast milk, infant food, special dietary items related to medical or religious reasons, and refreshments for special occasions.

P. Bottled formula/breast milk shall be in labeled bottles or containers with labeled caps/covers with the child's name or initials. Bottles and containers shall be refrigerated upon arrival. Used and unused bottles shall be sent home daily.

Q. Infant food provided by the parent shall be in a container or jar labeled with the child's name or initials. If food is fed directly from the container or jar, any uneaten food shall be discarded after one feeding.

R. Thermometers shall be provided in each refrigerator to ensure that perishable food is refrigerated at 41 degrees Fahrenheit or lower.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 37:

§7320. Health Service to the Child

A. In accordance with R.S. 46:1428, providers shall provide each child's parent or legal guardian with information concerning the influenza immunization by November 1 of every year. Information shall be provided by DCFS annually to each licensed facility.

B. Upon arrival at the facility, each child's physical condition shall be observed for possible signs of illness, infections, bruises, injuries, etc. When noted, results including an explanation from the parent or child shall be documented.

C. Incidents, injuries, accidents, illnesses, and unusual behavior shall be reported to the parent or guardian no later than the child's release to the parent or authorized representative on the day of the occurrence.

D. Immediate notification to the parent or designated person is required after providing and/or seeking necessary medical attention for the child in the following situations:

blood not contained in an adhesive strip; injury of the neck and head; eye injury; human bite which breaks the skin; any animal bite; an impaled object; broken or dislodged teeth; allergic reaction; skin changes (e.g. rash, spots, swelling, etc.); unusual breathing; symptoms of dehydration; any temperature reading over 101 oral, 102 rectal, or 100 axillary; or any injury or illness requiring professional medical attention.

E. Documentation of incidents/injuries/accidents shall be maintained. Documentation shall include:

name of child; date and time of incident; location where incident took place; description of how incident occurred;

part of body involved; description of injury; number and name of staff in classroom or on playground where incident/injury/accident occurred; number of children in classroom or on playground where incident/injury/accident occurred; actions taken by staff; time of parental notification

(unsuccessful attempts to notify the parents/guardians, including phone number and times called, shall be documented); name of the person notified; signature of person notifying parent; and any corrective action to ensure that the incident does not re-occur. The report shall be signed by the individual to whom the child is released on the day of the incident. If the parent refuses to sign, a staff shall document that decision.

F.1. Documentation of illnesses or unusual behavior shall be maintained. Documentation shall include:

a. child's name; type/description of illness or unusual behavior; date and time of onset and actions taken;

b. time of parental notification (unsuccessful attempts to notify the parents/guardians, including phone number and times called, shall be documented); name of person contacted; and signature of person notifying the parent.

2. The report shall be signed by the individual to whom the child is released on the day of the illness/unusual behavior. If the parent refuses to sign, a staff shall document that decision.

G. In no situation which requires emergency medical attention, shall the provider delay seeking care while attempting to make contact with the parent/guardian.

H. Information regarding a child's medical condition may be posted in public view if the provider obtains a signed and dated statement from the parent granting such permission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 37:

§7321. Medication Administration

A. For prescription medication to be administered at the facility, the provider shall maintain a standardized printout from the pharmacy. For non-prescription medication to be administered at the facility, the provider shall maintain bottle packaging for the medication or a printed document from the manufacturer's website. This information shall be maintained in order for the provider to be aware of side effects and contraindications.

B. All medication sent to the facility shall be in its original container, shall not have an expired date, and shall be clearly labeled with the child's name to ensure that medication is for individual use only.

C. All aerosol medications shall be delivered to the child care facility in pre-measured dosages. During the administration of this medication, staff shall ensure the child is not disturbed by other children.

D. The provider shall follow any special directions as indicated on the medication bottle (e.g., before or after meals, with food or milk, refrigerate, etc.).

E. If the non-prescription medication label reads "to consult physician", a written physician's authorization with child's name, date, medication name, and dosage shall be on file in order to administer the medication in addition to the parental authorization.

F. When parents administer medication to their own children on the child care premises, the following information shall be documented by either the parent or facility staff: date; child's name; time administered;

medication name; dosage administered; name of person administering medication; and signature of person completing the form.

G. The provider shall not apply topical ointments/sprays/creams (e.g., sunscreen, insect repellent, diaper rash ointment, etc.) without a written annual authorization signed and dated by the parent. If changes occur, parent shall update the authorization with a signature and date.

H. Children shall not administer their own medications without written authorization from the physician. Children shall administer medication in the presence of a staff person. In addition to authorization from the physician, parental authorization shall include: child's name; name of the medication; date(s) to be administered within the current calendar week, excluding emergency and "as needed" medications; dosage (not acceptable to note "as indicated on bottle"); time to be administered, excluding emergency and "as needed" medications; special instructions, if applicable; and signature of parent and date of signature.

I. Medication administration records for children administering their own medication shall be maintained verifying that the medication was given according to physician and parent's authorization, including: date; time; dosage administered; signature of child; and signature of staff person who witnessed administration of medication.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 37:

§7322. Routine Medication Administration (excluding emergency and "as needed" medication)

A. No medication of any type (prescription, non-prescription, or special medical procedure) shall be administered by facility staff unless authorized in writing by the parent. Authorization shall include:

1. child's name;
2. name of the medication; date(s) to be administered within the current calendar week;
3. dosage (not acceptable to note "as indicated on bottle"); time to be administered;
4. special instructions, if applicable; and signature of parent and date of signature.

B. Medication administration records shall be maintained verifying that the medication was given according to parent's authorization, including: date; time; dosage administered; and signature (not initials) of the staff member who gave the medication.

C. All medications shall be sent home at the end of each calendar week.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 37:

§7323. "As Needed" Medication

A. No "as needed" medication of any type (prescription, non-prescription, or special medical procedure) or maintenance prescription shall be administered by facility staff unless authorized in writing by the parent. Authorization shall be updated every three months by the parent and as changes occur and shall include: child's name;

name of the medication; circumstances for administering "as needed" medication; dosage (not acceptable to note "as indicated on bottle"); special instructions, if applicable; and signature of parent and date of signature.

B. Medication administration records shall be maintained verifying that the medication was given according to parent's authorization, including: date; time; dosage administered; signature (not initials) of the staff member who gave the medication; and phone contact (date and time) with the parent prior to giving "as needed" medication.

C. Children with chronic health needs that require medical procedures such as tube feeding require specific instructions from the child's health care provider as part of an overall care plan. Administration of feedings or medications through a tube-feeding apparatus shall be performed by a staff member trained and authorized by a parent or individual designated by a parent. Parental authorization and training shall be documented and include the child's name, date of the training, name of staff trained, signature of staff trained, and signature of parent. Documentation of feedings/medications administered shall include child's name, date, time, what was administered, and signature of staff that administered food/medication to child.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 37:

§7324. Emergency Medication

A. No medication of any type (prescription, non-prescription, or special medical procedure) shall be administered by facility staff unless authorized in writing by the parent.

B. There shall be a plan of action and parental authorization for children who require emergency medication (e.g., Epipen, Benadryl). Parental authorization and plan of care shall be updated as changes occur and at least every six months. Parental authorization and plan of care shall include: child's name; name of the medication; dosage (not acceptable to note "as indicated on bottle"); method of administration; symptoms that would indicate the need for the medication; actions to take once symptoms occur; description of how to use the medication; and signature of parent and date of signature.

C. Medication administration records shall be maintained verifying that the medication was given according to the authorization, including: date; time; dosage administered; symptoms noted that indicated the need for the medication; actions taken once symptoms occurred; description of how medication was administered; signature (not initials) of the staff member who gave the medication; and phone contact (date, time, and signature of person who contacted parent) with the parent after administering emergency medication.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 37:

§7325. Safe Sleep Practices

A. Only one infant shall be placed in each crib. All infants shall be placed on their backs for sleeping.

1. Written authorization from the child's physician is required for any other sleeping position. A notice of exception to this requirement shall be posted on or near the baby's crib and shall specify the alternate sleep position. Written authorization from the child's physician is required for a child to sleep in a car seat or other similar device and shall include the amount of time that the child is to remain in said device. The written authorization shall be updated every three months and as changes occur.

B. "Back to sleep" signs shall be posted above or on each crib.

C. Infants shall not be placed in positioning devices for sleeping unless the child has a note on file from the child's physician authorizing the device.

D. Infants who use pacifiers will be offered their pacifier when they are placed to sleep, and it shall not be placed back in the mouth once the child is asleep.

E. Bibs shall not be worn by any child while asleep.

F. Each infant shall be placed in a safety-approved crib with a firm mattress of no more than six inches and with well-fitting sheets.

1. Cribs shall not have more than 2 and 3/8-inches between slats and between the side and end panels.

2. Decorative cutout areas in crib end panels or decorative knobs on the corner posts, which can entrap a child's head or catch his or her clothing, are prohibited.

3. All latching devices on cribs shall hold securely, be maintained in proper working condition, and shall not be accessible by the child in the crib.

4. Full size cribs shall be in compliance with ASTM F 1169-10 as of December 28, 2012.

G. Cribs shall be free of toys and other soft bedding, including fluffy blankets, comforters, bumper pads, pillows, stuffed animals, and wedges when the child is in the crib.

H. Nothing shall be placed over the head or face of the infant.

I. If a blanket is used for covering an infant, only a thin, lightweight blanket may be used. If used, the blanket shall be tucked in along the sides and foot of the mattress and shall not come up higher than the child's chest.

J. Staff shall visually check on sleeping infants at least every 10 minutes.

K. A "safe sleep" policy, including all requirements of 7325.A-K, shall be posted in a prominent place in the infant room and included as part of parent policies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 37:

§7326. Care of Children

A. Diapers shall be changed when wet or soiled.

B. While awake, children shall not remain in a crib/baby bed, swing, high chair, carrier, playpen, etc., for more than 30 consecutive minutes. Staff shall engage children in individual interaction and provide stimulation to children in these settings in a variety of ways, such as talking to, playing with, holding, and rocking children.

C. Infants shall be given the opportunity each day for supervised play while positioned on their stomachs.

D. Daily written reports to include liquid intake, food intake, child's disposition, bowel movements, eating patterns, and sleeping patterns shall be given to the parents

of infants and one year old children on a daily basis. Reports shall be kept current throughout the day.

E. Children shall never be held by a staff removing a bottle from a warming device.

F. Pacifiers attached to strings or ribbons shall not be placed around a child's neck or attached to a child's clothing.

G. Hot liquids shall not be consumed in the presence of children.

H. Staff shall adhere to proper techniques for lifting a child. Staff shall not lift a child by one or both of child's arms.

I. Children shall be changed and cleaned immediately following a toileting accident.

J. Staff shall respond promptly to a child's request for toileting assistance.

K. Potty chairs, if used, shall not be in the open classroom area.

L. A child's shoe strings shall not be taped to the child's shoes or articles of clothing.

M. Staff and children shall wash their hands at least at the following times: upon arrival at the facility, before preparing or serving meals, while giving medication, after playing in water used by more than one person, after toileting, while helping a child use a toilet or changing diapers, after wiping noses or cleaning wounds, after handling pets and other animals, after playing in sandboxes, before eating meals or snacks, upon coming in from outdoors, after cleaning or handling the garbage, and anytime hands become soiled with body fluids (urine, saliva, blood, or nasal discharge).

N. Soap and single use towels shall be available at hand washing sinks.

O. Air machines for drying hands are prohibited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 37:

§7327. Indoor Environment

A. Indoor Space Required

1. A minimum of at least 35 square feet per child of usable indoor space shall be available. The space shall not include toilet facilities, hallways, lofts, storage spaces, stairways, lockers, offices, storage or food preparation areas, rooms used exclusively for dining or sleeping, or rooms used exclusively for the care of ill children. Any room counted as play space shall be available for play for the duration of the facility's hours of operation. The maximum number of children in care at one time, whether on or off the premises, shall not exceed the capacity as specified on the current license. Indoor space shall include an area for dining. This area may be in each classroom.

2. The number of children using a room shall be based on the 35 square feet per child requirement, except for dining, sleeping, and other non-routine group activities such as film viewing and parties.

3. Provisions shall be available indoors for temporarily isolating a child having or suspected of having a communicable disease.

4. In rooms where there are cribs, there shall be adequate open floor play space available for crawling, walking, pulling up, and playing that is free of routine-care furniture (changing tables, cribs, rocking chairs, high chairs, etc.).

5. An indoor area shall be maintained for the purpose of providing privacy for diapering, dressing, and other personal care procedures for children beyond usual diapering age (three years of age and above).

B. Indoor Equipment

1. A variety of books, educational materials, toys, and play materials shall be provided, organized, and displayed within children's reach so that they may select and return items independently in each play area. There shall be materials and equipment to address the six areas of development: physical, language/literacy, social, cognitive, emotional, and cultural. Materials shall be available for the number of children in care so that each child is able to play or use equipment without having to wait with no other option available. All materials shall be developmentally appropriate to the needs and ages of the children assigned to each group.

2. Individual, labeled space shall be available for each child's personal belongings.

3. Developmentally appropriate seating shall be used. Chairs and tables of suitable size shall be available for each child.

4. Feeding tables, if age appropriate, may be used at mealtimes. If feeding tables are used, the children's feet must be able to rest comfortably on a foot rest. These same tables may also be used for occasional program activities that require a table surface for no longer than 30 minutes in one day.

5. Staff shall ensure that the high chair manufacturer's restraint device is used when children are sitting in the high chair. Children who are too small or too large to be restrained using the manufacturer's restraint device shall not be placed in the high chair.

6. All diapering surfaces shall be non-porous and shall be sanitized after each use.

7. Individual and appropriate sleeping arrangements shall be made available for each child. Individual crib, cot, or mat of appropriate size, height, and material, sufficient to ensure his/her health and safety, shall be provided. The crib, cot, or mat shall be of adequate size to ensure that the child's head and feet rest on the mat or cot. For programs serving school age children only, individual and appropriate sleeping arrangements shall be made available for a child that requests a rest time.

a. Mattresses shall be of standard size so that they fit the crib frame without gaps of more than 1/2 inch.

b. The mattress support system shall not be easily dislodged from any point of the crib by an upward force from underneath the crib.

c. Cribs shall not have corner post extensions over 1/16 inch or cutouts in the headboards.

d. Non-full size cribs shall meet the following: 16 Code of Federal Regulations- Consumer Product Safety Commission 1509. Non-full size cribs shall be in compliance with ASTM F 406-10a as of December 28, 2012.

e. Homemade cribs and homemade mattresses are prohibited.

f. Crib railings shall be in the upright locked position at all times when the child is in the crib.

g. Mesh-sided playpens shall have mesh which is less than 1/4 inch in size.

8. Stackable cribs are prohibited.

9. Children shall not sleep in playpens or mesh-sided cribs.

10. Each child's sleeping accommodations shall be assigned to him/her on a permanent basis and labeled. If cot and/or mat is sanitized daily, permanent assignment is not required.

11. A labeled sheet or covering shall be provided by either the provider or the parent for covering the child during rest time. The sheet and/or covering shall be assigned to him/her on a permanent basis and labeled. If the sheet and/or covering is laundered daily, permanent assignment is not required.

12. Sheets and coverings shall be changed immediately when soiled or wet. Routine laundering shall occur at least weekly.

13. Cribs, cots, and mats shall be spaced at least 18 inches apart when in use to allow easy access by staff and safe evacuation of children.

14. Trampolines are prohibited.

15. Infant walkers are prohibited.

16. Toy chests, storage bins, and other equipment with attached lids are prohibited.

17. Latex balloons are prohibited for children younger than three years of age and shall not be in areas accessible to children under three years of age.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 37:

§7328. Outdoor Environment

A. Outdoor Space

1. Outdoor play space with a direct exit from the facility into the outdoor play yard shall be available. If the exit does not open directly onto the play yard, the outdoor play yard shall be attached to the facility in such a manner to ensure that the children are continuously protected by a permanent fence or other permanent barrier while going to or from the outdoor play yard. Children shall not exit the facility through the kitchen. This regulation shall be deemed met for providers who met the outdoor play space requirement prior to the implementation of the current standards as long as no changes are made to the approved space.

2. Facility's outdoor play space shall be used at scheduled outdoor play times. Regularly scheduled off-site excursions shall not be made for the purpose of fulfilling the outdoor playtime requirement. If the facility is located in a school or church, the child care facility shall have time designated for exclusive use of the outdoor play area.

3. The outdoor play space shall be enclosed with a permanent fence or other permanent barrier in such a manner as to protect the children from traffic hazards, to prevent the children from leaving the premises without proper supervision, and to prevent contact with animals or unauthorized persons.

a. The barrier/fence shall be at least four feet in height.

b. Any openings in the fence shall be no greater than 3 1/2 inches to prevent entrapment.

c. The fence shall be maintained in a stable, secure, upright, and good condition that poses no risk to children.

d. Gates shall be closed while children are outdoors.

4. The outdoor play space shall provide a minimum of 75 square feet for each child using the play space at any one time. The minimum outdoor play space shall be available for at least one-third of the licensed capacity.

5. All air conditioning/heating units, mechanical equipment, electrical equipment, or other hazardous equipment shall be inaccessible to children.

6. Crawlspace shall be inaccessible to children.

7. Areas where there are open cisterns, wells, ditches, fish ponds, swimming pools, and other bodies of water shall be made inaccessible to children by fencing and locked gates.

B. Outdoor Equipment, Materials and Furnishings

1. A variety of outdoor play equipment and materials (portable and/or stationary) shall be provided for the number of children in care so that each child is able to play or use equipment without having to wait with no other option available. All materials shall be appropriate to the interests, needs and ages of the children assigned to each group.

2. Play equipment shall be laid out to ensure ample clearance space for the use of each play structure as follows: Stationary play structures 30 inches or less in height shall be spaced at least six feet apart. Stationary play structures more than 30 inches in height shall be spaced at least nine feet apart.

3. Play equipment with swings and/or play surfaces four feet or higher from the ground shall have protective surfacing under the use zone of the equipment. Protective surfacing includes loose fill materials such as sand, pea gravel, wood chips, or rubber chips. Rubber tiles, rubber mats, or poured-in-place rubber are acceptable if they meet the Consumer Product Safety Commission recommendations.

a. Protective surfacing at a depth of eight to ten inches or rubber mats meeting ASTM Standard F-355 shall be used.

b. Protective surfacing shall extend at least six feet in all directions from play equipment with play surfaces four feet or higher from the ground.

c. Protective surfacing shall extend out from swings twice the distance of the height of the pivot point of the swing set structure.

4. Climbing or stationary equipment, regardless of height, shall not be placed directly on asphalt, concrete, or other hard surfaces.

5. Openings in guardrails or between ladder rungs, or any other space that could entrap children, shall measure less than 3.5 inches or more than nine inches.

6. Swing seats made of wood or metal are prohibited.

7. Playground equipment shall be installed so that an average sized adult is not able to cause the fixed structure to wobble or tip.

8. Exposed ends of tubing on playground equipment shall be covered with plugs or caps.

9. Culverts are prohibited on playgrounds.

10. Sandboxes shall be constructed to permit drainage and shall be covered when not in use.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 37:

§7329. Safety Requirements

A. A working phone capable of incoming and outgoing calls shall be available at all times and readily available at the facility. Facilities located in schools and churches shall have a phone within the licensed area. Coin-operated phones, cordless phones, or cellular phones are not acceptable for this purpose.

B. When a facility has multiple buildings and a phone is not located in each building where the children are housed, facility staff shall follow established written procedures for securing emergency help. The written plan shall be posted in each building.

C. Appropriate emergency numbers, including but not limited to numbers for the fire department, police department, and medical facility, and the facility's physical address shall be prominently posted on or near each phone.

D. The telephone number for poison control shall be prominently posted on or near each phone. The Louisiana Poison Control Number is 1-800-222-1222.

E. Indoor and outdoor areas shall be free of hazards.

F. All equipment used by children shall be maintained in a clean, safe condition and in good repair.

1. There shall be no dangerous angles, sharp edges, splinters, protruding nails, nuts and bolts, open S hooks, or pinch points within children's reach.

2. Play equipment shall be free of sharp points, corners, edges, splinters, protruding nails, bolts, or other components that could potentially entangle clothing or snag skin.

G. Microwave ovens and bottle warming devices shall be inaccessible to children.

H. Crock pots are prohibited in areas accessible to children.

I. Moveable equipment, including but not limited to television sets, bookcases, shelves, appliances, warming devices, etc., shall be secured and supported so that it shall not fall or tip over.

J. Prescription and over-the-counter medications, poisons, cleaning supplies, harmful chemicals, equipment, tools, kitchen knives or potentially dangerous utensils, and any substance with a warning label stating it is harmful to or that it should be kept out of the reach of children, shall be locked away from and inaccessible to children. Whether these items are in a cabinet or in an entire room, the area shall be locked. Hand soap shall be accessible to children. Hand sanitizer gel shall be inaccessible to children when not in use.

K. Refrigerated medication shall be stored in a secure container with a lid to prevent access by children and avoid contamination of food.

L. Plastic bags, whether intended for storage, trash, diaper disposal, or any other purpose, shall be made inaccessible to children when not in use.

M. Construction, remodeling, or alterations of structures shall be done in such a manner as to prevent hazards or unsafe conditions (fumes, dust, safety hazards).

N. Secure railings shall be provided for flights of more than three steps and for porches more than three feet from the ground.

O. Accordion gates are prohibited unless there is documentation on file that the gate meets the requirements

as approved by the Office of Public Health, Sanitarian Services.

P. Unused electrical outlets with a distance less than five feet from the floor shall be protected by a safety plug cover.

Q. Strings and cords shall be inaccessible to children under three years of age. These include but are not limited to those found on equipment, window coverings, televisions, radios, etc.

R. First aid supplies shall be kept on-site and easily accessible to employees and not within the reach of children.

S. All areas of the facility used by the children, including sleep areas, shall be properly heated, cooled, and ventilated. Rooms in which infants are sleeping shall be maintained at a temperature between 68 and 73 degrees Fahrenheit.

T. Electric space heaters are prohibited.

U. The provider shall prohibit the use or possession of alcohol, tobacco, illegal substances or unauthorized potentially toxic substances, fireworks, firearms (loaded or unloaded), and pellet or BB guns (loaded or unloaded) on the child care premises. A notice to this effect shall be posted.

V. Staff's personal belongings (including but not limited to contents of purses, backpacks, coat pockets, etc.) shall be inaccessible to children.

W. The provider shall post the current copy of "The Safety Box" newsletter issued by the Office of the Attorney General as required by Chapter 55 of Title 46 of the LRS 46:2701-2711. Items listed as recalled in the newsletter shall not be used and shall be immediately removed from the child care premises.

X. Toxic pesticides shall not be applied while children are present. Once applied, children shall not be present in the applied area for 12 hours.

Y. Lawn Care services shall not occur while children are on the playground or outside of the child care facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 37:

§7330. Emergency Preparedness and Evacuation Planning

A. The director, in consultation with appropriate state or local authorities, shall establish and follow a written emergency and evacuation plan to protect children in the event of any emergencies. Written multi-hazard plan shall include shelter in place, lock down situations, and evacuations with regard to natural disasters, manmade disasters, and attacks while children are in care. The plan shall be appropriate for the area in which the facility is located and address any potential disaster due to that particular location. The plan shall be reviewed with staff at least twice a year. Documentation shall include staff signatures and date reviewed. At a minimum, the plan shall be reviewed annually by the director for accuracy and updated as changes occur. Documentation of review shall consist of the director signature and date. The plan shall also include information regarding handling children with special needs enrolled in the child care facility as well as instructions for infants through children age two. The plan shall include but shall not be limited to a system to account for all children whether sheltering in place, locking down, or

evacuating to a pre-determined relocation site. The plan shall include a system and back up system to contact parents or authorized third party release caretakers of children (how and when parents will be notified). The plan shall include a system to reunify children and parents following an emergency (how and when parents will be notified). Parents shall be informed of the details of this emergency plan prior to an emergency event.

B. The plan shall include lock down procedures for situations that may result in harm to persons inside the child care facility, including but not limited to a shooting, hostage incident, intruder, trespassing, disturbance, or any situation deemed harmful at the discretion of the director, designee, or public safety personnel. The director shall announce the "Lock Down" over the public address system or other designated system. The alert may be made using a pre-selected code word. In a "Lock Down" situation, all children are kept in classrooms or other designated safe locations that are away from the danger. Staff members are responsible for accounting for children and ensuring that no one leaves the classroom/safe area. Staff shall secure facility entrances, ensuring that no unauthorized individual leaves or enters the facility.

1. Staff and children shall remain in the classroom/safe area, locking the classroom door, turning off the lights, and covering the windows. Staff shall encourage children to get under tables, behind cabinets, etc., and, if possible, engage in quiet story time activities with the children until "all clear" is announced. Parent or authorized representative shall be notified no later than at the time of pick-up at the child's release of a "Lock Down" situation at the facility on the date of the occurrence.

C. An individualized emergency plan (including medical contact information and additional supplies/equipment needed) shall be in place for each child with special needs.

D. If evacuation of the facility is necessary, provider shall have an evacuation pack and all staff shall know the location of the pack. The contents shall be replenished as needed. At a minimum, the pack shall contain the following: list of area emergency phone numbers;

1. list of emergency contact information and emergency medical authorization for all children enrolled;
2. emergency pick up form; first aid kit; hand sanitizer;
3. wet wipes; tissue;
4. diapers if serving children who are not yet potty trained;
5. plastic bags;
6. battery powered flashlight;
7. battery powered radio;
8. batteries;
9. food for all ages of children served, including infant food and formula;
10. disposable cups; and bottled water.

E. If the facility is located within a ten-mile radius of a nuclear power plant or research facility, the facility shall also have plans for nuclear evacuation.

F. Fire drills shall be conducted at least once per month. Drills shall be conducted at various times of the day to include all children (children attending on certain days only and/or at certain times only) and shall be documented. Documentation shall include: date and time of drill; number

of children present; amount of time to evacuate the facility; problems noted during drill and corrections noted; and signatures (not initials) of staff present. The Licensing Section recommends that at least one fire drill every six months be held at rest time.

G. Tornado drills shall be conducted at least once per month in the months of March, April, May, and June. Drills shall be conducted at various times of the day to include all children (children attending on certain days only and/or at certain times only) and shall be documented. Documentation shall include: date and time of drill; number of children present; problems noted during drill and corrections noted; and signatures (not initials) of staff present.

NOTE: For additional information contact the Office of Emergency Preparedness (Civil Defense) in your area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 37:

§7331. Water Activities

A. The provider shall obtain written authorization from the parent for the child to participate in any water activity or water play activity. The statement shall describe all types of water activities provided and the authorization shall be updated at least annually. It shall list the child's name, type of water/water play activity, location of water activity, parent's signature, and date.

B. Children under three years of age shall not engage in water activities in wading or swimming pools due to the risk of fecal-oral contamination and disease.

C. Use of saunas, spas, or hot tubs by children is prohibited.

D. Swimming, wading, and boating are not allowed at lakes, ponds, or other similar bodies of water.

E. The Provider shall have a written plan that describes the method that will be used by staff to account for children and ensure their safety while engaged in water activities. Staff and children shall be familiar with the method used.

F. If children use a pool or other bodies of water with a depth of more than two feet, a certified lifeguard holding a current certificate shall be on duty supervising the children participating in swimming or wading activities at all times. This individual shall not be counted in child/staff ratio. Original cards shall be presented upon request of the Licensing Section staff.

1. For on-site activities, the provider shall have documentation of the current lifeguard certification. Original cards shall be presented upon request.

2. For off-site activities, documentation as deemed acceptable by the Licensing Section shall be on file at the facility verifying that the supervising adult meets the above requirement or the lifeguard on duty is currently certified.

G. At least two staff responsible for supervising the on-site and/or off-site swimming/wading pools or activities in other bodies of water shall have documentation of current infant/child/adult CPR certification and Pediatric First Aid certification. Original cards shall be presented upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 37:

§7332. Non-Vehicular Excursions

A. Written parental authorization shall be obtained for all non-vehicular excursions. Authorization shall include the name of child, type and location of excursion, description of planned route, date, and signature of parent, and shall be updated at least annually.

B. The provider shall maintain a record of all non-vehicular excursion activities to include date, time, list of children, staff, and other adults, and type of excursion.

C. Children shall not be taken on a non-vehicular excursion to prevent the facility from being over capacity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 37:

§7333. Transportation (Facility-Provided, Parent-Provided or Contract-Provided)

A. Transportation arrangements shall conform to state laws, including but not limited to those requiring the use of seat belts and child restraints. Additionally, no child under five years of age shall be transported in any vehicle, including a school bus, unless age and weight appropriate child restraints are utilized.

B. Only one child shall be restrained in a single safety belt.

C. The children shall never be left unattended in a vehicle.

D. Each child shall safely board and/or leave the vehicle from the curb side of the street or shall be escorted across the street.

E. The vehicle shall be maintained in good repair as evidenced by: Ventilation and heating systems shall be operational and used to maintain a comfortable temperature during transport. The vehicle's engine shall be maintained in working mechanical order. The vehicle's interior shall be clean and free of trash and debris. The vehicle's seat coverings shall be in good repair. Written documentation shall be maintained of regular maintenance of all facility vehicles to include monthly inspection of tire wear and pressure, brakes, lights, and functioning seat belts.

F. The use or possession of alcohol, tobacco in any form, illegal substances or unauthorized potentially toxic substances, firearms (loaded or unloaded), or pellet or BB guns (loaded or unloaded) in any vehicle used to transport children is prohibited.

G. The number of persons in a vehicle used to transport children shall not exceed the manufacturer's recommended capacity.

H. The provider shall maintain a copy of a valid appropriate Louisiana driver's license for all individuals who drive vehicles (staff, contracted persons, parents) used to transport children.

I. The provider shall maintain in force at all times current commercial liability insurance for the operation of facility vehicles used to transport children in the event of accident or injury. This policy shall extend coverage to any staff member who provides transportation for any child in the course and scope of his/her employment. Documentation shall consist of the insurance policy or current binder that includes the name of the child care facility, the name of the insurance company, policy number, period of coverage, and explanation of the coverage.

J. The provider shall maintain a copy of the current liability insurance policy for all non-facility-owned vehicles (provided by parents for field trips or provided by contract, whether daily or field trip) used to transport children.

K. Parents shall not be required to waive the provider's responsibility. Provider may not issue any disclaimer of responsibility in any of its policies, handbooks, parent contract, advertising, or any other written or verbal form.

L. The vehicle shall have evidence of a current safety inspection. A signed statement by the provider noting the expiration date of the vehicle's safety inspection is acceptable for a contracted vehicle or a parent's vehicle.

M. There shall be first aid supplies in each provider or contracted vehicle. First aid supplies (at least one per trip) shall be available for each field trip when parents provide transportation. A signed statement by the provider verifying that first aid supplies were available is acceptable for a contracted vehicle or a parent vehicle.

N. There shall be information prominently posted in each vehicle identifying the name of the director and the name, phone number, and address of the facility for emergency situations. A signed statement by the provider verifying the identifying information was posted is acceptable for a contracted vehicle or a parent vehicle.

O. Immediately upon unloading the last child and to ensure that all children have been unloaded, a staff person shall physically walk through the vehicle and inspect all seat surfaces, under all seats, and in all enclosed spaces and recesses in the vehicle's interior. The staff conducting the visual check shall record the time of the inspection and sign his or her full name, indicating that no child was left on the vehicle. Documentation shall be maintained on file at the facility whether provided by facility or contract.

P. Children shall not be transported to prevent the facility from being over capacity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 37:

§7334. Field Trips (Contract, Facility-Provided or Parent-Provided)

A. All requirements for general transportation, Section 7333, also apply to field trips.

B. The provider shall obtain and maintain a signed parental authorization for each field trip. Field trip authorization shall include the method of transportation, (contract vehicle, facility owned vehicle, parent vehicle), event, location, child's name, date and time of event, parent's signature, and date.

C. The driver plus one staff are required at all times in each vehicle when transporting any child under five years of age. Child/staff ratio shall be met in the vehicle.

D. When only transporting children five years of age and older, at least two staff, one of whom may be the driver, shall be in each facility vehicle unless the following are met: facility vehicle's capacity is less than ten; five or fewer children are being transported; the vehicle has a communication device, and child/staff ratio is met in the vehicle.

E. When only transporting children five years of age and older, at least one staff in addition to the driver shall be in each contracted vehicle unless the following are met:

vehicle's capacity is less than ten; five or fewer children are being transported; the vehicle has a communication device, and child/staff ratio is met in the vehicle.

F. When parents transport children in addition to their own children, there shall be at least one adult present in each vehicle, in addition to the driver. The two adults shall be a parent and an adult staff or two parents of children currently enrolled in the facility who are not related to one another.

G. If transportation is provided by parents, a planned route shall be provided to each driver and a copy maintained in the facility.

H. Children shall be supervised during boarding and exiting vehicles by an adult who remains on the outside of the vehicle.

I. A written record for each field trip shall be maintained to include the following:

1. the date of the field trip;
2. destination of the trip; method of transportation; first and last names of all the children being transported in each vehicle;
3. first and last names of the driver/staff or other adults (parents, volunteers, etc.) being transported in each vehicle;
4. first and last names of other adults who joined the activity at the destination to assist with the supervision of the children;
5. each child's attendance shall be recorded each time they load and unload from the vehicle; and
6. the signature of the person conducting the check and the time the vehicle is checked for each loading and unloading.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 37:

§7335. Daily Transportation (Contract or Facility-Provided)

A. All requirements for general transportation, Section 7333, also apply to daily transportation.

B. The driver plus one staff are required at all times in each vehicle when transporting any child under five years of age. Child/staff ratio shall be met in the vehicle.

C. When only transporting children five years of age and older, at least two staff, one of whom may be the driver, shall be in each facility vehicle unless the following are met: facility vehicle's capacity is less than ten; five or fewer children are being transported; the vehicle has a communication device, and child/staff ratio is met in the vehicle.

D. When only transporting children five years of age and older, at least one staff in addition to the driver shall be in each contracted vehicle unless the following are met: vehicle's capacity is less than ten; five or fewer children are being transported; the vehicle has a communication device, and child/staff ratio is met in the vehicle.

E. Written authorization to transport the child signed and dated by the parent(s) shall include: name of child; type of service (to and from home, and to and from school to include the name of the school); names of individuals or school to whom the child may be released; and estimated duration of time spent on the vehicle per trip.

F. A current passenger log for each trip shall be used to track children and staff during transportation. The log shall be maintained on file at the facility and a copy shall be provided to the driver or attendant. The following shall be recorded on the log: the date the transportation is provided; the first and last name of the child; the first and last name of the driver/staff; pick up and drop off locations; authorized persons to whom the child may be released; the time the child was placed on the vehicle; the time the child was released and the name of the person or school to whom the child was released; and the signature of the staff that completed the log.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 37:

§7336. Contract Requirements

A. All requirements for general transportation, Section 7333, also apply to contracted transportation.

B. The provider shall maintain a contract that is signed by the provider and a representative of the transportation agency outlining circumstances under which transportation will be provided. This written contract shall be dated, time limited, and shall specify the following in the contract: Transportation arrangements shall conform to state laws, including but not limited to those requiring the use of seat belts and child restraints. Additionally, no child under five years of age shall be transported in any vehicle, including a school bus, unless age and weight appropriate child restraints are utilized. 1. Only one child shall be restrained in a single safety belt. Each child shall safely board and/or leave the vehicle from the curb side of the street or shall be escorted across the street.

2. The vehicle shall be maintained in good repair as evidenced by: Ventilation and heating systems shall be operational and used to maintain a comfortable temperature during transport. The vehicle's engine shall be maintained in working mechanical order. The vehicle's interior shall be clean and free of trash and debris. The vehicle's seat coverings shall be in good repair.

3. The use or possession of alcohol, tobacco in any form, illegal substances or unauthorized potentially toxic substances, firearms (loaded or unloaded), or pellet or BB guns (loaded or unloaded) in any vehicle is prohibited. The number of persons in a vehicle used to transport children shall not exceed the manufacturer's recommended capacity. Current commercial liability insurance for the operation of the vehicle shall be required for children in the event of accident or injury. The vehicle shall have evidence of a current safety inspection. There shall be first aid supplies in each contracted vehicle.

C. The provider shall maintain a copy of a valid appropriate Louisiana driver's license for all contracted persons who drive vehicles used to transport children.

D. Documentation of a satisfactory criminal record check from Louisiana State Police as required by La. R.S. 46:51.2 is required for all contracted persons. A copy of this clearance shall be obtained prior to the individual being present with the children from the licensed program. No person who has been convicted of, or a plea of guilty or nolo contendere to, any offense included in 15:587.1, 14:2,

15:541 or any offense involving a juvenile victim, shall be present in any capacity with the children of the licensed facility.

1. Independent contractors may provide a certified copy of their criminal background check obtained from the Louisiana Bureau of Criminal Identification and Information Section of the Louisiana State Police to the provider prior to being present with a child or children. If an individual provides a certified copy of their criminal background check obtained from the Louisiana State Police to the provider, this criminal background check shall be accepted by DCFS for a period of one year from the date of issuance of the certified copy. A photocopy of the certified copy shall be kept on file at the facility. Prior to the one year date of issuance of the certified copy, the individual shall request and obtain a current certified copy of their criminal background check obtained from the Louisiana Bureau of Criminal Identification and Information Section of the Louisiana State Police in order to continue providing services for the child care facility. If the clearance is not provided to the facility prior to the one year date of issuance of the certified criminal background check, the individual shall no longer be allowed to provide services to the child care facility until a clearance is provided. This criminal background check shall be accepted by DCFS for a period of one year from the date of issuance of the certified copy. A photocopy of the certified copy shall be kept on file at the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 37:

§7337. Care for Children during Nighttime Hours

A. Staff counted for purposes of meeting child/staff ratio shall be awake and supervising the children at all times.

B. Meals shall be served to children who are in the facility at the ordinary meal times.

C. Each child shall have a separate, age-appropriate bed or cot with mat or mattress covered by a sheet for each child, as well as a covering for each child (bunk beds are not allowed).

D. Evening quiet time activity, such as story time, board games, and reading, shall be provided to each child arriving before the child goes to bed.

E. Time for personal care routines and preparation for sleep, such as brushing teeth, washing hands and face as needed, toileting, and changing clothes shall be provided.

F. The facility's entrance and drop off zones shall be well-lighted during hours of operation.

G. The provider shall conduct monthly fire drills during the night time hours in addition to the required daytime drills. When conducting this type of fire drill, it is not necessary to exit the building with the children. Documentation shall include: date and time of drill; number of children present; amount of time to evacuate the facility; and/or reach the exit; problems noted during drill and corrections noted; and signatures (not initials) of staff present. The Licensing Section recommends that at least one fire drill every six months be held during nighttime hours after children are sleeping.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 37:

§7350. Disclosure of Information as Specified under R.S. 46:1426

A. Purpose; Authority. It is the intent of the Legislature to protect the health, safety, and well-being of children who are in out-of-home day care facilities. Toward that end, R.S. 46:1426 allows parents or guardians of children enrolled in, or who have made application to be enrolled in, a day care facility to obtain certain information pertaining to that particular day care facility in addition to information that may be obtained under the Public Records Act subject to the limitations provided by R.S. 46:56(F)(4)(c).

B. Procedure for Requesting Information

1. Requests for information may be made by a parent or guardian of a child either by telephone or in writing.

2. Upon receipt of a request that does not give assurance that the person making the request is a parent or guardian of a child that is currently attending or that has completed a current application to attend the day care facility in question, the Licensing Section shall furnish the parent or guardian a certification form that must be completed and signed that certifies that their child is currently attending or that a current application has been made for the child to attend the particular day care facility.

3. Upon receiving the needed information, or the certification form, the Licensing Section shall initiate a review of the records of that particular day care facility.

4. The Licensing Section shall provide or make available all information, if any, that is requested, subject to limitations as provided by law.

5. Failure of a parent or guardian to sign a certification form or provide compelling information that indicates their child is either currently attending or has made application to attend said day care facility will result in the request being handled as a request under the Public Records Act.

C. Information That May Be Released

1. Information that may be released under R.S. 46:1426 is as follows:

a. each valid finding of child abuse, neglect, or exploitation occurring at the facility, subject to the limitations provided by R.S. 46:56(F)(4)(c);

b. whether or not the day care facility employs any person who has been convicted of or pled guilty or nolo contendere to any of the crimes provided in R.S. 15:587.1;

c. any violations of standards, rules, or regulations applicable to such day care facility; and

d. any waivers of minimum standards authorized for such day care facility.

2. No information may be released that contains the name, or any other identifying information, of any child involved in any situation concerning the day care facility.

3. The identity of any possible perpetrator or of the party reporting any suspected abuse, neglect or exploitation shall not be disclosed except as required by law.

4. If there is no information in the files other than information covered under the Public Records Act, the parent or guardian shall be so notified and informed of the procedure for obtaining that information.

D. Costs. Parents or guardians wanting copies of records under R.S. 46:1426 shall be informed of the costs involved and pay for copies of said records, as is required for obtaining copies of records under the Public Records Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1426

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 37:

Family Impact Statement

1. What effect will this rule have on the stability of the family? There will be no effect on the stability of the family.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? This rule includes revised regulations that strengthen the measure of protection that the Licensing Section provides for children that receive out-of-home child care in accordance with R.S. 46:1401 et seq. This rule will establish revised regulations for child care providers to help protect the health, safety and welfare of children. Parents and/or guardians will also have access to these regulations. The regulations will provide knowledge that can enhance their ability to make informed 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 the 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, March 28, 2011 to Sammy Guillory, Deputy Assistant Secretary, Department of Children and Family Services, Post Office Box 94065, Baton Rouge, LA, 70804-9065.

Public Hearing

A public hearing on the proposed rule will be held on, March 28, 2011 at the Department of Children and Family Services, Iberville Building, 627 N. Fourth Street, Seminar Room 1-129, Baton Rouge, LA, beginning at 9:00 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said

hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call 225-342-4120 (Voice and TDD).

Ruth Johnson
Secretary

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This Rule will not cause any impact on competition and employment.

Sammy Guillory
Deputy Assistant Secretary
1102#073

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Class "A" Regulations**

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, Chapter 73 Day Care Centers, Subchapter A. Licensing Class "A" Regulations for Child Care Centers. These standards are being revised in their entirety to supersede any previous regulations published as mandated by R.S. 46:1401 et seq. which states that periodically the department must publish the current regulations or standards for Licensing Class "A" Regulations for Child Care Centers.

DCFS shall mail a notice to approximately 1,900 child day care centers to notify the providers that the information is posted on the DCFS Web site at an estimated cost of \$1,214 (\$607 State; \$607 Federal), which includes printing (\$171), supplies (\$131), and postage (\$912). This cost will be absorbed within the Department of Children and Family Services (DCFS) FY 2010-11 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 \$7,224 (\$3,612 State; \$3,612 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 11 is \$8,438 (\$4,219 SGF; \$4,219 Federal). It is estimated that any potential cost in subsequent fiscal years are routinely included in the agency's budget.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on the revenue collections on any governmental unit as a result of this Rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This Rule will not cause any additional estimated costs and/or economic benefits to any persons or non-governmental group.

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 111—The Louisiana School, District, and State Accountability System (LAC 28:LXXXIII.1101, 1102, 1103, and 1601)

In accordance with R.S. 49:950, et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 111—The Louisiana School, District, and State Accountability System*: §1101. Letter Grades, §1102. Academic Watch and Academically Unacceptable Schools (AUS), §1103. Honor Rolls, and §1601. Entry into Academically Unacceptable School Status. Act 478 of the 1997 Regular Legislative Session called for the development of an Accountability System for the purpose of implementing fundamental changes in classroom teaching by helping schools and communities focus on improved student achievement. The State's Accountability System is an evolving system with different components that are required to change in response to state and federal laws and regulations. Proposed changes in Bulletin 111, Chapters 11 and 16, provide detail for a letter grade system in all schools to accurately reflect both the status and progress of students and will replace performance labels currently in Bulletin 111.

Title 28

EDUCATION

**Part LXXXIII. Bulletin 111—The Louisiana School, District, and State Accountability System
Chapter 11. School Performance Categories
§1101. Letter Grades**

A. Beginning with the release of 2010-2011 school accountability data, schools will receive letter grades based on the Baseline School Performance Score (SPS) and Growth Targets.

Letter Grade	Baseline SPS Range	Approximate Percentage of Students Basic or Below	Plus or Minus	Rule for Grade Assignment
A	120.0-200.0	0%-12%	A+	In SPS range for letter grade A and met or exceeded Growth Target
			A	In SPS range for letter grade A and did not meet Growth Target and did not decline
			A-	In SPS range for letter grade A and SPS declined
B	105.0-119.9	12%-24%	B+	In SPS range for letter grade B and met or exceeded Growth Target
			B	In SPS range for letter grade B and did not meet Growth Target and did not decline
			B-	In SPS range for letter grade B and SPS declined
C	90.0-104.9	25%-36%	C+	In SPS range for letter grade C and met or exceeded Growth Target
			C	In SPS range for letter grade C and did not meet Growth Target and did not decline

Letter Grade	Baseline SPS Range	Approximate Percentage of Students Basic or Below	Plus or Minus	Rule for Grade Assignment
			C-	In SPS range for letter grade C and SPS declined
D	65.0-89.9 (in 2011) 75.0-89.9 (in 2012 and beyond)	37%-61%	D+	In SPS range for letter grade D and met or exceeded Growth Target
			D	In SPS range for letter grade D and did not meet Growth Target and did not decline
			D-	In SPS range for letter grade D and SPS declined
F	0-64.9 (in 2011) 0-74.9 (in 2012 and beyond)	62%-100%	F+	In SPS range for letter grade F and met or exceeded Growth Target
			F	In SPS range for letter grade F and did not meet Growth Target and did not decline
			F-	In SPS range for letter grade F and SPS declined

B. Schools will be assigned a letter grade based on their Baseline SPS.

1. A plus (+) will be added to the letter grade of schools that meet their growth target.

2. A minus (-) will be added to the letter grade of schools that have a declining SPS of .1 point or greater.

C. When a school's letter grade is an A (SPS > 120.00), it shall not receive a "negative" growth label (minimal growth, no growth, school in decline).

D. The LDE should identify all schools that have selective, non-traditional academic admissions requirements.

E. BESE shall reconsider §1101, Letter Grades, no later than 2014-2015.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:

§1102. Academic Watch and Academically Unacceptable Schools (AUS)

A. Schools with a Baseline SPS below the established minimum SPS shall be identified as an Academically Unacceptable School (AUS).

B. School Performance Score

Performance Label	School Performance Score
Academically Unacceptable	Below 60.0 (through 2010) Below 65.0 (in 2011) Below 75.0 (in 2012 and beyond)
Academic Watch	60 - 74.9 (in 2010) 65.0 - 74.9 (in 2011)

C. In the fall of 2011, for one academic year, schools that are not AUS and have an SPS less than 75.0 shall be labeled "Academic Watch."

D. Academic watch schools that meet additional criteria associated with specific grant programs (such as federal school improvement grants) can:

1. be eligible for participation in those programs; and
2. are waived from the requirements of academic assistance when they do participate.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:

§1103. Honor Rolls

A. Beginning with the release of 2010-2011 school accountability data, the LDE shall produce a letter grade honor roll to recognize all schools that earn a letter grade in the range of A+ through B-.

B. Beginning with the release of 2010-2011 school accountability data, the LDE shall produce a graduation rate honor roll to recognize all schools with a graduation rate greater than or equal to the state goal of 80 percent.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:

Chapter 16. Academically Unacceptable Schools and Subgroup Component Failure

§1601. Entry into Academically Unacceptable School Status

A. In the fall 2010 accountability release, schools with baseline school performance scores (SPS) of less than 60.0 points shall be labeled "Academically Unacceptable Schools" (AUS). Beginning with the 2010-11 accountability release, schools with SPS of less than 65.0, shall be labeled "AUS". This value shall increase annually by 10.0 SPS points to 75.0 in 2012. All AUS schools shall implement remedies from the "Academically Unacceptable Schools" table (below).

1. A school shall enter AUS Level 1 when identified as AUS if the school was not labeled AUS the previous year, including schools that did not receive performance labels the previous year.

2. BESE may, during times of transition in the accountability system, waive schools meeting certain conditions from receiving the AUS label and/or from implementing certain remedies and sanctions.

B. Schools progress to more serious levels of AUS based on the number of consecutive years a school has been labeled AUS.

C. Remedies/sanctions are additive, requiring schools to continue implementation of remedies/sanctions from earlier levels (a school labeled AUS3 must implement sanctions from AUS1, 2, and 3).

D. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:2595 (December 2007), amended LR 35:2312 (November 2009), LR 36:1770 (August 2010), LR 37:

Family Impact Statement

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, 2011, to: Nina A. Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Brad Smith
Finance/Legislative Specialist

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 111—The Louisiana School,
District, and State Accountability System**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
Proposed changes in Bulletin 111, Chapter 11 and 16 provide detail for a letter grade system in all schools to accurately reflect both the status and progress of students and will replace performance labels currently in Bulletin 111.
The proposed rule changes will result in no cost or savings to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be no estimated costs and/or economic benefits to directly affected persons or non-governmental group
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1102#038

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 126—Charter Schools—Board of Director Composition (LAC 28:CXXXIX.2101)

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 126—Charter Schools: §2101. Board of Director Composition*. These policy changes require that the bulletin be updated to be in compliance with state law and institute new procedures for the voluntary surrender of charters. This change was asked for by the Board of Elementary and Secondary Education. These revisions clarify board membership rules for charter management organizations operating schools in multiple parishes. The Rule will require that at least 60 percent of the board membership reside in parishes in which the board operates and that there shall be equal representation from each community to the greatest extent possible. The proposed Rules will guide charter school operators seeking to expand their presence beyond a single parish. The proposed Rules will guide charter school authorizers' oversight and authorizing responsibilities for nonprofits and management organizations that seek to expand their presence in the state.

Title 28

EDUCATION

Part CXXXIX. Bulletin 126—Charter Schools

Chapter 21. Charter School Governance

§2101. Board of Director Composition

A. - B. ...

C. The board of directors of each charter operator should be representative of the community in which the charter school is located and no fewer than 60 percent of its members shall reside in the community in which the charter school is located. Community, for the purposes of this paragraph, shall consist of the parish in which the school is located and immediate neighboring parishes and, for Type 2 charter schools, any parish that is included in the charter school's attendance zone. No fewer than 60 percent of the members of the board of directors of any charter operator that operates multiple schools in different communities shall reside in the communities in which the charter schools are located, with equal representation from each community to the greatest extent possible.

D. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1370 (July 2008). Amended LR 37:

Family Impact Statement

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 129—The Recovery School District (LAC 28:CXLV.Chapters 9, 13, 15, and 17)

- 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., April 11, 2011, to Nina A. Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Brad Smith
Finance/Legislative Specialist

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Charter Schools
Board of Director Composition

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Beth Scioneaux
Deputy Superintendent
1102#039

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

In accordance with R.S. 49:950, et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement Bulletin 129—The Recovery School District: Chapters 9, 13, 15, and 17. The proposed policy aligns the Recovery School District with Bulletin 741—Louisiana Handbook for School Administrators, and outlines the fiscal and internal management of the Recovery School District.

Chapter 9 addresses personnel issues, including certification requirements as set forth in Bulletin 741 and Bulletin 126—Non-discrimination in Recruitment, Hiring, Promotion, Evaluation, Discipline, Retention, and Dismissal. Chapter 9 also establishes that the RSD will maximize professional development opportunities for all employees.

Chapter 13 describes the RSD’s jurisdictional responsibility for the maintenance and repair of school facilities placed in the RSD pursuant to R.S. 17:10.5 and R.S. 17:10.7. Chapter 13 also addresses the use of RSD-controlled property by charter operators and the responsibilities of charter operators for maintaining building assets.

Chapter 15 addresses community involvement, including communication between schools and community stakeholders, and outlines processes to provide opportunities for parent/community engagement and participation.

Chapter 17 addresses the evaluation of student, school and district progress by means of performance measures as approved by BESE. Chapter 17 establishes procedures for corrective action through data-driven, research-based procedures proven successful with similar populations of students in order to improve student achievement.

Title 28

EDUCATION

Part CXLV. Bulletin 129—The Recovery School District
Chapter 9. Personnel

§901. Certification of Personnel

A. For schools directly operated by the RSD, and those schools operated by the RSD in partnership with a university, those schools’ personnel shall meet the certification requirements set forth in Bulletin 741, Louisiana Handbook for School Administrators (public schools).

B. For charter schools operating within the RSD, the charter operator shall meet the certification requirements of its instructional staff, for its type of charter, as set forth in Bulletin 126, Charter Schools.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:10.5(A)(1), R.S. 17:10.7(A)(1), R.S. 17:1990(A)(2), R.S. 17:3981, and R.S. 17:3991(C)(6).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:

§903. Non-Discrimination

A. The RSD shall refrain from any manner of discrimination prohibited by state and federal law in all personnel matters, including but not limited to, recruitment, hiring, promotion, evaluation, discipline, retention, and dismissal.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:

§905. Professional Development

A. The RSD shall maximize opportunities for professional development for all employees it employs directly, as well as those employees of the charter operators and university partnerships under the RSD's jurisdiction.

B. Prior to the start of each school year, the RSD must facilitate professional development for personnel in all schools that are beginning their first year of operation under the RSD. The professional development should address the expectations and performance objectives for the school, as determined by RSD administrators.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:

Chapter 13. Property Management

§1301. Jurisdictional Responsibility for the

Maintenance and Repair of School Facilities

A. The RSD shall have the right to use any school building and all facilities and property otherwise part of the school and recognized as part of the facilities or assets of the school prior to its placement in the Recovery School District and shall have access to such additional facilities as are typically available to the school, its students, and faculty and staff prior to its placement in the RSD.

B. The use of schools and facilities by the RSD shall be unrestricted except that in the case of the transfer of schools pursuant to R.S. 17:10.5, the RSD shall not be responsible for to provide for extensive repairs to the buildings or facilities that would be considered a capital expense. Such extensive repairs shall be provided by the governing authority of the city, parish, or other local public school system or other public entity from which the school facilities were transferred. The RSD shall be responsible only for the routine maintenance and repairs to buildings and facilities transferred pursuant to R.S. 17:10.5.

C. In the case of the transfer of schools into the RSD pursuant to R.S. 17:10.7, the RSD shall acquire with the transfer of the schools all the rights and responsibilities of ownership regarding all land, buildings, facilities, and other property that is part of the school being transferred, except that the RSD may not transfer the ownership of the land or usable buildings constructed on the land to another, except as provided by R.S. 17:1990(B)(4)(b)(iv); save returning the land and such buildings to the stewardship of the prior system. The RSD may lease land or property, dispose of property other than the land as is necessary to properly manage the operation of the schools, rebuild school buildings, or renovate school buildings.

D. The RSD may sell, lease, or otherwise dispose of, at public or private sale, for cash or on terms of credit, any moveable property it owns that is not used and, in the judgment of the RSD, is not needed in the operation of any school or schools within its jurisdiction.

E. The RSD shall comply with all applicable state laws and regulations and all ordinances and regulations as may be enacted and adopted by the governing authority of the local governmental subdivision in which the property of the schools that RSD has jurisdiction over is located, including building and fire safety code regulations, until such property is returned to the prior system or otherwise disposed of by the RSD.

F. In the case of the transfer of schools into the RSD pursuant to R.S. 17:10.7, no building should be destroyed pursuant to the authority of the RSD unless destruction has been approved by the Office of Facility Planning of the Division of Administration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:10.5(A)(1), R.S. 17:10.7(A)(1), R.S. 17:1990(A)(2), R.S. 17:1990(B)(4), and R.S. 17:1990(B)(4)(b)(ii).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:

§1303. Maintenance of School Facilities

A. The RSD shall be responsible for and obligated to provide for routine maintenance and repair such that the facilities and property transferred to it by the prior system are maintained in as good an order as when the right of use was acquired by the district.

B. In the case of the transfer of schools into the RSD pursuant to R.S. 17:10.7, a portion of all revenues available to the prior system which are dedicated to the repair, maintenance, or capital projects regarding a transferred school whether such revenue is available from tax proceeds, was borrowed, bonded, or was otherwise acquired shall be transferred by the system to the RSD in an amount equal to the proportion that the number of schools transferred from such school system bears to the total number of schools operated by the school system during the school year immediately proceeding the school year in which the transfer occurred as provided by law and policy.

C. The RSD must meet all of the requirements regarding building maintenance and safety as required of other school districts in Bulletin 741, *Louisiana Handbook for School Administrators*.

D. The RSD must also meet all facility accessibility requirements set forth in Bulletin 741, *Louisiana Handbook for School Administrators*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:10.5(A)(1), R.S. 17:10.7(A)(1), R.S. 17:1990(A)(2), and R.S. 17:1990.B.(4).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:

§1305. RSD Schools Assigned to Charter Operators

A. The RSD can, at its discretion, offer the use of facilities transferred pursuant to R.S. 17:10.7 to charter operators. Facility assignments will be made by the RSD Superintendent based on considerations that include building readiness, facility preference of charter school operators and community input. The RSD will enter into lease agreements for the use of school facilities.

B. Building assignments do not transfer ownership, but imposes certain responsibilities to the charter operator, including, but not limited to routine building maintenance and repairs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:10.5(A)(1), R.S. 17:10.7(A)(1), R.S. 17:1990(A)(2), and R.S. 17:1990.B.(4).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:

§1307. Responsibilities of Charter Operators

A. Charter operators shall maintain an inventory of all assets, including records of any assets acquired with any private funds. Inventories of assets must be maintained consistent with the requirements set forth in *Bulletin 1929—Louisiana Accounting and Uniform Governmental Handbook*. Any assets acquired by the charter operator remain the property of the charter school.

B. If a charter operator's charter is revoked or the school otherwise ceases to operate, all assets purchased with any public funds shall become the property of BESE. All assets purchased with private funds shall remain the property of the charter operator, if the inventory or records of the charter operator demonstrate that the assets were purchased with private funds.

C. If a charter operator fails to open a charter school and serve pupils or if the school closes for any reason, the charter school shall refund all cash on hand which can be attributed to state or local funding to the state or to BESE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:10.5(A)(1), R.S. 17:10.7(A)(1), R.S. 17:1990(A)(2), and R.S. 17:3991.H.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:

Chapter 15. Community Involvement

§1501. Communication

A. For each school transferred to the RSD, the RSD shall ensure that each direct-operated school is included in the RSD community relations program. That program shall include a method of maintaining clear communication among interested parties, including the RSD; the chief executive officer of the governing authority of the relevant municipality or parish; the parents and guardians of children for whom the RSD is required to provide educational services; the respective school advisory council (see Subsection 1505.C, below); the city, parish, or other local public school board from which schools are transferred; and other relevant entities.

1. For each school under the direct operation of the RSD, the community relations program shall be such that the community is fully informed about the educational program, the strengths and needs of the school, and the services available to the school community.

2. The RSD shall regularly assess community needs and shall conduct public relations activities.

3. Each school shall maintain a continuous and specific program of community relations that involves the professional staff, the students, its school advisory council, and citizens.

4. Each school shall use its community resources in planning and conducting the total school program.

5. The RSD shall seek to enlist the cooperative assistance of all communications media within the community and to provide access to public information about the school, its policies, and activities.

6. Teachers shall make appropriate and effective use of community resources.

7. Each school shall seek parental involvement and support through communication between school and home.

8. Each school shall include in its school-community relations program a written plan for community/parent involvement.

B. The RSD shall require each school under its jurisdiction to notify the parent or legal guardian of every student, in writing, of the proper process and procedures to be followed in order to make a complaint or request information from the school or the RSD.

1. Such information shall include, at a minimum, the name, address, phone number, and email address of the appropriate person to contact at each step of the prescribed process or procedures. This information shall be updated, at least, annually. Such information shall be incorporated into any existing policy or policies, code of conduct, or student handbook of the RSD or of each school under its jurisdiction.

2. The RSD shall provide this information to parents or legal guardians at the start of each school year.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:

§1503. Outreach

A. The Statewide RSD Advisory Council to the State Superintendent shall serve as a component of the RSD's community outreach.

B. To maximize community engagement, each school under the RSD's direct operation—is strongly encouraged to create an advisory council composed of members of the community it serves. The school administration shall meet with the school's advisory council on a regular basis.

1. The purpose of these meetings shall be threefold:

a. to provide the advisory council an opportunity make the school aware of its perspective on the school's operation and the needs of the community;

b. to allow the school to inform the advisory council of information about the school's staffing, budget, physical facilities, academic achievement, and planning; and

c. to facilitate two-way communication between the school and the advisory council.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:

§1507. Participation

A. All school advisory councils are strongly encouraged to make their meetings open to the public.

B. Within two weeks of each meeting of the school administration with its advisory council, the school shall prepare a written report summarizing the items discussed at

the meeting, said report to be posted at the school and electronically on the Internet, as available.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:

Chapter 17. Evaluation of Student, School, and District Progress

§1701. Performance Measures

A. The RSD and all RSD schools shall participate in the Louisiana School, District, and State Accountability System as approved by BESE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:10.5(A)(1), R.S. 17:10.7(A)(1), R.S. 17:1990(A)(2), and R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:

§1703. Reporting

A. The academic progress of all RSD schools shall be reported along with the progress of all public schools in BESE's annual report.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:

§1705. Procedures for Academic Assistance

A. The RSD shall implement data-driven, research-based procedures proven successful with similar populations of students in order to improve student achievement.

B. The RSD is also subject to all applicable requirements of Bulletin 111, *The Louisiana School, District, and State Accountability System*.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:

Family Impact Statement

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? Lacks sufficient information to determine.

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, 2011, to Nina A. Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Brad Smith
Finance/Legislative Specialist

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 129 The Recovery School District

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed policy aligns the Recovery School District (RSD) with BESE Bulletin 741, *La Handbook for School Administrators* and outlines the fiscal and internal management of the Recovery School District. These policies have been followed by the RSD, but have not yet been published in Bulletin 129. The cost to the RSD to publish and distribute the Bulletin is approximately \$2,000.

Chapter 9 addresses personnel issues, including certification requirements as set forth in Bulletin 741 and Bulletin 126; non-discrimination in recruitment, hiring, promotion, evaluation, discipline, retention, and dismissal. Chapter 9 also establishes that the RSD will maximize professional development opportunities for all employees.

Chapter 13 describes the RSD's jurisdictional responsibility for the maintenance and repair of school facilities placed in the RSD pursuant to R.S. 17:10.5 and R.S. 17:10.7. Chapter 13 also addresses the use of RSD-controlled property by charter operators and the responsibilities of charter operators for maintaining building assets.

Chapter 15 addresses community involvement, including communication between schools and community stakeholders, and outlines processes to provide opportunities for parent/community engagement and participation.

Chapter 17 addresses the evaluation of student, school and district progress by means of performance measures as approved by BESE. Chapter 17 establishes procedures for corrective action through data-driven, research-based procedures proven successful with similar populations of students in order to improve student achievement.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed policy will have no effects on revenue collections of state and local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed policy will have no costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed policy will have no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1102#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 and 701)

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 and §701. Maintenance and Use of System Records and Reports. These policy revisions result from R.S. 44:411, and relate to the requirements for the retention and disposition of records.

**Title 28
EDUCATION**

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

Chapter 3. Operation and Administration

§337. Written Policies and Procedures

A. - B. ...

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

1. - 24. ...

25. a schedule for the retention and disposition of records. The schedule shall be approved by State Archives as required by R.S. 44:411.

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 36:1224 (June 2010), LR 37:

Chapter 7. Records and Reports

**§701. Maintenance and Use of System Records and
Reports**

A. - D.2. ...

E. Each LEA/school shall maintain necessary records for the effective operation of the LEA/school. The LEA shall comply with the requirements of R.S. 44:411 regarding schedules for the retention of official records. Those records for which a formal retention schedule has not been executed shall be retained by the LEA for not less than three years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:93; R.S. 17:411; R.S. 17:415.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1268 (June 2005), amended LR 37:

Family Impact Statement

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., April 11, 2011, to Nina A. Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Brad Smith
Finance/Legislative Specialist

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Louisiana Handbook for School
Administrators**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

These policy revisions to Sections 337 and 701, result from R.S. 44:411, and relate to the requirements for the retention and disposition of records. These changes will not result in an increase in costs or savings to state or local governmental units.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no effect on revenue collections of state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

There will be no costs or economic benefits to directly affected persons or non-governmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

There will be no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1102#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—Classroom Management Training
(LAC 28: CXV.337 and 1302)

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 and §1302. Classroom Management Training for School Staff. The revisions provide for pre-service and on-going grade appropriate classroom management training for teachers, principals, and other appropriate school personnel regarding positive behavioral supports and reinforcement, conflict resolution, mediation, cultural competence, restorative practices, guidance and discipline, and adolescent development. The revisions also require local school districts to review discipline data from each school to determine what additional classroom management training and classroom support activities may be needed. These revisions reflect the enactment of R.S. 17:252 (D) School Master Plans for Supporting Student Behavior and Discipline, Act 136, of the 2010 Regular Legislative Session.

**Title 28
EDUCATION**

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

Chapter 3. Operation and Administration

§337. Written Policies and Procedures

A - C.23. ...

24. pre-service and ongoing grade appropriate classroom management training for teachers, principals, and other appropriated school personnel regarding positive

behavioral supports and reinforcement, conflict resolution, mediation, cultural competence, restorative practices, guidance and discipline, and adolescent development.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S. 17:7(29); R.S. 17:81; R.S.17:240; R.S. 17:100.8; R.S. 17:252.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1261 (June 2005), amended LR 33:429 (March 2007), LR 35:1101 (June 2009), LR 36:1224 (June 2010), LR 37:

Chapter 13. Discipline

§1302. Classroom Management Training for School Staff

A. The school master plans required of city, parish, and other local public school boards shall make provision for pre-service and ongoing grade appropriate classroom management training for teachers, principals, and other appropriate school personnel regarding positive behavioral supports and reinforcement, conflict resolution, mediation, cultural competence, restorative practices, guidance and discipline, and adolescent development.

B. City, parish, and other local public school boards shall provide ongoing classroom management courses and regularly review discipline data from each school to determine what additional classroom management training is needed, if any, and what additional classroom support activities should be provided by the principal and school administration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:252

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:

Family Impact Statement

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., April 11, 2011, to Nina A. Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Brad Smith
Finance/Legislative Specialist

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Louisiana Handbook for School Administrators—Classroom Management Training

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The revision to Sections 337 and 1302 of Bulletin 741: Louisiana Handbook for School Administrators provides for

pre-service and on-going grade appropriate classroom management training for teachers, principals, and other appropriate school personnel regarding positive behavioral supports and reinforcement, conflict resolution, mediation, cultural competence, restorative practices, guidance and discipline, and adolescent development. It also requires local school districts to review discipline data from each school to determine what additional classroom management training and classroom support activities may be needed. The proposed revision will result in a cost of \$164 associated with the publication of the proposed rule change in the *Louisiana Register*.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed bulletin revisions will not create costs or economic benefits to persons directly affected or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1102#042

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel—Certificate Endorsements (LAC 28:CXXXI.601)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 746—Louisiana Standards for State Certification of School Personnel: §601*. Introduction. The proposed policy revision will require a grade of “C” in all coursework for add-on certification purposes. Current policy does not allow the Department of Education to accept any grade below a “C” in an approved undergraduate education program with the exception of coursework under the general education component. This will align add-on policy with undergraduate program policy.

Title 28

EDUCATION

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

Chapter 6. Endorsements to Existing Certificates §601. Introduction

A. Endorsement areas are permanent authorizations added to a teaching certificate. Upon comp requirements for an additional area of certification, as outlined in this bulletin, the holder of a valid Louisiana teaching certificate may have the certificate authorization extended to include the newly achieved qualifications. For endorsement purposes, the following notes apply:

1. when a generalized reference is made to a Praxis exam, this means the current applicable exam(s) in policy, with the current established passing score(s);

2. semester hours earned to add certification areas and/or levels to an existing certificate cannot include repeat (or duplicate) coursework;

3. a National Board Certified (NBC) teacher with an existing Louisiana teaching certificate is eligible for the addition (add-on) or endorsement to his/her certificate of the corresponding area for which NBC is held;

4. all coursework used for add-on certification must be for regular credit and not of a remedial or developmental nature and no final grade below a "C" will be accepted for any add-on endorsement purposes.

B. A formal request for an additional authorization on a certificate must be directed to the Louisiana Department of Education, Division of Teacher Certification and Higher Education. For authorizations that require coursework, an official transcript from a regionally accredited institution must accompany the request. The final authority for approval of an additional authorization is the Louisiana Department of Education.

C. This Chapter has been divided into three sections, as follows:

1. regular education level and area endorsements;
2. special education level and area endorsements; and
3. all other endorsement areas.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1814 (October 2006), amended LR 37:

Family Impact Statement

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights or parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., April 11, 2011, to Nina A. Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Brad Smith
Finance/Legislative Specialist

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **Bulletin 746—Louisiana Standards for State Certification of School Personnel Certificate Endorsements**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed policy revision will require a grade of "C" in all coursework for add-on certification purposes. The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.

- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy will have no effect on revenue collections.

- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.

- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1102#043

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State
Certification of School Personnel—Early Interventionist
(LAC 28:CXXXI.625)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 746—Louisiana Standards for State Certification of School Personnel: §625*. Requirements to add Early Interventionist Birth through Kindergarten. The proposed policy revision will allow individuals who add-on Early Interventionist to their existing teaching certificates the certification to serve children with disabilities at the age levels of birth through kindergarten. Current early interventionist certification policy allows an individual to serve children with disabilities from birth through five years of age. Because the certification add-on policy was age specific and not grade specific there was no certified special education teacher to service children at the kindergarten level. This change in policy will provide greater flexibility for children with disabilities to be served by certified teachers.

Title 28

EDUCATION

**Part CXXXI. Bulletin 746—Louisiana Standards for
State Certification of School Personnel
Chapter 6. Endorsements to Existing Certificates
Subchapter B. Special Education Level and Area
Endorsements**

§625. Requirements to add Early Interventionist Birth through Kindergarten

A. Individuals holding a valid early childhood certificate (e.g., PK-K, PK-3), elementary certificate (e.g., 1-4, 1-5, 1-6, 1-8), upper elementary or middle school certificate (e.g., 4-8, 5-8, 6-8), secondary certificate (e.g., 6-12, 7-12, 9-12), special education certificate, or an All-Level K-12 certificate (art, dance, foreign language, health, physical education, health and physical education, and music) must achieve the following:

1. passing score for Praxis exams: Early Childhood Education (#0020) and Education of Exceptional Children: Core Content Knowledge (#0353);
2. 18 credit hours that pertain to infants, toddlers, and preschoolers, as follows:
 - a. foundations in early childhood education and early intervention;
 - b. understanding and working with families of young children;
 - c. assessment in early intervention;
 - d. early intervention methods;
 - e. teaming, physical and medical management in early intervention;
 - f. communication and literacy in early intervention;
3. nine semester hours of reading coursework.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1817 (October 2006), amended LR 37:

Family Impact Statement

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights or parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., April 11, 2011, to Nina A. Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Brad Smith
Finance/Legislative Specialist

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Louisiana Standards
for State Certification of School
Personnel—Early Interventionist**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed policy revision will allow individuals who add-on Early Interventionist to their existing teaching certificates the proper certification to serve children with disabilities at the age levels of birth through kindergarten. The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy will have no effect on revenue collections.

- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1102#044

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.301, 509, 701, 901,
903, 1101, 1105, and 1301)

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*: §301. Explanation/General Information, §509. Account Groups, §701. Revenue Codes, §901. Object Codes, §903. Function Codes, §1101. Assets and Other Debit Codes, §1105. Fund Balance Codes, and 1301. Minimum Requirements for Lead School Business Administrator/Chief Financial Officer/Business Manager (Local School Districts and Charter Schools). 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; and
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 3. The Account Classification Structure
§301. Explanation/General Information**

A. This publication provides for classifying three basic types of financial activity: revenues and other sources of funds; expenditures and other uses of funds; and transactions affecting the balance sheet only. For each type of transaction, the specific account code is made up of a combination of classifications called *dimensions*. Each dimension describes one way of classifying financial activity. The dimensions applicable to each type of transaction are:

Revenues	Expenditures	Balance Sheet
Fund	Fund	Fund
Source	Object	Balance Sheet Accounts
	Function	

B. - B.5. ...

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 36:1506 (July 2010), LR 37:

Chapter 5. Fund Classifications

§509. Account Groups

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17(2)(e).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:464 (March 2000), repealed, LR:37.

Chapter 7. Classification of Revenues and Other Sources of Funds

§701. Revenue Codes

A. - D.4.e.vi. ...

vii. 4549 Title VI, 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. - g. ...

h. 4570 Temporary Assistance for Needy Families (TANF)—federal funds administered by the State to assist needy families with children so that children can be cared for in their own homes; to reduce dependency by promoting job preparation, work, and marriage; to reduce and prevent out-of-wedlock pregnancies; and to encourage the formation and maintenance of two-parent families.

i. 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.

j. 4590 Other Restricted Grants through state—federal funds administered by the State other than those shown above.

D.5. - E.5. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:464 (March 2000), amended LR 36:1509 (July 2010), LR 37:

Chapter 9. Classification of Expenditures and Other Uses of Funds

§901. Object Codes

A. - D.5. ...

6. 250 Unemployment Compensation—amounts paid by the LEA to provide unemployment benefits for its employees.

7. 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.

8. 270 Retiree Health Benefits—amounts paid by the LEA to provide health benefits for employees now retired and for whom benefits are paid.

9. 280 Severance Pay—amounts of unused leave paid by the LEA to its employees upon their retirement.

a. 281 Sick Leave Severance Pay—amount of unused sick leave paid by the LEA to its employees upon their retirement.

b. 282 Annual Leave Severance Pay—amount of unused annual leave paid by the LEA to its employees upon their retirement.

10. 290 Other Employee Benefits—employee benefits other than those classified above.

E. - E.4. ...

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. Phone 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. - 4.b ...

5. 450* Construction Services—expenditures for constructing, renovating and remodeling paid to contractors. This object code includes the installation of new phone 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 phone 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. - G.2.f ...

3. 530 Communications (Phone, Internet and Postage)—expenditure for services provided by persons or businesses to assist in transmitting and receiving messages or information. This category includes cell phone 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, 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. - 8.c. ...

9. 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. - I.4. ...

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. (Computer software exceeding the capitalization threshold should be coded to Object 735 Technology Software.)

I.6. - K.4. ...

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 36:1516 (July 2010), LR 37:

§903. Function Codes

A. - C.1.c. ...

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 or non-core subjects.

ii. 1212 Special Education: Inclusion Classroom Teacher—provides direct assistance to students with disabilities (e.g., interventions, reinforcement of content provided in the general education and /or segregated settings), but the students with disabilities receive their instruction on core academic subjects from a NCLB highly qualified general education teacher.

iii. 1213 Special Education: Paraprofessional Training Unit Teacher—provides instruction to students with disabilities with the support of two or more paraeducators based on the number of students in the class.

2.a.iv. - 4.h. ...

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.

e. 1590 Other—activities for students having special needs not included above.

6. ...

7. 1700 Community/Junior College Education Programs—deleted in the September 1999 revision; 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 and 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 (excludes special education services).

iv. - v. ...

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 counsees, 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. 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.

iv. 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.

v. 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.

vi. 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 (excludes special education 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 (includes psychologists that are not special education).

iii. - v ...

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 (special education only).

d.i. - e.v. ...

f. 2160 Occupational Therapy and -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 Specialist—services provided to blind and visually impaired students.

1.h. - 2.c.vi. ...

vii. 2239 Other Education Programs—activities associated with the professional development and training of instructional personnel for students in other programs, not identified above.

d. 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 Library/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.

e. 2290 Other Instructional Staff Services—services supporting the instructional staff not properly classified elsewhere in 2200 Instructional Staff Services.

D.3. - G.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 26:474 (March 2000), amended LR 27:1684 (October 2001), LR 36:1522 (July 2010), LR 37:

Chapter 11. Classification of Balance Sheet Accounts

§1101. Assets and Other Debit Codes

A. ...

B. Current Assets—cash or anything that can be readily converted into cash.

1. 101 Cash in Bank—all funds on deposit with a bank or savings and loan institution in interest bearing and non-interest-bearing checking accounts.

2. 102 Cash on Hand—currency, coins, checks, postal and express money orders, and bankers' drafts on hand.

3. 103 Petty Cash—a sum of money set aside for the purpose of paying small obligations for which the issuance of a formal voucher and check would be too expensive and time-consuming.

4. 104 Change Cash—a sum of money set aside to provide change.

5. 105 Cash with Fiscal Agents—deposits with fiscal agents, such as commercial banks, for paying matured bonds and interest.

6. 111 Investments—securities and real estate held for producing income in the form of interest, dividends, rentals or lease payments. The account does not include capital assets used in LEA operations. Separate accounts for each category of investments may be maintained.

7. - 41. ...

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 36:1531 (July 2010), LR 37:

§1105. Fund Balance Codes

A. - A.8. ...

9. 780 Unreserved-Designated Fund Balance—a designation representing 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 Fund Balance—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 Restricted Fund Balance—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 Committed Fund Balance—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 Assigned Fund Balance—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 Unassigned Fund Balance—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 36:1533 (July 2010), LR 37:

Chapter 13. Personnel Requirements

§1301. Minimum Requirements for Lead School Business Administrator/Chief Financial Officer/Business Manager (Local School Districts and Charter Schools)

A. Minimum qualifications, must meet one of the following:

1. a baccalaureate degree with a minimum of 24 hours of business-related courses, such as accounting, finance, or management;

2. a certified public accountant licensed in Louisiana;

3. a master's degree in public or business administration.

B. - E ...

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 36:1533 (July 2010), LR 37:

Family Impact Statement

1. Will the proposed Rule affect the stability of the family? No.

NOTICE OF INTENT

Student Financial Assistance Commission
Office of Student Financial Assistance

Scholarship/Grant Programs—Academic Year
(LAC 28:IV.301)

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

This rulemaking amends the definitions of academic year (college) and intersession to provide that the academic year (college) includes an intersession that lasts no more than 15 class days and ends no later than June 15. (SG11129NI)

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 this Chapter 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)—

a. 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.

b. During the 2008-2009 academic year, 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.

c. Beginning with the 2009-2010 academic year and thereafter, the academic year begins with the fall term of the award year and concludes with the completion of the spring term of the award year or the intersession immediately following the spring term if such intersession ends no later than June 15, whichever is later. Any intersession or term that begins and ends during the academic year is included. The two- and four-year college and university academic year does not include other intersessions or summer sessions. See the definition of intersession below.

- 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., April 11, 2011, to: Nina A. Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Brad Smith
Finance/Legislative Specialist

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 GOVERNMENT 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
1102#045

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

Intersession—

a. During the 2008-2009 academic year, an academic term between regular semesters/terms that provides credit courses to students in an intensive, condensed format.

b. Beginning with the 2009-2010 academic year, any academic term that provides credit courses to students in an intensive, condensed format that is no longer than 15 class days.

* * *

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 35:1489 (August 2009), LR 35:1490 (August 2009), LR 36:311 (February 2010), LR 36:490 (March 2010), LR 36:2854 (December 2010), LR 37:

Family Impact Statement

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

Small Business Statement

The proposed rule will have no adverse impact on small businesses as described in R.S. 49:965.2 et seq.

Public Comments

Interested persons may submit written comments on the proposed changes (SG11129NI) until 4:30 p.m., March 14, 2011, to Melanie Amrhein, Executive Director, Office of Student Financial Assistance, P.O. Box 91202, Baton Rouge, LA 70821-9202.

George Badge Eldredge
General Counsel

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Scholarship/Grant Programs
Academic Year**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed rule only clarifies the TOPS Academic Year (College) and Intersession definitions in rule to increase their specificity and thus reduce confusion over what intersession offerings by schools actually qualify for inclusion in the TOPS Academic Year. TOPS does not pay for enrollment in intersessions. The proposed changes do not impact TOPS Program costs.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

Revenue collections of state and local governments will not be affected by the proposed changes.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

The proposed changes will help students and schools better understand which course credits can be applied to the TOPS requirement to earn at least 24 hours each academic year.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

Competition and Employment will not be affected by the proposed change.

George Badge Eldredge
General Counsel
1102#002

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

**Scholarship/Grant Programs—Tuition
(LAC 28:IV.301)**

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

This rulemaking revises the definition of tuition for the purpose of determining the award amount for the Taylor Opportunity Program for Students (TOPS) beginning with the spring semester, quarter or term of the 2011-2012 award year to be either the tuition and mandatory fees as currently defined or the institution's published tuition fee amount only, whichever is greater. (SG11125NI)

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.

* * *

Tuition—

a. Through the fall semester or term and winter quarter of the 2010-2011 award year, the fee charged each student by a post-secondary institution to cover the student's share of the cost of instruction, including all other mandatory enrollment fees charged to all students except for the technology fee authorized by Act 1450 of the 1997 Regular Session of the Legislature:

- i. which were in effect as of January 1, 1998;
- ii. any changes in the cost of instruction authorized by the legislature and implemented by the institution after that date; and
- iii. for programs with alternative scheduling formats that are approved in writing by the Board of Regents

after that date. Any payment for enrollment in one of these programs shall count towards the student's maximum eligibility for his award:

(a). up to the equivalent of eight full time semesters of postsecondary education in full time semesters for the TOPS Opportunity, Performance and Honors Award; or

(b). up to the equivalent of two years of postsecondary education in full time semesters and summer sessions for the TOPS Tech Award.

b. Beginning with the spring semester, quarter or term of the 2010-2011 award year:

i. the tuition and mandatory fees authorized in Subparagraph a above; or

ii. the tuition fee amount published by the postsecondary institution, whichever is greater.

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 35:1489 (August 2009), LR 35:1490 (August 2009), LR 36:311 (February 2010), LR 36:490 (March 2010), LR 36:2854 (December 2011), LR 37:

Family Impact Statement

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

Small Business Statement

The proposed Rule will have no adverse impact on small businesses as described in R.S. 49:965.2 et seq.

Public Comments

Interested persons may submit written comments on the proposed changes (SG11125NI) until 4:30 p.m., March 14, 2011, to Melanie Amrhein, Executive Director, Office of Student Financial Assistance, P.O. Box 91202, Baton Rouge, LA 70821-9202.

George Badge Eldredge
General Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Scholarship/Grant Programs—Tuition

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Taylor Opportunity Program for Students (TOPS) expenditures will increase by an estimated \$623,000 in Fiscal Year 2010-11 due to the requirement under R. S. 17:3048.1 to pay a TOPS award amount that is equal to the tuition charged by participating institutions and the fact that, in implementing authorized increases to tuition and mandatory fees, the approved tuition at some institutions has increased more than others. TOPS Awards may increase by an estimated \$685,000 in Fiscal Year 2011-12 and \$754,000 in Fiscal Year 2012-13. These estimates in Fiscal Years 2012-13 and 2013-14 are based on the maximum 10 percent increase each year authorized by Act 915 of 2008 and the Grad Act of 2010. However, the actual amounts could be more or less depending on Grad Act educational performance goals and future increases authorized by the Legislature. The Louisiana Office of Student Financial Assistance can fund these additional Awards in Fiscal Year 2010-11 with the agency's current appropriation amount.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue collections of state and local governments will not be affected by the proposed changes.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Adjusting the maximum TOPS payment to comply with the provisions of R.S. 17:3048.1 will result in some students receiving an increased TOPS Award Amount to pay their cost of attendance (tuition, books, room and board etc.) and thus reducing their out-of-pocket expenses.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Competition and Employment will not be affected by the proposed change.

George Badge Eldredge
General Counsel
1102#001

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Non-Road Engines
(LAC 33:III.501 and 502)(AQ317)

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.501.B.1.e and 502.A. (AQ317).

In order to eliminate the overlap between LAC 33:III.501.B.1.c and LAC 33:III.501.B.5, Item B.4 and to correct an apparent discrepancy in Item B.4:

1. a general exemption for "nonroad engines" will be created under LAC 33:III.501.B.1;
2. references to "exhaust emissions" from self-propelled mobile sources will be removed from Item B.4; and
3. references to "transportable emissions units" will be removed from Item B.4.

LAC 33:III.501.B.5 establishes the insignificant activities list in the air quality regulations. Activities under "B" need not be included in a permit application. Item B.4 of this list addresses self-propelled mobile sources and "transportable" emissions units as follows:

“exhaust emissions or vehicle refueling emissions from cars, trucks, forklifts, courier vehicles, front loaders, graders, cranes, carts, maintenance trucks, locomotives, helicopters, marine vessels, and other self-propelled on-road and nonroad mobile sources unless required to obtain a permit under Title V of the Clean Air Act. This exemption does not include any transportable emissions units such as temporary compressors or boilers, unless regulated by Title II of the Clean Air Act. This exemption does not cover loading racks or fueling operations covered by LAC 33:III.Chapter 21.”

With respect to exhaust emissions from self-propelled mobile sources, Item B.4 duplicates LAC 33:III.501.B.1.c, which states that the requirement to obtain a permit in accordance with LAC 33:III.Chapter 5 does not apply to mobile sources such as automobiles, trucks, and aircraft.

Item B.4 also exempts "transportable" emissions units such as temporary compressors or boilers if they are regulated by Title II of the Clean Air Act. Title II addresses "nonroad engines" in Section 213 (42 U.S.C. 7547); however, it does not address boilers. Consequently, portable boilers should not be classified as insignificant activities. The basis and rationale for this rule are to eliminate the overlap between LAC 33:III.501.B.1.c and LAC 33:III.501.B.5, Item B.4 and to correct an apparent discrepancy in Item B.4. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33
ENVIRONMENTAL QUALITY
Part III. Air

Chapter 5. Permit Procedures

§501. Scope and Applicability

- A. - B.1.b. ...
 - c. mobile sources such as automobiles, trucks, and aircraft;
 - d. any *upset*, as defined in LAC 33:III.507.J.1; however, the permitting authority shall be advised of such occurrences without delay, in accordance with all applicable upset or emergency provisions of Louisiana Air Quality regulations and of LAC 33:I.Chapter 39; or
 - e. a *nonroad engine*, as defined in LAC 33:III.502.A.
- 2. - 5. ...

Table 1. - Insignificant Activities List

[See Prior Text in A. – B.3.]
4. vehicle refueling emissions from cars, trucks, forklifts, courier vehicles, front-loaders, graders, cranes, carts, maintenance trucks, locomotives, helicopters, marine vessels, and other self-propelled on-road and nonroad mobile sources. . This exemption does not cover loading racks or fueling operations covered by LAC 33:III.Chapter 21;

[See Prior Text in B.5 – D.]

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

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

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

§502. Definitions

A. Except where specifically provided in another Section herein, the following definitions apply to terms used in this Chapter. Except as provided in this Chapter, terms used in this Chapter retain the definition provided them in LAC 33:III.111 or the Louisiana Air Quality regulations. Wherever provisions related to the Acid Rain Program are concerned, the definitions provided in 40 CFR Part 72 shall apply.

* * *

Nonroad Engine—

- a. Except as discussed in Subparagraph b of this definition, a nonroad engine is any internal combustion engine:
 - i. used in or on a piece of equipment that is self-propelled or serves a dual purpose by both propelling itself and performing another function (such as garden tractors, off-highway mobile cranes, and bulldozers);
 - ii. used in or on a piece of equipment that is intended to be propelled while performing its function (such as lawnmowers and string trimmers); or
 - iii. that, by itself or in or on a piece of equipment, is portable or transportable, meaning designed to be and capable of being carried or moved from one location to another. Indications of transportability include, but are not limited to, wheels, skids, carrying handles, dolly, trailer, or platform.
- b. An internal combustion engine is not a nonroad engine if:
 - i. the engine is used to propel a motor vehicle, an aircraft, or equipment used solely for competition;
 - ii. the engine is regulated by a federal New Source Performance Standard promulgated under section 111 of the Act (42 U.S.C. 7411); or
 - iii. the engine otherwise included in Clause a.iii of this definition remains or will remain at a location for more than 12 consecutive months or a shorter period of time for an engine located at a seasonal source. A location is any single site at a building, structure, facility, or installation. Any engine (or engines) that replaces an engine at a location and that is intended to perform the same or similar function as the engine replaced will be included in calculating the consecutive time period. An engine located at a seasonal source is an engine that remains at a seasonal source during the full annual operating period of the seasonal source. A seasonal source is a stationary source that remains in a single

location on a permanent basis (i.e., at least two years) and that operates at that single location for approximately three months (or more) each year. [Note: Clause b.iii of this definition does not apply to an engine after it is removed from the location.]

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2445 (November 2000), LR 28:1950 (September 2002), amended by the Office of the Secretary, Legal Affairs Division, LR 37:

Family Impact Statement

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Public Hearing

A public hearing will be held on March 29, 2011, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Donald Trahan at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ317. Such comments must be received no later than April 5, 2011, at 4:30 p.m., and should be sent to Donald Trahan, Attorney Supervisor, Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-4068 or by e-mail to donald.trahan@la.gov. Copies of these proposed regulations can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ317. These proposed regulations are available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

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: Non-Road Engines

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no implementation costs or savings to state or local governmental units as a result of the proposed rule. The

proposed rule creates a general exemption for "non-road engines," which are currently addressed in the Insignificant Activities (IA) list. It also removes "exhaust emissions" from mobile sources from the IA list, as a general exemption for such emissions already exists. Finally, "transportable emissions units" will be deleted from the IA list. As noted above, non-road engines, a type of transportable emissions unit, will be addressed by a general exemption. Other transportable emissions units should not be considered "insignificant" under the existing provision because they are not regulated by Title II of the Clean Air Act.

- 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 as a result of the proposed rule.

- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no costs and/or economic benefits to directly affected persons or non-governmental groups as a result of the proposed rule.

- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment in the public or private sector as a result of the proposed rule.

Herman Robinson, CPM
Executive Counsel
1102#068

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality Office of the Secretary

Pm2.5 NSR Implementation
(LAC 33:III.504 and 509)(AQ318)

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.504 and 509 (Log #AQ318).

This Rule incorporates the provisions of the Environmental Protection Agency's (EPA) final rule entitled "Implementation of the New Source Review (NSR) Program for Particulate Matter Less than 2.5 Micrometers (PM2.5)", found at 73 FR 28321, May 16, 2008, into the Louisiana air quality regulations. This action also addresses concerns raised by the EPA in correspondence dated January 24, 2008. The Clean Air Act requires both major and minor NSR programs to address any pollutant for which there is a National Ambient Air Quality Standard (NAAQS) and precursors to the formation of such pollutant when identified for regulation by EPA. EPA's PM2.5 NSR implementation Rule amends the federal NSR regulations to establish the minimum elements for state programs implementing NSR for the PM2.5 NAAQS and requires states with SIP-approved PSD programs (like Louisiana) to "submit revised PSD programs and revised NNSR programs for PM2.5" by May 16, 2011. By letter dated January 24, 2008, EPA submitted comments on revisions to LDEQ's Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NNSR) rules promulgated on December 20, 2005. LDEQ responded to EPA's concerns on October 6,

2008. In sum, to ensure SIP-approvability of LDEQ's PSD and NNSR regulations, the definition of "malfunctions" will be removed from LAC 33:III.504 and 509 and the reference to LAC 33:III.519 in Section 504 will be replaced with text that parallels the federal rule at 40 CFR 51.165. This rule is also a revision to the Louisiana State Implementation Plan for air quality. The basis and rationale for this rule are to incorporate the provisions of EPA's PM_{2.5} NSR Implementation Rule into the air quality regulations and modify several existing provisions to ensure SIP-approvability. This rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

**Title 33
ENVIRONMENTAL QUALITY**

Part III. Air

Chapter 5. Permit Procedures

§504. Nonattainment New Source Review (NNSR) Procedures

A. - E.5. ...

F. Emission Offsets. All emission offsets approved by the department shall be surplus, permanent, quantifiable, and enforceable in accordance with LAC 33:III.Chapter 6 and shall meet the following criteria.

1. Except as specified in Subsection M of this Section, offsets shall be required at the ratio specified in Subsection L, Table 1 of this Section. All emission reductions claimed as offset credit shall be from decreases of the same regulated pollutant or pollutant class (e.g., VOC) for which the offset is required, except that direct PM_{2.5} emissions or emissions of PM_{2.5} precursors may be offset by reductions in direct PM_{2.5} emissions or emissions of any PM_{2.5} precursor, if such offsets comply with the interprecursor trading hierarchy and ratio established in the approved SIP for a particular nonattainment area.

F.2. - J.4.b....

5. Public Participation Requirement for PALs. Procedures to establish, renew, or increase PALs for existing major stationary sources shall be consistent with 40 CFR 51.160 and 51.161. These include the requirement that the administrative authority provide the public with notice of the proposed approval of a PAL permit and at least a 30-day period for submittal of public comments. The administrative authority shall address all material comments before taking final action on the permit.

6. - 15.b. ...

K. Definitions. The terms in this Section are used as defined in LAC 33:III.111 with the exception of those terms specifically defined as follows.

* * *

Malfunctions—Repealed.

* * *

Regulated Pollutant—

a. any pollutant for which a national ambient air quality standard has been promulgated or any constituent or precursor for the identified pollutant, provided that such constituent or precursor pollutant is only regulated under NNSR as part of regulation of the primary pollutant. Precursors identified by the administrative authority for purposes of NNSR include the following:

i. volatile organic compounds and nitrogen oxides are precursors to ozone in all ozone nonattainment areas;

ii. sulfur dioxide is a precursor to PM_{2.5} in all PM_{2.5} nonattainment areas;

iii. nitrogen oxides are presumed to be precursors to PM_{2.5} in all PM_{2.5} nonattainment areas, unless the administrative authority demonstrates to the administrator's satisfaction or EPA demonstrates that emissions of nitrogen oxides from sources in a specific area are not a significant contributor to that area's ambient PM_{2.5} concentrations; and

iv. volatile organic compounds and ammonia are presumed not to be precursors to PM_{2.5} in any PM_{2.5} nonattainment area, unless the administrative authority demonstrates to the administrator's satisfaction or EPA demonstrates that emissions of volatile organic compounds or ammonia from sources in a specific area are a significant contributor to that area's ambient PM_{2.5} concentrations.

b. PM_{2.5} emissions and PM₁₀ emissions shall include the gaseous emissions from a source or activity which condense to form particulate matter at ambient temperatures. On or after January 1, 2011, such condensable particulate matter shall be accounted for in applicability determinations and in establishing emissions limitations for PM_{2.5} and PM₁₀ in NNSR permits.

* * *

Significant—in reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed the lower of any of the following rates or the applicable major modification significant net increase threshold in Subsection L, Table 1 of this Section.

Pollutant	Emission Rate
Carbon monoxide	100 tons per year (tpy)
Nitrogen oxides	40 tpy
Sulfur dioxide	40 tpy
Ozone	40 tpy of volatile organic compounds or nitrogen oxides
Lead	0.6 tpy
PM ₁₀	15 tpy
PM _{2.5}	10 tpy of direct PM _{2.5} emissions; 40 tpy of sulfur dioxide emissions; 40 tpy of nitrogen oxide ¹
¹ Nitrogen oxides are presumed to be precursors to PM _{2.5} in all PM _{2.5} nonattainment areas unless the administrative authority demonstrates to the administrator's satisfaction or EPA demonstrates that emissions of nitrogen oxides from sources in a specific area are not a significant contributor to that area's ambient PM _{2.5} concentrations.	

* * *

L. Table 1—Major Stationary Source/Major Modification Emission Thresholds

Pollutant	Major Stationary Source Threshold Values (tons/year)	Major Modification Significant Net Increase (tons/year)	Offset Ratio Minimum
Ozone VOC/NO _x		Trigger Values	
Marginal	100	40(40) ²	1.10 to 1

Pollutant	Major Stationary Source Threshold Values (tons/year)	Major Modification Significant Net Increase (tons/year)	Offset Ratio Minimum
Moderate	100	40(40) ²	1.15 to 1
Serious	50	25 ³ (5) ⁴	1.20 to 1 w/LAER or 1.40 to 1 internal w/o LAER
Severe	25	25 ³ (5) ⁴	1.30 to 1 w/LAER or 1.50 to 1 internal w/o LAER
Extreme	10	Any increase	1.50 to 1
CO			
Moderate	100	100	>1.00 to 1
Serious	50	50	>1.00 to 1
SO ₂	100	40	>1.00 to 1
PM ₁₀ ¹			
Moderate	100	15	>1.00 to 1
Serious	70	15	>1.00 to 1
PM _{2.5} ⁵	100	10	>1.00 to 1
Lead	100	0.6	>1.00 to 1

Footnotes 1. - 4. ...

⁵ Sulfur dioxide is a precursor to PM_{2.5} in all PM_{2.5} nonattainment areas. Nitrogen oxides are presumed to be precursors to PM_{2.5} in all PM_{2.5} nonattainment areas unless the administrative authority demonstrates to the administrator's satisfaction or EPA demonstrates that emissions of nitrogen oxides from sources in a specific area are not a significant contributor to that area's ambient PM_{2.5} concentrations. Volatile organic compounds and ammonia are presumed not to be precursors to PM_{2.5} in any PM_{2.5} nonattainment area unless the administrative authority demonstrates to the administrator's satisfaction or EPA demonstrates that emissions of volatile organic compounds or ammonia from sources in a specific area are a significant contributor to that area's ambient PM_{2.5} concentrations.

- VOC = volatile organic compounds
- NO_x = oxides of nitrogen
- CO = carbon monoxide
- SO₂ = sulfur dioxide
- PM₁₀ = particulate matter of less than 10 microns in diameter
- PM_{2.5} = particulate matter of less than 2.5 microns in diameter

M. - M.3. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:176 (February 1993), repromulgated LR 19:486 (April 1993), amended LR 19:1420 (November 1993), LR 21:1332 (December 1995), LR 23:197 (February 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2445 (November 2000), LR 27:2225 (December 2001), LR 30:752 (April 2004), amended by the Office of Environmental Assessment, LR 30:2801 (December 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2436 (October 2005), LR 31:3123, 3155 (December 2005), LR 32:1599 (September 2006), LR 33:2082 (October 2007), LR 34:1890 (September 2008), LR 37:

§509. Prevention of Significant Deterioration

A. Applicability Procedures

1. - 5. ...

B. Definitions. For the purpose of this Section, the terms below shall have the meaning specified herein as follows.

Malfunctions—Repealed.

Regulated New Source Review (NSR) Pollutant—

a. any pollutant for which a national ambient air quality standard has been promulgated or any constituent or precursor for the identified pollutant. Precursors identified by the administrative authority for purposes of PSD include the following:

i. volatile organic compounds and nitrogen oxides are precursors to ozone in all attainment and unclassifiable areas;

ii. sulfur dioxide is a precursor to PM_{2.5} in all attainment and unclassifiable areas;

iii. nitrogen oxides are presumed to be precursors to PM_{2.5} in all attainment and unclassifiable areas unless the administrative authority demonstrates to the administrator's satisfaction or EPA demonstrates that emissions of nitrogen oxides from sources in a specific area are not a significant contributor to that area's ambient PM_{2.5} concentrations; and

iv. volatile organic compounds are presumed not to be precursors to PM_{2.5} in any attainment or unclassifiable area unless the administrative authority demonstrates to the administrator's satisfaction or EPA demonstrates that emissions of volatile organic compounds from sources in a specific area are a significant contributor to that area's ambient PM_{2.5} concentrations.

b. any pollutant that is subject to any standard promulgated under Section 111 of the Clean Air Act;

c. any Class I or II substance subject to a standard promulgated under or established by Title VI of the Clean Air Act;

d. any pollutant that otherwise is subject to regulation under the Clean Air Act; except that any or all hazardous air pollutants either listed in Section 112 of the Clean Air Act or added to the list in accordance with Section 112(b)(2) of the Clean Air Act, which have not been delisted in accordance with Section 112(b)(3) of the Clean Air Act, are not *regulated NSR pollutants* unless the listed hazardous air pollutant is also regulated as a constituent or precursor of a general pollutant listed under Section 108 of the Clean Air Act; or

e. particulate matter (PM) emissions, PM_{2.5} emissions, and PM₁₀ emissions shall include gaseous emissions from a source or activity which condense to form particulate matter at ambient temperatures. On or after January 1, 2011, such condensable particulate matter shall be accounted for in applicability determinations and in establishing emissions limitations for PM, PM_{2.5}, and PM₁₀ in PSD permits. Compliance with emissions limitations for PM, PM_{2.5}, and PM₁₀ issued prior to this date shall not be based on condensable particulate matter. Applicability determinations made prior to this date without accounting for condensable particulate matter shall not be considered in violation of this Section.

Significant—

a. in reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

Pollutant	Emission Rate
Carbon monoxide	100 tons per year (tpy)
Nitrogen oxides	40 tpy

Pollutant	Emission Rate
Sulfur dioxide	40 tpy
Particulate matter	25 tpy of particulate emissions
	15 tpy of PM ₁₀ emissions
	10 tpy of direct PM _{2.5} emissions; 40 tpy of sulfur dioxide emissions; 40 tpy of nitrogen oxide emissions ¹
Ozone	40 tpy of volatile organic compounds or nitrogen oxides
Lead	0.6 tpy
Fluorides	3 tpy
Sulfuric acid mist	7 tpy
Hydrogen sulfide (H ₂ S)	10 tpy
Total reduced sulfur (including H ₂ S)	10 tpy
Reduced sulfur compounds (including H ₂ S)	10 tpy
Municipal waste combustor organics ²	0.0000035 tpy
Municipal waste combustor metals ³	15 tpy
Municipal waste combustor acid gases ⁴	40 tpy
Municipal solid waste landfills emissions ⁵	50 tpy
GHGs (as CO ₂ e) ⁶	75,000 tpy

¹ Nitrogen oxides are presumed to be precursors to PM_{2.5} in all attainment and unclassifiable areas unless the administrative authority demonstrates to the administrator's satisfaction or EPA demonstrates that emissions of nitrogen oxides from sources in a specific area are not a significant contributor to that area's ambient PM_{2.5} concentrations.

² Measured as total tetra- through octa-chlorinated dibenzo-p-dioxins and dibenzofurans.

³ Measured as particulate matter.

⁴ Measured as sulfur dioxide and hydrogen chloride.

⁵ Measured as nonmethane organic compounds

⁶ Effective January 2, 2011

b. - c. ...

* * *

C. - AA.15.b. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:348 (June 1988), LR 16:613 (July 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:478 (May 1991), LR 21:170 (February 1995), LR 22:339 (May 1996), LR 23:1677 (December 1997), LR 24:654 (April 1998), LR 24:1284 (July 1998), repromulgated LR 25:259 (February 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2447 (November 2000), LR 27:2234 (December 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2437 (October 2005), LR 31:3135, 3156 (December 2005), LR 32:1600 (September 2006), LR 32:1843 (October 2006), LR 36:2556 (November 2010), LR 37:

Family Impact Statement

This rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Public Hearing

A public hearing will be held on March 29, 2011, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. The hearing will also be for the revision to the State Implementation Plan (SIP) to incorporate this rule. 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.

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ318. Such comments must be received no later than April 5, 2011, at 4:30 p.m., and should be sent to Donald Trahan, Attorney Supervisor, Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-4068 or by e-mail to donald.trahan@la.gov. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ318. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

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: Pm2.5 NSR Implementation

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change may result in a minimal increase in Department of Environmental Quality administrative costs associated with reviewing and preparing Prevention of Significant Deterioration (PSD) permits for particulate matter less than 2.5 micrometers (PM_{2.5}). However, these costs will be offset with the surcharge associated with the PSD permit program. The proposed rule incorporates the Environmental Protection Agency's (EPA) final rule entitled "Implementation of the New Source Review Program for particulate matter less than 2.5 micrometers" into current Louisiana air quality regulations. The proposed rule change also addresses concerns by the EPA and amends existing provisions to match federal law to ensure State Implementation Plan approval.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change may result in an indeterminable increase in revenue collections due to receipt of fees associated with PSD permit applications for PM_{2.5}. Any additional permit fees will be deposited into the Environmental Trust Fund.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The impact of the proposed rule will be dependent on the nature of each project proposed by an owner or operator of a major stationary source. Relevant factors include the PM_{2.5}, SO₂, and NO_x emissions associated with the proposed project, as well as any other projects contemporaneous with the proposed project. When Prevention of Significant Deterioration (PSD) review is required, the selection of best available control technology (BACT) is a case-by-case determination that

accounts for energy, environmental, and economic impacts. The need for post-construction monitoring is dependent on the results of the air quality modeling analyses and the location of the facility in question. Therefore, it is not possible to provide a specific cost estimate for each individual permit review.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition or employment in the public or private sector because of the proposed rule.

Herman Robinson, CPM
Executive Counsel
1102#069

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Trustees of the Firefighters' Pension and Relief Fund

Tax Qualification Provisions (LAC 58:V.2001)

The Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans ("fund"), pursuant to R.S. 11:3363(F), proposes to restate and amend LAC 58:V. The restatement and amendment adds a Chapter 20 to address federal tax qualification issues. All currently stated rules of the fund, unless amended herein, shall remain in full force and effect.

Title 58

RETIREMENT

Part V. Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity

Chapter 20. Tax Qualification Provisions

§2001. General Provisions

A. The New Orleans Firefighters Pension and Relief Fund shall be a tax-qualified governmental plan as provided in the Internal Revenue Code of 1986, as amended. In accordance with the requirements of the Internal Revenue Code, the following provisions shall apply to the fund:

1. The assets of the fund shall be held for the exclusive benefit of the members of the fund, the retirees thereof, and the survivors and beneficiaries of the retirees and members. No part of the funds held by the trustees of the fund shall be used or diverted for any reason, including any contingency or event or by any other means, to other purposes, including but not limited to reversion to any employer.

2. The retirement benefit of a member shall be fully vested and nonforfeitable no later than the date on which he becomes eligible to retire. Benefits of members shall also become vested and nonforfeitable upon the termination of the fund or the complete discontinuance of contributions to the system.

3. Forfeitures shall not be used to increase the benefits of the remaining members of the fund. This shall specifically not preclude any increase in benefits by amendment to the benefit formula made possible by a change in contribution rate, favorable investment results, or other means.

4. A member's benefit shall begin to be distributed not later than the latest date provided for the commencement of benefits for governmental plans under Section 401(a)(9)(C) of the Internal Revenue Code of 1986, as amended. Distributions to a surviving spouse, dependent, successor and/or beneficiary of a member shall be made at least as

soon as distributions are required to be made by qualified governmental plans under the Internal Revenue Code of 1986, as amended. Benefits payable shall be limited in accordance with IRC Section 415 and applicable Treasury Regulations as applied to governmental plans.

5. In computing benefit accruals, there shall not be taken into account compensation in excess of the limitations specified in Section 401(a)(17) of the Internal Revenue Code, as amended. Such compensation limit was two hundred thousand dollars for tax years beginning after December 31, 2001

6. The fund, its trustees, consultants, and advisors shall not engage in any prohibited transactions as that term is defined in Section 503 of the Internal Revenue Code of 1986, as amended.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 37:

Public Comments

Any interested person may submit written comments regarding the content of this proposed Rule change to Richard J. Hampton, Jr., Secretary-Treasurer and Executive Officer of the Board of Trustees, 3520 General DeGaulle, Suite 3001, New Orleans, LA, before 5 p.m., March 20, 2010.

Family Impact Statement

1. Estimated Effect on the Stability of the Family. There is no estimated effect on the stability of the family.

2. Estimated Effect on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. There is no estimated effect on the authority and rights of parents regarding the education and supervision of their children.

3. Estimated Effect on the Functioning of the Family. There is no estimated effect on the functioning of the family.

4. Estimated Effect on Family Earnings and Family Budget. There is no estimated effect on family earnings and family budget.

5. Estimated Effect on the Behavior and Personal Responsibility of Children. There is no estimated effect on the behavior and personal responsibility of children.

6. Estimated Effect on the Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. There is no estimated effect on the ability of the family or a local government to perform the function as contained in the proposed Rule.

Louis L. Robein
Fund Attorney

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Tax Qualification Provisions

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

No significant implementation costs are anticipated to result from the proposed new rule. The New Orleans Firefighters' Pension and Relief Fund is publishing rules with respect to permitted benefits distribution and fund governance. The rules are being established in order to comply with the

Internal Revenue Service's codes and regulations. The proposed administrative rules merely codify current practice.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed new rule will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed new rule will have no impact on costs and/or economic benefits to affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed new rule will have no effect on competition and employment.

Richard J. Hampton
Secretary-Treasurer
1102#086

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Board of Architectural Examiners**

**Titles, Firm Names, and Assumed Names
(LAC 46:I.Chapter 15)**

Under the authority of R.S. 37:144(C) and in accordance with the provisions of R.S. 49:951 et seq., the Board of Architectural Examiners ("LSBAE") gives notice that rule making procedures have been initiated for the amendment to LAC 46:I Chapter 15 pertaining to the titles, firm names, and assumed names which architects and architectural firms may use in their practice of architecture. The proposed rules clarify the existing rules in an attempt to provide guidance to architects and architectural firms in their architectural practice. In addition, the proposed Rules will allow (a) a non-resident entity to retain its non-resident identity in Louisiana under certain conditions (§1535, which is new), and (b) an architect or architectural firm which believes that the requirements of the rules will be unduly burdensome or impractical to seek an exemption therefrom (§1537, which is new).

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part I. Architects

Chapter 15. Titles, Firm Names, and Assumed Names

§1501. Misleading and Confusing Names Prohibited

A. The statutory authorization for architects to offer to the public the practice of architecture and the rendering of architectural services is not an authorization to hold out as an architect any person who is not registered by the board. An architect shall not practice architecture under an assumed, fictitious or corporate name that is misleading as to the identity, responsibility, or status of those practicing thereunder or is otherwise false, fraudulent, misleading, or confusing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners, LR 29:568 (April 2003), amended LR 37:

§1505. Use of Term "Architect," "Architecture," or "Architectural"

A. Whenever the term *architect*, *architecture*, or *architectural* is used in a firm name, or whenever a firm includes its name in any listing of architects or of firms rendering architectural services, the name of at least one Louisiana licensed architect followed by the title *architect* must be included either as a part of the firm title itself or at least one Louisiana licensed architect must be identified as an architect on the firm letterhead and any website.

Allowed	Not Allowed
Smith & Jones, Architecture & Planning	Smith & Jones, Architecture & Planning
John Smith, Architect	(unless Smith and Jones are both licensed by the board to practice architecture in Louisiana)
Smith & Jones, Architecture & Engineering	Smith & Jones, Architecture & Engineering
John Smith, Architect Design Professionals	(unless Smith and Jones are both licensed by the board to practice architecture in Louisiana)
Architecture & Planning	Design Professionals
John Smith, Architect	Architecture & Planning
Heritage Architectural Services	Heritage Architectural Services
John Smith, Architect	Heritage Architectural Services
John Smith, Architect, and Associates	Heritage Architectural Services

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners, LR 29:568 (April 2003), amended LR 37:

§1507. Use of the Plural Term "Architects"

A. If the firm title indicates that the firm contains two or more architects, the names of at least two Louisiana licensed architects followed by the title *architect* must be included either as a part of the firm title itself or at least two Louisiana licensed architects must be identified as architects on the firm letterhead and any website. An architectural firm which loses an architect or architects so that it may no longer use the plural term "architects" is required to change its name as soon thereafter as is reasonably possible, which change shall occur no later than one year from the departure of the architect or architects.

Allowed	Not Allowed
Communications Architects	Communications Architects
John Smith, Architect	
Jack Jones, Architect	
Smith & Jones, Architectural Services	
(if Smith and Jones are both licensed by the board to practice architecture in Louisiana)	

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners, LR 29:568 (April 2003), amended LR 37:

§1509. Firm Name Which Includes Names of Licensed Architect or Architects Only

A. A firm name which includes only the name or names of a licensed architect or architects engaged in the active practice of architecture is not required to include the name of a licensed architect followed by the title "architect" as a part

of the firm title itself. However, if the firm title indicates that the firm is a sole proprietorship or that only one architect is a member of the firm, the identity of the architect shall be shown on the firm letterhead and any website. If the firm title indicates that the firm contains two or more architects, at least two architects shall be identified as such on the firm letterhead and any website.

Allowed	Not Allowed
Smith & Jones, Architects (if Smith and Jones are both licensed by the board to practice architecture in Louisiana)	Smith & Jones, Architects (if Jones is not licensed by the board)

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners, LR 29:563 (April 2003), amended LR 37:

§1511. Use of "AIA"

A. The use of "AIA," in and of itself, is not an acceptable substitution for the title "architect" on any listing, publication, announcement, letterhead, business card, website or sign used by an individual practicing architecture in connection with his practice where such title is required.

Allowed	Not Allowed
John Smith, Architect John Smith, Architect, AIA	John Smith, AIA (if the title "architect" is required)

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners, LR 29:569 (April 2003), amended LR 37:

§1513. Use of the Term "Associate"

A. An architect may only use the word "associate" in the firm title to describe a full time officer or employee of the firm. The plural form may be used only when justified by the number of associates who are full time firm employees. An architectural firm which loses an associate or associates so that it may no longer use the plural form is required to change its name as soon thereafter as is reasonably possible, which change shall occur no later than one year from the departure of the associate or associates. Identification of the associates in the firm title, listing, publication, letterhead, or announcement is not required.

Allowed	Not Allowed
John Smith & Associates, Architects (if John Smith is licensed by the board and the firm employs two or more associates as defined herein)	John Smith & Associates, Architects (if the firm employs only one associate as defined herein)

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners, LR 29:569 (April 2003), amended LR 37:

§1515. Sole Proprietorship, Partnership, Group, Association, or Limited Liability Company

A. The firm name of any form of individual, partnership, corporate, limited liability company, group, or associate practice must comply with all of the rules set forth in this Chapter.

Allowed	Not Allowed
John Smith, Architect John Smith, AIA, Architect John Smith, Architect, AIA John Smith & Associates, Architect (if John Smith is licensed by the board to practice architecture in Louisiana and the firm employs two or more associates as defined in the rules) Smith & Jones, Architect & Engineer (if John Smith is licensed by the board to practice architecture in Louisiana) Smith & Jones, Architects & Engineer (if Smith and Jones are both licensed by the board to practice architecture in Louisiana)	Smith & Jones, Architects & Engineers (if either Smith or Jones is not licensed by the board to practice architecture in Louisiana) Smith & Jones, Architects (if either Smith or Jones is not licensed by the board to practice architecture in Louisiana)

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners, LR 29:569 (April 2003), amended LR 37:

§1517. Professional Architectural Corporations

A. The corporate name of a professional architectural corporation registered with this board must comply with R.S. 12:1088.

B. The corporate name of a professional architectural corporation may include an acronym such as "PAC," "APAC," or "APC" as an acceptable substitute for one of the suffixes listed in R.S. 12:1088.

Allowed	Not Allowed
Smith & Jones, A Professional Architectural Corporation Smith & Jones, APAC Smith & Jones, Architects, A Professional Architectural Corporation Smith & Jones, Architects, APAC Heritage Architects, A Professional Architectural Corporation Heritage Architects, APC	Smith & Jones, Inc. Smith & Jones, A Professional Interior Architectural Corporation

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners, LR 29:570 (April 2003), amended LR 37:

§1521. Fictitious Name

A. For the purpose of these rules, a fictitious name is any name other than the real name or names of an individual. Any individual, partnership, corporation, limited liability

company, group, or association may practice architecture under a fictitious name provided the name complies with all of the rules of this Chapter.

Allowed	Not Allowed
Heritage Architecture	Heritage Architecture
John Smith, Architect	Architectural Design
Architectural Design	Architectural Design
John Smith, Architect	Consultants
Architectural Design Consultants	John Smith, Architect
John Smith, Architect	
Jack Jones, Architect	
Heritage Architects,	
A Professional Corporation	

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners, LR 29:570 (April 2003), amended LR 37:

§1523. Practicing in a Firm with Other Professionals

A. An architect who practices in a firm with one or more engineers, land surveyors, landscape architects, interior designers, or other professionals in an allied profession is permitted to use in the firm title a phrase describing the professions involved such as "architect and engineer," "architects, engineers, and surveyors," etc. provided:

1. the title does not hold out to the public as an architect any person who is not registered by the board;
2. the name of any allied professional in the firm title is practicing in accordance with the applicable statutes and regulations that govern the practice of that allied profession; and
3. the title complies with all the rules of this Chapter.

Allowed	Not Allowed
Smith & Jones, Architect & Engineer	Smith & Jones, Architect & Engineer
John Smith, Architect	(if neither Smith nor Jones is an architect licensed by the board)
Smith & Jones, Architects & Engineers	
John Smith, Architect	
Jack Jones, Architect	

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners, LR 29:570 (April 2003), amended LR 37:

§1525. Deceased or Retired Member Predecessor Firms

A. An architect may include in the firm name the real name or names of one or more living, deceased, or retired members of the firm, or the name of a predecessor firm in a continuing line of succession. The status of any deceased or retired member must be clearly shown on the firm letterhead and website by use of the words "retired" or "deceased" or by showing the years of the member's birth and death. Upon the retirement or death of a firm member, the name of the firm should be changed as soon as reasonably possible, which change shall occur no later than one year following the retirement or death.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners, LR 29:570 (April 2003), amended LR 37:

§1531. Business Cards

A. The business card of an architect should comply with all of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners, LR 29:571 (April 2003), amended LR 37:

§1533. Limited Liability Company

A. The name of a limited liability company registered with the board must comply with R.S.12:1306 and include the words "limited liability company" or "professional limited liability company," or the abbreviation "L.L.C.," "P.L.L.C.," or "L.C."

Allowed	Not Allowed
Smith & Jones, Architects, Limited Liability Company (if Smith and Jones are both licensed architects)	Smith & Jones, Architects (if the entity is a limited liability company)
Smith & Joes, Architects, Professional Limited Liability Company (if Smith and Jones are both licensed architects)	
Smith & Jones, Architects, L.L.C. (if Smith and Jones are both licensed architects)	
Smith & Jones, Architects, P.L.L.C. (if Smith and Jones are both licensed architects)	
Smith & Jones, Architects, L.C (if Smith and Jones are both licensed architects)	

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners, LR 29:571 (April 2003), amended LR 37:

§1535. Non-Resident Firms

A. A non-resident corporation or limited liability company legally engaged in the practice of architecture in the jurisdiction of its origin shall have the right to retain its non-resident identity upon obtaining a certificate of registration for practicing architecture in Louisiana, provided its identity is in full compliance with the jurisdiction of its origin and the entity is in full compliance with all of the requirements for practicing architecture in Louisiana.

B. A non-resident partnership or other entity legally engaged in the practice of architecture in the jurisdiction of its origin shall have the right to retain its non-resident identity in Louisiana, provided its identity is in full compliance with the jurisdiction of its origin and the entity is in full compliance with all of the requirements for practicing architecture in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners, LR 37:

§1537. Exemptions

A. If an architect or architectural firm believes that the requirements of this Chapter are unduly burdensome or impractical because of the large number of architects

employed, or for any other reason, it shall request in writing an exemption from the board.

B. The request for an exemption shall be made before any name which does not fully comply with the requirements of these rules is used, and it shall fully explain why the architect or architectural firm believes that the requirements of this Chapter are unduly burdensome or impractical.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners, LR 37:

Family Impact Statement

The proposed Rules of the Louisiana State Board of Architectural Examiners should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically, there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. a family's earnings and budget;
5. the behavior and personal responsibility of children; or
6. the family's ability or that of the local government to perform the function as contained in the proposed Rule.

Public Comments

Interested persons may submit written comments on this proposed rule amendment to Ms. Mary "Teeny" Simmons, Executive Director, Board of Architectural Examiners, 9625 Fenway Avenue, Suite B, Baton Rouge, LA 70809.

Mary "Teeny" Simmons
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Titles, Firm Names,
and Assumed Names**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated costs (savings) to state or local governmental units associated with the proposed rules.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no estimated effects on revenue collections of state or local governmental units associated with the proposed rules.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rules primarily clarify and provide guidance regarding the titles, firm names, and assumed names which architects and architectural firms may use in their architectural practice. In addition, the proposed rules will allow (a) a non-resident entity to maintain its non-resident identity in Louisiana under certain conditions (rule § 1535, which is new), and (b) an architect or an architectural firm which believes that the requirements of the rules are unduly burdensome or impractical to request an exemption therefrom from the board (rule § 1537, which is new). Thus, the proposed rules may have some minimal economic benefit upon architects and architectural

firms, particularly upon non-resident entities which seek to maintain their non-resident identities in Louisiana.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Although the proposed new rules will allow non-resident entities to maintain their non-resident identities in Louisiana under certain conditions, such entities are already either using their non-resident identities or are changing their names to accommodate the existing rules. Likewise, although the proposed new rules will allow an architect or architectural firm to seek an exemption from these rules, such entities are presently simply changing their names to accommodate the existing rules. Otherwise, the proposed rules clarify and provide guidance to architects and architectural firms regarding the existing rules. Thus, the estimated effect on competition or employment associated with the proposed rules will be minimal.

Mary "Teeny" Simmons
Executive Director
1102#010

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Office of Financial Institutions**

**Broker-Dealer and Investment Adviser Recordkeeping
Requirements (LAC 10:XIII.Chapter 17)**

In accordance with the Louisiana Securities Law, R.S. 51:701, et seq., and particularly R.S. 51:703 (I), as amended, and the Administrative Procedure Act, R.S. 49:950, et seq., the Commissioner of Financial Institutions hereby gives his Notice of Intent to adopt LAC10:XIII.Chapter 17, a Rule to place a requirement on broker-dealers and investment advisers registered or notice filed with the commissioner to maintain such books and records as set out in §§1701 and 1703 below.

Title 10

**FINANCIAL INSTITUTIONS, CONSUMER CREDIT,
INVESTMENT SECURITIES AND UCC**

Part XIII. Investment Securities

Subpart 1. Securities

**Chapter 17. Dealer and Investment Adviser
Recordkeeping Requirements**

§1701. Broker-Dealer Requirements

A. Unless otherwise provided by order of the Securities and Exchange Commission (hereinafter "SEC"), each broker-dealer registered or required to be registered pursuant to R.S. 51:703(A)(1) shall make, maintain and preserve books and records in compliance with SEC Rules 17a-3 (17 CFR 240.17a-3), 17a-4 (17 CFR 240.17a-4), and 15c2-11 (17 CFR 240.15c2-11), which are adopted and incorporated herein by reference.

B. To the extent that the SEC promulgates changes to the above referenced rules, broker-dealers in compliance with such rules as amended shall not be subject to enforcement action by the commissioner for violation of this rule to the extent that the violation results solely from the broker-dealer's compliance with the amended rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:703(I).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 37:

§1703. Investment Adviser Requirements

A. Except as provided in Subsection C, unless otherwise provided by order of the SEC, each investment adviser registered or required to be registered pursuant to R.S. 51:703(A)(2) or notice filed pursuant to R.S. 51:703(D)(2) shall make, maintain and preserve books and records in compliance with SEC Rule 204-2 (17 CFR 275.204-2), which is adopted and incorporated by reference, notwithstanding the fact that such investment adviser is not registered or required to be registered under Section 203 of the Investment Advisers Act of 1940.

B. To the extent that the SEC promulgates changes to the above-referenced rules, investment advisers in compliance with such rules as amended shall not be subject to enforcement action by the commissioner for violation of this rule to the extent that the violation results solely from the investment adviser's compliance with the amended rule.

C. Every investment adviser that has its principal place of business in a state other than this state shall be exempt from the requirements of Subsection A, provided the investment adviser is licensed or registered in such state and is in compliance with such state's recordkeeping requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:703(I).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 37:

§1705. Cessation of Business

A. Before ceasing to conduct or discontinuing business, each broker-dealer and investment adviser shall arrange for and be responsible for the preservation of the books and records required to be maintained and preserved by this Rule for the remainder of the period specified.

B. Each broker-dealer and investment adviser shall notify the commissioner in writing of the exact address where such books and records will be maintained during such period. The filing with the Central Registration Depository of a Form BD-W by a broker-dealer or a Form ADV-W by an investment adviser shall satisfy this notice requirement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:703(I).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 37:

Family Impact Statement

Pursuant to R.S. 49:972, and prior to adoption of the proposed Rule LAC 10:XIII.1701-1703, Broker-Dealer and Investment Advisers Recordkeeping Requirements, the Office of Financial Institutions considered the impact of the proposed Rule, and found that the proposed Rule, if adopted, would have no effect on the stability of or the functioning of the family, the authority and rights of parents regarding the education and supervision of their children, family earning and family budget, the 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.

Small Business Statement

The impact of the proposed Rule on small businesses as defined in R.S. 49:965.4 (4) in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant impact on small businesses.

Public Comments

All interested persons are invited to submit written comments on this proposed Rule, no later than 4:30 p.m., March 20, 2011, to Rhonda Reeves, Deputy Commissioner of Securities, P.O. Box 94095, Baton Rouge, LA, 70804-9095, or by hand delivery to the Office of Financial Institutions, 8660 United Plaza Boulevard, Second Floor, Baton Rouge, LA. The final rule shall become effective 120 days from final publication.

John Ducrest
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Broker-Dealer and Investment Adviser
Recordkeeping Requirements**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There are no estimated implementation costs or savings to state or local governmental units.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

There is no estimated effect on revenue collections of state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

There may be some nominal costs incurred by investment adviser firms that are not registered with the Securities and Exchange Commission (SEC), since the SEC Rules referenced in the proposed Rule do not currently apply to these firms. However, since these firms are small and generally have limited activities, the recordkeeping burden and costs are not expected to be significant. There are approximately 77 investment adviser firms that may be impacted by these proposed administrative rules.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

There is no estimated effect on competition and employment as a result of the rule change.

John Ducrest
Commissioner
1102#020

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Dentistry**

Automated External Defibrillator; Botox and Dermal Fillers;
Licensure; Portable and Mobile Dentistry; Nitrous Oxide;
Sanctions; Examination of Dentist, Hygienists
(LAC 46:XXXIII.130, 132, 306, 313, 701,
712, 714, 720, 1511, 1709, and 1711)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Dental Practice Act, R.S. 37:751 et seq., and particularly R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to amend LAC 46:XXXIII.130, 132, 306, 313, 701, 712, 714, 720, 1511, 1709, and 1711. No preamble has been prepared.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS

Part XXXIII. Dental Health Professions

Chapter 1. General Provisions

§130. Automated External Defibrillator

A. *Automated External Defibrillator (AED)*—a medical device heart monitor and defibrillator that:

1. has received approval from its pre-market notification filed pursuant to 21 U.S.C. 360(k) from the United States Food and Drug Administration;

2. is capable of recognizing the presence or absence of ventricular fibrillation or rapid ventricular tachycardia and is capable of determining whether defibrillation should be performed;

3. upon determining that defibrillation should be performed, automatically charges and requests delivery of an electrical impulse to the individual's heart;

4. is capable of delivering the electrical impulse to an individual's heart.

B. The AED shall be maintained and tested according to manufacturer's guidelines.

C. Each dentist licensed in the state of Louisiana shall receive appropriate training in basic life support and in the use of an AED from any nationally recognized course in CPR and AED use, and approved or sponsored by those entities set forth in LAC 46:XXXIII.1615.

D. All dentists licensed in the state of Louisiana shall equip, and maintain an AED no later than January 1, 2012.

E. The AED shall be located in a prominent place easily accessible by all dental healthcare providers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760 (8).

HISTORICAL NOTE: Promulgated by Department of Health and Hospitals, Board of Dentistry, LR 37:

§132. Administration of Botox and Dermal Fillers

A. The board does not issue permits for the administration of Botox or dermal fillers. The board does not regulate dental materials of any type. However, due to the rising utilization of these materials by dentists, the board sets forth the following requirements:

B. Before administering Botox or dermal fillers, a dentist must have either received satisfactory training in a dental institution accredited by the Commission on Dental Accreditation of the American Dental Association or successfully completed a continuing education course of instruction that includes at a minimum the following:

1. patient assessment and consultation for Botox and dermal fillers;

2. indications and contraindications for these techniques;

3. safety and risk issues for botulinum neurotoxin/dermal fillers injectable therapy;

4. proper preparation and delivery techniques for desired outcomes;

5. enhancing and finishing esthetic dentistry cases with dermal fillers;

6. botulinum neurotoxin treatment of temporomandibular joint syndrome and bruxism;

7. knowledge of adverse reactions and management and treatment of possible complications;

8. patient evaluation for best esthetic and therapeutic outcomes;

9. integrating botulinum neurotoxin and dermal filler therapy into dental therapeutic and esthetic treatment plans;

10. live patient hands-on training including diagnosis, treatment planning, and proper dosing and delivery of Botox and dermal fillers.

C. Botox and dermal fillers shall only be administered in dental offices using universal precautions as required by the Federal Centers for Disease Control.

D. All dental auxiliaries are prohibited from administering either Botox or dermal fillers.

E. Continuing education courses shall be approved or sponsored by one or more of the entities set forth in LAC 46:XXXIII.1615.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760 (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 37:

Chapter 3. Dentists

§306. Requirements of Applicants for Licensure by Credentials

A. - B.5. ...

C. A person in a residency program approved by the Commission on Dental Accreditation of the American Dental Association or any other residency program may not apply for licensure by credentials unless he has held an active license during said residency. The fact of passing a regional board examination is not acceptable unless the license has been activated.

D. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and R.S. 37:768.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18:739 (July 1992), amended LR 21:571 (June 1995), LR 22:23 (January 1996), LR 23:1528 (November 1997), LR 24:1114 (June 1998), LR 25:513 (March 1999), LR 26:692 (April 2000), LR 26:1612 (August 2000), repromulgated LR 27:1893 (November 2001), amended LR 28:1777 (August 2002), LR 30:2305 (October 2004), LR 31:927 (April 2005), LR 32:243 (February 2006), LR 33:846 (May 2007), LR 33:2652 (December 2007), LR 34:2564 (December 2008), repromulgated LR 35:67 (January 2009), amended LR 37:

§313. Portable and Mobile Dentistry

A. - G.1 ...

2. a statement that a parent or guardian may attend all dental visits and the form provides a telephone number and address where the parent or guardian can contact the operator's office if they wish to be at the school, facility or site when the minor is being treated. If the parent or guardian contacts the operator's office requesting to be present at the dental visit when their child is being treated, then the operator shall notify the parent or guardian when dental care is to be rendered so the parent or guardian can be present. This notice shall be provided to the parent or guardian at least five calendar days before dental care is to be rendered to the patient. If the operator is unable to reach the parent or guardian on the first attempt, he shall make at least two more attempts before treatment is to be provided. If the parent or guardian requests to be present, but does not appear at the site where the treatment is being provided no dental care shall be rendered to that patient;

3. - 6. ...

7. a conspicuous statement that the parent or guardian should contact the operator at the operator's toll free number if the parent or guardian has any questions whatsoever

regarding the information provided or the consent form to be signed. The operator shall make a notation in the patient's chart regarding all questions and answers between the two parties.

H. ...

1. All consent forms shall include but not be limited to the following:

a. a complete listing of all procedures which may be performed by the operator which shall include a description of the risks and potential complications;

b. a description of all behavior management procedures which may be involved in the provision of dental treatment, and those risks associated with such dental treatment or course of dental treatment, which would ordinarily have been disclosed under the same or similar circumstances by dentists with the same or similar training and experience. The parent or guardian should be encouraged to call the operator if he or she has any questions concerning any of the above. All questions must be answered in a satisfactory manner. A check box or similar feature should appear by each type of procedure listed and appropriate instructions provided so that a parent or guardian may give permission for treatment of a minor to include only those procedures specifically chosen from the list and the behavior management procedures;

c. a statement encouraging the parent or guardian to be present during the treatment of the patient in order to assist the dentist, if necessary, with behavior management;

d. a notation that treatment cannot be rendered on a minor patient unless his or her medical history has been updated within the past six months. A space on the consent form shall include a place for the parent to list any medical or dental problems which the patient may have;

e. an explanation of the notice of the operator's privacy practices which shall be in conformity with all federal and state laws.

2. When appropriate, during or at the conclusion of each patient's visit to the operation, the patient shall be provided with an information sheet and a copy shall be mailed to the patient's home. If the patient has provided consent to an institutional facility to access the patient's dental health records, the institution shall also be provided with a copy of the information sheet. An institutional facility includes, but is not limited to, a long-term care facility or school.

3. The information sheet as required herein shall include the following:

a. 24-hour toll free as well as an in-state telephone number and address where the parent, guardian, or patient can contact the operator's office for questions or emergency dental care;

b. the name of the dentist who provided services;

c. a description of the treatment rendered;

d. referral information if necessary;

e. post-operative instructions as necessary.

I. - M.2.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760 (8), and Act 429 of the Regular Legislative Session of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 36:2035 (September 2010), amended LR 37:

Chapter 7. Dental Hygienists

§701. Authorized Duties

A. ...

B. A person licensed to practice dentistry in the state of Louisiana may delegate to any dental hygienist any chairside dental act which said dentist deems reasonable, using sound professional judgment. Such act must be performed properly and safely on the patient. Furthermore, the act must be under the direct on-premises supervision of the treating dentist. However, dental hygienists who perform authorized duties in any public institution or school may perform authorized duties (which shall not include the administration of nitrous oxide inhalation or local anesthesia, and root planing, which must be under direct supervision) under the general supervision of a licensed dentist. A dentist may not delegate to a dental hygienist:

1. - 10. ...

11. the administration of parenteral, intravenous (IV), or any general anesthetic agent.

C. - E. ...

F. Under general supervision, a dental hygienist may provide to patients of record, for not more than five consecutive business days, all dental hygiene services (except the administration of nitrous oxide inhalation or local anesthesia, and root planing which must be under direct supervision) if all of the following conditions are satisfied:

F.1. - G.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 14:791 (November 1988), amended LR 15:965 (November 1989), LR 19:206 (February 1993), LR 22:22 (January 1996), LR 22:1217 (December 1996), LR 24:1116 (June 1998), LR 27:1892 (November 2001), LR 32:2056 (November 2006), LR 37:

§712. Nitrous Oxide Inhalation Analgesia

A. After satisfying the board of his or her competence to administer nitrous oxide inhalation analgesia, a licensed dental hygienist may qualify for a special endorsement to administer nitrous oxide inhalation analgesia for dental procedures under the direct on-premises supervision of a licensed dentist who currently holds a personal permit for the administration of nitrous oxide or higher level of anesthesia in an office location at which there currently exists an office permit for the administration of nitrous oxide or higher level of anesthesia.

B. No dental hygienist shall use nitrous oxide inhalation analgesia unless said dental hygienist has received authorization by the board evidenced by receipt of a permit from the board.

C. In order to receive authorization the dental hygienist must show and produce evidence that he/she complies with the following provisions:

1. completion of a board-approved course which conforms to American Dental Association guidelines; and

2. provide proof of current certification in cardiopulmonary resuscitation, Course "C," Basic Life Support for the Healthcare Provider as defined by the American Heart Association, or its equivalent.

D. The permit to administer nitrous oxide inhalation analgesia shall expire with the expiration of the dental hygienist's license to practice dental hygiene.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760 (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 37:

§714. Minimal Educational Requirements for the Granting of Permits to Administer Nitrous Oxide Inhalation Analgesia

A. Competence to administer nitrous oxide inhalation analgesia must be demonstrated to the board by successful completion of at least 8 hours of instruction in a formal program in administration of nitrous oxide sponsored by an institutional program accredited by the Commission on Dental Accreditation of the American Dental Association and approved by the board. A certificate of course completion and a copy of the syllabus must be submitted to the board for approval.

B. The curriculum for required study must include, but is not necessarily limited to the following:

1. physical evaluation;
2. medical emergencies, prevention, diagnosis, and treatment;
3. didactic and clinical instruction of the administration of nitrous oxide inhalation; and
4. documentation of a minimum of six successful cases of induction and recovery performed under the direct supervision of a licensed dentist with appropriate permits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760 (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 37:

§720. Sanctions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 27:1892 (November 2001), repealed LR 37:

Chapter 15. Conscious Sedation with Parenteral Drugs

§1511. Required Facilities, Personnel and Equipment for Sedation Procedures

A. - B.2. ...

3. When nitrous oxide inhalation analgesia is being administered, one dentist or auxiliary who is currently certified in basic life support must be available to assist the dentist or dental hygienist in an emergency.

4. - 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:659 (June 1994), amended LR 32:244 (February 2006), LR 37:

Chapter 17. Licensure Examinations

§1709. Examination of Dentists

A. - B.4. ...

C. To be licensed as a dentist in this state, an applicant for initial licensure must successfully complete the clinical examination administered by the Louisiana State Board of Dentistry approved testing agency. This agency will be

named by the board and this relationship may be changed or amended as deemed necessary by the board.

D.

E. To be licensed by credentials as stated in §306.B.5, a candidate may use a passing grade from a clinical examination administered by any clinical licensing examination which meets the criteria outlined in §1713.

F. No clinical licensing examination may be conducted in the state of Louisiana without the written permission from the Louisiana State Board of Dentistry. For permission to be granted, the agency conducting the examination must have at least four current members of the Louisiana State Board of Dentistry participating in the clinical licensing examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(1) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1119 (June 1998), amended LR 28:2513 (December 2002), LR 33:2654 (December 2007), LR 37:

§1711. Examination of Dental Hygienists

A. - C.1. ...

2. To be licensed as a dental hygienist in this state, an applicant for initial licensure must successfully complete the clinical examination administered by the Louisiana State Board of Dentistry approved testing agency. This agency will be named by the board and this relationship may be changed or amended as deemed necessary by the board.

3. To be licensed by credentials as stated in §706, a candidate may use a passing grade from a clinical examination administered by any clinical licensing examination which meets the criteria outlined in §1713.

4. No clinical licensing examination may be conducted in the state of Louisiana without the written permission from the Louisiana State Board of Dentistry. For permission to be granted, the agency conducting the examination must have at least four current members of the Louisiana State Board of Dentistry participating in the clinical licensing examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(1) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1119 (June 1998), amended LR 28:1779 (August 2002), LR 33:2654 (December 2007), LR 37:

Family Impact Statement

There will be no family impact in regard to issues set forth in R.S. 49:972.

Public Comments

Interested persons may submit written comments on these proposed Rule changes to C. Barry Ogden, Executive Director, Louisiana State Board of Dentistry, One Canal Place, Suite 2680, 365 Canal Street, New Orleans, LA 70130. Written comments must be submitted to and received by the Board within 60 days of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the board within 20 days of the date of this notice.

C. Barry Ogden
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**
**RULE TITLE: Automated External Defibrillator; Botox
and Dermal Fillers; Licensure; Portable
and Mobile Dentistry; Nitrous Oxide;
Examination of Dentist, Hygienists**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There will be a one-time cost of \$500 in Fiscal Year 2010-11 for publication of the proposed rules in the *Louisiana Register*. There are no estimated costs or savings to local governmental units from the proposed rules.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The implementation of these rule changes will neither increase nor decrease revenues for the Louisiana State Board of Dentistry.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
With the rule change to LAC 46:XXXIII.130, all dentists will be required to purchase automated external defibrillators (AEDs) for their offices. AEDs cost approximately \$1500 to \$2000. Under the new LAC 46:XXXIII.132, if dentists wish to administer Botox or other dermal fillers, they will be required to take appropriate training courses and will be responsible for any costs associated. However, dentists with the appropriate training may increase their income because of the additional services they may then provide to their patients. According to LAC 46:XXXIII.712 and .714, hygienists must take appropriate training courses to administer nitrous oxide to their patients and must pay for their education. These hygienists may be able to demand a higher salary from their employers once they are allowed to administer nitrous oxide. Rule changes to LAC 46:XXXIII.306, .313, .701, .720, .1511, .1709, and .1711 will have no economic impact on dentists or dental hygienists.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no estimated effect on competition and employment.

C. Barry Ogden
Executive Director
1101#074

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Examiners for Speech-Language
Pathology and Audiology**

Speech Pathology and Audiology
LAC 46:LXXV.Chapters 1, 3, 5, and 7)

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 37:2656(c), that the Louisiana Board of Examiners for Speech-Language Pathology and Audiology intends to update the rules, regulations and procedures to reflect current requirements set forth by universities to obtain undergraduate and graduate degrees, to clarify the Sections regarding supervision requirements, to implement rules specific to individuals who reapply after their license has been lapsed

for ten years, to revise the current code of ethics to have language specific to masters level practitioners and language specific to bachelors level practitioners. Lastly, the board is requesting other "housekeeping" type amendments to revise the language, but not the intent of the rule.

Title 46

Professional and Occupational Standards

Part LXX. Speech Pathology and Audiology

Chapter 1. General Rules

§103. Definitions

A. ...

Cooperating Program—an approved agency of a regionally accredited training institution.

Nine Months of Full-Time Supervised Postgraduate Professional Employment/Experience—is defined as a minimum of thirty-six weeks of full-time supervised professional employment/experience.

Provisional Assistant Licensee—an individual who meets the qualifications established in R.S. 37: 2659(E) and works under the direct supervision of a licensed speech-language pathologist and performs only those duties specified in §117. This person has completed a minimum of 100 of 225 supervised clinical practicum hours and is working to complete the remaining hours on-the-job and/or through a regionally accredited educational institution or its cooperating programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 14:705 (October 1988), amended LR 22:346 (May 1996), LR 27:197 (February 2001), LR 28:1781 (August 2002), LR 30:2307 (October 2004), LR 33:2192 (October 2007), LR 37:

§107. Qualifications for Licensure

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

G. Coursework Requirements: Speech-Language Pathology Assistant and Provisional Speech-Language Pathology Assistant

1. ...

2. If the bachelor's degree is not in speech-language pathology, the degree program should include the following core coursework. A total of 41 hours shall be obtained in the following areas.

3. Basic Requirements:

- | | |
|--|------------------|
| a. Biological or physical sciences | 6 semester hours |
| b. Mathematics or statistics | 6 semester hours |
| c. Psychology/Sociology/Multicultural Studies (some combination) | 6 semester hours |

4. Basic Professional Courses:

- | | |
|---|------------------|
| a. American Phonetics | 3 semester hours |
| b. Anatomy and Physiology of the Speech and Hearing Mechanism | 3 semester hours |
| c. Normal Speech and Language Acquisition | 3 semester hours |

- d. Repealed
- 5. Speech and Language Disorders:
 - a. Introduction to Communication Disorders 3 semester hours
 - b. Articulation Disorders 3 semester hours
 - c. Language Disorders 3 semester hours
 - d. Repealed
 - e. Repealed
 - f. Repealed
 - g. Clinical Practicum in Communication Disorders 2 semester hours
(additional credit may be obtained as an elective)
- 6. Hearing and Hearing Disorders:
 - a. Introduction to Audiology* 3 semester hours
 - b. Repealed

H. - H.3.a.ii. ...

iii. the remaining 35 hours may be obtained in the areas of speech, language or hearing disorders. A maximum of 5 of these hours may be in the area of audiology. It is recommended that a minimum of 20 hours be in articulation.

b. ...

4. Provisional Speech-Language Pathology Assistant License

a. A minimum of 100 clinical practicum hours which have been obtained through a regionally accredited educational institution or its cooperating programs as defined in §107.I.3 is required.

i. The first 75 hours of direct patient/client contact shall be obtained in the following categories:

- (a). minimum of 20 hours in speech disorders;
- (b). minimum of 20 hours in language disorders;
- (c). the remaining 35 hours may be obtained in

the areas of speech, language or hearing disorders. A maximum of 5 of these hours may be in the area of audiology. It is recommended that a minimum of 20 hours be in articulation.

b. The additional 125 hours required to upgrade to the Speech-Language Pathology Assistant License shall be obtained within three years of the date of issuance of the provisional assistant license and may be obtained by completing the remaining hours on-the-job and/or through a regionally accredited educational institution or its cooperating programs. Those hours obtained through supervised on-the-job training must consist of on-site in-view observation hours and will only be accepted from the date that the application for license is acknowledged to have been received by the board.

c. A provisional speech-language pathology assistant may request inactive status if unable to find employment in the area of speech-language pathology and may defer the remaining time of the three-year period to complete the licensure requirements.

i.-ii. ...

I.-K.3. ...

4. If an individual has never held a license to practice audiology or speech-language pathology in another state, and if the degree program was completed greater than ten years from the date of application, the passing score on the specialty area examination for speech/language pathology or

audiology must have been obtained within the last five years.

L. - L.1.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 14:706 (October 1988), amended LR 22:346 (May 1996), LR 27:197 (February 2001), repromulgated LR 27:1690 (October 2001), amended LR 28:1781 (August 2002), LR 30:2308 (October 2004), LR 33:2192 (October 2007), LR 37:

§109. Application Procedures

A. - C. ...

D. The initial license fee submitted to this board shall be paid by check, money order, or credit card.

E. - J. ...

K. Applicants who have not obtained licensure within one year of having submitted the application shall be deemed to have abandoned the application, resulting in mandatory reporting to the appropriate federal databank. An applicant may request a withdrawal of the application subject to review and approval by the board.

L. Individuals holding an unrestricted speech-language pathology or audiology license from another state shall be allowed to practice in Louisiana for five consecutive days within each renewal period upon proof of current licensure submitted to the board office 10 days prior to the scheduled activity.

M. When there is probable cause to believe that an applicant practiced illegally in Louisiana as a speech-language pathologist, speech-language pathology assistant and/or audiologist, the board may offer a consent agreement and order which will grant the individual a license, subject to the following specified terms and conditions.

1. Within 90 days of the date of the consent agreement and order, the applicant shall take and pass an open book examination regarding R.S. 37:2650-2666, the board's rules, regulations and procedures, and ethical questions or within 10 months of the date of the consent agreement and order, the applicant shall complete not fewer than five hours of continuing education in the area of ethics.

a. Open book test fee shall be \$30. The retest fee shall be \$10 per section.

b. Applicants have 4 1/2 hours to complete all sections of the test.

c. The open book examination or any section may be re-taken anytime within the 90 days.

d. The applicant may be required to appear before the board following completion of the continuing education in ethics to answer questions regarding the continuing education.

e. Notice of the consent order and agreement shall be published.

f. If the applicant fails to successfully complete all requirements set forth in the above paragraphs, the applicant's license shall be suspended without further notice until the board receives and accepts documentation of the applicant's completion of the consent order and agreement requirements.

N. Applications for licensure will be denied for individuals who are in default on the repayment of any loan

guaranteed in accordance with L.R.S. 17:3023 (A.) (8.) and L.R.S. 37:2951 (A.) (E.).

O. Temporary Registration During a Declared Public Health Emergency

1.-7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 14:707 (October 1988), amended LR 22:352 (May 1996), LR 27:199 (February 2001), LR 28:1974 (September 2002), LR 30:2311 (October 2004), LR 33:2193 (October 2007), LR 37:

§113. Additional Requirements for International Applicants/Speakers of English as a Second Language

A. - B. ...

C. Because the essence of the practice of speech-language pathology and audiology is communication, an applicant whose primary language is not English shall submit a passing score on a nationally recognized English proficiency examination as approved by the board, and make a personal appearance before the board or its designees before a license may be issued. An English proficiency assessment shall be conducted by the board or its designees as a condition for licensure. At the board's discretion, the license may be conditionally granted subject to an English remediation plan and/or restrictions on practice.

D. The clinical observation and clinical practicum for a speech-language pathologist educated outside the United States must consist of at least 400 patient contact hours, to include:

1. At least 25 hours in supervised observation prior to the clinical practicum. Patient contact hours in excess of the required minimum may be substituted for the required 25 hours of supervised observation.

2. At least three hundred seventy-five (375) patient contact hours in speech-language pathology. Practicum experiences must be:

- a. across the scope of practice in speech-language pathology;
- b. with clients across the lifespan;
- c. across the range of clinical severity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 14:707 (October 1988), amended LR 22:354 (May 1996), LR 27:201 (February 2001), LR 30:2311 (October 2004), LR 37:

§115. Requirements to Upgrade License

A. - B.3. ...

C. The provisional speech-language pathology assistant shall submit the following to upgrade his/her license status:

1. proof of 225 supervised clinical practicum hours shall be on file in the board's office. Only on-site, in-view supervision hours and/or university practicum hours may be counted towards the 225 hours;

C.2. - G. ...

H. Audiologists who hold an audiology license but are completing the coursework or practicum requirements for registration as a dispenser shall follow the supervision requirements as specified in §131.H., and shall submit the board's Form 100 at the time of renewal. The board's Form

100 and the upgrade fee shall be submitted to upgrade license status.

I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 22:349 (May 1996), amended LR 27:197 (February 2001), LR 28:1971 (September 2002), LR 30:2312 (October 2004), LR 33:2194 (October 2007), LR 37:

§117. Duties: Speech-Language Pathology Assistant License and Provisional Speech-Language Pathology Assistant License

A.1. All duties performed by the assistant speech-language pathology licensee or provisional speech-language pathology assistant licensee shall be assigned by a licensed speech-language pathologist and shall be supervised in accordance with the rules and regulations specified by the board. Caseload assignments shall be consistent with the knowledge base and training of the licensee for the performance of the following tasks:

a. conduct speech-language screenings and assessments without interpretation, following specified protocols as developed by the supervising speech-language pathologist. An assistant may not administer a test if the publisher's examiner requirements dictate administration by a graduate-degreed individual. All screening and assessment reports shall be cosigned and interpreted by the supervising speech-language pathologist;

b. ...

c. provide direct treatment which is within the level of training and experience as prescribed by the supervising speech-language pathologist to a caseload of patients/clients who demonstrate communication disorders. Supervision of treatment shall be in accordance with the rules and regulations specified by the board;

d. follow treatment plans or protocols as developed and documented by the supervising speech-language pathologist.

e. - g. ...

h. speech-language pathology assistants may participate in parent conferences, case conferences, interdisciplinary team conferences, and research projects. Provisional speech-language pathology assistants may participate in these activities only with the supervising speech-language pathologist.

2. - 2.a.viii. ...

3. The speech-language pathology assistant and the provisional speech-language pathology assistant shall not perform any clinical task without the knowledge and approval of the supervising speech-language pathologist.

4. Failure to comply with these rules and regulations may result in disciplinary action against the assistant and/or the supervising speech-language pathologist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 30:2312 (October 2004), amended LR 33:2194 (October 2007), LR 37:

§119. Fees

A. The board collects the following fees, which are non-refundable.

1. - 10. ...

11. NSF or returned check—\$40.

12. - 17.d. ...

18. An additional fee may be charged for credit card transactions in accordance with state treasury rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 14:706 (October 1988), amended LR 22:350 (May 1996), LR 27:197 (February 2001), repromulgated LR 27:1691 (October 2001) amended LR 30:2313 (October 2004), LR 33:2195 (October 2007), LR 37:

§121. License Renewals

A. - B. ...

C. Licensees shall list on their renewal form the licensees i.e., provisional speech-language pathologists, provisional audiologists, restricted speech-language pathologists, restricted audiologists, speech-language pathology assistants, or provisional speech-language pathology assistants, and aides that they are supervising.

D. - I.2. ...

3. A licensee whose license lapsed on November 1, and applies for reinstatement after June 30, of the following year, is subject to the initial license fee and the requirements of §121.J.3.

J. Conditional Renewal or Reinstatement

1. - 2. ...

3. Licensees who have allowed their license to lapse for a period of ten years or greater, and do not hold a current audiology or speech-language pathology license in another state, must submit a passing score on the Educational Testing Service's specialty area examination for speech-language pathology or audiology, as applicable to the license being sought, achieved no more than five years prior to the submission of the request for reinstatement.

4. Licensees who allow their license to lapse (November 1) shall submit documentation of completion of five clock hours of continuing education (maximum of 25 hours) in the area of licensure for each year that the license has lapsed in addition to meeting the license requirements enumerated in R.S. 37:2650 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 14:707 (October 1988), amended LR 22:351 (May 1996), LR 27:198 (February 2001), LR 28:1972 (September 2002), LR 30:2314 (October 2004), LR 33:2195 (October 2007), LR 37:

§123. Continuing Education Requirements

A. - H.

* * *

I. Acceptable continuing education sponsors and activities:

1. board-sponsored activities;

2. presentations in the area of communication disorders sponsored by individual professional practitioners and/or professional organizations such as American Academy of Audiology (AAA), American Speech-Language-Hearing Association (ASHA), Louisiana Speech-Language-Hearing Association (LSHA), Speech Pathologists and Audiologists in Louisiana Schools (SPALS), Louisiana Society for Hearing Aid Specialists, etc.;

3. ...

4. meetings of related professional organizations (e.g., Council for Exceptional Children, Orton Dyslexia Society);

5. college courses in the area of licensure taken for credit or official audit;

6. distance learning (video conferences, telephone seminars and Internet courses sponsored by individual private practitioners, universities, schools, clinics, state agencies, hospitals, professional organizations, or related professional organizations);

7. ...

8. publication of an article in a peer-reviewed journal for the year in which it was published;

9. audio, video and other media from the LBESPA library as well as ASHA-approved and AAA-approved continuing education media (maximum of 5 hours);

10. The presenting licensee may count 1 1/2 times the value of an activity the first time it is presented to allow for preparation time (Example: a three hour workshop = 4 1/2 hours). The activity will count for the actual hour value for each subsequent presentation of the same activity;

11. Teaching at the college level in the area of communication disorders is not acceptable.

J. Pre-Approval Policy

1. Pre-approval is required for continuing education events that do not meet the requirements as listed under §123.I.1-11, and pre-approval of continuing education events is required in those situations where it is unclear whether or not the topic is relevant to the profession or will further a professional's expertise in a particular area.

2. - 6. ...

K. Recording of Continuing Education Activities

1. Licensees shall record all continuing education activities as prescribed by the board and submitted at the time of renewal.

2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 22:351 (May 1996), amended LR 27:199 (February 2001), LR 28:1973 (September 2002), LR 30:2314 (October 2004), LR 33:2196 (October 2007), LR 37:

§125. Supervision Requirements for Restricted License, Provisional Speech-Language Pathology License and Provisional Audiology License

A. ...

B. A supervising speech-language pathologist must have a minimum of one year of full-time professional speech-language pathology experience following the postgraduate professional/employment experience. Full-time employment in a school system for the school year is considered to meet this requirement.

C. An individual may not be supervised by a provisional licensee, restricted licensee, or assistant licensee.

D. Supervision must involve the personal and direct participation of the supervisor in order for the supervisor to monitor, observe, evaluate, and make suggestions for improvement regarding the supervisee's professional employment.

E. Restricted licensees, provisional speech-language pathology licensees and provisional audiology licensees must submit a supervisory agreement signed by the

supervisor and supervisee as prescribed by the board. The form must be submitted to the board by the supervisee within 30 days of employment and submitted annually at the time of renewal. If there is a change in supervisor(s) at any time, a new supervisory agreement must be submitted to the board within 30 days of the change in supervision. If there are multiple supervisors for the same supervisee, all supervisors must sign the supervisory agreement.

F. Speech-language pathologists or audiologists may share the supervision responsibility for Provisional or Restricted licensees, but each supervising speech-language pathologist or audiologist shall complete and submit the necessary supervision forms.

G. Supervisory records, including supervision logs and other documentation of supervision, shall be maintained by both the supervisor and supervisee for a period of three years. Documentation of supervision may be requested by the board.

H. The direct supervision of the licensee, whether employed full-time or part-time, shall include 12 monitoring activities annually.

1. At least four shall be on-site, in-view observations divided between the areas of diagnostics and management. The on-site, in-view observations must be equal to or greater than a total of four hours. Alternative methods may include conferences, audio and videotape recordings, review of written records, staffings and discussions with other persons who have participated in the licensee's training.

2. For 12-month employees, one on-site, in-view observation shall be conducted each quarter.

3. For nine-month employees, two on-site, in-view observations shall occur in each semester. If the nine-month employment is extended for a period of time, additional on-site, in-view as well as alternative methods of supervision must occur.

I. Documentation of supervision shall be submitted annually at the time of license renewal on Form 100 provided by the board.

J. Licensees shall complete all supervision requirements consistent with the license held and immediately thereafter submit appropriate supervision forms to the board office along with a written request for license upgrade and the upgrade fee. The licensee shall remain under supervision until the upgrade has been approved by the board.

K. The board will accept supervision provided out-of-state by an individual licensed or ASHA-certified in the area of practice. Supervision must be documented on Form 100.

1. Restricted licensees, provisional speech-language pathology licensees and provisional audiology licensees who have not worked in Louisiana, may submit their Clinical Fellowship Report as proof of supervision that was carried out during the license period. Otherwise licensees must submit at the time of license renewal, appropriate proof of supervision consistent with Louisiana supervision requirements.

L. Licensees who are not working in the field of speech-language pathology and/or audiology and who hold a license requiring supervision, shall submit a notarized statement at the time of license renewal attesting to the fact that they did not work in the profession during the license period.

M. All costs of supervision shall be borne by the licensee or his/her employer, but in no event will those costs be borne by the board.

N. When supervision requirements have not been met in accordance with §125., licensees shall complete additional months of supervision to replace months of incomplete supervision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 14:707 (October 1988), amended LR 22:352 (May 1996), LR 27:199 (February 2001), LR 28:1974 (September 2002) LR 30:2315 (October 2004), LR 33:2196 (October 2007), LR 37:

§127. Supervision Requirements for Speech-Language Pathology Assistant and Provisional Speech-Language Pathology Assistant

A. A supervising speech-language pathologist must have a minimum of one year of full-time professional speech-language pathology experience following the postgraduate professional/employment experience. Full time employment in a school system for the school year is considered to meet this requirement.

B. Prior to the initiation of supervision of an assistant or provisional assistant, training in the area of supervision is strongly recommended.

C. The supervision requirements specified in these guidelines are minimum requirements. It is the responsibility of the speech-language pathologist to design and provide a supervision system that protects patient/client care and maintains the highest possible standards of quality.

D. Supervision must involve the personal and direct participation of the supervisor in order for the supervisor to monitor, observe, evaluate, and make suggestions for improvement regarding the supervisee's employment.

E. The supervisor is responsible for ensuring that the assistant does not make decisions regarding evaluation, management and future disposition of clients.

F. The supervisor is responsible for initial consultation with the assistant regarding coursework and practicum experiences prior to caseload assignment. The supervising speech-language pathologist shall assign only those tasks for which the assistant has been trained.

G. Decision-making regarding specification of on-going treatment protocol and necessary modifications, is the responsibility of the supervisor. The level of supervision required is considered the minimum necessary to ensure appropriate patient/client care.

H. The supervising speech-language pathologist shall be readily available for consultation with the assistant licensee. This includes personal contact, telephone, pager, or other means of communication.

I. Speech-language pathology assistants and provisional speech-language pathology assistants must submit a supervisory agreement signed by the supervisor and supervisee as prescribed by the board. The form must be submitted to the board by the supervisee within 30 days of employment and submitted annually at the time of renewal. If there is a change in supervisor(s) at any time, a new supervisory agreement must be submitted to the board

within 30 days of the change in supervision. If there are multiple supervisors for the same supervisee, all supervisors must sign the supervisory agreement.

J. Speech-language pathologists may share the supervision responsibility for speech-language pathology assistants or provisional speech-language pathology assistants, but each supervising speech-language pathologist shall complete and submit the necessary supervision forms.

K. Supervisory records, including supervision logs and other documentation of supervision, shall be maintained by both the supervisor and supervisee for a period of three years. Documentation of supervision may be requested by the board.

L. The board will accept supervision given out-of-state by a licensed or ASHA certified speech-language pathologist or audiologist in the area of licensure. Licensees must submit at the time of license renewal, appropriate proof of supervision consistent with Louisiana supervision requirements.

M. Assistants who are not working in the field of speech-language pathology shall submit a notarized statement at the time of license renewal attesting to the fact that they did not work in the profession during the license period.

N. Although more than one speech-language pathologist may provide supervision of an assistant licensee and provisional assistant licensee, at no time may a licensed speech-language pathologist supervise or be listed as a supervisor for more than three assistant or provisional assistant licensees. When multiple supervisors are used, the supervisors are encouraged to coordinate and communicate with each other.

O. Provisional speech-language pathology assistants and speech-language pathology assistants must undergo on-site in-view supervision as well as alternative methods of supervision in every work setting in which the licensee is employed.

P. Documentation of supervision shall be submitted annually at the time of license renewal on Form 200 provided by the board.

Q. Supervision Requirements for the Speech-Language Pathology Assistant

1. A minimum of one clock hour of on-site, in-view supervision shall be completed in the primary work setting each week for each licensee. If the assistant is employed in more than one work setting, additional on-site, in-view supervision must occur in the secondary work setting.

2. A minimum of one clock hour of alternative supervision methods shall be completed each week for each licensee. These methods should include, but are not limited to:

- a. specifying protocols for speech-language screenings and assessments conducted by the assistant licensee;
- b. specifying protocols for hearing screenings conducted by the assistant licensee;
- c. approving treatment plans or protocols and documenting approval;
- d. monitoring patient/client progress toward meeting established objectives;
- e. monitoring, scheduling, charting and data collection;
- f. directing maintenance of equipment;

g. directing research projects, in-service training and public relations programs;

h. conducting telephone conferences.

3. If circumstances prohibit a supervisor from completing the minimum supervision requirements (§127.Q.1 and 2) in a given week, the remaining supervision shall be completed the following week in conjunction with the required supervision hours for that week.

4. When the supervising speech-language pathologist is unavailable for supervision for more than one week, arrangements shall be made for another qualified supervisor or the speech-language pathology assistant shall be transferred to other duties.

5. Speech-Language Pathology Assistant Full-Time and Part-Time Supervision Requirements

Hours Worked	Required Supervision On-Site, In-View	Required Supervision Alternative Method
21-40 hours	1 hour/week	1 hour/week
20 hours or less	1 hour/every 2 weeks	1 hour/every 2 weeks

6. Assistant licensees shall be supervised only by a speech-language pathologist licensed under the provisions of R.S. 37:2659(A) with the exception of hearing screenings which may be supervised by an audiologist, licensed under the provisions of R.S. 37:2659. An individual may not be supervised by a provisional licensee or restricted licensee.

R. Supervision Requirements for the Provisional Speech-Language Pathology Assistant

1. A minimum of three clock hours of on-site, in-view supervision shall be completed in the primary work setting each week for each licensee. If the provisional speech-language pathology assistant is employed in more than one work setting, additional on-site, in-view supervision must occur in the secondary work setting.

2. A minimum of two clock hours of alternative supervision methods shall be completed each week for each licensee.

3. These methods should include, but are not limited to:

- a. specifying protocols for speech-language screenings and assessments conducted by the assistant licensee;
- b. specifying protocols for hearing screenings conducted by the assistant licensee;
- c. approving treatment plans or protocols and documenting approval;
- d. monitoring patient/client progress toward meeting established objectives;
- e. monitoring scheduling, charting and data collection;
- f. directing maintenance of equipment;
- g. directing research projects, in-service training and public relations programs;
- h. conducting telephone conferences.

4. If extenuating circumstances prohibit a supervisor from completing the minimum supervision requirements (§127.R.1 and 2) in a given week, the remaining supervision shall be completed the following week in conjunction with the required supervision hours for that week.

5. When the supervising speech-language pathologist is out for more than one week, arrangements shall be made

for another qualified supervisor or the provisional speech-language pathology assistant shall be transferred to other duties.

6. When supervision requirements have not been met, in accordance with §127 licensees shall complete additional months of supervision to replace months of incomplete supervision.

7. Provisional speech-language pathology assistant full-time and part-time supervision requirement:

Hours Worked	Required Supervision On-Site, In-View	Required Supervision Alternative Method
21-40 hours	3 hours/week	2 hours/week
20 hours or less	1.5 hours/every 2 weeks	1 hour/every 2 weeks

8. Provisional assistant licensees shall be supervised by a speech-language pathologist licensed under the provisions of R.S. 37:2659(A) with the exception of hearing screenings which may be supervised by an audiologist, licensed under the provisions of R.S. 37:2659. An individual may not be supervised by a provisional licensee or a restricted licensee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 14:707 (October 1988), amended LR 22:353 (May 1996), LR 27:200 (February 2001), repromulgated LR 27:1691 (October 2001), amended LR 30:2316 (October 2004), LR 33:2197 (October 2007), LR 37:

§131. Hearing Aid Dispensing

A. - F.1.b. ...

c. a basic audiological test battery conducted in a soundtreated environment within the preceding six month period, including:

- i. pure tone air and bone conduction testing;
- ii. speech reception threshold;
- iii. word recognition testing;
- iv. appropriate tolerance testing;
- vi Repealed

d. Middle ear measurements shall also be obtained when indicated.

2. - 3. ...

4. Audiologists shall conduct a post-fitting evaluation that includes functional gain measurements conducted in a soundtreated environment and/or real ear measurements unless the patient's physical conditions prohibit accomplishment of these procedures.

F.5. - H.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 22:353 (May 1996), amended LR 27:201 (February 2001), LR 28:1975 (September 2002), LR 30:2317 (October 2004), LR 33:2198 (October 2007), LR 37:

Chapter 3. Impaired Practitioner Program

§301. Purpose and Scope

A. Upon voluntary disclosure or proof that an applicant or licensee has provided professional services while under the influence of alcohol or has used narcotic or controlled dangerous substances or other drugs in excess of therapeutic amounts or without valid medical indication, the board may offer the applicant or licensee the Impaired Practitioner

Program in order to receive or renew the professional license. Participation in the program may be required as a prerequisite to initial application for licensure or continued practice in accordance with the conditions of any consent order, compliance hearing, or adjudication hearing. At no time while participating in the impaired practitioner's program shall an individual supervise other licensees.

B. The board may utilize its discretionary authority to require or exclude specific components of this program for participants based upon determination of the nature and severity of the impairment. Participation in the Impaired Practitioner Program may consist of all or part of the following components:

1. - 3. ...

4. mandatory weekly attendance at self-help meetings, such as Alcoholics Anonymous or Narcotics Anonymous, for a specified period of time. Submission of a monthly log which meets the board's specifications will be required:

B.4.a. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 30:2319 (October 2004), amended LR 37:

Chapter 5. Procedural Rules

§501. Investigation of Complaints

A. - F. ...

G. Following an investigation, the designated investigator shall report to the board and make a recommendation for either dismissal of the complaint or proceeding to an informal hearing, consent order, or formal hearing.

H. - L. ...

M. The board shall have the authority to delegate to the designated investigator any alleged violations of the Speech-Language Pathology and Audiology Act, R.S. 37:2650 et seq., and any alleged violations of any and all rules and regulations adopted by the board pursuant thereto, prior to board action on those alleged violations. If requested by the board, the designated investigator shall submit to the board the complete investigation file. Final authority for appropriate action rests solely with the board including formal notification to the complainant and the licensee.

N. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 17:373 (April 1991), amended LR 22:356 (May 1996), LR 30:2320 (October 2004), LR 33:2200 (October 2007), LR 37:

§503. Compliance Hearings

A. ...

B. A licensee whose license has lapsed shall be entitled to a compliance hearing provided that the licensee requests one in writing within 10 days after receipt of the notice for the lapsed license

C. The purpose and intent of the compliance hearing is to provide a forum for the applicant or licensee to present documentary evidence, in the form of affidavits, public records, official records, letters, etc., along with testimony under oath to establish that the applicant or licensee does, in fact, meet the lawful requirements for issuance of a license

or or the retention of the license, The board shall have the authority to administer oaths, hear the testimony, and conduct the hearing. The applicant or licensee may be represented by counsel, or may represent her/himself.

D. In any compliance hearing, the burden of proof shall rest with the applicant or licensee.

E. Within 30 days after the compliance hearing, the board shall forward its final decision, including specific reasons thereof, by certified mail, return receipt requested, to the applicant or licensee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 17:374 (April 1991), amended LR 22:357 (May 1996), LR 27:201 (February 2001), LR 30:2321 (October 2004), LR 37:

§507. General Procedural Rules for Hearings

A. The board is empowered to issue subpoenas upon receipt of a written request from the licensee or attorney general at least 15 days in advance of any scheduled hearing. The board shall issue said subpoenas upon receipt of said written request and receipt of any and all fees for subpoenas as provided for in §119.A.15. promulgated by the board.

B. - E. ...

F. The procedures as delineated by the Louisiana Department of Justice consistent with the Administrative Procedure Act, R.S. 49:950 et seq., regarding the conducting of hearings and proceedings shall be implemented. A copy will be provided to any interested party involved with the hearing upon receipt by the board of a written request therefore.

G. - I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 17:374 (April 1991), amended LR 22:358 (May 1996), LR 27:201 (February 2001), LR 28:1975 (September 2002), LR 30:2322 (October 2004), LR 37:

Chapter 7. Code of Ethics

§701. Preamble

A. - B. ...

C. Principles of Ethics form the underlying moral basis for the Code of Ethics. Individuals shall observe these principles as affirmative obligations under all conditions of professional activity.

D. ...

E. Rules of Ethics for Audiology, Provisional Audiology, Speech-Language Pathology, Provisional Speech-Language Pathology, and Restricted Speech-Language Pathology Licensees

1.a. - k. ...

1. Individuals shall not discontinue service to those they are serving without providing reasonable notice and other resources.

2. Principle of Ethics II: Individuals shall honor their responsibility to achieve and maintain the highest level of professional competence and performance consistent with prevailing practice standards.

a. Individuals shall provide all services competently. Individuals shall engage in only those aspects of the professions that are within the scope of their practice

and competence, considering their level of licensure, education, training and experience.

b. Individuals shall hold the appropriate qualifications for the area(s) in which they are providing or supervising professional services.

c. - f. ...

3. Principle of Ethics III: Individuals shall honor their responsibility to the public by promoting public understanding of the professions, by supporting the development of services designed to fulfill the unmet needs of the public, and by providing accurate information in all communications involving any aspect of the professions.

a. ...

b. Individuals shall not misrepresent the credentials of assistants, support personnel, students, or any others under their supervision and shall inform those they serve professionally of the name and professional credentials of persons providing services.

c. Individuals shall not participate in professional activities that constitute a conflict of interest.

d. Individuals shall not misrepresent diagnostic information, services rendered, or products dispensed, or engage in any scheme or maneuver to defraud in connection with obtaining payment or reimbursement for such services or product.

e. Individuals' statements to the public shall provide accurate information about the nature and management of communication disorders, about the professions, about professional services and about products.

f. Individuals' statements to the public - advertising, announcing and marketing their professional services, reporting research results, and promoting products-shall adhere to prevailing professional standards and shall not contain misrepresentations.

4. Principle of Ethics IV: Individuals shall honor their responsibilities to the professions and their relationships with colleagues, students, and members of other professions and disciplines. Individuals shall uphold the dignity and autonomy of the professions, maintain harmonious interprofessional and intraprofessional relationships, and accept the professions' self-imposed standards.

a. ...

b. Individuals shall not engage in dishonesty, fraud, deceit, or misrepresentation

c. Individuals shall not engage in any form of harassment, power abuse, or any other form of conduct that adversely reflects on the professions or on the individual's fitness to serve persons professionally.

d. Individuals shall not engage in sexual activity with a patient/client or students over whom they exercise professional authority.

e. Individuals shall assign credit only to those who have contributed to a publication, presentation, or product. Credit shall be assigned in proportion to the contribution and only with the contributor's consent.

f. Individuals shall reference the source when using other persons' ideas, research, presentations, or products in written, oral, or any other media presentation or summary.

g. Individuals' statements to colleagues about professional services, research results, and products shall adhere to prevailing professional standards and shall contain no misrepresentations.

h. Individuals shall not provide professional services without exercising independent professional judgment, regardless of referral source or prescription.

i. Individuals shall not discriminate in their relationships with colleagues, students, and members of other professions and disciplines on the basis of race or ethnicity, gender, age, religion, national origin, sexual orientation, or disability.

j. Individuals shall not violate these principles and rules, nor attempt to circumvent them.

k. Individuals shall inform the board of any violations of this Code of Ethics.

l. Individuals shall cooperate fully with the board on matters of professional conduct relative to this Code of Ethics.

F. Rules of Ethics for Speech-Language Pathology Assistant and Provisional Speech-Language Pathology Assistant Licensees

1. Principle of Ethics I: Licensees shall honor their responsibility to hold paramount the welfare of persons they serve and provide services with honesty and compassion and shall respect the dignity, worth, and rights of those served. The licensee shall take all reasonable precautions to avoid harm to the individual served.

a. Individuals shall not discriminate in the delivery of services on the basis of race or ethnicity, gender, age, religion, national origin, sexual orientation, or disability.

b. Individuals shall not perform clinical tasks without the knowledge and approval of the supervising speech-language pathologist nor shall the licensee interpret test results, guarantee results, make referrals, discharge patients/clients, or provide patient/client or family counseling.

c. Individuals may practice by telecommunication (i.e., telepractice, telehealth, e-health) provided they hold the appropriate licensure for the jurisdiction in which the service is rendered and delivered under appropriate supervision.

d. Individuals shall maintain adequate records of services rendered and products dispensed and shall allow access to these records when appropriately authorized.

e. Individuals shall not reveal, without authorization, any professional or personal information about the person served, unless required by law to do so, or unless doing so is necessary to protect the welfare of the person or of the community.

f. Individuals shall not charge for services not rendered, nor shall they misrepresent, in any fashion, services rendered or products dispensed.

g. Individuals shall not carry out teaching, or research activities in a manner that constitutes an invasion of privacy, or that fails to inform persons fully about the nature and possible effects of these activities, affording all persons informed free-choice and participation.

h. Individuals whose services are adversely affected by substance abuse or other health-related conditions shall seek professional assistance and, where appropriate, withdraw from the affected areas of practice.

2. Principle of Ethics II: Individuals shall honor their responsibility to achieve and maintain the highest level of competence and performance.

a. Individuals shall provide all services competently. Individuals shall engage in only those aspects

of service provision that are within the scope of their practice and competence, considering their level of licensure, education, training and experience.

b. Individuals shall hold the appropriate qualifications for the area(s) in which they are providing services.

c. Individuals shall engage in lifelong learning throughout their careers.

d. Individuals shall not provide services unless appropriately supervised.

e. Individuals shall not provide services for which the licensee has not been properly prepared.

f. Individuals shall ensure that all equipment used in the provision of services is in proper working order and is properly calibrated.

3. Principle of Ethics III: Individuals shall honor their responsibility to the public by providing accurate information in all communications.

a. Individuals shall not misrepresent their credentials, competence, education, training or experience.

b. Individuals shall not participate in professional activities that constitute a conflict of interest.

c. Individuals shall not misrepresent information or services rendered, or engage in any scheme or maneuver to defraud in connection with obtaining payment or reimbursement for services.

4. Principle of Ethics IV: Individuals shall honor their responsibilities and their relationships with colleagues and members of other professions and disciplines. Individuals shall maintain harmonious interprofessional and intraprofessional relationships.

a. Individuals shall not engage in dishonesty, fraud, deceit, or misrepresentation

b. Individuals shall not engage in any form of harassment, power abuse, or any other form of conduct that adversely reflects on service delivery or on the individual's fitness to serve persons.

c. Individuals shall not engage in sexual activity with a patient/client.

d. Individuals shall assign credit only to those who have contributed to a publication, presentation, or product. Credit shall be assigned in proportion to the contribution and only with the contributor's consent.

e. Individuals shall reference the source when using other persons' ideas, research, presentations, or products in written, oral, or any other media presentation or summary.

f. Individuals' statements to colleagues about services, research, or products shall adhere to prevailing standards and shall contain no misrepresentations.

g. Individuals shall not discriminate in their relationships with colleagues and members of other professions and disciplines on the basis of race or ethnicity, gender, age, religion, national origin, sexual orientation, or disability.

h. Individuals shall not violate these principles and rules, nor attempt to circumvent them.

i. Individuals shall inform the board of any violations of this Code of Ethics.

j. Individuals shall cooperate fully with the board on matters of professional conduct relative to this Code of Ethics.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 17:370 (April 1991), amended LR 22:360 (May 1996), LR 30:2324 (October 2004), LR 33:2201 (October 2007), LR 37:

Family Impact Statement

The proposed changes have no anticipated adverse impact on the family.

Public Comments

Interested persons may submit written comments to Emily Efferson, Administrator, 18550 Highland Road, Suite B, Baton Rouge, LA 70809. Written comments will be accepted through 4:30 p.m. on March 31, 2011.

Emily Efferson
Administrator

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Speech Pathology and Audiology

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The Louisiana Board of Examiners for Speech-Language Pathology and Audiology is updating the Rules, Regulations and Procedures; however, there are no estimated costs to state or local governmental units as a result of these changes. There will be a one-time implementation cost of \$984.00 in FY 2011 for the cost of publishing the rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The board is proposing to raise the fee for checks returned for insufficient funds from \$25.00 to \$40.00. The board anticipates approximately 25 checks will be returned annually, thereby resulting in approximately \$375.00 in increased annual revenue. In addition, the board is waiving credit card fees associated with timely license renewals in order to encourage the use of the online renewal option. This will result in approximately \$2,175.00 in lost annual revenue to the board (\$3.00 per transaction; based on approximately 725 licensees who filed timely renewals in FY 2010). The net effect of this fiscal impact will be an annual loss of approximately \$1,800.00 in revenue to the board beginning in FY 2011 when the rule takes effect since the licensing renewal period takes place from April 15th through June 30th each year.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs or non-governmental groups, unless a banking institution returns a check submitted by a licensee. In that instance, the licensee will be charged a \$40.00 fee for insufficient funds. Due to the board waiving the credit card fee for renewal there will be an economic benefit to licensees.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Emily Efferson
Administrator
1102#060

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Bureau of Health Services Financing

Coordinated Care Network
(LAC 50:I.Chapters 31-40)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt LAC 50:I.Chapters 31-40 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing adopted provisions to establish the CommunityCARE Program as an optional service covered under the Medicaid State Plan (*Louisiana Register*, Volume 32, Number 3). The CommunityCARE Program is a statewide primary care case management program designed to improve the accessibility, continuity and quality of care for certain groups of Medicaid recipients. The department now proposes to adopt provisions that will establish enhancements in order to create a more cost effective health care delivery system that provides a continuum of evidence-based, quality-driven health care services. This more cost effective health care delivery system, hereafter called the Coordinated Care Network, will enable the Medicaid Program to establish a coordinated system of care designed to improve performance and health care outcomes through a healthcare delivery system integrated network.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part I. Administration

Subpart 3. Medicaid Coordinated Care

Chapter 31. Coordinated Care Network

§3101. Introduction

A. A coordinated care network (CCN) is an organized health care delivery system designed to improve access to care and the quality of services, as well as to promote healthier outcomes for Medicaid recipients through the establishment of a medical home system of care.

B. Coordinated care networks may be either a fee-for-service with shared savings model (CCN-S), a prepaid risk bearing managed care organization (MCO) model (CCN-P), or an alternative Medicaid managed care model that coordinates care and that the department makes available in accordance with the promulgation of administrative Rules.

1. A CCN-S is an entity that serves as a primary care case manager by providing enhanced primary care case management in addition to contracting with primary care providers (PCPs) for primary care management.

2. A CCN-P is a risk-bearing, MCO health care delivery system that is responsible for the provision of specified Medicaid State Plan services.

C. It is the department's goal to develop a health care delivery system that improves access to care and care coordination, promotes healthier outcomes, provides budget stability, and results in savings as compared to an unmanaged fee-for-service system.

D. It is the department's intent to:

1. procure the services of coordinated care networks statewide through the competitive bid process; and

a. The number of each type of coordinated care network model for each specified service area shall be no more than required to meet Medicaid enrollee capacity requirements and ensure choice for Medicaid recipients as required by federal statute.

2. provide the opportunity for an equal number of CCN-P and CCN-S models in each department designated service area, with the same minimum capacity requirements for both.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§3103. Recipient Participation

A. The following Medicaid recipients shall be mandatory participants in coordinated care networks:

1. categorically needy individuals:

a. children up to 19 years of age and their parents who are eligible under §1931 of the Social Security Act (hereafter referred to as the Act) as poverty-level related groups or optional groups of older children and caretaker relatives;

b. qualified pregnant women and children who are eligible under §1902 and §1905 of the Act;

c. aged, blind and disabled adults over the age of 19 who are eligible under §1619, §1634, §1902 and §1905 of the Act. These individuals may be receiving cash payments through Supplemental Security Income (SSI) or have lost SSI eligibility due to a Social Security cost-of-living adjustment (COLA) or entitlement for, or an increase in Retirement, Survivors or Disability Insurance (RSDI) benefits;

d. uninsured women under the age of 65 who have been screened through the Centers for Disease Control National Breast and Cervical Cancer Early Detection Program and identified as being in need of treatment for breast and/or cervical cancer, including pre-cancerous conditions and early stage cancer, and are not otherwise eligible for Medicaid; and

e. uninsured women who are eligible through the Louisiana Children's Health Insurance Program (LaCHIP) Prenatal Option; and

2. medically needy individuals:

a. individuals and families who have more income than is allowed for Medicaid eligibility, but who meet the standards for the Regular Medically Needy Program.

B. Voluntary Participants

1. Participation in a CCN is voluntary for:

a. individuals who are Native Americans/Alaskan Natives and members of a federally recognized tribe except when the managed care organization or primary care case management entity is:

i. the Indian Health Service; or

ii. an Indian health program or urban Indian program operated by a tribe or tribal organization under a contract, grant, cooperative agreement or compact with the Indian Health Service; and

b. children under 19 years of age who are:

i. eligible under §1902(e)(3) of the Act and receiving Supplemental Security Income (SSI);

ii. in foster care or other out-of-home placement;

iii. receiving foster care or adoption assistance;

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

v. enrolled in the Family Opportunity Act Medicaid Buy-In Program.

NOTE: These recipients will be enrolled in a CCN pursuant to the automatic assignment protocol if they do not choose a plan after a choice period of 15 days. They may request disenrollment at any time, without cause, during the first 90 days of enrollment.

C. The enrollment broker will ensure that all participants are notified at the time of enrollment that they may request disenrollment from the CCN at any time for cause.

1. An extension to the choice period of 15 days may be granted if the request is made to the enrollment broker prior to the fifteenth day.

D. Participation Exclusion

1. The following Medicaid and/or CHIP recipients are excluded from participation in a CCN and cannot voluntarily enroll in a CCN. Individuals who:

a. receive hospice services;

b. are both Medicare and Medicaid recipients;

c. reside in a long-term care facility (nursing facility or intermediate care facility for persons with intellectual disabilities);

d. receive home and community-based waiver services;

e. are under 21 years of age and are listed on the New Opportunities Waiver Request for Services Registry (*Chisholm* class members);

f. receive services through the Program of All-Inclusive Care for the Elderly (PACE);

g. have a limited period of eligibility such as eligibility through the Spend-down Medically Needy Program or Emergency Services Only;

h. are eligible through the Louisiana Children's Health Insurance Program (LaCHIP) Affordable Plan Program;

i. are participants in the Take Charge Family Planning Waiver Program;

j. are eligible through the Tuberculosis Infected Individual Program; or

k. are enrolled in the Louisiana Health Premium Payment (LaHIPP) Program.

E. The department reserves the right to institute a medical exemption process for certain medically high risk recipients that may warrant the direct care and supervision of a non-primary care specialist on a case by case basis.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§3105. Enrollment Process

A. The CCN shall abide by all enrollment and disenrollment policy and procedures as outlined in the contract and *CCN Policy and Procedure Guide* developed by the department.

B. The department will contract with an enrollment broker who will be responsible for the enrollment and

disenrollment process for CCN participants. The enrollment broker shall be:

1. the primary contact for Medicaid recipients regarding the CCN and shall assist the recipient to enroll in a CCN;

2. the only authorized entity, other than the department, to assist a Medicaid recipient in the selection of a CCN; and

3. responsible for notifying all CCN members of their enrollment and disenrollment rights and responsibilities within the timeframe specified in the contract.

C. Enrollment Period. The annual enrollment of a CCN member shall be for a period of up to 12 months contingent upon his/her continued Medicaid and CCN eligibility. A member shall remain enrolled in the CCN until:

1. DHH or its enrollment broker approves the member's written, electronic or oral request to disenroll or transfer to another CCN for cause; or

2. the annual open enrollment period or after the lock-in period; or

3. the member becomes ineligible for Medicaid and/or the CCN program.

D. Enrollment of Newborns. Newborns of Medicaid eligible mothers who are enrolled at the time of the newborn's birth will be automatically enrolled with the mother's CCN, retroactive to the month of the newborn's birth.

1. If there is an administrative delay in enrolling the newborn and costs are incurred during that period, the member shall be held harmless for those costs and the CCN shall pay for these services.

2. The CCN and its providers shall be required to register all births through the Louisiana Electronic Event Registration System (LEERS) administered by DHH/Vital Records Registry.

E. Selection of a CCN

1. As part of the eligibility determination process, Medicaid and LaCHIP applicants may receive information and assistance with making informed choices about the CCNs in their area of residence and the availability of choice counseling. These individuals will have the opportunity to talk with an enrollment broker who shall provide additional information to assist in choosing the appropriate CCN.

2. Each new recipient shall be given no less than 15 calendar days from the postmark date of an enrollment form mailed by the enrollment broker to select a CCN and primary care provider (PCP).

a. Recipients may request an extension of 15 calendar days to the choice period if the written or oral request is received by or made to the enrollment broker prior to the fifteenth day of the original choice period.

b. Recipients who fail to choose a CCN shall be automatically assigned to a CCN by the enrollment broker and the CCN shall be responsible to assign the member to a PCP if a PCP is not selected at the time of enrollment into the CCN.

3. The following provisions will be applicable for recipients who are mandatory or voluntary participants.

a. If there are two or more CCNs in a department designated service area in which the recipient resides, they shall select one.

b. If there is only one CCN in a department designated service area where the recipient resides, the recipient must choose either the CCN, Medicaid fee-for-service or an alternative Medicaid managed care program that coordinates care and which the department makes available in accordance with the promulgation of administrative Rules.

c. Recipients who fail to make a selection will be automatically assigned to a participating CCN in their area.

d. Recipients may request to transfer out of the CCN for cause and the change will be effective the first day of the following month.

F. Automatic Assignment Process

1. Mandatory CCN participants that fail to select a CCN and voluntary participants that do not exercise their option not to participate in the CCN program within the minimum 15 day window, shall be automatically assigned to a CCN by the enrollment broker in accordance with the department's algorithm/formula and the provisions of §3105.E. CCN automatic assignments shall take into consideration factors including, but not limited to:

a. the potential enrollee's geographic parish of residence;

b. assigning members of family units to the same CCN;

c. previous relationships with a Medicaid provider;

d. CCN capacity; and

e. CCN performance outcome indicators (when available).

2. Neither the MCO model nor the shared savings model will be given preference in making automatic assignments.

3. CCN automatic assignment methodology shall be available to recipients upon request to the enrollment broker prior to enrollment.

G. Selection or Automatic Assignment of a Primary Care Provider

1. As part of the Medicaid and LaCHIP application process, applicants may be given the option to indicate their preferred choice of a CCN and primary care provider.

a. If the choice of PCP is not indicated on the new enrollee file transmitted by the enrollment broker to the CCN, the CCN shall be responsible to assign the PCP.

2. The CCN is responsible to develop a PCP automatic assignment methodology in collaboration with the department for the assignment of a PCP to an enrollee who:

a. does not make a PCP selection after making a voluntary selection of a CCN;

b. selects a PCP within the CCN that has reached their maximum physician/patient ratio; or

c. selects a PCP within the CCN that has restrictions/limitations (e.g. pediatric only practice).

3. Members who do not proactively choose a PCP with a CCN will be automatically assigned to a PCP by the CCN. The PCP automatically assigned to the member shall be located within geographic access standards of the member's home and/or best meets the needs of the member.

4. If the enrollee does not select a PCP and is automatically assigned to a PCP by the CCN, the CCN shall allow the enrollee to change PCP, at least once, during the first 90 days from the date of assignment to the PCP.

Effective the ninety-first day, a member may be locked into the PCP assignment for a period of up to nine months beginning from the original date that he/she was assigned to the CCN.

5. If a member requests to change his/her PCP for cause at any time during the enrollment period, the CCN must agree to grant the request.

H. Lock-In Period

1. Members have 90 days from the initial date of enrollment into a CCN in which they may change the CCN for any reason. Medicaid enrollees may only change CCNs without cause within the initial 90 days of enrollment in a CCN. After the initial 90-day period, Medicaid enrollees/members shall be locked into a CCN for nine additional months from the effective date of enrollment or until the annual open enrollment period, unless disenrolled under one of the conditions described in this Section.

I. Annual Open Enrollment

1. The department will provide an opportunity for all CCN members to retain or select a new CCN annually during the CCN member's open enrollment period. Prior to their annual open enrollment period, each CCN member shall receive information and the offer of assistance with making informed choices about CCNs in their area and the availability of choice counseling.

2. Members shall have the opportunity to talk with an enrollment broker representative who shall provide additional information to assist in choosing the appropriate CCN. The enrollment broker shall provide the individual with information on each CCN from which they may select.

3. During the open enrollment period, each Medicaid enrollee shall be given 60 calendar days to remain in their existing CCN or select a new CCN.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§3107. Disenrollment and Change of Coordinated Care Network

A. A member may request disenrollment from a CCN for cause at any time, effective the first day of the month following the month in which the member files the request.

B. A member may request disenrollment from a CCN without cause at the following times:

1. during the 90 days following the date of the member's initial enrollment with the CCN or the date the department sends the member notice of the enrollment, whichever is later;

2. at least once a year during the member's annual open enrollment period thereafter;

3. upon automatic re-enrollment if a temporary loss of Medicaid eligibility has caused the member to miss the annual open enrollment opportunity; or

4. if the department imposes the intermediate sanction against the CCN which grants enrollees the right to terminate enrollment without cause and notifies the affected enrollees of their right to disenroll.

C. All member-initiated disenrollment requests must be made to the enrollment broker.

1. Oral requests to disenroll shall be confirmed by the enrollment broker by return call with written documentation, or in writing to the requestor.

2. A member's oral or written request to disenroll must be acted on no later than the first day of the second month following the month in which the member filed the request. If not, the request shall be considered approved.

3. If the disenrollment request is denied, the member may access the state's fair hearing process as outlined in the contract.

4. The effective date of disenrollment shall be no later than the first day of the second month following the calendar month the request for disenrollment is filed.

D. Disenrollment for Cause

1. A member may initiate disenrollment or transfer from their assigned CCN after the first 90 days of enrollment for cause at any time. The following circumstances are cause for disenrollment:

a. the member moves out of the CCN's designated service area;

b. the CCN does not, because of moral or religious objections, cover the service that the member seeks;

c. the member needs related services to be performed at the same time, not all related services are available within the CCN and the member's PCP or another provider determines that receiving the services separately would subject the member to unnecessary risk;

d. the contract between the CCN and the department is terminated;

e. the member loses Medicaid eligibility;

f. the member is placed in a nursing facility or intermediate care facility for individuals with intellectual disabilities;

g. the member's eligibility changes to an excluded eligibility group;

h. to implement the decision of a hearing officer in an appeal proceeding by the member against the CCN or as ordered by a court of law; and

i. other reasons including, but not limited to:

i. poor quality of care;

ii. lack of access to services covered under the contract; or

iii. documented lack of access to providers experienced in dealing with the enrollee's health care needs.

E. Involuntary Disenrollment

1. The CCN may submit an involuntary disenrollment request to the enrollment broker, with proper documentation, for the following reasons:

a. fraudulent use of the CCN identification card. In such cases, the CCN shall report the incident to the Medicaid Program Integrity Section; or

b. the member's behavior is disruptive, unruly, abusive or uncooperative to the extent that his/her enrollment seriously impairs the CCN's ability to furnish services to either the member or other members.

2. The CCN shall promptly submit such disenrollment requests to the enrollment broker. The effective date of an involuntary disenrollment shall not be earlier than 45 calendar days after the occurrence of the event that prompted the request for involuntary disenrollment. The CCN shall ensure that involuntary disenrollment documents are maintained in an identifiable member record.

3. All requests will be reviewed on a case-by-case basis and subject to the sole discretion of the department. All

decisions are final and are not subject to CCN dispute or appeal.

4. The CCN may not request disenrollment because of a member's:

- a. health diagnosis;
- b. adverse change in health status;
- c. utilization of medical services;
- d. diminished mental capacity;
- e. pre-existing medical condition;
- f. refusal of medical care or diagnostic testing;
- g. uncooperative or disruptive behavior resulting from his or her special needs, unless it seriously impairs the CCN's ability to furnish services to either this particular member or other members as defined in this Subsection;
- h. attempt to exercise his/her rights under the CCN's grievance system; or
- i. attempt to exercise his/her right to change, for cause, the primary care provider that he/she has chosen or been assigned.

F. Department Initiated Disenrollment

1. The department will notify the CCN of the member's disenrollment due to the following reasons:

- a. loss of Medicaid eligibility or loss of CCN enrollment eligibility;
- b. death of a member;
- c. member's intentional submission of fraudulent information;
- d. member becomes an inmate of a public institution;
- e. member moves out of state;
- f. member becomes Medicare eligible;
- g. member is placed in a long term care facility (nursing facility or intermediate care facility for persons with intellectual disabilities);
- h. member becomes a participant in a home and community-based services waiver;
- i. member elects to receive hospice services;
- j. loss of CCN's participation; or
- k. member enrolls in a managed care plan through third party coverage.

G. If the CCN ceases participation in a geographic service area or in the CCN Program, the CCN shall notify the department in accordance with the termination procedures described in the contract.

1. The enrollment broker will notify CCN members of the choices of CCNs in their geographic area. If there is no other CCN or other options for which they may be eligible, they will be placed in fee-for-service.

2. The CCN shall assist the department in transitioning the CCN members to another CCN or to the Medicaid fee-for-service delivery system or other program the recipient may be eligible for to ensure access to needed health care services.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§3109. Member Rights and Responsibilities

A. The CCN member's rights shall include, but are not limited to the right to:

1. receive information in accordance with federal regulations and as described in the contract and department issued guides;

2. receive courteous, considerate and respectful treatment provided with due consideration for the member's dignity and privacy;

3. receive information on available treatment options and alternatives in a manner appropriate to the member's condition and ability to understand;

4. participate in treatment decisions, including the right to:

- a. refuse treatment;
- b. complete information about their specific condition and treatment options including, but not limited to the right to receive services in a home or community setting or in an institutional setting if desired;
- c. seek second opinions;
- d. information about available experimental treatments and clinical trials and how such research can be accessed; and
- e. assistance with care coordination from the PCP's office;

5. be free from any form of restraint or seclusion as a means of coercion, discipline, retaliation or convenience;

6. express a concern about their CCN or the care it provides, or appeal a CCN decision, and receive a response in a reasonable period of time;

7. receive a copy of their medical records, including, if the HIPAA privacy rule applies, the right to request that the records be amended or corrected as allowed in federal regulations;

8. be furnished health care services in accordance with federal regulations governing access standards;

9. implement an advance directive as required in federal regulations (applicable for CCN-P only):

a. the CCN must provide adult enrollees with written information on advanced directive policies and include a description of applicable state law. The written information must reflect changes in state law as soon as possible, but no later than 90 days after the effective date of change;

b. members have the right to file a grievance concerning noncompliance with the advance directive requirements to the department or other appropriate licensing or certification agency as allowed in federal regulations;

10. choose his/her health professional to the extent possible and appropriate in accordance with federal regulations; and

11. be furnished health care services in accordance with federal regulations.

B. Members shall have the freedom to exercise the rights described herein without any adverse affect on the member's treatment by the department or the CCN, or its contractors or providers.

C. The CCN member's responsibilities shall include, but are not limited to:

1. informing the CCN of the loss or theft of their CCN identification card;

2. presenting their identification card when using health care services;
3. being familiar with the CCN procedures to the best of his/her abilities;
4. contacting the CCN, by telephone or in writing (formal letter or electronically, including email), to obtain information and have questions clarified;
5. providing participating network providers with accurate and complete medical information;
6. following the prescribed treatment of care recommended by the provider or letting the provider know the reasons the treatment cannot be followed, as soon as possible;
7. making every effort to keep any agreed upon appointments and follow-up appointments and contacting the provider in advance if they are unable to do so; and
8. accessing preventive care services.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

Chapter 33. Coordinated Care Network Shared Savings Model

§3301. Participation Requirements

A. In order to participate in the Medicaid Program, a coordinated care network shared savings model (CCN-S) must be a successful bidder, awarded a contract, and pass the readiness review. A CCN-S is required to comply with all of the terms and conditions set forth in the contract.

B. A CCN-S must:

1. meet the definition of a primary care case manager (PCCM) in accordance with federal regulations;
2. be a legal entity domiciled in Louisiana and registered with the Louisiana Secretary of State's Office to do business in the state;
3. have the capability to pre-process claims (with the exception of carved-out services) and transfer data to the department's fiscal intermediary or have a contract with an entity to perform these functions;
4. provide financial reports as requested by the department;
5. post a surety bond for an amount specified by the department for the at-risk portion of the enhanced care management fee;
6. post a performance bond for an amount specified by the department;
7. not have an actual or perceived conflict of interest that, in the discretion of the department, would interfere or give the appearance of possibly interfering with its duties and obligations under this Rule, the contract and any and all appropriate guides. Conflict of interest shall include, but is not limited to, being the fiscal intermediary contractor for the department; and
8. have network capacity to enroll a minimum of 75,000 Medicaid and LaCHIP eligibles into the network in each DHH designated geographic service area.

C. A CCN-S shall provide enhanced primary care case management services to recipients in specified geographic service area(s).

1. Enhanced primary care case management services shall be provided to all Medicaid recipients enrolled in the CCN-S throughout the designated geographic service area as defined by the department.

D. Upon request by the Centers for Medicare and Medicaid Services (CMS), the Office of Inspector General (OIG), the Government Accounting Office (GAO) and/or the department or its designee, a CCN-S shall make all of its records pertaining to its contract (services provided there under and payment for service) with the department available for review, evaluation and audit. The records shall include, but are not limited to the following:

1. pertinent books and documents;
2. financial records;
3. medical records and documents; and
4. provider records and documents involving financial transactions related to the contract.

E. A CCN-S shall maintain an automated management information system that collects, analyzes, integrates and reports data that complies with department and federal reporting requirements.

1. The CCN-S shall submit its emergency/contingency plan to the department for approval if the CCN-S is unable to provide the data reporting specified in the contract and department issued guides.

F. A CCN-S shall obtain insurance coverage(s) including, but not limited to, workman's compensation, commercial liability, and errors and omissions as specified in the terms of the contract. CCN-S subcontractors, if any, shall be covered under these policies or have insurance comparable to the CCN-S's required coverage.

G. A CCN-S shall maintain a minimum net worth amount as specified in the terms of the contract.

H. A CCN-S shall provide all financial reporting as specified in the terms of the contract.

I. A CCN-S shall secure and maintain performance and fidelity bonds as specified in the terms of the contract during the life of the contract.

J. In the event of noncompliance with the contract and the department's guidelines, a CCN-S shall be subject to the sanctions specified in the terms of the contract including, but not limited to:

1. corrective action plans;
2. monetary penalties;
3. temporary management; or
4. suspension and/or termination of the CCN-S' contract.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§3303. Shared Savings Model Responsibilities

A. The CCN-S shall be responsible for the administration and management of its requirements and responsibilities under the terms of the contract, and any and all department issued guides. This includes all subcontracts, employees, agents and anyone acting for or on behalf of the CCN-S.

1. No subcontract or delegation of responsibility shall terminate the legal responsibility of the CCN-S to the department to assure that all requirements are carried out.

B. A CCN-S shall possess the expertise and resources to ensure the delivery of enhanced primary care case management services to CCN-S members as specified in the terms of the contract.

1. A CCN-S shall have written policies and procedures governing its operation. A CCN-S shall also have

a written provider network development plan which describes how the network will assure the department that the provision of services will occur according to the terms and conditions of the contract. These documents shall be furnished to the department upon request.

C. A CCN-S shall accept enrollees in the order in which they apply without restriction, up to the enrollment capacity limits set under the contract. The CCN-S shall not discriminate against enrollees on the basis of race, gender, color, national origin, age, health status or need for health care services, and shall not use any policy or practice that has the effect of discriminating on any such basis.

D. A CCN-S shall provide enhanced primary care management services and PCP care management services as defined in the Medicaid State Plan and as specified in the terms of the contract.

E. A CCN-S shall provide a chronic care management program as specified in the terms of the contract.

F. A CCN-S shall establish and implement a quality assessment and performance improvement program as specified in the terms of the contract.

G. A CCN-S shall develop and maintain a utilization management program including policies and procedures with defined structures and processes as specified in the terms of the contract.

H. A CCN-S shall develop and maintain effective continuity of care activities which ensure a continuum of care approach to providing health care services to members.

I. A CCN-S shall promote and facilitate the capacity of all participating PCP practices to meet the recognition requirements of a National Committee for Quality Assurance (NCQA) PPC®-PCMH™ as jointly defined by NCQA or Joint Commission on Accreditation of Healthcare Organizations (JCAHO) Primary Care Home Accreditation and the department.

1. Participating PCPs shall be provided with technical support and appropriate incentives to assist the practices with their transition to a patient-centered medical home as specified in the terms of the contract.

J. A CCN-S shall facilitate the data interchange between practices and the network as well as data interchange between the network and the department.

K. A CCN-S shall be responsible for conducting routine provider monitoring to ensure:

1. continued access to care for Medicaid recipients;
2. compliance with CCN-S policies and procedures;

and

3. that the participating providers' practices meet or exceed the department's guidelines and timelines for implementation of patient-centered medical homes.

L. A CCN-S shall not engage the services of a provider who is in non-payment status with the department or is excluded from participation in federal health care programs (i.e., Medicare, Medicaid, or the Children's Health Insurance Program).

M. Medical records shall be maintained in accordance with the terms and conditions of the contract. These records shall be safeguarded in such a manner as to protect confidentiality and avoid inappropriate disclosure according to federal and state law.

N. A CCN-S shall provide referrals to the Women, Infants and Children (WIC) Program.

O. A CCN-S shall maintain staffing that is capable of fulfilling the requirements as specified in the terms of the contract and department issued guides.

P. A CCN-S shall participate in the department's established committees for administrative simplification and quality improvement, which will include physicians, other healthcare providers as appropriate, and at least one member of the Senate and House Health and Welfare Committees or their designees.

Q. The CCN-S shall provide both member and provider services in accordance with the terms of the contract and department issued guides.

1. The CCN-S shall submit member handbooks, provider manuals, and provider directory to the department for approval prior to distribution, annually and subsequent to any revisions.

a. The CCN-S must provide a minimum of 30 days notice to the department of any proposed material changes to the member handbooks and/or provider manuals.

b. After approval has been received from the department, the CCN-S must provide a minimum of 30 days notice to the members and/or providers of any proposed material changes to the member handbooks and/or provider manuals.

R. The member handbook shall include, but not be limited to:

1. a table of contents;
2. a general description regarding:
 - a. how a coordinated care network operates;
 - b. member rights and responsibilities;
 - c. appropriate utilization of services including emergency room visits for non-emergent conditions;
 - d. the PCP selection process; and
 - e. the PCP's role as coordinator of services;
3. member rights and protections as specified in the CCN-S's contract with the department including:
 - a. a member's right to disenroll from the CCN-S;
 - b. a member's right to change providers within the CCN-S;
 - c. any restrictions on the member's freedom of choice among CCN-S providers; and
 - d. a member's right to refuse to undergo any medical service, diagnoses, or treatment or to accept any health service provided by the CCN-S if the member objects (or in the case of a child, if the parent or guardian objects) on religious grounds;
 4. member responsibilities, appropriate and inappropriate behavior, and any other information deemed essential by the CCN or the department including, but not limited to:
 - a. immediately notifying the department if he or she has a Workman's Compensation claim, a pending personal injury or medical malpractice law suit, or has been involved in an auto accident;
 - b. reporting to the department's Medicaid Customer Service Unit if the member has or obtains another health insurance policy, including employer sponsored insurance; and
 - c. a statement that the member is responsible for protecting his/her identification card and that misuse of the card, including loaning, selling or giving it to others could

result in loss of the member's Medicaid eligibility and/or legal action;

5. the amount, duration, and scope of benefits available under the CCN-S's contract with the department in sufficient detail to ensure that members understand the benefits to which they are entitled including, but not limited to:

a. information about health education and promotion programs, including chronic care management;

b. the procedures for obtaining benefits, including prior authorization requirements and benefit limits;

c. how members may obtain benefits, including family planning services and specialized behavioral health services, from out-of-network providers;

d. how and where to access any benefits that are available under the Louisiana Medicaid State Plan, including information about Early and Periodic Screening, Diagnosis and Treatment (EPSDT) services;

e. the policy on referrals for specialty care, including behavioral health services and other benefits not furnished by the member's primary care provider;

f. for counseling or referral services that the CCN-S does not cover because of moral or religious objections, the CCN-S is required to furnish information on how or where to obtain the service;

g. how to make, change and cancel medical appointments and the importance of canceling and/or rescheduling rather than being a "no show"; and

h. the extent to which and how after-hour services are provided;

6. information to call the Medicaid Customer Service Unit toll free telephone number or visit a local Medicaid eligibility office to report changes in parish of residence, mailing address or family size changes;

7. a description of the CCN-S' member services and the toll-free telephone number, fax telephone number, e-mail address and mailing address to contact CCN-S' Member Services Unit;

8. instructions on how to request multi-lingual interpretation and translation services when needed at no cost to the member. This information shall be included in all versions of the handbook in English, Spanish and Vietnamese; and

9. grievance, appeal and state fair hearing procedures and time frames, as described in the CCN-S' contract with the department and department issued guide.

S. The provider manual shall include but not be limited to:

1. billing guidelines;

2. medical management/utilization review guidelines;

3. case management guidelines;

4. claims pre-processing guidelines and edits;

5. enrollee and provider grievance and appeals procedures and processes; and

6. other policies, procedures, guidelines, or manuals containing pertinent information related to operations and pre-processing claims.

T. The provider directory for members shall be developed in the following three formats:

1. a hard copy directory for members and, upon request, potential members;

2. a web-based online directory for members and the public; and

3. an electronic file of the directory for the enrollment broker.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§3305. Coordination of Medicaid State Plan Services

A. Core benefits and services shall be defined as those health care services and benefits required to be provided to Medicaid CCN members enrolled in the CCN-S as specified under the terms of the contract. Covered services shall be defined as those health care services and benefits to which an individual eligible for Medicaid is entitled under the Louisiana Medicaid State Plan.

B. The CCN-S shall be required to pre-process and provide service authorization, referrals, coordination, and/or assistance in scheduling medically necessary Medicaid covered services described in this Chapter, consistent with the standards as defined in the Louisiana Medicaid State Plan and the contract regarding service limits and service authorization requirements, with the exception of physician visits.

1. The CCN-S must have policies and processes to authorize physician visits in excess of the 12 visits for adults specified in the State Plan when it is cost effective to do so.

C. Covered services will be billed fee-for-service to the fiscal intermediary.

D. The following is a summary listing of the covered services for which the CCN-S shall pre-process and provide service authorization, referrals, coordination, and/or assistance in scheduling. These services include, but are not limited to:

1. inpatient hospital services;

2. outpatient hospital services;

3. ancillary medical services;

4. organ transplant-related services;

5. EPSDT/Well Child visits;

6. emergency medical services;

7. communicable disease services;

8. emergency medical transportation;

9. home health services;

10. family planning services as specified in 42 CFR §431.51(b)(2);

11. basic behavioral health services;

12. school-based health clinic services;

13. physician services;

14. maternity services;

15. chiropractic services; and

16. rehabilitation therapy services (physical, occupational, and speech therapies).

E. The CCN-S will be responsible for coordinating those services that, by statute, must be provided and are medically necessary.

1. Claims will be paid fee-for-service through the Medicaid Management Information System (MMIS).

2. The CCN-S shall not implement hard limits for EPSDT services.

F. The CCN-S will not be responsible for pre-processing or providing service authorization for the following services,

but shall provide any required referrals and coordination for these services:

1. EarlySteps services (specified);
2. dental services;
3. hospice services;
4. personal care services (EPSDT and long-term);
5. intermediate care facility services for persons with intellectual disabilities;
6. home and community-based waiver services;
7. behavioral health drugs;
8. school-based Individualized Education Plan (IEP) services;
9. non-emergency medical transportation;
10. nursing facility services;
11. specialized behavioral health services;
12. targeted case management;
13. durable medical equipment and certain supplies;
14. prosthetics and orthotics;
15. transplants; and
16. non-behavioral health drugs.

G. The CCN shall implement mechanisms, as specified in the contract, to assess each Medicaid enrollee identified as having special health care needs in order to identify any ongoing special conditions of the enrollee that require a course of treatment or regular care monitoring.

1. The assessment mechanisms must use appropriate health care professionals.

2. The CCN shall have mechanisms to assess the quality and appropriateness of care furnished to enrollees with special health care needs.

H. Utilization Management

1. The CCN-S shall develop and maintain policies and procedures with defined structures and processes for a utilization management (UM) program that incorporates utilization review. The program shall include service authorization and medical necessity review and comply with the requirements set forth in this Section, the contract and department issued CCN-S guides.

a. The CCN-S shall submit UM policies and procedures to the department for written approval, annually and subsequent to any revisions.

2. The UM Program policies and procedures shall, at a minimum, include the following requirements:

a. the individual(s) who is responsible for determining medical necessity, appropriateness of care, level of care needed, and denying a service authorization request or authorizing a service in amount, duration or scope that is less than requested, must meet the following requirements. The individual shall:

- i. be a licensed clinical professional with appropriate clinical expertise in the treatment of a member's condition or disease;
- ii. have no history of disciplinary action or sanctions, including loss of staff privileges or participation restrictions that have been taken or are pending such action by any hospital, governmental agency or unit, or regulatory body, that raise a substantial question as to the clinical peer reviewer's physical, mental, or professional competence or moral character; and
- iii. attest that no adverse determination will be made regarding any medical procedure or service outside of the scope of such individual's expertise;

b. the methodology utilized to evaluate the clinical necessity, appropriateness, efficacy, or efficiency of health care services;

c. the data sources and clinical review criteria used in decision making;

d. the appropriateness of clinical review shall be fully documented;

e. the process for conducting informal reconsiderations for adverse determinations;

f. mechanisms to ensure consistent application of review criteria and compatible decisions;

g. data collection processes and analytical methods used in assessing utilization of healthcare services; and

h. provisions for assuring confidentiality of clinical and proprietary information;

3. The UM program's medical management and medical necessity review criteria and practice guidelines shall be reviewed annually and updated periodically as appropriate. The CCN-S shall use the medical necessity definition as set forth in LAC 50:I.1101 for medical necessity determinations.

a. Medical management and medical necessity review criteria and practice guidelines shall:

i. be objective and based on valid and reliable clinical evidence or a consensus of health care professionals in the particular field;

ii. consider the needs of the members;

iii. be adopted in consultation with contracting health care professionals; and

iv. be disseminated to all affected providers, members, and potential members upon request.

b. The CCN-S must identify the source of the medical management criteria used for the review of medical necessity and for service authorization requests.

i. The vendor must be identified if the criteria are purchased.

ii. The association or society must be identified if the criteria are developed/recommended or endorsed by a national or state health care provider association or society.

iii. The guideline source must be identified if the criteria are based on national best practice guidelines.

iv. The individuals who will make medical necessity determinations must be identified if the criteria are based on the medical training, qualifications, and experience of the CCN medical director or other qualified and trained professionals.

4. The CCN-S shall ensure that only licensed clinical professionals with appropriate clinical expertise in the treatment of a member's condition or disease shall determine service authorization request denials or authorize a service in an amount, duration or scope that is less than requested.

5. The CCN-S shall ensure that compensation to individuals or entities that conduct UM activities is not structured to provide incentives for the individual or entity to deny, limit, or discontinue medically necessary covered services to any member.

I. Claims Management

1. The CCN-S must accept and pre-process claims within two business days of receipt in accordance to the requirements in the contract and department issued guides.

2. The CCN-S shall maintain a claims management system that, at a minimum, will:

a. provide service authorization approval to providers utilizing a unique authorization number as defined in the department issued guides;

b. confirm CCN-S membership as service authorization requests are submitted on the basis of the eligibility information provided by the department;

c. verify medical necessity as defined by the department;

d. identify the date that the CCN-S receives the claim;

e. provide on-line and telephone based capabilities to providers for obtaining status information;

f. obtain a submitter identification number from the department's fiscal intermediary (FI) prior to submitting claims; and

g. submit paper claims in batch form or electronic claims to the FI within two business days of receipt from providers.

3. If a claim is partially or totally denied on the basis that the provider did not submit required information or documentation with the claim, then a remittance advice or other appropriate written or electronic notice shall specifically identify all such information and documentation.

a. Resubmission of a claim with further information and/or documentation shall constitute a new claim for purposes of establishing the timeframe for claims pre-processing.

4. Pre-processed approved claims will be paid on a fee-for-service (FFS) basis by the department subject to prompt pay requirements for fee-for-service Medicaid claims.

a. The department shall not pay any claim submitted by a provider who is excluded from participation in Medicare, Medicaid, or SCHIP program pursuant to §1128 or §1156 of the Social Security Act or is otherwise not in good standing with the department.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§3307. Reimbursement Methodology

A. The department or its fiscal intermediary shall make monthly enhanced primary care case management fee payments to the CCN-S and lump sum savings payments to the CCN-S, if eligible.

B. The enhanced primary care case management fee shall be based on the enrollee's Medicaid eligibility category as specified in the contract and paid on a per member per month (PMPM) basis.

C. The enhanced primary care case management fee comprises reimbursement for enhanced primary care case management functions as specified in the terms of the contract and includes funding for the CCN-S to pay the PCPs for care management (e.g. care coordination, referrals) to Medicaid enrollees linked to each PCP as specified in the terms and conditions of the contract and department issued guides.

1. The CCN-S shall reimburse the PCP a monthly base case management fee for each enrollee assigned to the PCP. The CCN-S may reimburse an amount greater than the base case management fee, but not less than that amount.

2. In order to be eligible to receive these payments, the PCP must enter into a subcontract with the CCN-S, meet

the performance measures goals, and remain in compliance with all of the provisions contained in the subcontract.

3. The CCN-S shall be subject to sanctions if it is determined that the CCN-S did not pay the base management fee to the PCPs.

a. The CCN-S shall be sanctioned an amount equal to the amount the CCN was responsible to reimburse the PCPs, plus an additional amount up to \$25,000 for each event the department determines the PCP care management fee is not reimbursed.

b. The CCN-S shall be liable to reimburse the PMPM PCP care management fee owed to the PCP(s) and all costs incurred to issue payments to the PCP within the timelines specified by the department for such reimbursement or be subject to additional sanctions.

D. The department reserves the right to adjust these enhanced primary care case management fees on an as needed basis.

E. The CCN-S shall have limited risk for returning up to 50 percent of enhanced primary care case management fees advanced to the network when savings are not realized.

F. The department shall conduct a periodic reconciliation as specified in the contract to determine savings realized or refunds due to the department.

1. The reconciliation shall compare the actual aggregate cost of authorized/preprocessed services as specified in the contract and include the enhanced primary care case management fee for dates of services in the reconciliation period, to the aggregate Per Capita Prepaid Benchmark (PCPB). The PCPB will not include the PCP care management fees.

2. The PCPB will be set on the basis of health status-based risk adjustment.

a. The health risk of the Medicaid enrollees enrolled in the CCN-S will be measured using a nationally recognized risk-assessment model.

b. Utilizing this information, the PCPBs will be adjusted to account for the health risk for the enrollees in each CCN-S relative to the overall population being measured.

c. The health risk of the enrollees and associated CCN-S risk scores and the PCPBs will be updated periodically to reflect changes in risk over time.

3. Costs of the following services will not be included in the determination of the PCPB. These services include, but are not limited to:

a. nursing facilities;

b. dental services;

c. personal care services (EPSDT and Long-Term);

d. hospice;

e. specialized behavioral health drugs;

f. school-based Individualized Education Plan services provided by a school district and billed through the intermediate school district;

g. specified EarlySteps Program services;

h. specialized behavioral health services (e.g. mental health rehabilitation);

i. targeted case management;

j. non-emergency medical transportation;

k. intermediate care facilities for persons with intellectual disabilities;

l. home and community-based waiver services;

- m. durable medical equipment and supplies; and
- n. orthotics and prosthetics.

4. Individual member total cost for the reconciliation year in excess of an amount specified in the contract will not be included in the determination of the PCPB, nor will it be included in actual cost at the point of reconciliation so that outlier cost of certain individuals and/or services will not jeopardize the overall savings achieved by the CCN-S.

a. Application of the individual member total cost shall include:

i. when a member transitions between aid categories, claims will accumulate from zero under the new aid category;

ii. maternity claims that fall into the kick payment bucket will not be included in determining whether the catastrophic limit has been reached; and

iii. while no actual maternity kick payment is paid, a "benchmark maternity kick payment" has been calculated. This is a mechanism to protect plans with a disproportionate share of pregnant women in that the benchmark cost will increase for each additional delivery.

5. The department will perform interim and final reconciliations as of June 30 and December 31 of each year with provisions for incurred-but-not-reported (IBNR) claims included in the actual cost.

a. The department reserves the right to make interim payments of any savings for any dates of service with more than six months elapsed time.

b. A final reconciliation will be performed for any periods for which there are dates of service with more than 12 months elapsed time, at which point there should be sufficient completion of paid claims to determine total medical cost incurred by the CCN-S without the need to consider additional claims that have been incurred, but are still outstanding.

c. Final reconciliations will not be for less than 12 months of service unless determined appropriate by the department. In the first year of a CCN-S's operations, the department will exclude claims from the first 30 days of operations when calculating the reconciliation.

6. In the event the CCN-S exceeds the PCPB in the aggregate (for the entire CCN-S enrollment) as calculated in the final reconciliation, the CCN-S will be required to refund up to 50 percent of the total amount of the enhanced primary care case management fees (excluding the PCP care management fee) paid to the CCN-S during the period being reconciled.

7. The CCN-S will be eligible to receive up to 60 percent of savings if the actual aggregate costs of authorized services, including enhanced primary care case management fees advanced, are less than the aggregate PCPB (for the entire CCN-S enrollment).

a. The enhanced primary care case management fee will be reduced by the base case management fee during the reconciliation process.

b. Due to federally mandated limitations under the Medicaid State Plan, shared savings will be limited to five percent of the actual aggregate costs including the enhanced primary care case management fees paid. Such amounts shall be determined in the aggregate and not for separate enrollment types.

8. During the CCN Program's first two years of implementation, any distribution of CCN-S savings will be contingent upon the CCN meeting the established "early warning system" administrative performance measures and compliance under the contract. After the second year of implementation, distribution of savings will be contingent upon the CCN-S meeting department established clinical quality performance measure benchmarks and compliance with the contract.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

Chapter 35. Coordinated Care Network Managed Care Organization Model

§3501. Participation Requirements

A. In order to participate in the Medicaid Program, a coordinated care network managed care organization model (CCN-P) must be a successful bidder, be awarded a contract with the department, and complete the readiness review.

B. A CCN-P must:

1. meet the federal definition of an managed care organization as defined in federal regulations;

2. meet the requirements of R.S. 22:2016 and be licensed or have a certificate of authority from the Louisiana Department of Insurance (DOI) pursuant to Title 22 of the Louisiana Revised Statutes;

3. be certified by the Louisiana Secretary of State to conduct business in the state;

4. meet solvency standards as specified in federal regulations and Title 22 of the Louisiana Revised Statutes;

5. meet NCQA or URAC Health Plan Accreditation or agree to submit an application for accreditation at the earliest possible date as allowed by NCQA or URAC and once achieved, maintains accreditation through the life of this agreement;

6. have a network capacity to enroll a minimum of 75,000 Medicaid and LaCHIP eligibles into the network in each department designated geographic service area; and

7. not have an actual or perceived conflict of interest that, in the discretion of the department, would interfere or give the appearance of possibly interfering with its duties and obligations under this Rule, the contract and any and all appropriate guides. Conflict of interest shall include, but is not limited to, being the fiscal intermediary contractor for the department.

C. A CCN-P shall ensure the provision of core benefits and services to Medicaid enrollees in a department designated geographic service area as specified in the terms of the contract.

D. Upon request by the Centers for Medicare and Medicaid Services, the Office of Inspector General, the Government Accounting Office, the department or its designee, a CCN-P shall make all of its records pertaining to its contract (services provided there under and payment for services) with the department available for review, evaluation and audit. The records shall include, but are not limited to the following:

- 1. pertinent books and documents;
- 2. financial records;
- 3. medical records and documents; and

4. provider records and documents involving financial transactions related to the contract.

E. A CCN-P shall maintain an automated management information system that collects, analyzes, integrates and reports data that complies with department and federal reporting requirements.

1. The CCN-P shall submit to the department for approval the CCN-P's emergency/contingency plan if the CCN-P is unable to provide the data reporting specified in the contract and department issued guides.

F. A CCN-P shall obtain insurance coverage(s) including, but not limited to, workman's compensation, commercial liability, errors and omissions, and reinsurance as specified in the terms of the contract. Subcontractors, if any, shall be covered under these policies or have insurance comparable to the CCN-P's required coverage.

G. A CCN-P shall provide all financial reporting as specified in the terms of the contract.

H. A CCN-P shall secure and maintain a performance and fidelity bond as specified in the terms of the contract during the life of the contract.

I. In the event of noncompliance with the contract and the department's guidelines, a CCN-P shall be subject to the sanctions specified in the terms of the contract including, but not limited to:

1. corrective action plans;
2. monetary penalties;
3. temporary management; or
4. suspension and/or termination of the CCN-P's

contract.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§3503. Managed Care Organization Model Responsibilities

A. The CCN-P shall be responsible for the administration and management of its requirements and responsibilities under the contract with the department and any and all department issued guides. This includes all subcontracts, employees, agents and anyone acting for or on behalf of the CCN-P.

1. No subcontract or delegation of responsibility shall terminate the legal obligation of the CCN-P to the department to assure that all requirements are carried out.

B. A CCN-P shall possess the expertise and resources to ensure the delivery of core benefits and services to members and to assist in the coordination of covered services, as specified in the terms of the contract.

1. A CCN-P shall have written policies and procedures governing its operation as specified in the contract and department issued guides.

C. A CCN-P shall accept enrollees in the order in which they apply without restriction, up to the enrollment capacity limits set under the contract.

1. A CCN-P shall not discriminate against enrollees on the basis of race, gender, color, national origin, age, health status or need for health care services, and shall not use any policy or practice that has the effect of discriminating on any such basis.

D. A CCN-P shall be required to provide service authorization, referrals, coordination, and/or assistance in

scheduling the covered services consistent with standards as defined in the Louisiana Medicaid State Plan and as specified in the terms of the contract.

E. A CCN-P shall provide a chronic care management program as specified in the contract.

F. The CCN-P shall establish and implement a quality assessment and performance improvement program as specified in the terms of the contract and department issued guides.

G. A CCN-P shall develop and maintain a utilization management program including policies and procedures with defined structures and processes as specified in the terms of the contract and department issued guides.

H. A CCN-P shall develop and maintain effective continuity of care activities which ensure a continuum of care approach to providing health care services to members.

I. The CCN-P must have administrative and management arrangements or procedures, including a mandatory compliance plan, that are designed to guard against fraud and abuse.

1. The CCN-P shall comply with all state and federal laws and regulations relating to fraud, abuse, and waste in the Medicaid and CHIP program as well all requirements set forth in the contract and department issued guides.

J. A CCN-P shall maintain a health information system that collects, analyzes, integrates and reports data as specified in the terms of the contract and all department issued guides.

1. A CCN-P shall collect data on enrollees and provider characteristics and on services furnished to members through an encounter data system as specified in the contract and all department issued guides.

K. A CCN-P shall be responsible for conducting routine provider monitoring to ensure:

1. continued access to care for Medicaid recipients; and
2. compliance with departmental and CCN-P policies and procedures.

L. A CCN-P shall not engage the services of a provider who is in non-payment status with the department or is excluded from participation in federal health care programs (i.e., Medicare, Medicaid, CHIP, etc.).

M. Medical records shall be maintained in accordance with the terms and conditions of the contract. These records shall be safeguarded in such a manner as to protect confidentiality and avoid inappropriate disclosure according to federal and state law.

N. A CCN-P shall participate on the department's quality committee to provide recommendations to Medicaid on areas of standardized business process for the Coordinated Care Network Program.

O. A CCN-P shall participate on the department's established committees for administrative simplification and quality improvement, which will include physicians, hospitals, other healthcare providers as appropriate, and at least one member of the Senate and House Health and Welfare Committees or their designees.

P. The CCN-P shall provide both member and provider services in accordance with the terms of the contract and department issued guides.

1. The CCN-P shall submit member handbooks, provider manuals, and provider directory to the department

for approval prior to distribution, annually and subsequent to any revisions.

a. The CCN-P must provide a minimum of 30 days notice to the department of any proposed material changes to the member handbooks and/or provider manuals.

b. After approval has been received from the department, the CCN-P must provide a minimum of 30 days notice to the members and/or providers of any proposed material changes to the member handbooks and/or provider manuals.

Q. The member handbook shall include, but not be limited to:

1. a table of contents;
2. a general description regarding:
 - a. how a coordinated care network operates;
 - b. member rights and responsibilities;
 - c. appropriate utilization of services including emergency room visits for non-emergent conditions;
 - d. the PCP selection process; and
 - e. the PCP's role as coordinator of services;
3. member rights and protections as specified in 42 CFR §438.100 and the CCN-P's contract with the department including, but not limited to:
 - a. a member's right to disenroll from the CCN-P;
 - b. a member's right to change providers within the CCN-P;
 - c. any restrictions on the member's freedom of choice among CCN-P providers; and
 - d. a member's right to refuse to undergo any medical service, diagnoses, or treatment or to accept any health service provided by the CCN-P if the member objects (or in the case of a child, if the parent or guardian objects) on religious grounds;
4. member responsibilities, appropriate and inappropriate behavior, and any other information deemed essential by the CCN-P or the department including, but not limited to:
 - a. immediately notifying the CCN-P if he or she has a Workman's Compensation claim, a pending personal injury or medical malpractice law suit, or has been involved in a auto accident;
 - b. reporting to the department's Medicaid Customer Service Unit if the member has or obtains another health insurance policy, including employer sponsored insurance; and
 - c. a statement that the member is responsible for protecting his/her identification card and that misuse of the card, including loaning, selling or giving it to others could result in loss of the member's Medicaid eligibility and/or legal action;
5. the amount, duration, and scope of benefits available under the CCN-P's contract with the department in sufficient detail to ensure that members understand the benefits to which they are entitled including, but not limited to:
 - a. information about health education and promotion programs, including chronic care management;
 - b. the procedures for obtaining benefits, including prior authorization requirements and benefit limits;
 - c. how members may obtain benefits, including family planning services and specialized behavioral health services, from out-of-network providers;

d. how and where to access any benefits that are available under the Louisiana Medicaid State Plan, but are covered under the CCN-P's contract with department;

e. information about Early and Periodic Screening, Diagnosis and Treatment (EPSDT) services;

f. how transportation is provided, including how to obtain emergency and non-emergency medical transportation;

g. the post-stabilization care services rules set forth in 42 CFR 422.113(c);

h. the policy on referrals for specialty care, including behavioral health services and other benefits not furnished by the member's primary care provider;

i. for counseling or referral services that the CCN-P does not cover because of moral or religious objections, the CCN-P is required to furnish information on how or where to obtain the service;

j. how to make, change and cancel medical appointments and the importance of canceling and/or rescheduling rather than being a "no show"; and

k. the extent to which and how after-hour services are provided;

6. information to call the Medicaid Customer Service Unit toll free telephone number or visit a local Medicaid eligibility office to report changes in parish of residence, mailing address or family size changes;

7. a description of the CCN-P's member services and the toll-free telephone number, fax telephone number, e-mail address and mailing address to contact CCN-P's Member Services Unit;

8. instructions on how to request multi-lingual interpretation and translation services when needed at no cost to the member. This information shall be included in all versions of the handbook in English, Spanish and Vietnamese; and

9. grievance, appeal and state fair hearing procedures and time frames as described in 42 CFR §438.400 through §438.424 and the CCN-P's contract with the department.

R. The provider manual shall include but not be limited to:

1. billing guidelines;
2. medical management/utilization review guidelines;
3. case management guidelines;
4. claims pre-processing guidelines and edits;
5. grievance and appeals procedures and processes; and
6. other policies, procedures, guidelines, or manuals containing pertinent information related to operations and pre-processing claims.

S. The provider directory for members shall be developed in three formats:

1. a hard copy directory for members and, upon request, potential members;
2. a web-based online directory for members and the public; and
3. an electronic file of the directory for the enrollment broker.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§3505 Network Access Standards and Guidelines

A. The CCN-P must maintain and monitor a provider network that is supported by written agreements and is sufficient to provide adequate access of healthcare to enrollees as required by federal law and the terms as set forth in the contract. The CCN-P shall adhere to the federal regulations governing access standards as well as the specific requirements of the contract and all department issued guides.

B. The CCN-P must provide for service delivery out-of-network for any core benefit or service not available in network for which the CCN-P does not have an executed contract for the provision of such medically necessary services. Further, the CCN-P must arrange for payment so that the Medicaid enrollee is not billed for this service.

C. The CCN shall cover all medically necessary services to treat an emergency medical condition in the same amount, duration and scope as stipulated in the Medicaid State Plan.

1. Emergency medical condition means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in the following:

- a. placing the health of the individual (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy;
- b. serious impairment to bodily functions; or
- c. serious dysfunction of any bodily organ or part.

2. Emergency services means covered inpatient and outpatient services that are as follows:

- a. furnished by a provider that is qualified to furnish these services under this Section; and
- b. needed to evaluate or stabilize an emergency medical condition.

3. Post-stabilization care services means covered services, related to an emergency medical condition, that are provided after an member is stabilized in order to maintain the stabilized condition or, under the circumstances described in 42 CFR §438.114, to improve or resolve the member's condition.

D. The CCN-P must maintain a provider network and in-area referral providers in sufficient numbers, as determined by the department, to ensure that all of the required core benefits and services are available and accessible in a timely manner within the CCN-P's designated geographic service area(s) as approved by the department, in accordance with the terms and conditions in the contract and department issued guide.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§3507. Benefits and Services

A. Core benefits and services shall be furnished in an amount, duration, and scope that is no less than the amount, duration, and scope for the same services furnished to enrollees under Louisiana Medicaid State.

1. Core benefits and services shall be defined as those health care services and benefits required to be provided to Medicaid CCN members enrolled in the CCN-P as specified under the terms of the contract and department issued guides.

2. Covered services shall be defined as those health care services and benefits to which a Medicaid and LaCHIP eligible individual is entitled to under the Louisiana Medicaid State Plan.

B. The CCN-P:

1. shall ensure that medically necessary services, defined in LAC 50:I.1101, are sufficient in amount, duration, or scope to reasonably be expected to achieve the purpose for which the services are being furnished;

2. may not arbitrarily deny or reduce the amount, duration, or scope of a required service because of diagnosis, type of illness, or condition of the member;

3. may place appropriate limits on a service:

a. on the basis of certain criteria, such as medical necessity; or

b. for the purpose of utilization control, provided the services furnished can reasonably be expected to achieve their purpose;

4. shall provide core benefits and services outlined and defined in the contract and the *CCN-P Policy and Procedure Guide* and shall provide medically necessary and appropriate care to Medicaid CCN Program members;

5. shall provide all of the core benefits and services consistent with, and in accordance with, the standards as defined in the Title XIX Louisiana Medicaid State Plan:

a. the CCN may exceed the limits as specified in the minimum service requirements outlined in the *CCN-P Policy and Procedure Guide*;

b. no medical service limitation can be more restrictive than those that currently exist under the Title XIX Louisiana Medicaid State Plan; and

6. shall provide pregnancy-related services that are necessary for the health of the pregnant woman and fetus, or that have become necessary as a result of being pregnant and includes, but is not limited to prenatal care, delivery, postpartum care, and family planning/interconception care services for pregnant women in accordance with federal regulations.

C. If the CCN-P elects not to provide, reimburse for, or provide coverage of a counseling or referral service because of an objection on moral or religious grounds, the CCN-P must furnish information about the services it does not cover in accordance with §1932(b)(3)(B)(ii) of the Social Security Act and federal regulations by notifying:

1. the department in its response to the department's request for proposals (RFP) or whenever it adopts the policy during the term of the contract;

2. the potential enrollees before and during enrollment in the CCN-P;

3. enrollees within 90 days after adopting the policy with respect to any particular service; and

4. members through the inclusion of the information in the member handbook.

D. The following is a summary listing of the core benefits and services that a CCN-P is required to provide:

1. inpatient hospital services;

2. outpatient hospital services;

3. ancillary medical services;

4. organ transplant-related services;

5. family planning services as specified in 42 CFR §431.51(b)(2) (not applicable to CCN operating under a moral and religious objection as specified in the contract);

6. EPSDT/Well Child visits;
7. emergency medical services;
8. communicable disease services;
9. durable medical equipment and certain supplies;
10. prosthetics and orthotics;
11. emergency and non-emergency medical transportation;
12. home health services;
13. basic behavioral health services;
14. school-based health clinic services provided by the Office of Public Health certified school-based health clinics;
15. physician services;
16. maternity services;
17. chiropractic services; and
18. rehabilitation therapy services (physical, occupational, and speech therapies).

NOTE: This overview is not all inclusive. *CCN-P Policy and Procedure Guide*, policy transmittals, State Plan amendments, regulations, provider bulletins, provider manuals, published fee schedules, and guides issued by the department are the final authority regarding services.

E. Transition Provision. In the event a member transitions from CCN included status to a CCN excluded status before being discharged from a hospital and/or rehabilitation facility, the cost of the entire admission will be the responsibility of the CCN entity. This is only one example and does not represent all situations in which the CCN is responsible for cost of services during a transition.

F. The core benefits and services provided to the members shall include, but are not limited to, those services specified in the contract.

1. Policy transmittals, State Plan amendments, regulations, provider bulletins, provider manuals, and fee schedules, issued by the department are the final authority regarding services.

G. Excluded Services

1. The following services will continue to be reimbursed by the Medicaid Program on a fee-for-service basis. The CCN shall provide any appropriate referral that is medically necessary. The department shall have the right to incorporate these services at a later date if the PMPM rates have been adjusted to incorporate the cost of such service. Excluded services include:

- a. services provided through the Early-Steps Program (IDEA Part C Program services);
- b. dental services;
- c. intermediate care facility services for persons with intellectual disabilities;
- d. hospice services;
- e. personal care services (EPSDT and Long-Term);
- f. nursing facility services;
- g. pharmacy services;
- h. school-based Individualized Education Plan services provided by a school district and billed through the intermediate school district, or school-based services funded with certified public expenditures;
 - i. home and community-based waiver services;
 - j. specialized behavioral health; and
 - k. targeted case management services.

H. Utilization Management

1. The CCN-P shall develop and maintain policies and procedures with defined structures and processes for a utilization management (UM) program that incorporates

utilization review. The program shall include service authorization and medical necessity review and comply with the requirements set forth in this Section, the contract and department issued CCN-P guides.

a. The CCN-P shall submit UM policies and procedures to the department for written approval, annually and subsequent to any revisions.

2. The UM Program policies and procedures shall, at a minimum, include the following requirements:

a. the individual(s) who is responsible for determining medical necessity, appropriateness of care, level of care needed, and denying a service authorization request or authorizing a service in amount, duration or scope that is less than requested, must meet the following requirements. The individual shall:

i. be a licensed clinical professional with appropriate clinical expertise in the treatment of a member's condition or disease;

ii. have no history of disciplinary action or sanctions, including loss of staff privileges or participation restrictions that have been taken or are pending such action by any hospital, governmental agency or unit, or regulatory body, that raise a substantial question as to the clinical peer reviewer's physical, mental, or professional competence or moral character; and

iii. attest that no adverse determination will be made regarding any medical procedure or service outside of the scope of such individual's expertise;

b. the methodology utilized to evaluate the clinical necessity, appropriateness, efficacy, or efficiency of health care services;

c. the data sources and clinical review criteria used in decision making;

d. the appropriateness of clinical review shall be fully documented;

e. the process for conducting informal reconsiderations for adverse determinations;

f. mechanisms to ensure consistent application of review criteria and compatible decisions;

g. data collection processes and analytical methods used in assessing utilization of healthcare services; and

h. provisions for assuring confidentiality of clinical and proprietary information.

3. The UM Program's medical management and medical necessity review criteria and practice guidelines shall be reviewed annually and updated periodically as appropriate. The CCN-P shall use the medical necessity definition as set forth in LAC 50:I.1101 for medical necessity determinations.

a. Medical management and medical necessity review criteria and practice guidelines shall:

i. be objective and based on valid and reliable clinical evidence or a consensus of health care professionals in the particular field;

ii. consider the needs of the members;

iii. be adopted in consultation with contracting health care professionals; and

iv. be disseminated to all affected providers, members, and potential members upon request.

b. The CCN-P must identify the source of the medical management criteria used for the review of medical necessity and for service authorization requests.

- i. The vendor must be identified if the criteria are purchased.
- ii. The association or society must be identified if the criteria are developed/recommended or endorsed by a national or state health care provider association or society.
- iii. The guideline source must be identified if the criteria are based on national best practice guidelines.
- iv. The individuals who will make medical necessity determinations must be identified if the criteria are based on the medical training, qualifications, and experience of the CCN medical director or other qualified and trained professionals.

4. The CCN shall ensure that only licensed clinical professionals with appropriate clinical expertise in the treatment of a member's condition or disease shall determine service authorization request denials or authorize a service in an amount, duration or scope that is less than requested.

5. The CCN-P shall ensure that compensation to individuals or entities that conduct UM activities is not structured to provide incentives for the individual or entity to deny, limit, or discontinue medically necessary covered services to any member in accordance with 42 CFR §438.6(h), 42 CFR §422.208, and 42 CFR §422.210.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§3509. Reimbursement Methodology

A. Payments to CCN-P. The department, or its fiscal intermediary, shall make monthly capitation payments to the CCN-P based on a per member, per month rate.

1. Actuarially sound rates will be determined by the department acting on the advice of its actuaries. It is intended that rates will initially be set using historical fee-for-service data, with appropriate adjustments for the expected impact of managed care on the utilization of the various types of services (some increases and some reductions) and for the expected cost of CCN-P administration and overhead.

2. As the Coordinated Care Network Program matures and fee-for-service data is no longer available, there will be increasing reliance on encounter data and/or financial data to set future rates, subject to comparable adjustments.

3. PMPM payments will be set on the basis of health status-based risk adjustments. An initial universal PMPM rate will be set for all CCN-Ps at the beginning of each contract period and as deemed necessary by the department.

a. The health risk of the Medicaid enrollees enrolled in the CCN-P will be measured using a nationally-recognized risk-assessment model.

b. Utilizing this information, the universal PMPM rates will be adjusted to account for the health risk of the enrollees in each CCN-P relative to the overall population being measured.

c. PMPM rate risk adjustments will begin three months after the implementation date for each phase of program implementation.

d. The health risk of the members and associated CCN-P risk scores will be updated periodically to reflect changes in risk over time.

4. A CCN-P shall be reimbursed a one-time supplemental lump sum payment, hereafter referred to as a "maternity kick payment", for each obstetrical delivery in the amount determined by the department's actuary.

a. The maternity kick payment is intended to cover the cost of prenatal care, the delivery event, and post partum care. Payment will be paid to the CCN-P upon submission of satisfactory evidence of the occurrence of a delivery.

b. The hospital shall accurately input the delivery event into the Louisiana Electronic Event Registration System (LEERS) as evidence that a delivery event has taken place in order for a maternity kick payment request to be initiated to the department's fiscal intermediary for payment to the CCN-P.

c. Only one maternity kick payment will be made per delivery event. Therefore, multiple births during the same delivery will still result in one maternity kick payment being paid.

d. The maternity kick payment will be paid for both live and still births. A maternity kick payment will not be reimbursed for spontaneous or induced abortions.

B. As Medicaid is the payor of last resort, a CCN-P must agree to accept the PMPM rate as payment-in-full from the department and agree not to seek additional payment from a member for any unpaid cost.

C. The PMPM rate does not include graduate medical education payments, disproportionate share hospital payments or upper payment limit payments. These supplemental payments will be made to applicable providers outside the PMPM rate by the department according to methodology consistent with existing Rules.

D. A CCN-P shall assume 100 percent liability for any expenditure above the prepaid premium.

E. The CCN-P shall meet all financial reporting requirements specified in the terms of the contract.

F. A CCN-P shall have a medical loss ratio (MLR) for each MLR reporting calendar year of not less than 85 percent using definitions for health care services, quality initiatives and administrative cost as specified in 45 CFR Part 158.

1. A CCN-P shall provide an annual MLR report, in a format as determined by the department, by June 1 following the MLR reporting year that separately reports the CCN-P's medical loss ratio for services provided to Medicaid enrollees and payment received under the contract with the department from any other products the CCN-P may offer in the state of Louisiana.

2. If the medical loss ratio is less than 85 percent, the CCN-P will be subject to refund of the difference, within the timeframe specified, to the department by August 1. The portion of any refund due the department that has not been paid by August 1 will be subject to interest in the amount of ten percent per annum.

3. The department shall provide for an audit of the CCN's annual MLR report and make public the results within 60 calendar days of finalization of the audit.

G. Any cost sharing imposed on Medicaid members must be in accordance with the federal regulations governing cost sharing and cannot exceed the amounts reflected in the Louisiana Medicaid State Plan, but the amounts can be less than the cost sharing levels in the State Plan.

H. The department may adjust the PMPM rate, during the term of the contract, based on:

1. the health status-risk adjustment as determined by the department acting on the advice of its actuaries;
2. the inclusion of covered Medicaid services not incorporated in the applicable PMPM;
3. the implementation of federal requirements; and/or
4. legislative appropriations and budgetary constraints.

I. Any adjusted rates must continue to be actuarially sound and will require an amendment to the contract. The department will provide the CCN with three months advance notice of any major revision to the risk-adjustment methodology.

J. The CCN-P shall not assign its rights to receive the PMPM payment, or its obligation to pay, to any other entity.

1. At its option, the department may, at the request of the CCN-P, make payment to a third party administrator.

K. In the event that an incorrect payment is made to the CCN-P, all parties agree that reconciliation will occur.

1. If an error or overcharge is discovered by the department, it will be handled in accordance with the terms and conditions of the contract.

L. Network Provider Reimbursement

1. Reimbursement for covered services shall be equal to or greater than the published Medicaid fee-for-service rate in effect on the date of service. Notwithstanding, upon request by a network provider, or potential network provider, and with the prior approval of the department, exceptions may be granted.

2. The CCN-P's subcontract with the network provider shall specify that the provider shall accept payment made by the CCN as payment-in-full for core benefits and services provided and shall not solicit or accept any surety or guarantee of payment from the department or the member.

a. The term "member" shall include the patient, parent(s), guardian, spouse or any other legally responsible person of the member being served.

3. The CCN-P may enter into alternative payment arrangements with its network providers or potential providers with prior approval by the department.

a. The CCN-P shall not enter into alternative payment arrangements with federally qualified health centers or rural health clinics as the CCN-P is required to reimburse these providers according to the published FQHC/RHC Medicaid prospective payment schedule rate in effect on the date of service, whichever is applicable.

M. Out-of-Network Provider Reimbursement

1. The CCN-P is not required to reimburse more than 90 percent of the published Medicaid fee-for-service rate in effect on the date of service to out-of-network providers to whom they have made at least three documented attempts to include the provider in their network as per the terms of the contract and department issued CCN-P guide.

2. If three attempts to contract with the provider prior to the delivery of the medically necessary service have not been documented, the CCN-P shall reimburse the provider the published Medicaid fee-for-service rate in effect on the date of service.

N. Reimbursement for Emergency Services for In-Network or Out-of-Network Providers

1. The CCN-P is financially responsible for ambulance services, emergency and urgently needed services and maintenance, and post-stabilization care services in accordance with provisions set forth in 42 CFR §422.113.

2. The reimbursement rate for medically necessary emergency services shall be no less than the published Medicaid fee-for-service rate in effect on the date of service, regardless of whether the provider that furnished the services has a contract with the CCN-P.

a. The CCN-P may not concurrently or retrospectively reduce a provider's reimbursement rate for these emergency services, including ancillary and diagnostic services, provided during an episode of care.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37: **§3511 Prompt Pay of Claims**

A. Network Providers. All subcontracts executed by the CCN-P shall comply with the terms in the contract. Requirements shall include at a minimum:

1. the name and address of the official payee to whom payment shall be made;

2. the full disclosure of the method and amount of compensation or other consideration to be received from the CCN-P; and

3. the standards for the receipt and processing of claims are as specified by the department in the CCN's contract with the department and department issued CCN-P guides.

B. Network and Out-of-Network Providers

1. The CCN-P shall make payments to its network providers, and out-of-network providers, subject to conditions outlined in the contract and department issued CCN-P guides.

a. The CCN-P shall pay 90 percent of all clean claims, as defined by the department, received from each provider type within 15 business days of the date of receipt.

b. The CCN-P shall pay 99 percent of all clean claims within 30 calendar days of the date of receipt.

2. The provider must submit all claims for payment no later than 12 months from the date of service.

3. The CCN-P and all providers shall retain any and all supporting financial information and documents that are adequate to ensure that payment is made in accordance with applicable federal and state laws.

a. Any such documents shall be retained for a period of at least six years or until the final resolution of all litigation, claims, financial management reviews, or audits pertaining to the contract.

4. There shall not be any restrictions on the right of the state and federal government to conduct inspections and/or audits as deemed necessary to assure quality, appropriateness or timeliness of services and reasonableness of costs.

C. Claims Management

1. The CCN shall process a provider's claims for covered services provided to members in compliance with all applicable state and federal laws, rules and regulations as well as all applicable CCN policies and procedures including, but not limited to:

- a. claims format requirements;
 - b. claims processing methodology requirements;
 - c. explanation of benefits and related function requirements;
 - d. processing of payment errors;
 - e. notification to providers requirements; and
 - f. timely filing.
- D. Provider Claims Dispute
- 1. The CCN shall:
 - a. have an internal claims dispute procedure that is in compliance with the contract and department issued CCN-P guide and approved by the department;
 - b. contract with independent reviewers to review disputed claims;
 - c. systematically capture the status and resolution of all claim disputes as well as all associate documentation; and
 - d. Report the status of all disputes and their resolution to the department on a monthly basis as specified in the contract and department issued CCN-P guides.
- E. Claims Payment Accuracy Report
- 1. The CCN shall submit an audited claims payment accuracy percentage report to the department on a monthly basis as specified in the contract and department issued CCN-P guides.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

Chapter 37. Enrollee Grievance and Appeal Process
Subchapter A. Coordinated Care Network Shared Savings Model

§3701. Introduction

A. A coordinated care network shared savings model (CCN-S) shall establish and maintain a procedure for the receipt and prompt internal resolution of all Medicaid enrollee grievances pursuant to applicable state and federal laws as well as the terms and conditions of the contract and all department issued guides.

1. All appeals received by the CCN-S must be logged in and directly forwarded to the state agency responsible for conducting the fair hearing process. The CCN-S must assist the department in handling appeals submitted by its members through the state fair hearing process.

2. The CCN-S shall not have any processes that impede the start of the state fair hearing process. The CCN-S shall work with the department toward simultaneous resolution of any appeals brought to their attention.

3. The CCN-S shall not create barriers to timely due process. If it is determined by the department that the CCN-S has created barriers to timely due process, the CCN-S shall be subject to sanctions for each incident and/or grievance. If the number of appeals reversed by the state fair hearing process exceeds 10 percent of the grievances and appeals received within a 12 month period, the CCN shall be subject to sanctions.

B. The CCN-S's grievance procedures and any changes thereto must be approved in writing by the department prior to their implementation and must include, at a minimum, the requirements set forth herein.

1. The CCN-S shall refer all members who are dissatisfied, in any respect, with the CCN-S or its subcontractor to the CCN-S's designee who is authorized to

review and respond to grievances and to require corrective action.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§3703. Definitions

Action—a termination, suspension, or reduction (which includes denial of a service as specified in federal regulations) of Medicaid eligibility or covered services.

Appeal—a request for review of an action as defined in this Section.

Grievance—an expression of dissatisfaction about any matter other than an action as that term is defined in this Section. The term is also used to refer to the overall system that includes CCN-S level grievances and access to a fair hearing. Possible subjects for grievances include, but are not limited to, the quality of care or services provided, aspects of interpersonal relationships such as rudeness of a provider or employee, or failure to respect the member's rights.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§3705. General Provisions

A. The CCN-S must have a system in place for members that include a grievance process and access to the fair hearing process as described in federal regulations and state laws.

B. Authority to File. A member or a representative of his/her choice may file a grievance and/or request a state fair hearing in response to an action. A CCN-S provider, acting on behalf of the member with the member's written consent, may file a grievance or request a state fair hearing on behalf of a member in response to an action.

1. Filing Timeframe. The member must be allowed 30 calendar days from the date on the CCN-S's notice of action to request a state fair hearing. Within this timeframe, the member, or a representative or provider acting on their behalf, may request a state fair hearing.

2. Filing Procedures

a. The member may file a grievance either orally or in writing with the CCN-S.

b. The member, or a representative or provider acting on the member's behalf and with the member's written consent, may file for a state fair hearing with the designated state entity either orally or in writing, unless an expedited resolution is requested. An oral request for a state fair hearing must be followed up with a written, signed appeal request in order to initiate an expedited resolution.

C. Grievance Notice and Fair Hearing Procedures

1. The CCN-S shall ensure that all members are informed of the state fair hearing process and of the CCN-S's grievance procedures.

a. The CCN-S shall provide a member handbook to each member that shall include descriptions of the CCN-S's grievance procedures.

b. Forms to file grievances, concerns or recommendations to the CCN-S shall be available through the CCN-S, and must be provided to the member upon request. The CCN-S shall make all forms easily available on its website.

D. Grievance Records

1. A copy of an oral grievance log shall be retained for six years. If any litigation, claim negotiation, audit, or other action involving the documents or records has been started before the expiration of the six year period, the records shall be retained until completion of the action and resolution of issues which arise from it or until the end of the regular six-year period, whichever is later.

E. Grievance Reports

1. The CCN-S shall provide an electronic report of the grievances it has received to the department on a monthly basis in accordance with the requirements outlined in the contract, which will include, but is not limited to:

- a. the member's name and Medicaid identification number;
- b. summary of grievances;
- c. date of filing;
- d. current status;
- e. resolutions; and
- f. resulting corrective action.

F. All state fair hearing requests shall be sent directly to the state designated entity. However, if the CCN-S receives a request for a state fair hearing, the CCN-S will be responsible for promptly forwarding the request to the designated state fair hearing entity.

G. The department has the right to make final decisions regarding the resolution of any grievance.

H. Information to Providers and Subcontractors

1. The CCN-S must provide the information about the grievance procedures for Medicaid enrollees to all providers and subcontractors at the time that they enter into a contract with the CCN-S as specified in the contract and the *CCN-S Policy and Procedure Guide*.

I. Recordkeeping and Reporting Requirements

1. Reports of grievances and resolutions shall be submitted to the department as specified by the department. The CCN-S shall not modify its grievance procedures without the prior written approval of the department.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§3707. Enrollee Handling of Grievances and Fair Hearings

A. In handling grievances, the CCN must meet the following requirements:

1. give members any reasonable assistance in completing forms and taking other procedural steps. This includes, but is not limited to, providing interpreter services and toll-free telephone numbers that have adequate TTY/TTD and interpreter capability; and

2. acknowledge receipt of each grievance and appeal.

B. Resolution and Notification. The CCN must dispose of a grievance and provide notice, as expeditiously as the member's health conditions require, within the timeframes established in the contract and department issued guides.

1. For standard disposition of a grievance and notice to the affected parties, the established timeframe is 90 days from the day the CCN receives the grievance.

C. Extension of Timeframes. The CCN-S may extend the timeframes for disposition of a grievance up to 14 calendars days under the following circumstances:

1. the member request the extension; or
2. the CCN-S shows (to the satisfaction of the department or its designee, upon request) that there is need for additional information and how the delay is in the member's interest.

D. If the CCN-S extends the timeframes for any extension not requested by the member, it must give the member written notice of the reason for the delay.

1. The CCN shall use the method and format specified in the contract for notifying a member of the disposition of a grievance.

E. Requirements for State Fair Hearings

1. The member may request a state fair hearing within 30 days from the date of the notice of action following the resolution of the grievance.

2. The parties to the state fair hearing include the CCN-S as well as the member and his/her representative or the representative of a deceased member's estate.

F. Concurrent Appeal Review

1. The CCN-S shall conduct an internal concurrent review for each appeal for which a state fair hearing is requested. The purpose of the concurrent appeal review is to expedite the resolution of the appeal to the satisfaction of the member, if possible, prior to the state fair hearing.

2. The CCN-S shall notify the state fair hearing designated entity of concurrent appeal reviews resulting in a resolution in favor of the member.

3. The concurrent appeal review shall not delay the CCN's submission of an appeal to the state fair hearing entity, nor shall it not delay the review of the appeal in the state fair hearing.

G. Special Requirements for Appeals

1. All appeals by members or on their behalf shall be filed with the state designated entity. However, if the CCN-S receives a state fair hearing request, the request shall be forwarded directly to the designated entity that will conduct the state fair hearing.

2. The CCN-S's staff shall be educated concerning the importance of the appeal procedures and the rights of the member and providers.

3. The appropriate individual or body within the CCN-S that made the decision that is being appealed shall be identified. This individual shall prepare the summary of evidence and be available for the appeal, either in person or by telephone.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§3709. Notice of Action

A. Language and Format Requirements

1. The notice of action will only be sent by the CCN-S in certain circumstances as specified by the department.

2. The notice must be in writing and must meet the language and format requirements of federal regulations in order to ensure ease of understanding.

B. Content of Notice. The notice must explain the following:

1. the action the CCN-S or its subcontractor has taken or intends to take;
2. the reasons for the action;

3. the member's right to request a state fair hearing and a telephone number to call for free legal advice;

4. the procedures for exercising the rights specified in this Section;

5. the circumstances under which expedited resolution is available and how to request it;

6. the member's right to have services continue pending resolution of the appeal, the procedures to make such a request, and the circumstances under which the member may be required to pay for the costs of these services; and

7. a statement in Spanish and Vietnamese that translation assistance is available at no cost and the toll free telephone number to call to receive translation of the notice.

C. Notice Timeframes. The CCN-S must mail the notice within the following timeframes:

1. for termination, suspension, or reduction of previously authorized Medicaid-covered services, at least 10 days before the date of action (except as permitted under federal regulations);

2. for standard service authorization decisions that deny or limit services, as expeditiously as the member's health condition requires and within 14 calendar days following receipt of the request for service. A possible extension of up to 14 additional calendar days may be granted under the following circumstances:

a. the member, his/her representative or a provider acting on his/her behalf, requests an extension; or

b. the CCN-S justifies (to the department upon request) that there is a need for additional information and that the extension is in the member's interest;

3. on the date that the timeframe for service authorization expires.

D. If the CCN-S extends the timeframe in accordance with this Section, it must:

1. give the member written notice of the reason for the decision to extend the timeframe;

2. inform the member of the right to file a grievance if he/she disagrees with that decision; and

3. issue and carry out its determination as expeditiously as the member's health condition requires, but no later than the date that the extension expires.

E. For expedited service authorization decisions where a provider indicates, or the CCN-S determines, that following the standard timeframe could seriously jeopardize the member's life or health or ability to attain, maintain, or regain maximum function, the CCN-S must make an expedited authorization decision.

1. A notice must be furnished as expeditiously as the member's health condition requires, but no later than 72 hours days after receipt of the request for service.

2. The CCN-S may extend the 72 hours time period by up to 14 calendar days if the member, or provider acting on behalf of the member, requests an extension or if the CCN-S justifies (to the department upon request) a need for additional information and how the extension is in the member's interest.

F. The department shall conduct random reviews to ensure that members are receiving such notices in a timely manner.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§3711. Continuation of Services during the State Fair Hearing Process

A. If the member requests a hearing before the date of action or within 10 days from the postmark of the notice, the department may not terminate or reduce services until a decision is rendered after the hearing unless:

1. it is determined that the sole issue is one of federal or state law or policy; and

2. the department or its designee promptly informs the member in writing that services are to be terminated or reduced pending the hearing decision.

B. Member Liability for Services

1. If the final resolution of the appeal is adverse to the member, the department may recover the cost of the services furnished to the member during the pending appeal process in accordance with federal regulations.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§3713. Effectuation of Reversed Appeal Resolutions

A. Discontinuation of Services during the State Fair Hearing Process

1. If the CCN-S or the state fair hearing entity reverses a decision to deny, limit, or delay services that were not furnished while the appeal was pending, the CCN must authorize the disputed services promptly and as expeditiously as the member's health condition requires.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

Subchapter B. Coordinated Care Network Managed Care Organization Model

§3721. Introduction

A. A Coordinated Care Network Managed Care Organization (MCO) Model (CCN-P) must have a grievance system for Medicaid enrollees that complies with federal regulations. The CCN-P shall establish and maintain a procedure for the receipt and prompt internal resolution of all grievances and appeals in accordance with all applicable state and federal laws and as specified in the contract and all department issued guides.

B. The CCN-P's grievance and appeals procedures, and any changes thereto, must be approved in writing by the department prior to their implementation and must include, at a minimum, the requirements set forth herein.

1. The CCN-P shall refer all members who are dissatisfied, in any respect, with the CCN-P or its subcontractor to the CCN-P's designee authorized to review and respond to grievances and require corrective action.

2. The member must exhaust the CCN-P's internal grievance/appeal procedures prior to accessing the state fair hearing process or filing a grievance with the department or its designee.

C. The CCN shall not create barriers to timely due process. If the number of appeals reversed by the state fair hearing process exceeds 10 percent of grievance and appeals received within a 12 month period, the CCN shall be subject to sanctions.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§3723. Definitions

Action—the denial or limited authorization of a requested service, including:

1. the type or level of service;
2. reduction, suspension, or termination of a previously authorized service;
3. denial, in whole or in part, of payment for a service;
4. failure to provide services in a timely manner as specified in the contract; or
5. failure of the CCN-P to act within the timeframes provided in this Subchapter.

Appeal—a request for review of an action as the term is defined in this Section.

Grievance—an expression of dissatisfaction about any matter other than an action as that term is defined in this Section. The term is also used to refer to the overall system that includes grievances and appeals handled at the CCN-P level. Possible subjects for grievances include, but are not limited to, the quality of care or services provided, aspects of interpersonal relationships such as rudeness of a provider or employee, or failure to respect the member's rights.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§3725. General Provisions

A. The CCN-P must have a system in place for members that include a grievance process, an appeal process, and access to the state fair hearing process once the CCN-P's appeal process has been exhausted.

B. Filing Requirements

1. Authority to file. A member or a representative of his/her choice may file a grievance and a CCN-P level appeal. Once the CCN-P's appeals process has been exhausted, a member or his/her representative may request a state fair hearing.

a. A CCN-P provider, acting on behalf of the member and with his/her written consent, may file an appeal. A CCN-P provider may file a grievance or request a state fair hearing on behalf of a member.

2. Filing Timeframes. The member, or a representative or provider acting on the member's behalf and with his/her written consent, may file an appeal within 30 calendar days from the date on the CCN-P's notice of action.

3. Filing Procedures

a. The member may file a grievance either orally or in writing with the CCN-P.

b. The member, or a representative or provider acting on the member's behalf, may file an appeal either orally or in writing, unless an expedited resolution is requested, which must follow an oral filing with a written, signed appeal.

C. Grievance Notice and Appeal Procedures

1. The CCN-P shall ensure that all members are informed of the state fair hearing process and of the CCN-P's grievance procedures.

a. The CCN-P shall provide a member handbook to each member that shall include descriptions of the CCN-P's grievance procedures.

b. Forms to file grievances, appeals, concerns or recommendations to the CCN-P shall be available through the CCN-P, and must be provided to the member upon request. The CCN shall make all forms easily available on the CCN's website.

D. Grievance and Appeals Records

1. The CCN-P must maintain records of grievances and appeals. A copy of the grievance logs and records of the disposition of appeals shall be retained for six years. If any litigation, claim negotiation, audit, or other action involving the documents or records has been started before the expiration of the six-year period, the records shall be retained until completion of the action and resolution of issues which arise from it or until the end of the regular six-year period, whichever is later.

E. Grievance and Appeal Reports

1. The CCN-P shall provide an electronic report of the grievances and appeals to the department on a monthly basis in accordance with the requirements specified by the department, which will include, but is not limited to:

- a. the member's name and Medicaid identification number;
- b. summary of grievances and appeals;
- c. date of filing;
- d. current status;
- e. resolutions; and
- f. resulting corrective action.

F. The CCN-P will be responsible for promptly forwarding any adverse decisions to the department for further review and/or action upon request by the department or the CCN-P member.

G. The department may submit recommendations to the CCN-P regarding the merits or suggested resolution of any grievance or appeal.

H. Information to Providers and Subcontractors

1. The CCN-P must provide the information about the grievance system as specified in federal regulations to all providers and subcontractors at the time they enter into a contract.

I. Recordkeeping and Reporting Requirements

1. Reports of grievances and resolutions shall be submitted to the department as specified in the contract. The CCN-P shall not modify the grievance system without the prior written approval of the department.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§3727. Handling of Enrollee Grievances and Appeals

A. In handling grievances and appeals, the CCN-P must meet the following requirements:

1. give members any reasonable assistance in completing forms and taking other procedural steps. This includes, but is not limited to, providing interpreter services and toll-free telephone numbers that have adequate TTY/TTD and interpreter capability;

2. acknowledge receipt of each grievance and appeal;

3. ensure that the individuals who make decisions on grievances and appeals are individuals who:

a. were not involved in any previous level of review or decision-making; and

b. if deciding on any of the following issues, are health care professionals who have the appropriate clinical

expertise, as determined by the department, in treating the member's condition or disease:

- i. an appeal of a denial that is based on lack of medical necessity;
- ii. a grievance regarding denial of expedited resolution of an appeal; or
- iii. a grievance or appeal that involves clinical issues.

B. Special Requirements for Appeals

1. The process for appeals must:
 - a. provide that oral inquiries seeking to appeal an action are treated as appeals (to establish the earliest possible filing date for the appeal) and must be confirmed in writing, unless the member or the provider requests expedited resolution;
 - b. provide the member a reasonable opportunity to present evidence and allegations of fact or law in person as well as in writing. The CCN-P must inform the member of the limited time available for this in the case of expedited resolution;
 - c. provide the member and his/her representative an opportunity, before and during the appeals process, to examine the member's case file, including medical records and any other documents and records considered during the appeals process; and
 - d. include, as parties to the appeal:
 - i. the member and his/her representative; or
 - ii. the legal representative of a deceased member's estate.

2. The CCN-P's staff shall be educated concerning the importance of the grievance and appeal procedures and the rights of the member and providers.

3. The appropriate individual or body within the CCN-P having decision making authority as part of the grievance and appeal procedures shall be identified.

4. Failure to Make a Timely Decision

a. Appeals shall be resolved no later than the stated time frames and all parties shall be informed of the CCN-P's decision.

b. If a determination is not made by the above time frames, the member's request will be deemed to have been approved as of the date upon which a final determination should have been made.

5. The CCN shall inform the member that he/she may seek a state fair hearing if the member is not satisfied with the CCN-P's decision in response to an appeal.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§3729. Notice of Action

A. Language and Format Requirements. The notice must be in writing and must meet the language and format requirements of federal regulations in order to ensure ease of understanding.

B. Content of Notice. The notice must explain the following:

1. the action the CCN-P or its subcontractor has taken or intends to take;
2. the reasons for the action;
3. the member's or the provider's right to file an appeal with the CCN;

4. the member's right to request a state fair hearing after the CCN-P's appeal process has been exhausted;

5. the procedures for exercising the rights specified in this Section;

6. the circumstances under which expedited resolution is available and the procedure to request it; and

7. the member's right to have services continue pending resolution of the appeal, the procedure to make such a request, and the circumstances under which the member may be required to pay the costs of these services.

C. Notice Timeframes. The CCN-P must mail the notice within the following timeframes:

1. for termination, suspension, or reduction of previously authorized Medicaid-covered services, at least 10 days before the date of action except as permitted under federal regulations;

2. for denial of payment, at the time of any action taken that affects the claim; or

3. for standard service authorization decisions that deny or limit services, as expeditiously as the member's health condition requires and within 14 calendar days following receipt of the request for service. A possible extension of up to 14 additional calendar days may be granted under the following circumstances:

a. the member, or his/her representative or a provider acting on the member's behalf, requests an extension; or

b. the CCN-P justifies (to the department upon request) that there is a need for additional information and that the extension is in the member's interest.

D. If the CCN-P extends the timeframe in accordance with this Section, it must:

1. give the member written notice of the reason for the decision to extend the timeframe and inform the member of the right to file a grievance if he/she disagrees with that decision; and

2. issue and carry out its determination as expeditiously as the member's health condition requires, but no later than the date the extension expires.

E. For service authorization decisions not reached within the timeframes specified in this Section, this constitutes a denial and is thus an adverse action on the date that the timeframes expire.

F. For expedited service authorization decisions where a provider indicates, or the CCN-P determines, that following the standard timeframe could seriously jeopardize the member's life or health or ability to attain, maintain, or regain maximum function, the CCN-P must make an expedited authorization decision.

1. A notice must be furnished as expeditiously as the member's health condition requires, but no later than 72 hours or as expeditiously as the member's health requires after receipt of the request for service.

2. The CCN-P may extend the 72 hour time period by up to 14 calendar days if the member or provider acting on behalf of the member requests an extension or if the CCN-P justifies (to the department upon request) that there is a need for additional information and that the extension is in the member's interest.

G. The department shall conduct random reviews to ensure that members are receiving such notices in a timely manner.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§3731. Resolution and Notification

A. The CCN-P must dispose of a grievance, resolve each appeal, and provide notice as expeditiously as the member's health condition requires, within the timeframes established in this Section.

B. Specific Timeframes

1. For standard disposition of a grievance and notice to the affected parties, the timeframe is established as 90 days from the day the CCN-P receives the grievance.

2. For standard resolution of an appeal and notice to the affected parties, the timeframe is established as 30 calendar days from the day the CCN-P receives the appeal.

3. For expedited resolution of an appeal and notice to affected parties, the timeframe is established as 72 hours or as expeditiously as the member's health requires after the CCN-P receives the appeal.

C. Extension of Timeframes

1. The CCN-P may extend the timeframes by up to 14 calendar days under the following circumstances:

- a. the member requests the extension; or
- b. the CCN-P shows to the satisfaction of the department, upon its request, that there is need for additional information and that the delay is in the member's interest.

D. If the CCN-P extends the timeframes for any extension not requested by the member, it must give the member written notice of the reason for the delay.

E. Format of Notice

1. The CCN-P shall follow the method specified in the department issued guide to notify a member of the disposition of a grievance.

2. For all appeals, the CCN-P must provide written notice of disposition.

3. For notice of an expedited resolution, the CCN-P must also make reasonable efforts to provide oral notice.

F. Content of Notice of Appeal Resolution. The written notice of the resolution must include, at a minimum, the following information:

1. the results of the resolution process and the date it was completed;

2. for appeals not resolved wholly in favor of the members:

- a. the right to request a state fair hearing and the procedure to make the request;
- b. the right to request to receive services during the hearing process and the procedure to make such a request; and

c. that the member may be held liable for the cost of those services if the hearing decision upholds the CCN-P's action.

G. Requirements for State Fair Hearings

1. The department shall comply with the federal regulations governing fair hearings. The CCN-P shall comply with all requirements as outlined in the contract and the *CCN-P Policy and Procedure Guide*.

2. If the member has exhausted the CCN-P level appeal procedures, the member may request a state fair hearing within 30 days from the date of the CCN-P's notice of resolution.

3. The parties to the state fair hearing include the CCN-P as well as the member and his/her representative or the representative of a deceased member's estate.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§3733. Expedited Resolution of Appeals

A. The CCN-P must establish and maintain an expedited review process for appeals when the CCN-P determines (either from a member's request or indication from the provider making the request on the member's behalf or in support of the member's request) that taking the time for a standard resolution could seriously jeopardize the member's life or health or ability to attain, maintain, or regain maximum function.

B. Punitive Action. The CCN-P must ensure that punitive action is not taken against a provider who requests an expedited resolution or supports a member's appeal.

C. If the CCN-P denies a request for expedited resolution of an appeal, it must:

1. transfer the appeal to the timeframe for standard resolution in accordance with the provisions of this Subchapter; and

2. make reasonable efforts to give the member prompt oral notice of the denial and follow up within two calendar days with a written notice.

D. This decision (i.e., the denial of a request for expedited resolution of an appeal) does not constitute an action or require a notice of action. The member may file a grievance in response to this decision.

E. Failure to Make a Timely Decision

1. Appeals shall be resolved no later than the established timeframes and all parties shall be informed of the CCN-P's decision. If a determination is not made by the established timeframes, the member's request will be deemed to have been approved as of the date upon which a final determination should have been made.

F. The CCN-P is required to follow all standard appeal requirements for expedited requests except where differences are specifically noted in the requirements for expedited resolution.

1. The member or provider may file an expedited appeal either orally or in writing. No additional follow-up may be required.

2. The CCN-P shall inform the member of the limited time available for the member to present evidence and allegations of fact or law, in person and in writing, in the case of expedited resolution.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§3735. Continuation of Services during the Pending CCN-P Appeal or State Fair Hearing

A. As used in this Section, the term "timely filing" means filing on or before the later of the following:

1. within 10 calendar days of the CCN-P's mailing of the notice of action; or

2. the intended effective date of the CCN-P's proposed action.

B. Continuation of Benefits. The CCN-P must continue the member's benefits if:

1. the member or the provider files the appeal timely;
2. the appeal involves the termination, suspension, or reduction of a previously authorized course of treatment;
3. the services were ordered by an authorized provider;
4. the original period covered by the original authorization has not expired; and
5. the member requests extension of benefits.

C. Duration of Continued or Reinstated Benefits

1. If, at the member's request, the CCN-P continues or reinstates the member's benefits while the appeal is pending, the benefits must be continued until one of following occurs:
 - a. the member withdraws the appeal;
 - b. 10 calendar days pass after the CCN-P mails the notice providing the resolution of the appeal against the member, unless the member has requested a state fair hearing with continuation of benefits, within the 10-day timeframe, until a state fair hearing decision is reached;
 - c. a state fair hearing entity issues a hearing decision adverse to the member; or
 - d. the time period or service limits of a previously authorized service has been met.

D. Member Liability for Services

1. If the final resolution of the appeal is adverse to the member, the CCN-P may recover from the member the cost of the services furnished to the member while the appeal is pending, to the extent that they were furnished solely because of the requirements of this Section, and in accordance with federal regulations.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§3737. Effectuation of Reversed Appeal Resolutions

A. Provision of Services during the Appeal Process

1. If the CCN-P or the state fair hearing entity reverses a decision to deny, limit, or delay services that were not furnished while the appeal was pending, the CCN-P must authorize or provide the disputed services promptly and as expeditiously as the member's health condition requires.

B. If the CCN-P or the state fair hearing entity reverses a decision to deny authorization of services, and the member received the disputed services while the appeal was pending, the CCN-P must pay for those services in accordance with the contract.

C. At the discretion of the secretary, the department may overrule a decision made by the Division of Administration, Division of Administrative Law (the state fair hearing entity).

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

Subchapter C. Grievance and Appeals Procedures for Providers

§3743. General Provisions

A. If the provider is filing a grievance or appeal on behalf of the member, the provider shall adhere to the requirements outlined in Subchapter B of this Chapter.

B. A Coordinated Care Network must have a grievance and appeals process for claims and medical necessity and

contract disputes for providers in accordance with the contract and department issued guides.

1. The CCN shall establish and maintain a procedure for the receipt and prompt internal resolution of all provider initiated grievances and appeals as specified in the contract and all department issued guides.

2. The CCN's grievance and appeals procedures and any changes thereto, must be approved in writing by the department prior to their implementation.

3. Notwithstanding any CCN or department grievance and appeal process, nothing contained in any document, including, but not limited to Rule or contract, shall preclude a CCN provider's right to pursue relief through a court of appropriate jurisdiction.

4. The CCN shall report on a monthly basis all grievance and appeals filed and resolutions in accordance to the terms of the contract and department issued guide.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37

Chapter 39. Sanctions for Coordinated Care Networks §3901. Sanctions

A. The CCN agrees to be subject to the sanctions specified in the terms and conditions of the contract and all department issued guides. The specific grounds for sanctions and respective sanctions shall be set forth within the contract.

1. Sanctions may include, but are not limited to:

- a. corrective action plans;
- b. monetary penalties;
- c. temporary management; and
- d. suspension and/or termination of the CCN's

contract.

B. It shall be at the department's sole discretion as to the proper administrative sanction that will be imposed.

C. The department will notify the CCN through a notice of corrective action when the department or its designee determines that the CCN is deficient or non-compliant with requirements (excluding causes for intermediate sanctions and termination) of the contract.

D. The determination of deficiency and/or non-compliance with such requirements is at the sole discretion of the department.

E. The CCN shall submit a corrective action plan (CAP) to the department, within the timeframe specified in the notice, for approval. The CAP shall delineate the steps and timeline for correcting deficiencies and/or non-compliance issues identified in the notice.

F. The department shall impose monetary penalties and/or sanctions on the CCN for a deficient CAP. A CAP is deficient when it is not submitted within the notice of corrective action timeline requirements and/or when the CCN and/or its subcontractor(s) fail to implement and/or follow the CAP at the discretion of the department.

G. The department, as specified in the contract, has the right to enforce monetary penalties against the CCN for certain conduct.

1. Any and all fines collected as a result of sanctions against a CCN or any of its subcontractors, or any recoupment(s)/repayment(s) received from the CCN or any of its subcontractors, shall be placed into the Louisiana Medical Assistance Trust Fund established by R.S. 46:2623.

H. Monetary Penalties

1. The CCN may be required to pay monetary penalties to the department in the amounts specified in the contract and/or the *CCN Policy and Procedure Guide* for failure to timely and accurately comply with reporting requirements and for deficient deliverables as set forth in the contract and all department issued guides.

I. Intermediate Sanctions

1. The department may impose any of the following sanctions if it determines that the CCN has violated any provision of the contract, or the applicable statutes or Rules governing CCNs.

2. The department shall notify the CCN and CMS in writing of its intent to impose sanctions and explain the process for the CCN to employ the dispute resolution process as described in the contract. Sanctions shall be in accordance with §1932 of the Social Security Act (42 U.S.C. §1396u-2) and federal regulations and may include any of the following:

a. suspension of payment for members enrolled in the CCN after the effective date of the sanction and until CMS and/or the department is satisfied that the reason for imposition of the sanction no longer exists and is not likely to recur. This violation may result in recoupment of payments;

b. imposition of a fine of up to \$25,000 for each marketing/enrollment violation, in connection with any one audit or investigation;

c. termination pursuant to the terms of the contract;

d. non-renewal of the contract;

e. suspension of auto-enrollment;

f. appointment of temporary management;

g. civil money penalties in accordance with §1932 of the Social Security Act (42 USC § 1396u-2);

h. withholding up to 30 percent of a CCN's monthly PMPM payment;

i. permitting individuals enrolled in the CCN to disenroll without cause;

j. suspension or default of all enrollment after the date that CMS or the department notifies the CCN of an occurrence under §§1903(m) or 1932(e) of the Social Security Act;

k. termination of the contract if the CCN has failed to meet requirements of §§1903(m), 1905(t)(3) or 1932(e) of the Social Security Act and offer the CCN-P's Medicaid members an opportunity to enroll with other CCNs;

l. imposition of sanctions pursuant to §1932(e)(B) of the Social Security Act if the CCN does not provide abortion services as provided under the contract;

m. imposition of a fine of up to \$25,000 for each occurrence of the CCN's failure to substantially provide medically necessary items and services that are required to be provided to a member covered under the contract;

n. imposition of a fine of up to \$15,000 per individual not enrolled and up to a total of \$100,000 per each occurrence, when the CCN acts to discriminate among members on the basis of their health status or their requirements for health care services;

o. imposition of a fine of up to \$25,000 or double the amount of the excess charges, whichever is greater, for charging premiums/co-payments in excess of the amounts permitted under the Medicaid Program;

p. imposition of sanctions as outlined in the contract if the CCN fails to comply with the physician incentive plan requirements or other sanctions set forth in the contract or department issued guides;

q. imposition of sanctions as outlined above if the CCN misrepresents or falsifies information that it furnishes to CMS, to the state or to a member, potential member or health care provider;

r. imposition of sanctions as outlined in the contract if the CCN fails to comply with prompt payment requirements;

s. imposition of fines up to \$10,000 per incident as outlined in the contract if the CCN:

i. does not maintain network adequacy for mandatory provider types included in the contract and department issued guide;

ii. does not document the required three attempts to contract with the mandatory provider type prior to the delivery of the service; and

iii. is required to provide medically necessary services through an out-of-network providers;

t. imposition of sanctions if the percent or higher specified in the contract of grievance decisions appealed for medical necessity to a State Fair Hearing level of recipient appeals have been reversed or otherwise resolved in favor of the member; or

u. imposition of sanctions if the percent or higher specified in the contract of grievance decisions appealed for medical necessity to the CCN's independent reviewer of provider appeals have been reversed or otherwise resolved in favor of the provider.

J. Duration of Sanction

1. Unless the duration of a sanction is specified, a sanction will remain in effect until the department is satisfied that the basis for imposing the sanction has been corrected. The department will notify CMS when a sanction has been lifted.

K. Termination for Cause

1. Issuance of Notice of Termination

a. The department may terminate the contract when it determines the CCN has failed to perform, or violates, substantive terms of the contract or the department issued guides or fails to meet applicable requirements in §§1903(m), 1905(t) or 1932 of the Social Security Act in accordance with the provisions of the contract.

b. The department will provide the CCN with a timely written Notice of Intent to Terminate notice. In accordance with federal regulations, the notice will state:

i. the nature and basis of the sanction;

ii. pre-termination hearing and dispute resolution conference rights, if applicable; and

iii. the time and place of the hearing.

c. The termination will be effective no less than 30 calendar days from the date of the notice.

d. The CCN may, at the discretion of the department, be allowed to correct the deficiencies within 30 calendar days of the date that the notice was issued, unless other provisions in this Section demand otherwise, prior to the issue of a Notice of Termination.

L. Termination Due to Serious Threat to Health of Members

1. The department may terminate the contract immediately if it is determined that actions by the CCN or its subcontractor(s) pose a serious threat to the health of members enrolled in the CCN.

2. The CCN members will be given an opportunity to enroll in another CCN (if there is capacity) or move to fee-for-service.

M. Termination for Insolvency, Bankruptcy, Instability of Funds

1. The CCN's insolvency or the filing of a bankruptcy petition by or against the CCN shall constitute grounds for termination for cause.

N. Termination for Ownership Violations

1. The CCN is subject to termination unless the CCN can demonstrate changes of ownership or control when a person with a direct or indirect ownership interest in the CCN (as defined in the contract and PE-50) has:

a. been convicted of a criminal offense as cited in §1128(a), (b)(1) or (b)(3) of the Social Security Act, in accordance with federal regulations;

b. had civil monetary penalties or assessment imposed under §1128(A) of the Social Security Act; or

c. been excluded from participation in Medicare or any state health care program.

O. CCN Requirements Prior to Termination for Cause. The CCN shall comply with all of the terms and conditions stipulated in the contract and department issued guides during the period prior to the effective date of termination. The CCN is required to meet the requirements as specified in the contract if terminated for cause.

P. Other Sanctions. The department may impose additional sanctions allowed under state statute or regulation that address areas of noncompliance.

Q. Denial of Payment While Under Sanction by CMS. Payments provided for under the contract will be denied for new members when, and for so long as, payment for those members is denied by CMS in accordance with the requirements in federal regulations.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

Chapter 40. Audit Requirements for Coordinated Care Networks

§4001. Audit of Services

A. The CCN and its subcontracts shall comply with all audit requirements specified in the contract and department issued guides.

B. The CCN and its subcontractor shall maintain supporting financial information and documents that are adequate to ensure that payment is made in accordance with applicable federal and state requirements, and are sufficient to ensure the accuracy and validity of claims.

1. Such documents, including all original claim forms, shall be maintained and retained by the CCN and or its subcontractors for a period of six years after the contract expiration date or until the resolution of all litigation, claim, financial management review or audit pertaining to the contract, whichever is longer.

2. The CCN or its subcontractors shall provide any assistance that such auditors and inspectors reasonably may require to complete with such audits or inspections.

C. There shall be no restrictions on the right of the state and federal government to conduct inspections and audits as deemed necessary to assure quality, appropriateness or timeliness of services and reasonableness of their costs.

D. Upon reasonable notice, the CCN and its subcontractors shall provide the officials and entities identified in the contract and department issued guides with prompt, reasonable, and adequate access to any records, books, documents, and papers that are related to the performance of the contract.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

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

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 by improving access to health care services, care coordination, and enhancing the quality of care Medicaid recipients will receive.

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, March 30, 2011 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Bruce D. Greenstein
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Coordinated Care Network

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in estimated state general fund programmatic costs to the state of approximately \$30,494,976 for FY 11-12 and estimated programmatic savings of approximately \$41,079,675 for FY 12-13. The estimated savings from a corresponding reduction in provider payments is expected to offset some of the Coordinated Care Network (CCN) costs in FY 12. It is anticipated that \$8,528 (\$4,264 SGF and \$4,264 FED) will be expended in FY 10-11 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 69.34 percent in FY 11-12. The enhanced rate of 69.78 percent

for the last nine months of FY 12 is the federal rate for disaster-recovery FMAP adjustment states.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This proposed rule adopts provisions that will enable the Medicaid Program to establish a coordinated system of care designed to improve performance and health care outcomes through a health care delivery system of integrated networks called coordinated care networks (CCNs) [approximately 866,000 annualized members]. Two separate managed care plans will be offered to eligible Medicaid recipients under this proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule adopts provisions that will enable the Medicaid Program to establish a coordinated system of care designed to improve performance and health care outcomes through a health care delivery system of integrated networks called coordinated care networks (CCNs) [approximately 866,000 annualized members]. Two separate managed care plans will be offered to eligible Medicaid recipients under this proposed rule.

CCN-Prepaid Model

Based on a cost comparison of the current fee-for-service expenditures trended forward (by a 4.5 percent annualized adjustment in FY 12 and FY 13) and a preliminary estimate of per member per month (PMPM) capitated payments paid to CCN-P plans, the department anticipates that implementation of the proposed CCN-P Model will increase expenditures in the Medicaid Program by approximately \$102,415,398 for FY 11-12 and will reduce expenditures by approximately \$109,096,867 for FY 12-13. This estimate is based on the following assumptions and calculations:

1. Assumes 50 percent of all eligible plan participants enroll in a CCN-P.
2. Projected average PMPM payment = \$192.66.
3. PMPM includes 10 percent administrative fee and 2 percent underwriting fee (profit).
4. Phased-in enrollment in FY 12, full enrollment in FY 13 (approximately 433,000 recipients in the plan).
5. Cost comparisons based on state fee-for-service data from SFY 2008 and SFY 2009.
6. FY 12 impact: Net costs - \$338.5 M in PMPM payments less \$236.1 M in savings = \$102.4 M in costs for FY 12. Savings represent the fee-for-service equivalent funds anticipated to be incurred and paid in FY 12 (adjusting for lag payments).
7. FY 13 impact: Net savings - \$730.5 M in PMPM payments less \$839.6 M in savings = \$109.1 M in savings for FY 13. Savings represent the fee-for-service equivalent funds anticipated to be incurred and paid in FY 13 (adjusting for lag payments).

CCN-Shared Savings Model

Based on a cost comparison of the current fee-for-service expenditures trended forward (by a 4.7 percent annualized adjustment in FY 12 and FY 13) and a preliminary estimate of the fee-for-service payments to CCN-S entities, the department anticipates that implementation of the proposed CCN-S Model will reduce expenditures in the Medicaid Program by approximately \$2,953,636 for FY 11-12 and \$26,838,525 for FY 12-13. This estimate is based on the following assumptions and calculations:

1. Assumes 50 percent of all eligible plan participants enroll in a CCN-S.
2. Maintain the fee-for-service payment system; the department pays a PMPM management fee of either \$13 or

\$19. A \$1.50 of these amounts shall be distributed to primary care providers for care management.

3. Phased-in enrollment in FY 12, full enrollment in FY 13 (approximately 433,000 recipients in plan)

4. Cost comparisons based on state fee-for-service data from SFY 2008 and SFY 2009

5. FY 12 impact: Net savings - \$22.3 M in PMPM payments less \$25.7 M in avoided claims in FY 12 = \$2,953,636 in savings in FY 12. \$25.7 M in savings represents avoided claims in FY 12 (adjusting for lag payments).

6. FY 13 impact: Net savings - \$55.3 M in PMPM payments and retained savings payments less \$82.1 M in avoided claims in FY 13 = \$26,838,525 in savings in FY 13. \$82.1 M in savings represents avoided claims in FY 13 (adjusting for lag payments).

It is anticipated that implementation of this proposed rule will increase overall expenditures in the Medicaid Program by approximately \$99,461,762 for FY 11-12 and reduce overall expenditures by approximately \$135,935,392 for FY 12-13. The basis for savings in both plans is implementation of capitated managed care and enhanced primary care case management. Updated projected PMPMs will be available prior to implementation of the CCN and will give a better indicator of potential savings and associated costs.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule may have an effect on competition and employment. We anticipate that the implementation may realign the medical workforce as employment opportunities may shift from inpatient hospital settings to outpatient community-based settings. CCNs may provide additional employment opportunities as they will be hiring Louisiana residents for both clinical (physicians, nurses, etc.) and administrative positions and attorneys. The implementation may also spark competition among providers who seek to align themselves with certain CCNs, and may spark competition among CCNs to enroll certain members.

Don Gregory
Medicaid Director
1102#085

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Licensed Professional Counselors Board of Examiners

License of Title for Marriage and Family Therapy
(LAC 46:LX. 3303, 3305, 3309 and 3311)

In accordance with R.S. 49:950 et seq., of the Louisiana Administrative Procedure Act, as well as R.S. 37:1101 and 37:1122, the Licensed Professional Counselors Board of Examiners hereby proposes to amend its existing rules and regulations, by revising LAC 46:LX.Chapter 31, relative to the License of Title for Marriage and Family Therapy. These revisions are necessary to implement Act 613 of the 2010 Regular Session of the Louisiana Legislature.

Specifically, the Licensed Professional Counselors Board of Examiners proposes to revise Sections 3303, 3305, 3309 and 3311, relative to this Chapter, to prescribe academic requirements for Marriage and Family Therapist license of title.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS

Chapter 33. Requirements for Licensure

§3303. Definitions

* * *

Supervision—the professional relationship between a supervisor and supervisee that promotes the development of responsibility, skill, knowledge, and ethical standards in the practice of marriage and family therapy. In addition to monitoring the student's supervised face-to-face therapy with individuals, couples, families, and/or groups from a systemic/relational perspective, the supervisor provides regular, face-to-face guidance and instruction. Supervision may include, without being limited to, the review of case presentations, audiotapes, videotapes, and direct observation. Supervision will be distinguishable from psychotherapy and teaching.

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:155 (February 2003), amended LR 29:2784 (December 2003), LR 35:1113 (June 2009), LR 37:

§3305. General Licensing Requirements

A. Each person desiring to obtain a license as a practicing marriage and family therapist shall make application to the board upon such forms and completed in such manner as the board prescribes, accompanied by such fee prescribed. An applicant shall furnish evidence satisfactory to the board and the advisory committee that such person:

1. is of good moral character;
2. is not engaged or has not engaged in any practice or conduct that would be grounds for refusing to issue a license;
3. is qualified for licensure pursuant to the requirements provided for in this Subpart.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:155 (February 2003), amended LR 37:

§3309. Academic Requirements for MFT Licensure

A. The advisory committee and board have determined that “meets the standards” as provided in R.S. 37:1101(12) means:

1. a master’s or doctoral degree in marriage and family therapy from a program accredited by the Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE) in a regionally accredited educational institution or a certificate in marriage and family therapy from a post-graduate training institute accredited by COAMFTE; or

2. a master’s or doctoral degree in marriage and family therapy or marriage and family counseling from a program accredited by the Council for Accreditation of Counseling and Related Educational Programs (CACREP) in a regionally accredited educational institution with a minimum of 6 graduate courses in marriage and family therapy including coursework on the AAMFT Code of Ethics and a minimum of 500 supervised direct client contact hours, with a minimum of 250 hours of these 100

hours with couples and families, and a minimum of 100 hours of face-to-face supervision. The training of the supervisor must be equivalent to that of an AAMFT approved supervisor or AAMFT supervisor candidate.

B. The board upon recommendation of the advisory committee shall register a person for MFT Internship who applies on the required application forms, completed as the board prescribes and accompanied by the required fee. Additionally, applicants must meet one of the following academic options:

1. Option 1—a master's degree or a doctoral degree in marriage and family therapy from a program in a regionally accredited educational institution accredited by the Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE) or a certificate from a postgraduate training institute in marriage and family therapy accredited by COAMFTE; or

2. Option 2—a master's or doctoral degree in marriage and family therapy or a related clinical mental health field from a regionally accredited institution of higher education with coursework that includes practicum and internship in marriage and family therapy determined by the advisory committee to be substantially equivalent to a graduate degree in marriage and family therapy from a program accredited by COAMFTE. To be considered substantially equivalent, qualifying degrees must include a minimum of 60 semester hours of coursework; or

3. Option 3—a certificate from a postgraduate training institute in marriage and family therapy with coursework that includes practicum and internship in marriage and family therapy determined by the advisory committee to be substantially equivalent to a graduate certificate from a program accredited by COAMFTE. To be considered substantially equivalent, qualifying certificates must include the equivalent of 60 semester hours of coursework; or

4. Option 4—a masters degree or a doctoral degree in marriage and family therapy from a regionally accredited institution of higher education whose program and curriculum was approved by the board through the advisory committee at anytime prior to July 1, 2010, and the applicant for licensure has at least five hundred hours of face-to-face client contact, and the client contact shall include both of the following:

- (a). 250 hours of relational therapy. As used herein, “relational therapy” shall mean therapy with couples or families present in the therapy room;

- (b). 100 hours in which the applicant has been subjected to qualified supervision as is defined in R.S. 37:1103(11);

5. Required coursework for Options 2 and 4 may be completed during the qualifying master's or doctoral degree programs, or may be taken as post-graduate work at a regionally accredited college, university, or postgraduate marriage and family therapy training institute.

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 37:

§3311. Coursework and Academic Supervision Requirements, for Options 2, 3, and 4

A. General Requirements for Qualifying Coursework and Academic Supervision

1. Undergraduate level courses will not meet academic requirements unless the applicant's official transcript clearly shows that the course was given graduate credit.

2. Only coursework taken for credit and receiving a passing grade will be accepted. Coursework taken outside of a program of study for which a degree was granted must receive an "A," "B," or "pass."

3. One course is defined as three semester credits, four quarter credits, or 45 didactic contact hours in a postgraduate training program.

4. An applicant may not use a course for more than one of the seven coursework areas described in Subsection B of this Section.

5. If titles of academic courses are not self-explanatory, their content and relevance must be substantiated by the applicant through course descriptions in official school catalogs, bulletins, syllabi, or by other means approved by the advisory committee.

6. The burden is on the applicant to prove by a preponderance of the evidence that the coursework is equivalent to the requirements in Subsections A and B of this Section.

7. Degrees and coursework obtained at foreign universities shall be acceptable only if determined to be equivalent as defined in Subsections A and B of this Section as determined by the advisory committee.

B. Specific Coursework Requirements—Options 2 and 3

1. The applicant must document as determined by the advisory committee that all required graduate and postgraduate coursework was presented from a family systems perspective. Coursework will specify how marriage and family therapists apply psychotherapeutic and family systems theories and techniques in the delivery of professional psychotherapeutic services to individuals, couples, families, and groups for the purpose of assessment, treatment planning, and treatment of mental, intellectual, emotional, or behavioral disorders and apply family systems theories, assessment, and techniques in their professional consultation work with organizations.

2. Academic Course Content. An applicant with a master's or doctoral degree in marriage and family therapy or a related clinical mental health field from programs not accredited by the COAMFTE or with a certificate from a postgraduate training institute in marriage and family therapy not accredited by the COAMFTE must have the specified coursework in each of the following areas (one course equals three semester hours or its equivalent as defined in Paragraph A.3 of this Section).

a. Theoretical Knowledge of Marriage and Family Therapy—minimum of two courses. Courses in this area shall provide academic instruction in the historical development, empirical foundations, and contemporary conceptual directions of the field of marriage and family therapy. Coursework shall provide a comprehensive survey and substantive understanding of the systems paradigm, family therapy theory, and the major models of marriage, couple, and family therapy practice. Overview courses in which systems theory is surveyed equally as one of several theories do not qualify for this area.

b. Clinical Knowledge of Marriage and Family Therapy—minimum of four courses. Courses in this area

shall provide academic instruction in clinical intervention as it relates to family systems theory. Coursework shall highlight clinical practice in couples and family therapy in relation to cultural and racial diversity, gender, sexual functioning/orientation, violence, addiction, abuse and other relevant issues. Coursework shall focus on the treatment of individuals, couples, and families from a systemic/relational perspective and in response to a wide variety of presenting problems.

c. Assessment and Treatment in Marriage and Family Therapy—minimum of two courses. One course must be in psychopathology. Courses in this area shall provide academic instruction from a systemic/relational perspective in psychopharmacology, physical health and illness, traditional psycho diagnostic categories including the use of the Diagnostic and Statistical Manual of Mental Disorders and the assessment and treatment planning for the treatment of mental, intellectual, emotional, or behavioral disorders within the context of marriage and family systems.

d. Individual, Couple, and Family Development—minimum of one course. Courses in this area shall provide academic instruction in individual, couple, and family development across the lifespan.

e. Professional Identity and Ethics—minimum of one course. Courses in this area shall provide academic instruction in the development of professional identity, ethical and legal issues, scope of practice, professional membership, certification, and licensure. Coursework shall focus on ethical and legal issues related to the practice of marriage and family therapy, including but not limited to the AAMFT Code of Ethics, confidentiality, legal responsibilities and liabilities of clinical practice and research, family law, record keeping, reimbursement, the business aspects of practice, and familiarity with regional and federal laws as they relate to the practice of individual, couple and family therapy. Generic courses in ethics do not meet this standard.

f. Research—minimum of one course. Courses in this area shall provide academic instruction in the understanding and performance of research. Coursework shall focus on content such as research methodology, data analysis, research evaluation, and quantitative and qualitative research.

g. Additional Learning—minimum of one course. Courses in this area will augment students' specialized interest and background in individual, couple, and family therapy and may be chosen from coursework offered in a variety of disciplines.

2. Academic Supervision—as part of their degree program, an applicant must have completed 500 supervised face-to face direct client contact hours with individuals, couples, families, and/or groups from a systemic/relational perspective with 100 hours of face-to-face supervision. At least 250 of these hours must be with couples or families present in the therapy room. If a student is simultaneously being supervised and having direct client contact, the time may be counted as both supervision time and direct client contact time.

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 37:

Family Impact Statement

As required by Act 1138 of the 1999 Regular Session of the Louisiana Legislature, the following Family Impact Statement is submitted to be published with the Notice of Intent in the *Louisiana Register*. A copy of this statement will also be provided to the respective legislative oversight committees.

1. The Effect on the Stability of the Family. Implementation of this proposed Rule will have no effect on the stability of the family.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. Implementation of this Proposed Rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect in the Functioning of the Family. Implementation of this proposed Rule will have no effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. Implementation of this proposed Rule will have no effect on family earnings and family budget.

5. The Effect on the Behavior and Personal Responsibility of Children. Implementation of this proposed Rule will have no effect on the behavior and personal responsibility of children.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. Implementation of this proposed Rule will have no effect on the ability of the family or a local government to perform this function.

Public Comments

Interested persons may submit written comments on this Rule to Gloria Bockrath, Board Chair, Licensed Professional Counselors Board of Examiners, 8631 Summa Avenue, Suite A, Baton Rouge, Louisiana 70808 until March 14, 2011.

Gloria Bockrath
Board Chair

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: License of Title for Marriage and Family Therapy

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be a one-time implementation cost of \$1,305 in FY 10/11 that includes the cost of promulgating the rule and legal fees. There will be no impact to other state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This rule will have no impact on revenue collections for state or local governmental units. There are no new fees, educational requirements, or supervisory requirements as a result of this rule; therefore the Licensed Professional Counselor (LPC) Board does not anticipate any increase in the number of applicants as a result of this rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule implements Act 613 of the 2010 Legislative Session, which specifies the academic requirements

necessary for teaching institutions to train persons who wish to utilize the title Licensed Marriage and Family Therapist(MFT) or Licensed Marriage and Family Therapist Intern. The rule change will allow teaching institutions, which previously qualified for LPC Board licensure under the accreditation standards of the Council for Accreditation of Counseling and Related Educational Programs (CACREP), to qualify under the Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE), which is now required by Act 613 for LPC Board licensure of MFTs and MFT Interns.

Specifically, LAC 46:LX.31 section 3309(B) will allow pre-existing CACREP curriculums that are comparable to COAMFTE's accreditation requirements to qualify students for licensure as long as they also meet the additional clinical supervision requirements set out by the LPC Board.

Applicants will continue to be directly responsible for all costs of education and licensure. The LPC Board's current licensure fee for MFT applicants is \$200 and for MFT Interns is \$100.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment.

Eddy Boeneke
Executive Director
1102#067

Evan Brasseaux
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Office of Aging and Adult Services

Louisiana Physician Order for Scope of Treatment
(LAC 48:I.Chapter 2)

The Department of Health and Hospitals, Office of Aging and Adult Services proposes to amend LAC 48 to provide for the Louisiana Physician Order for Scope of Treatment program as authorized by R.S. 40:1299.64.1-1299.64.6. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

During the 2010 Regular Session of the Louisiana Legislature, Act 954 authorized the Louisiana Department of Health and Hospitals to establish the Louisiana Physician Order for Scope of Treatment (LaPOST) program, which allows for a means by which a person may convert his or her wishes concerning life-sustaining treatment into a standing medical order. Act 954 also provided for specific requirements for the structure and language of the LaPOST form. This proposed Rule is being promulgated to adopt standards to provide for the LaPOST program and form.

Title 48

PUBLIC HEALTH—General Part I. General Administration Subpart 1. General

Chapter 2. Louisiana Physician Order for Scope of Treatment

§201. Statement of Policy

A. The Department of Health and Hospitals is committed to the following.

1. It is important for people to make health care decisions before a medical crisis presents itself.

2. Health care planning is a process, rather than a single decision, that helps individuals to consider the kind of care they would want if they become seriously ill or incapacitated, and encourages them to talk to their family members or legal representative about such issues.

3. The Louisiana Physician Order for Scope of Treatment "LaPOST" form documents the wishes of a qualified patient in a physician order.

4. The hallmarks of the LaPOST form are the following:

a. immediately actionable, signed physician orders on a standardized form;

b. orders that address a range of life-sustaining interventions as well as the patient's preferred treatment for each intervention;

c. a brightly colored, clearly identifiable form;

d. a form that is recognized, adopted, and honored across treatment settings.

B. The provisions of this Rule are permissive and voluntary. The completion of the Louisiana Physician Order for Scope of Treatment form merely illustrates a means of documenting a decision of a patient relative to withholding or withdrawal of medical treatment or life-sustaining procedures.

1. Nothing in this Rule shall be construed to require the completion of a Louisiana Physician Order for Scope of Treatment form.

2. Nothing in this Rule shall be construed to be the exclusive means by which life-sustaining procedures may be withheld or withdrawn, nor shall this Rule be construed to require the application of medically inappropriate treatment or life-sustaining procedures to any patient.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.64.1-1299.64.6.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 37:

§203. Definitions

The definitions found in R.S. 40:1299.64.2 apply to this Rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.64.1-1299.64.6.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 37:

§205. LaPOST Form

A. An individual who desires to execute a LaPOST form must use the form created by the Department of Health and Hospitals. The form may not be altered in layout or style, without the express written permission of the Department of Health and Hospitals.

B. The form to be used for the Louisiana Physician Order Scope of Treatment, as provided in R.S.40:1299.64.1-64.6, can be found at www.La-POST.org.

C. The LaPOST form found at www.La-POST.org is the exclusive form that shall be used to document the wishes of a qualified patient in a physician order for scope of treatment under this Rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.64.1-1299.64.6.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 37:

§207. Execution of the LaPOST Form

A. A LaPOST form can only be executed by a competent adult patient or if the patient is incompetent or otherwise lacks capacity, a personal health care representative.

B. The LaPOST form must be completed by a physician based on patient preferences and medical indications.

C. The LaPOST form shall:

1. list the qualified patient's last name, first name and middle initial, and date of birth;

2. list the qualified patient's life-limiting and irreversible condition;

3. check all physician orders that apply. Any section not completed implies full treatment for that section;

4. indicate with whom the physician discussed summary of goals and the basis for the orders;

5. contain the physician's signature;

6. contain the patient or personal health care representative's signature and date.

D. The LaPOST form can be executed on behalf of a qualified patient by a personal health care representative only if the patient is incompetent to make their own decisions or lacks capacity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.64.1-1299.64.6

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 37:

§209. Review of the LaPOST Form

A. The LaPOST form should be reviewed periodically by the physician and the patient, including, but not limited to, when:

1. the patient is transferred from one care setting to another;

2. there is a substantial change in the person's health care status; or

3. the patient's treatment preferences change.

B. A new LaPOST form should be completed if the patient wishes to make a substantive change to their treatment goal (eg., reversal of prior directive).

C. When completing a new LaPOST form, the old LaPOST form must be properly voided and retained in the medical chart. A notation that a new form has been executed should be stated on the old LaPOST form.

D. To void a LaPOST form, a line should be drawn through the "Physician's Orders" section of the LaPOST form and "VOID" should be written in large letters. The notation should be signed and dated by the physician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.64.1-1299.64.6.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 37:

§211. Revocation of the LaPOST Form

A. The LaPOST form may be revoked at any time by the patient or his/her personal health care representative by expressing his/her intent verbally, in writing, or by destroying the LaPOST form.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.64.1-1299.64.6.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 37:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability or autonomy as described in R.S. 49:972 by ensuring that persons are allowed a medium to make health care decisions before a medical crisis presents itself, thereby lessening the stress and burdens placed on families during such times of medical crisis.

Small Business Statement

A regulatory flexibility analysis pursuant to R. S. 49:965.6 has been conducted. It has been determined that the promulgation of this Rule will not have an adverse impact on small business.

Public Comments

Interested persons may submit written comments to Hugh Eley, Office of Aging and Adult Services, P.O. Box 2031, Baton Rouge, Louisiana 70821-2031. He is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

A public hearing on this proposed Rule is scheduled for 10:30 am, March 30, 2011, in Room 118, Bienville Building, 628 North 4th Street, Baton Rouge, LA. At that time all interested individuals will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Bruce Greenstein
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Louisiana Physician Order for Scope of Treatment

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

During the 2010 Regular Session of the Louisiana Legislature, Act 954 authorized the Louisiana Department of Health and Hospitals to establish the Louisiana Physician Order for Scope of Treatment (LaPOST) program, which allows for a means by which a person may convert his or her wishes concerning life-sustaining treatment into a standing medical order.

These changes do not affect current services offered through the Office of Aging and Adult Services and therefore are not anticipated to result in any additional savings or costs, other than the cost of promulgation of the rule in the amount of \$2,050 (SGF) in this FY 10-11. This cost of rulemaking is routinely included in the agency's budget.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no known 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 known cost and/or economic benefit to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this rule will have no effect on competition and employment.

Hugh Eley
Assistant Secretary
1102#025

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Natural Resources Office of Conservation

Water Well Notification Requirements (LAC 43:VI.701)

The Louisiana Office of Conservation proposes to amend LAC 43:VI.701 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the power delegated under the laws of the State of Louisiana. The proposed amendment clarifies that the owner of a domestic well or rig supply well may allow the well driller to file a well registration form on the owner's behalf to fulfill the owner's obligation to register his well no later than 60 days after installation.

Title 43

NATURAL RESOURCES

Part VI. Water Resources Management

Subpart 1. Ground Water Management

Chapter 7. Water Well Notification Requirements in Non-Critical Ground Water Areas

§701. Applicability

A. - C.1. ...

a. At the well owner's discretion, the notification provided by the water-well drilling contractor pursuant to LAC 56:I et seq. within 30 days after completion shall fulfill the requirements of this Section.

C.2. - 3.a. ...

b. At the well owner's discretion, the notification provided by the water-well drilling contractor pursuant to LAC 56:I et seq. within 30 days after completion shall fulfill the requirements of this Section.

DC.4. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3097 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 30:1215 (June 2004), amended LR 35:252 (February 2009), LR 37:

Family Impact Statement

In accordance with RS 49:972, the following statements are submitted after consideration of the impact of the proposed Rule amendments at LAC 43:I.701 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.

Small Business Statement

In accordance with R.S. 49:965.6, the Department of Natural Resources, Office of Conservation has determined that these amendments will have no estimated effect on small businesses.

Public Comments

All interested parties will be afforded the opportunity to submit data, views, or arguments, orally or in writing at the public hearing in accordance with R.S. 49:953. Written comments will be accepted until 4:30 p.m., April 4, 2011, at Office of Conservation, Environmental Division, P.O. Box 94275, Baton Rouge, LA, 70804-9275; or Office of Conservation, Environmental Division, 617 North Third St., Room 817, Baton Rouge, LA 70802. Reference Docket No. ENV 2011-03 on all correspondence. All inquiries should be directed to John Adams at the above addresses or by phone to 225-342-7889. No preamble was prepared.

Public Hearing

The Commissioner of Conservation will conduct a public hearing at 9 a.m., March 28, 2011, in the LaBelle Room located on the first floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA.

James H. Welsh
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Water Well Notification Requirements

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated implementation costs or savings to state or local governmental units. The proposed rule amendment is intended to make the water well registration process more efficient by eliminating unnecessary duplication.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated effect on revenue collections of state or local governmental units as a result of this rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

No costs and/or economic benefits are anticipated to directly affected persons or non-governmental groups. The proposed rule amendment merely codifies current practice.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment as a result of this rule change.

James H. Welsh
Commissioner
1102#055

Evan Brasseur
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections Corrections Services

Judicial Agency Residential Referral Facilities
(LAC 22:I.Chapter 13)

The Department of Public Safety and Corrections, Corrections Services, in accordance with R.S. 36:404, hereby gives notice of its intent to repeal LAC 22:I.Chapter 13, Judicial Agency Residential Referral Facilities in its entirety. This Chapter is being repealed and incorporated into two Sections.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part I. Corrections

Chapter 13. Residential Referral

Subchapter A. General Provisions

§1301. Judicial Agency Referral Residential Facilities

A. Purpose—to state the secretary's rules relative to the housing or temporary residence of individuals who have been arrested for the commission of a crime and are referred by any judicial agency to a certified residential facility and to provide for the construction, standards of operation and services provided by such residential facilities.

B. Applicability—deputy secretary, undersecretary, chief of operations, assistant secretary, Director of Probation and Parole and administrators of housing or temporary residential facilities. The chief of operations is responsible for the overall implementation, compliance and review of this regulation. 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—no facility not otherwise required to be licensed by the Department of Health and Hospitals or Department of Children and Family Services, shall provide housing or temporary residence to any individual referred by a judicial agency except in accordance with this regulation. Referrals to such facilities by a judicial agency may only be made after the facility has been inspected by the Department of Public Safety and Corrections and certified to be in compliance with the standard operating procedures established pursuant to this regulation.

D. Procedure

1. The facility shall comply with all building codes, local zoning requirements and ordinances with regard to permits and licenses.

2. The state fire marshal and state health officer shall determine rated bed capacity and approval for occupancy.

3. The facility shall comply with the standard operating procedures (SOP) for judicial agency referral residential facilities. Revisions to the SOP shall be accomplished through this regulation under the signature of the secretary.

4. The facility shall be accredited by the American Correctional Association within twenty-four months of opening and shall maintain accreditation at all times thereafter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2851 and 2852.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 33:666 (April 2007), amended LR 37:

Subchapter B. Standard Operating Procedures for Judicial Agency Referral Residential Facilities

§1303. Standard Operating Procedures

A. American Correctional Association (ACA)

1. All judicial agency referral residential facilities shall be operated in accordance with R.S. 40:2852 and must maintain accreditation by the American Correctional Association Standards for Adult Community Residential Services. Facilities shall be accredited by the American Correctional Association (ACA) within 24 months of opening as a judicial agency referral residential facility.

2. Written policies and procedures that reflect compliance with ACA and the standard operating procedures for judicial agency referral residential facilities, as well as facility rules for resident behavior must be submitted to and approved by the secretary of the Department of Public Safety and Corrections prior to beginning operations or implementation. Any proposed revisions to policies, procedures or facility rules must be submitted for approval prior to implementation.

B. Administration

1. The facility shall have a written document describing the facility's organization. The description shall include an organizational chart that groups similar functions, services and activities in administrative subunits. The chart is reviewed at least annually and updated, if needed.

2. Regular meetings between the facility administrator and all department heads shall be held monthly and there is formal documentation that such meetings occurred.

3. Written policy, procedure and practice shall provide for an independent financial audit of the facility at least annually or as stipulated by statute or regulation, but at least every three years.

4. Each facility shall have insurance coverage that includes, at a minimum, property insurance and comprehensive general liability insurance. Such insurance is provided either through private companies or self insurance.

5. Residents' personal funds held by the facility are controlled by accounting procedures and in accordance with Subsection K of this Section.

6. Staffing requirements for the facility shall ensure there is 24 hour on site staff monitoring and coordinating of the facility's life safety and communications systems and also to respond to resident needs.

7. Standard of Conduct for Employees of Judicial Agency Referral Residential Programs

a. Employees are expected to conduct themselves in a manner that will not bring discredit upon their facility.

b. Each employee shall be advised of the location of the facility manual that specifies the operating and maintenance requirements of the facility. The location of the manual shall be accessible to all employees.

c. The facility shall provide adequate staff at the facility 24 hours a day to control the movement and location at all times of all residents assigned to the facility and to respond to their needs. However, when both female and male

residents are housed in the same facility, at least one male and one female staff member are on duty at all times.

d. There shall be a method of staff identification so that they can be readily identified by visitors through utilization of name tags, identification cards, etc.

e. There shall be written job descriptions and job qualifications for all positions in the facility. Each job description includes at a minimum:

- i. job title;
- ii. responsibilities of the position;
- iii. required minimum experience; and
- iv. education.

f. All full-time employees must receive 40 hours of orientation training prior to undertaking their assignments (administrators, managers, professional and careworkers) and must participate in 40 hours of training their first year of employment and each year thereafter. Clerical/support staff shall be provided with 16 hours of training in addition to orientation during their first year and 16 hours of training each year thereafter. All training curriculum shall be in accordance with the applicable ACA standards.

8. A training procedure shall be in place which shall include orientation for all new employees (appropriate to their job) prior to assuming a position.

9. Case records shall be maintained for each resident housed at the facility.

10.a. Written records or logs shall be maintained at the facility which continuously documents the following information:

- i. personnel on duty;
- ii. resident population;
- iii. admission and release of residents;
- iv. shift activities;
- v. entry/exit of all visitors including legal/medical;

vi. unusual occurrences (including but not limited to major and minor disturbances, fires, escapes, deaths, serious illness or injury and assaults or other acts of violence).

b. Shift reports are also prepared after the completion of each shift.

C. Physical Plant

1. The facility shall comply with the requirements of the state fire marshal and shall have a specific plan for addressing deficiencies, if any, that is approved by the state fire marshal. The state fire marshal shall approve any variances, exception or equivalencies.

2. The facility shall comply with the requirements of the state health officer and shall have a specific plan for addressing deficiencies, if any, that is approved by the state health officer.

3. The number of residents present at the facility shall not exceed the rated bed capacity as determined by the state fire marshal and state health officer. The state fire marshal shall determine a capacity based upon exiting capabilities. The state health officer shall determine a capacity based upon the ratio of plumbing fixtures to residents and square footage. The rated capacity shall be the lower of these two figures.

4. Residents shall have access to toilets and hand washing facilities 24 hours per day and shall have access to operable showers on a reasonable schedule.

5. The facility shall have sanitary areas for the storage of all foods that comply with applicable state and/or federal guidelines.

6. The facility shall have a method to ensure the control of vermin and pests.

7. Toilet and hand basin facilities are available to food service personnel in proximity to the food preparation area.

8. The facility shall have exits that are properly positioned, clear, distinct and permanently marked to ensure the timely evacuation of residents and staff in the event of fire or other emergency.

9. The facility shall comply with all building codes, local zoning requirements and ordinances with regard to permits and licenses.

10. The facility shall have a written emergency plan, which includes an evacuation plan, to be used in the event of a fire or major emergency. Evacuation drills shall be conducted at least quarterly on each shift when the majority of the residents are present. Facility staff shall be trained in the implementation of written emergency plans and the plans shall be disseminated to appropriate local authorities, including the Department of Public Safety and Corrections.

11. A qualified person conducts fire inspections at least quarterly and equipment is tested as specified by the manufacturer or the fire authority, whichever is more frequent. All furnishings shall comply with fire safety performance requirements.

12. All flammable materials shall be handled and stored safely. The use of toxic and caustic materials shall be controlled.

D. Facility Operations

1. The facility shall have a system for physically counting residents that includes strict accountability for residents assigned to the program. This shall include residents who are absent from the program for work, education or other temporary absence.

2. A current master list shall be maintained at all times of all residents assigned to the facility. This list is to be updated immediately whenever the facility receives, releases or removes a resident from the facility.

3. There are several forms of control that must be considered around the facility. Physical control of the residents assures that all are accounted for at all times. When a count is conducted and it is found that a resident who is not physically present in the facility has not signed out on the log in accordance with the appropriate procedure or has signed out but has failed to return to the facility on time in accordance with appropriate procedures, the facility shall take immediate action to locate the resident. If the resident cannot be located a report must be filed by the next working day with the referring judicial authority.

4. When a resident leaves the facility for any reason, he shall sign out in the facility resident log. Each entry shall include:

- a. resident's name;
- b. destination;
- c. phone number at destination;
- d. address of destination;
- e. time out;
- f. anticipated time of return;
- g. actual time of return; and

h. the initials of the appropriate staff member charged with monitoring the log book.

5. Facility staff shall ensure that resident work schedules are verified prior to the resident signing out for work.

6. Alcohol/drug testing shall be conducted both randomly and for probable cause. Drug testing shall be conducted monthly on a minimum of 10 percent of the residents. Costs associated with testing shall be the responsibility of the facility. However, restitution in the amount of the actual cost of the drug testing may be obtained from the resident when the test results are positive.

7. The facility itself shall remain staffed 24 hours a day in such a manner that no person can enter or exit the facility without the knowledge of the on-duty staff.

8. The facility shall have a written emergency plan that is disseminated to the local authorities including but not limited to the local police and fire department.

9. The facility shall have disciplinary rules and procedures available to the resident population.

10. Program access and administrative decisions shall be made without regard to resident's race, religion, national origin or sex. The facility shall have written policy, procedure and practice to protect residents from personal abuse, corporal punishment, personal injury, disease, property damage and harassment.

11. Possession and use of weapons is prohibited in the facility except in the event of an emergency.

12. A written report shall be prepared following all uses of force detailing all circumstances, listing all involved, including witnesses and describing medical services provided. Such reports shall be submitted to the facility administrator and maintained on file.

E. Facility Services

1. Written policy, procedure and practice shall require that dietary allowances are reviewed at least annually by a qualified nutritionist, dietician or physician to ensure that they meet the nationally recommended allowances for basic nutrition for the type of residents housed at the facility. Records shall be maintained for all meals served. Three meals shall be provided at regular meal times during each 24 hour period for residents present in the facility at such meal time. Variations may be allowed based on weekend and holiday food service demands provided basic nutritional goals are met. Residents shall be provided an ample opportunity to eat.

2. The denial of food as a disciplinary measure is prohibited. Special diets as prescribed by appropriate medical or dental personnel shall be provided.

3. The facility shall have a written housekeeping and maintenance plan that provides for the ongoing cleanliness and sanitation of the facility, including a plan for the control of vermin and pests.

4. The facility has an obligation to ensure that the resident has adequate clothing appropriate to the season and the resident's work status, including adequate changes of clothing to allow for regular laundering.

5. The facility shall provide adequate bedding and linens including two sheets, pillow and pillowcase, one mattress and sufficient blankets to provide comfort under existing temperature controls. Residents shall have access to

personal hygiene articles including soap, towels, toothbrush, toothpaste, comb, toilet paper, shaving gear and/or feminine hygiene articles.

6. The facility shall have written policy, procedure and practice for the delivery of health care services, including medical, dental and mental health services under the control of a designated health care authority that may be a physician, a licensed or registered health care provider or health agency. Access to these services are available 24 hours per day in case of emergency and should be unimpeded in the sense that non-medical staff should not approve or disapprove residents requests for services in accordance with the facility's health care plan.

7. Anyone providing health care services to residents shall be licensed, registered or certified as appropriate to their respective professional disciplines. Such personnel may only practice as authorized by their license, registration or certification. Standing or direct orders may be used in the treatment of residents only when authorized in writing by a physician or dentist.

8. Personnel who do not have health care licenses may only provide limited health care services as authorized by the designated health care authority and in accordance with appropriate training and job description. This would typically involve the administration of medication, the following of standing orders as authorized by the designated health care authority and the administration of first aid/CPR.

9. The facility shall provide access to 24 hour emergency medical services. This requirement may be met by agreement with a local hospital, on-call qualified health care personnel or on-duty qualified health care personnel.

10. All residents entering the program shall receive a health screening. The purpose of the health screening is to protect newly admitting residents who pose a health safety threat to themselves or others from not receiving adequate medical attention.

11. The facility shall have a method in place for the proper management of pharmaceuticals. Residents are provided medication as ordered by the prescribing physician.

12. First aid kits shall be available in areas of the facility as designated by the health care authority. Contents and locations are approved by the health authority.

13. Sick call shall be conducted by a physician and/or other qualified health care personnel who are licensed, registered or certified as appropriate to their respective professional disciplinary and who practice only as authorized by their license, registration or certification.

14. There is a written suicide prevention and intervention program that is approved by a medical or mental health professional who meets the educational and license/certification criteria specified by his/her respective professional discipline. All staff with responsibility for resident supervision are trained in the implementation of the program.

15. Written policy, procedure and practice shall specify and govern the actions to be taken in the event of a resident's death.

16. Residents shall not participate in medical, pharmaceutical or cosmetic experiments. This does not preclude individual treatment of a resident based on the need for a specific medical procedure that is not generally available.

F. Resident Programs

1. Educational programming shall be available from acceptable internal or external sources which shall include, at a minimum, assistance in obtaining individualized program instruction at a variety of levels.

2. Written policy, procedure and practice shall govern resident correspondence. Such policy shall include provisions for inspection of mail for contraband or deterrence of material that interferes with legitimate facility objectives. Written policy, procedure and practice govern resident access to publications and packages from outside sources. Staff members shall have access to policies concerning resident correspondence.

3. Written policy, procedure and practice govern visiting. The only time an approved visitor can be denied a visit is where there is substantial evidence that the visitor poses a threat to the safety of the resident or the security of the program.

4. Reading materials shall be available to residents on a reasonable basis.

5. Residents shall have an opportunity for religious practice.

6. Recreation and leisure time activities are available to meet the need of the residents.

7. Substance abuse services through community referrals shall be provided, along with adequate monitoring, for residents identified through assessment who have alcohol and/or drug abuse problems.

8. The facility shall have a grievance procedure with at least one level of appeal. However, if the resident is not satisfied with the outcome of the facility's internal decision they shall be allowed to appeal to the referring judicial agency.

G. Employment

1. There need be no general restriction on the types of jobs for which a resident may be considered. Each job offer shall be investigated to determine if it is bona fide and consistent with program policies. The expectation is that the job selected shall be that which best fulfills the purpose of the program. Good employment placement shall give preference to jobs that are related to prior training and are suitable for continued employment. All employment plans must be consistent with state statutes. Concern for public safety shall guide employment decisions at all times. No resident is to work for or on the premises of a school, day care facility or other business or agency whose primary objective is in the service of juveniles, or who provide housing, care and/or treatment of juveniles.

2. Other than noted above, there are no general restrictions on the types of jobs residents may be considered for except those relative to juveniles; however, common sense and logic must prevail. At all times, concern for public safety shall guide the decision. Residents shall not be employed in a bar, lounge or tavern as a bartender, waiter or janitor. Employment in a hotel, motel or restaurant where a lounge is a part of the establishment may be acceptable if the employment is verified by the facility and is determined to be appropriate.

3. No resident shall be employed in a position which would necessitate his/her departure from the state of Louisiana without the express consent of the probation and

parole officer, district attorney and/or the court, whichever is applicable.

4. Every reasonable effort shall be made by the facility to provide residents with the highest paying job possible. Within reason, convenience of job location, as it pertains to the facility providing transportation, should not be a deciding factor as to where residents are employed.

5. Residents shall be assisted by facility staff in obtaining gainful employment. The facility shall be responsible for maintaining liaison with sources of information on available jobs and with potential employers, and will provide transportation for job interviews.

6. All employers must sign the Employer's Work Agreement Form which indicates the terms and rules of the resident's employment, prior to the resident reporting to work for the employer. The facility must explain the requirements contained in the Employer's Work Agreement to all approved employers. A copy of the signed form shall be kept on file for the duration of the resident's stay at the facility. The employer agrees to report any attendance irregularities to the facility immediately and record same.

7. The employer must agree to provide a work situation where he or his designee, preferably a supervisor, shall be present with the resident or at the work site at all times. Employment that does not provide for proper supervision of the resident and/or is deemed unsuitable by the facility director may be terminated.

8. The employer's responsibility to provide proper supervision for the resident extends from the time the employer receives the resident from facility personnel, either by picking him up at the facility or by having facility personnel transport the resident to the employer, and terminates when he returns the resident back to the facility personnel, either at the facility or to facility provided transportation. The ideal situation is for no resident to be unsupervised during the transportation process to or from an employment location. However, there may be a reasonable time (defined as less than an hour) allowed before work (when a resident is dropped off) and after work (when the resident is picked up) that he may be unsupervised.

9. Should the occasion arise and a resident is not picked up in a reasonable period of time, it must be noted on the transportation log with the reason why.

10. The facility is required to keep a list, which is updated weekly, of every employer who provides work for residents assigned to that facility. This list shall include but not be limited to the name and address of the employer, a brief description of the nature of the business, relevant telephone number(s) and whether or not work is performed at a stationary location or if the resident will be required to move during the course of the day.

11. If the resident's estimated time of return changes for any reason, this change must be verified by facility staff with the employer and noted in the permanent log.

H. Community Involvement

1. Community involvement and volunteers can be an important contribution to any program by providing a number of services to residents, as well as serving as a link between the facility and the community. Community resources should be obtained through referrals or by contract to provide residents with services to meet their needs.

2. Policies and procedures regarding citizen involvement shall be developed and volunteers shall be subject to approval by the facility administrator.

3. The facility shall have an advisory board that is representative of the community in which it is located that meets at least annually. The local Department of Public Safety and Corrections Probation and Parole Office, shall designate a staff person to serve on this board.

I. Resident Activities

1. Permanent Log

a. A permanent log shall be maintained which shall indicate when residents report to and leave work and shall list events, messages, telephone calls, unusual incidents, counts, meals, etc. This permanent log shall be maintained continuously by the careworker staff. All resident work schedules shall be verified by facility staff prior to the resident being logged out for work.

2. Resident Log

a. A daily resident log shall be maintained which shall indicate when residents leave and return to the facility for any reason. The resident shall sign out in the facility log book. Each entry shall include: residents' name; destination; phone number at destination; address at destination; time out; anticipated time of return; actual time of return; and the resident's signature upon return. The employee on duty shall initial each entry when the resident leaves the facility and when he returns. A clock with the correct time shall be visible to both the resident and the employee and shall serve as the official timepiece. This daily resident log will begin at 12 midnight and cover a 24 hour period. Resident logs shall be kept on file for at least three years.

b. Random pat searches shall be conducted in such a manner so as to discourage the introduction of contraband into the facility. Random pat searches and alcohol breath tests shall be administered by a staff member to the resident population each day as they return to the facility. All searches and breath tests shall be entered on the permanent log.

J. Resident Discipline

1. Residents assigned to the program shall comply with all rules and procedures set forth by the facility. Each resident shall receive a copy of the facility handbook and any other rules and regulations of the facility's program, including disciplinary procedures available to the staff, which the resident is required to read. The resident shall sign and date a statement acknowledging this, which is placed in his file.

2. All of the above shall be provided to the resident prior to his voluntary entry into the program.

3. The facility's disciplinary process shall be defined and provide appropriate procedural safeguards as outlined in the applicable ACA standards. The facility shall have a process for informal resolution of minor infractions of facility rules. Residents charged with major rule violations shall receive a written statement of the alleged violation(s), including a description of the incident and specific rules violated. The facility is responsible for ensuring that disciplinary reports are completed accurately and staff completing reports shall receive training on report writing. A supervisor shall review disciplinary reports prior to submission making certain essential elements (who, what,

when, where, etc.) are covered with clarity. It is essential that reports be accurate as residents are subject to removal from the facility program for serious violations.

4. Restriction of Privileges

a. When residents are found guilty of a rule violation and are assessed penalties which restrict their privileges, the privileges which are restricted and the amount of time imposed shall be posted in a conspicuous place so that all staff members are aware of the restrictions. Under no circumstances shall privileges be restricted without a proper disciplinary report, a due process hearing and a finding of guilty. The denial of food shall not be used as a disciplinary measure.

b. The resident shall be allowed to appeal the disciplinary process. If they are not satisfied with the outcome of the appeal, they shall be allowed to appeal to the referring judicial agency.

K. Resident's Personal Funds

1. General

a. In keeping with the goals and objectives of the residential program, the facility shall ensure as much of the resident's earned net wages as possible are maintained and available to the resident immediately upon release.

b. Funds held on behalf of the resident shall be properly accounted for. The collection and disbursement of the residents' wages shall be in accordance with the provisions of R.S. 15:1111. The methods used for the receipt, safeguarding, disbursement and recording of funds shall comply with generally accepted accounting principles.

c. A ledger shall be maintained reflecting the financial status of each resident in the facility, and there shall be adequate documentation to support the receipt/expenditure of resident funds in each resident's official file.

d. Each facility shall engage in an independent financial audit of all funds received and held on behalf of residents at least every three years. The DPS&C monitoring team visits or audits conducted by the DPSC Internal Audit Division shall not be considered an independent audit for this purpose. The cost of the independent financial audit shall not be paid from the resident trust account.

e. The resident trust account is subject to review or audit by the DPSC and/or the Office of the Governor, Division of Administration auditor at any time.

2. Management of Resident Funds

a. Bonding

i. The facility shall provide the department with certificates of bonding documenting coverage sufficient to safeguard the maximum amount of resident funds staff may be responsible for handling.

b. Resident Trust Fund Account Management

i. The balance in the resident trust account shall represent only the funds owed to the residents. Resident funds shall not be used for other purposes (i.e., pay operational expenses) or be commingled with other bank accounts. Likewise, the trust account shall not be used to maintain other monies, such as for resident organizations, seized contraband, investments or a "slush" fund.

(a). Start up costs for each new resident shall not be paid from the resident trust account. These costs shall be paid from the facility's operating fund account, to be

reimbursed by the resident once the resident begins receiving wages.

(b). The resident trust account cash balance shall be maintained at the appropriate balance to cover each resident's account balance.

(c). Signers on the resident trust account shall be an employee or other legal stakeholders of the facility. The number of signers on the account shall not exceed three people.

(d). The resident trust account shall not be a "sweep account" or used in conjunction with "sweep accounts."

(e). On a monthly basis the following actions must occur:

(i). transfer out any interest earned on the Trust account. The interest earnings are property of the facility. Such interest earnings may be used to help defray administrative costs and to provide for other expenditures which will benefit the resident population;

(ii). transfer out amounts owed by residents for the daily room and board per diem;

(iii). transfer out amounts owed by residents to vendors to be paid from the operating account or pay the resident's expenses directly from the trust account;

(iv). reimburse trust account for expenses for bank service charges/fees (including fees for check orders) from the facility's operating fund account;

(v). reimburse trust account from the facility's operating fund account for any negative resident balances being paid with trust fund money. Residents who are allowed to spend more money than their current balance cannot use trust account funds to pay their debts; therefore, it becomes an operational expense;

(vi) provide a detailed statement of account balance to the resident in a confidential manner;

(vii) reconcile the trust account after receipt of the monthly bank statement:

[a]. add all deposits and deduct all withdrawals to each individual ledger to determine each resident's current balance;

[b]. total current month's positive balances for all resident ledgers, including balances carried forward from previous months which have had no transactions in the current month;

[c]. compare this total to the reconciled bank balance;

[d]. investigate and resolve any discrepancies between the bank and the resident ledger.

3. Income and Wages Received

a. The facility shall ensure employers adhere to the signed employer's work agreement by verifying rates of pay, hours worked and pay received by the resident for each pay period worked.

b. The facility shall ensure that the resident is paid by the employer by either a manual check sent directly to the facility or direct deposit to the resident trust account at the facility.

c. Residents shall not be allowed to receive payment from the employer via a pay card (pre-paid credit and/or ATM card) issued to the resident.

d. The facility shall process all personal funds received on behalf of the residents, issue pre-numbered

receipts for funds and post receipts to the resident's account indicating receipt number.

e. Funds received shall be deposited daily (within 24 hours with the exception of weekends and holidays) into a fiduciary account held in trust for the residents and designated specifically as "Resident Trust Account." Credits shall be posted to the resident ledger within two business days.

f. Sensitive banking transactions involving the facility banking information and resident shall be handled directly between the facility and the employer, not between the resident and the employer.

4. Expenses and Withdrawals

a. All withdrawals or expenditures by a resident shall be documented by a withdrawal request form, signed and dated by the resident and document approval or denial of request by facility personnel. Withdrawals/expenditures shall be posted to the resident ledgers at least weekly with an adequate description relating to all transactions.

b. As one of the goals of a judicial agency referral residential program is to provide residents with the opportunity to accumulate savings as they prepare for reentry, facility managers have a fiduciary responsibility to set limitations on spending to maximize the potential savings of a resident.

c. Facilities shall develop procedures that set limitations and/or spending limits on resident purchases from canteen/commissary operations that encourage the resident to maximize on the opportunity to accumulate savings prior to release from the program.

5. Deductions

a. Residents shall be charged a daily rate not to exceed \$62.50 per day for services provided by the facility which includes room and board, transportation, education and all other necessary services. Medical and Mental Health services may be the responsibility of the resident. However, a lack of funds shall not interfere with the resident receiving these services. The resident shall not be charged for any additional costs other than those authorized in this document. Documentation of all deductions shall be maintained in each resident's file.

6. Other Deductions Allowed

a. Allowance. The facility shall develop procedures to determine the weekly allowance needed for incidental personal expenses in accordance with provisions in this Chapter. Residents should be encouraged to refrain from unnecessary purchases in order that they may be able to accrue savings to be available to them upon completion of the program.

b. Support of the Resident's Dependents. The resident and facility shall mutually agree upon the amount to be sent to dependents. This agreement and authorization shall be in writing.

c. Legal Judgments. If there is a legal judgment of support, that judgment shall suffice as written authorization to disburse the money.

d. Payment of the Resident's Obligations. Debts acknowledged by the resident shall be in writing or reduced to judgment (including victim restitution) and shall reflect the schedule by which the resident wishes the debt to be

repaid. The facility shall ensure that payment of this type debt is legitimate.

e. Canteen/commissary items shall be priced at a reasonable cost to residents. Contractors that operate a canteen shall provide to the facility administrator a list of canteen items sold and the price list of the cost of the item to the resident.

L. Sexual Assault and Sexual Misconduct

1. Prohibited Conduct—Sexual Contact between Staff, Civilians and Residents

a. There is no consensual sex in a custodial or supervisory relationship. Any sexual assault, sexual misconduct or sexual coercion between staff, civilians and residents is inconsistent with professional, ethical principles and department regulations. Acts of sexual assault, sexual misconduct or sexual coercion by staff or civilians against residents under their supervision is a violation of R.S. 14:134 et seq., subject to criminal prosecution. Retaliation against individuals because of their involvement in the reporting or investigation of sexual assault, sexual misconduct or sexual coercion is strictly prohibited.

2. Facility Policy

a. The facility shall have written policies and procedures for the prevention, detection, response, reporting and investigating of alleged and substantiated sexual assaults. Facility investigative reports of such allegations shall be submitted to the judicial agency which referred the resident to the facility.

M. Department of Public Safety and Corrections Facility Access

1. Compliance Monitoring

a. In accordance with R.S. 40:2852, all judicial agency referral residential facilities shall be regulated by rules adopted and enforced by the Department of Public Safety and Corrections for the operation of such facilities. In order to fulfill this mission, the department must have the ability to inspect the facility on a scheduled or random basis. The inspections shall include but not be limited to: review of ACA files; review of log books; resident employment status; quality of life issues; resident financial information and any information necessary to ensure compliance with both ACA standards and the standard operating procedures for judicial agency referral residential facilities.

2. Access to DPSC Staff

a. The Division of Probation and Parole shall have access as necessary to any residents on probation in the program to ensure compliance with conditions of probation. This includes the need for regular contacts, random drug screening and any other duties necessary to determine that the resident is abiding by the conditions of their probation.

b. The DPSC shall have access to the facility at any time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2851 and 2852.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 37:

§1305. Physical Plant

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2851 and 2852.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 33:667 (April 2007), repealed LR 37:

§1307. Facility Operations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2851 and 2852.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 33:667 (April 2007), repealed LR 37:

§1309. Facility Services

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2851 and 2852.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 33:668 (April 2007), repealed LR 37:

§1311. Resident Programs

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2851 and 2852.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 33:669 (April 2007), repealed LR 37:

§1313. Employment

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2851 and 2852.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 33:669 (April 2007), repealed LR 37:

§1315. Community Involvement

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2851 and 2852.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 33:670 (April 2007), repealed LR 37:

§1317. Resident Activities

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2851 and 2852.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 33:670 (April 2007), repealed LR 37:

§1319. Resident Discipline

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2851 and 2852.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 33:670 (April 2007), repealed LR 37:

§1321. Resident Personal Funds

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2851 and 2852.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 33:671 (April 2007), repealed LR 37:

Family Impact Statement

The amendment of this Rule has no known impact on family formation, stability or autonomy, as described in R.S. 49:972.

Public Comments

Written comments may be addressed to Melissa Callahan, Deputy Assistant Secretary, Department of Public Safety and Corrections, P.O. Box 94304, Baton Rouge, LA 70804, until 4:30 p.m. on March 11, 2011.

James M. Le Blanc
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Judicial Agency Residential Referral Facilities

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The Department of Corrections may incur minimal increases in costs associated with travel to inspect facilities. The proposed rule change was originally implemented as an emergency rule on January 5, 2011 and, in accordance with Act 493 of the 2010 Regular Legislative Session, provides for the Department of Corrections to inspect facilities that serve as housing or temporary residence of individuals who have been arrested for the commission of a crime and are referred by any judicial agency. Any facility that serves as a Judicial Agency Referral Residential Facility must meet the criteria listed in the Procedures section of regulation B-01-005 to become a certified facility. At present, Academy of Training Skills is the only Judicial Agency Referral Facility in the state.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will have no impact on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Any facility that becomes certified through Department of Corrections inspection may have an increase in costs associated with certification compliance. There is only one known facility in the state that these specific administrative rules may impact (Academy of Training Skills). However, the cost to the facility as a result of these rules is indeterminable since the Department of Corrections does not know if this facility currently meets the new criteria within the proposed administrative rules.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will require facilities to meet the proposed guidelines related to administration and staffing. If the entity does not meet these guidelines initially, a period of 24 months will be given to address any areas of non-compliance. However, the specific impact is indeterminable since the Department of Corrections is not specifically aware of the facility's current workforce.

Thomas C. Bickham, III
Undersecretary
1102#050

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections Corrections Services

Non-Medical Furloughs (LAC 22:I.305)

The Department of Public Safety and Corrections, Corrections Services, in accordance with R.S. 36:404, hereby gives notice of its intent to repeal LAC 22:I.305, Non-medical Furloughs in its entirety.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part I. Corrections

Chapter 3. Adult Services

Subchapter A. General

§305. Non-Medical Furloughs

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:811(C), R.S. 15:833.

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 4:487 (December 1978), amended LR 8:274 (June 1982), LR 15:853 (October 1989), LR 32:249 (February 2006), repealed by the Department of Corrections, Corrections Services, LR 37:

Family Impact Statement

The proposed repeal of this Rule has no known impact on family formation, stability or autonomy, as described in R.S. 49:972.

Public Comments

Written comments may be addressed to Melissa Callahan, Deputy Assistant Secretary, Department of Public Safety and Corrections, P. O. Box 94304, Baton Rouge, LA 70804, until 4:30 p.m. on March 11, 2011.

James M. Le Blanc
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Non-Medical Furloughs

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will have no impact on state or local government expenditures. The rule change will eliminate the department regulation regarding non-medical furloughs due to non-use. The Department of Corrections has been unable to determine when the regulation was last used.

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 since this is a technical adjustment.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is no estimated cost or economic benefit to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment with this rule.

Thomas Bickham, III
Undersecretary
1102#059

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections Office of State Police

Breath and Blood Alcohol Analysis Methods and
Techniques (LAC 55:I.555 and 581)

Under the authority of R.S. 32:663 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Public Safety and Corrections, Public Safety Services hereby proposes to amend §§555 and 581 under Chapter 5 to provide for 10 days to deliver a sample to the laboratory utilized for analysis, instead of the 7 days currently allowed.

The proposed Rule would add three additional days for a blood sample taken for analysis to be delivered to the laboratory utilized for analysis. Currently the sample is required to be transported to the laboratory at the earliest opportunity after collection, not to exceed 7 days. The proposed Rule would allow for not more than 10 days after collection for the sample to be delivered to the laboratory.

Title 55

PUBLIC SAFETY

Part I. State Police

Chapter 5. Breath and Blood Alcohol Analysis Methods and Techniques

Subchapter B. Analysis of Blood

§555. Certified Techniques of Analyst

A. - G.2. ...

3. The blood sample taken for analysis may be maintained at room temperature and delivered to the designated collection site of each enforcement agency within 24 hours of the end of the collecting officer's shift. It shall be transported then to the laboratory utilized for analysis at the earliest opportunity after collection, not to exceed 10 days.

H. - H.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 6:663 (November 1980), amended by the Department of Public Safety and Corrections, Office of State Police, LR 11:259 (March 1985), LR 14:360 (June 1988), LR 17:675 (July 1991), repromulgated LR 17:798 (August 1991), amended LR 26:2624 (November 2000), LR 37:

Subchapter C. Analysis of Blood and Urine for Controlled Dangerous Substances

§581. Receiving and Sampling of Evidence

A. - B. ...

C. The sample taken for analysis should be refrigerated and delivered to a designated collection site within 24 hours following the end of the collecting officer's shift. It shall then be transported to the laboratory utilized for analysis at the earliest opportunity after collection, not to exceed 10 days.

D. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 26:2625 (November 2000), amended LR 37:

Family Impact Statement

1. The Effect of this Rule on the Stability of the Family. This Rule will have no effect on the stability of the family.

2. The Effect of this Rule on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. This Rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect of this Rule on the Functioning of the Family. This Rule will have no effect on the functioning of the family.

4. The Effect of this Rule on Family Earnings and Family Budget. This Rule will have no effect on family earning and family budget.

5. The Effect of this Rule on the Behavior and Personal Responsibility of Children. This Rule will have no effect on the behavior and personal responsibility of children.

6. The Effect of this Rule on the Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rules. This Rule will have no effect on the ability of the family or local government to perform the function as contained in the proposed rules.

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 any 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 or requests for public hearing on the proposed Rule. Such comments or requests should be submitted no later than March 20, 2011, at 4:30 p.m. to Faye Dysart Morrison, P.O. Box 66614, Baton Rouge, La. 70896.

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Breath and Blood Alcohol Analysis Methods and Techniques

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no anticipated implementation costs or savings to state or local governmental units resulting from the proposed rule. The proposed rule would allow State Police three additional days for a blood sample to be delivered to the laboratory utilized for analysis. Currently the sample is

required to be transported to the laboratory at the earliest opportunity after collection, not to exceed seven days. The proposed rule would allow for not more than 10 days after collection for the sample to be delivered to the laboratory.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is no estimated cost or economic benefits to directly affected persons or non-governmental groups as a result of the implementation of the proposed rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated impact upon competition and employment as a result of the proposed rule.

Jill P. Boudreaux
Undersecretary
1102#023

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Office of State Police**

**Breath and Blood Alcohol Analysis Methods and
Techniques (LAC 55:1.583)**

Under the authority of R.S. 32:663 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Public Safety and Corrections, Public Safety Services hereby proposes to amend §583 under Chapter 5 to add liquid chromatography/mass spectrometry as an approved method for testing blood.

The proposed Rule would add a testing method known as liquid chromatography/mass spectrometry to the methods available to the Louisiana State Police Crime Laboratory, and other permitted labs. Liquid chromatography/mass spectrometry is very similar to gas chromatography/mass spectrometry but it differs in that the sample is carried through the instrument in a liquid phase instead of a gas phase. This results in the sample needing to be prepared differently but the analysis still uses an instrument with mass spectral capabilities.

Title 55

PUBLIC SAFETY

Part I. State Police

**Chapter 5. Breath and Blood Alcohol Analysis
Methods and Techniques**

**Subchapter C. Analysis of Blood and Urine for
Controlled Dangerous Substances**

§583. Analytical Procedures

A. Analytical procedures shall include the use of at least two tests (a screening test and a confirmation test, or two confirmation tests) performed for each analyte present. If a screening test is used, the confirmation tests shall be based on a different physical or chemical principle from that of the screening test and offer a higher degree of specificity. All confirmation tests shall be performed using gas chromatography/mass spectrometry or liquid chromatography/mass spectrometry. Screening tests may

include, but not be limited to, colorimetric, enzymatic, or chromatographic analysis. Confirmation of the identity of an analyte in a different specimen from that used for the first test (e.g., blood and urine) is acceptable, as is reconfirmation in a second aliquot of the same specimen.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 26:2625 (November 2000), amended LR 37:

Family Impact Statement

1. The Effect of this Rule on the Stability of the Family. This Rule will have no effect on the stability of the family.

2. The Effect of this Rule on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. This Rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect of this Rule on the Functioning of the Family. This Rule will have no effect on the functioning of the family.

4. The Effect of this Rule on Family Earnings and Family Budget. This Rule will have no effect on family earning and family budget.

5. The Effect of this Rule on the Behavior and Personal Responsibility of Children. This Rule will have no effect on the behavior and personal responsibility of children.

6. The Effect of this Rule on the Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rules. This Rule will have no effect on the ability of the family or local government to perform the function as contained in the proposed rules.

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 any 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 or requests for public hearing on the proposed Rule. Such comments or requests should be submitted no later than March 20, 2011, at 4:30 p.m. to Faye Dysart Morrison, P.O. Box 66614, Baton Rouge, La. 70896.

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Breath and Blood Alcohol Analysis Methods and Techniques

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will have no impact on state or local governmental units. The Louisiana State Police (LSP) proposes to amend its administrative rules concerning the

testing of blood and urine for controlled dangerous substances. A technology known as liquid chromatography/mass spectrometry, which is currently in place at State Police, is an accepted and scientifically valid testing process that will be used to test blood and/or urine for the presence of controlled dangerous substances. Use of this procedure could result in a reduction in the toxicology backlog at State Police.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of these changes will not result in any change to 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 anticipated impact on directly affected persons or non-governmental groups based on this rule change.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated impact on competition and employment in the public and private sectors based on this rule change.

Jill P. Boudreaux
Undersecretary
1102#024

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections Office of State Police

Collection, Submission, Receipt, Identification, Storage and Disposal of DNA Samples (LAC 55:1.Chapter 27)

Under the authority of R.S. 32:663 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Public Safety and Corrections, Public Safety Services hereby proposes to amend §§2702-2706, 2721-2722, 2724-2726, and 2742 under Chapter 27 to provide for the use of DNA Database Buccal Collection Kits for the collection of DNA from convicted offenders, as well as arrestees. Previously this type of kit was only used for arrestee samples. The proposed Rule would allow for the use of the less expensive DNA Database Buccal Collection Kit for all collections authorized by law.

The text of this Notice of Intent can be viewed in its entirety in the Emergency Rule section of this issue of the *Louisiana Register*.

Family Impact Statement

1. The Effect of this Rule on the Stability of the Family. This Rule will have no effect on the stability of the family.

2. The Effect of this Rule on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. This Rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect of this Rule on the Functioning of the Family. This Rule will have no effect on the functioning of the family.

4. The Effect of this Rule on Family Earnings and Family Budget. This Rule will have no effect on family earning and family budget.

5. The Effect of this Rule on the Behavior and Personal Responsibility of Children. This Rule will have no effect on the behavior and personal responsibility of children.

6. The Effect of this Rule on the Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rules. This Rule will have no effect on the ability of the family or local government to perform the function as contained in the proposed rules.

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 any 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 or requests for public hearing on the proposed Rule. Such comments or requests should be submitted no later than March 20, 2011, at 4:30 p.m. to Faye Dysart Morrison, P.O. Box 66614, Baton Rouge, La. 70896.

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Collection, Submission, Receipt, Identification, Storage and Disposal of DNA Samples

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule is anticipated to result in a \$22,950 annual savings for the state. No expenditure impact is anticipated for local governments. The rule provides for the use of DNA Database Buccal Collection kits for the collection of DNA samples from arrestees as well as convicted offenders. The DNA Database Buccal Collection kits cost approximately \$4.65 per kit as compared to \$6.18 per kit for the DNA Database Blood Collection kits now in use by the Louisiana State Police Crime Lab for convicted offenders. The lab orders approximately 15,000 kits per year.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is no anticipated cost or economic benefits to directly affected persons or non-governmental groups as a result of the proposed amendments.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment as a result of the proposed amendments.

Jill P. Boudreaux
Undersecretary
1102#022

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of the Treasury Deferred Compensation Commission

Public Employees Deferred Compensation Plan
(LAC 32:VII.101, 301, 305, 317, 323, 721, 723, and 1107)

Please take notice that the Louisiana Deferred Compensation Commission (the "LDCC"), in accordance with R.S. 49:950 et seq. and R.S. 42:1303-1303.1, intends to amend the Louisiana Public Employees Deferred Compensation Plan. The proposed Rule updates the plan for IRS compliance and references the appropriate sections of the Internal Revenue Code.

Title 32

EMPLOYEE BENEFITS

Part VII. Public Employee Deferred Compensation Subpart 1. Deferred Compensation Plan

Chapter 1. Administration

§101. Definitions

Account Balance—

1. the bookkeeping account maintained with respect to each participant which reflects the value of the deferred compensation credited to the participant, including:

- a. the participant's total amount deferred;
- b. the earnings or loss of the fund (net of fund expenses) allocable to the participant;
- c. any transfers for the participant's benefit; and
- d. any distribution made to the participant or the participant's beneficiary:

i. if a participant has more than one beneficiary at the time of the participant's death, then each beneficiary's share of the account balance shall be treated as a separate account for each beneficiary;

2. the *account balance* includes:

- a. any account established under §505 for rollover contributions and plan-to-plan transfers made for a participant;
- b. the account established for a beneficiary after a participant's death; and
- c. any account or accounts established for an alternate payee [as defined in Code §414(p)(8)].

Administrator or Plan Administrator—the person, persons or entity appointed by the Louisiana Deferred Compensation Commission to administer the plan pursuant to LAC 32:VII.103.A, if any.

Age 50 or Older Catch-Up—the deferred amount described pursuant to LAC 32:VII.303.C.

Alternate Payee—the spouse, former spouse, child or other dependent of a participant who has acquired an interest in the participant's account pursuant to a Qualified Domestic Relations Order (QDRO) pursuant to §1503. Alternate payees shall be treated as beneficiaries for all purposes under the plan except that alternate payees shall be allowed to request a distribution of all or a portion of their account balance at any time, subject to the terms of the QDRO.

Beneficiary—the person, persons or entities designated by a participant pursuant to §301.A.5 who is entitled to receive benefits under the plan after the death of a participant.

Commission—the Louisiana Deferred Compensation Commission, as established in accordance with R.S. 42:1302, which shall be comprised of the state treasurer, the commissioner of administration, the commissioner of insurance, the commissioner of financial institutions (or their designees), and three participant members (elected by the participants).

Compensation—all payments paid by the employer to an employee or independent contractor as remuneration for services rendered, including salaries and fees, and, to the extent permitted by treasury regulations or other similar guidance, accrued vacation and sick leave pay paid within 2 and 1/2 months of participant's severance from employment so long as the employee would have been able to use the leave if employment had continued.

Custodial Account—the account established with a bank or trust company meeting the provisions of Internal Revenue Code (IRC) §401(f), that the commission has elected to satisfy the trust requirement of IRC §457(g) by setting aside plan assets in a custodial account.

Custodian—the bank or trust company or other person, if any selected by the commission to hold plan assets in a custodial account in accordance with regulations pursuant to IRC §457(g) and 401(f).

Deferred Compensation—the amount of compensation not yet earned, which the participant and the commission mutually agree, shall be deferred.

Employee—any individual who is employed by the employer, either as a common law employee or an independent contractor, including elected or appointed individuals providing personal services to the employer. Any *employee* who is included in a unit of employees covered by a collective bargaining agreement that does not specifically provide for participation in the plan shall be excluded.

Includible Compensation—an employee's actual wages in Box 1 of Form W-2 for a year for services to the employer, but subject to a maximum of \$200,000 [or such higher maximum as may apply under Code §401(a)(17)] and increased (up to the dollar maximum) by any compensation reduction election under Code §§125, 132(f), 401(k), 403(b), or 457(b) [for purposes of the limitation set forth in §303.A, compensation for services performed for the employer as defined in IRC §457(e)(5)].

Independent Contractor—an individual (not a corporation, partnership, or other entity), who is receiving compensation for services rendered to or on behalf of the employer in accordance with a contract between such individual and the employer.

Interest or Interest in Deferred Compensation—under the plan, the aggregate of:

1. a participant's deferred compensation for his or her entire period of participation in the plan; and
 2. the earnings or losses allocable to such amount.
- Such interest represents an accounting entry only and does not constitute an ownership interest, right or title in the assets so invested.

Investment Product—any form of investment designated by the commission for the purpose of receiving funds under the plan.

IRC—the *Internal Revenue Code* of 1986, as amended, or any future United States Internal Revenue law. References herein to specific section numbers shall be deemed to

include treasury regulations thereunder and Internal Revenue Service guidance thereunder and to corresponding provisions of any future United States internal revenue law. All citations to sections of the Code are to such sections as they may from time to time be amended or renumbered.

Limited Catch-Up—the deferred amount described in LAC 32:VII.305.A.

Non-Elective Employer Contribution—any contribution made by an employer for the participant with respect to which the participant does not have the choice to receive the contribution in cash or property. Such term may also include an employer matching contribution.

Normal Retirement Age—

1. the age designated by a participant, which age shall be between:

a. the earliest date on which such participant is entitled to retire under the public retirement system of which that participant is a member without actuarial reduction in his or her benefit; and

b. age 70 1/2, provided, however, that if a participant continues in the employ of the employer beyond 70 1/2, *normal retirement age* means the age at which the participant severs employment;

2. if the participant is not a member of a defined benefit plan in any public retirement system, the participant's normal retirement age may not be earlier than age 65, and may not be later than age 70 1/2. A special rule shall apply to qualified police or firefighters under the plan, if any. Any qualified police or firefighter, as defined under §415(b)(2)(H)(ii)(I), who is participating in the plan may choose a normal retirement age that is not earlier than age 40 nor later than age 70 1/2;

3. if a participant continues to be employed by employer after attaining age 70 1/2, not having previously elected an alternate normal retirement age, the participant's alternate normal retirement age shall not be later than the mandatory retirement age, if any, established by the employer, or the age at which the participant actually severs employment with the employer if the employer has no mandatory retirement age.

Participant—an individual who is eligible to defer compensation under the plan, and has executed an effective deferral authorization. *Participant* also includes an employee or independent contractor who has severance from employment but has not received a complete distribution of his or her interest in deferred compensation under the plan.

Participation Agreement—the agreement executed and filed by an individual who is eligible to defer compensation under the plan, and has executed an effective deferral authorization.

Pay Period—a regular accounting period designated by the employer for the purpose of measuring and paying compensation earned by an employee or independent contractor.

Plan—the State of Louisiana Public Employees Deferred Compensation Plan established by this document and any applicable amendment.

Plan Year—the calendar year.

Qualified Domestic Relations Order or *QDRO*—as specified in LAC 32:VII.1503.B.

Qualified Military Service—any service in the uniformed service (as defined in Chapter 43 of Title 38 of the United

States Code as in effect as of December 12, 1994) by any individual if such individual is entitled to reemployment rights under such Chapter with respect to such service.

Section 3121 Participant – an individual who is using the Plan as a retirement system providing FICA replacement benefits pursuant to IRC §3121(b)(7)(F) and the regulations thereunder.

Separation from Service or Separates from Service—

1. with respect to an employee, the permanent severance of the employment relationship with the employer on account of such employee's:

- a. retirement;
- b. discharge by the employer;
- c. resignation;
- d. layoff; or
- e. in the case of an employee who is an appointed or elected officer, the earlier of:

i. the taking of the oath of office of such officer's successor; or

ii. the cessation of the receipt of compensation

2. if an employee incurs a break in service for a period of less than 30 days or transfers among various Louisiana governmental entities, such break or transfer shall not be considered a separation from service;

3. with respect to an independent contractor, *separation from service* means that the expiration of all contracts pursuant to services performed for or on behalf of the employer.

Severance from Employment or Severs Employment—

1. the date the employee dies, retires, or otherwise has a severance from employment with the employer, as determined by the administrator (and taking into account guidance issued under the Code). An employee whose employment is interrupted by qualified military service under Code §414(u) shall be deemed severed from employment until such time as he or she is reemployed following the term of duty. A participant shall be deemed to have severed employment with the employer for purposes of this plan when both parties consider the employment relationship to have terminated and neither party anticipates any future employment of the participant by the employer. In the case of a participant who is an independent contractor, severance from employment shall be deemed to have occurred when:

- a. the participant's contract for services has completely expired and terminated;
- b. there is no foreseeable possibility that the employer shall renew the contract or enter into a new contract for services to be performed by the participant; and
- c. it is not anticipated that the participant shall become an employee of the employer;

2. with respect to an employee, the permanent severance of the employment relationship with the employer on account of such employee's:

- a. retirement;
- b. discharge by the employer;
- c. resignation;
- d. layoff; or
- e. in the case of an employee who is an appointed or elected officer, the earlier of:

i. the taking of the oath of office of such officer's successor; or

ii. the cessation of the receipt of compensation;

3. if an employee incurs a break in service for a period of less than 30 days or transfers among various Louisiana governmental entities, such break or transfer shall not be considered a severance from employment.

Total Amount Deferred—with respect to each participant, the sum of all compensation deferred under the plan (plus investment gains and/or losses thereon, including amounts determined with reference to life insurance policies) calculated in accordance with the method designated in the participant's participation agreement(s) under which such compensation was deferred and any subsequent election(s) to change methods, less the amount of any expenses or distributions authorized by this plan.

Trustee—the commission or such other person, persons or entity selected by the commission who agrees to act as *trustee*. This term also refers to the person holding the assets of any custodial account or holding any annuity contract described in LAC 32:VII.317.

Unforeseeable Emergency—

1. severe financial hardship of a participant or beneficiary resulting from:

a. an illness or accident of the participant or beneficiary, the participant's or beneficiary's spouse, or the participant's or beneficiary's dependent (as defined in IRC §152, and without regard to IRC §152(b)(1), (b)(2), and (d)(1)(B));

b. loss of the participant's or beneficiary's property due to casualty (including the need to rebuild a home following damage to a home not otherwise covered by homeowner's insurance, such as damage that is the result of a natural disaster); or

c. other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of participant or beneficiary.

2. The definition of Unforeseeable Emergency does not include either the purchase of a home or the payment of college tuition.

3. The definition of Unforeseeable Emergency includes, but is not limited to, the following:

a. payment of mortgage payments or rent due to imminent foreclosure of or eviction from the participant's or beneficiary's primary residence;

b. the need to pay for medical expenses, including non-refundable deductibles, as well as for the cost of prescription drug medication; and

c. the need to pay for funeral expenses of a spouse or dependent (as defined above) of a participant or beneficiary.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1962 (October 1998), amended LR 28:1494 (June 2002), LR 32:118 (January 2006), LR 37:

Chapter 3. Plan Participation, Options and Requirements

§301. Enrollment in the Plan

A. The following applies to compensation deferred under the plan.

1. - 3. ...

4. Notwithstanding §301.A.1, to the extent permitted by applicable law, the administrator may establish procedures whereby each employee becomes a participant in the plan (automatic enrollment) and, as a term or condition of employment, elects to participate in the plan and consents to the deferral by the employer of a specified amount for any payroll period for which a participation agreement is not in effect. In the event such procedures are in place, a participant may elect to defer a different amount of compensation per payroll period, including zero, by entering into a participation agreement.

a. Within a reasonable period of time before each plan year, the commission shall give to each employee to whom an automatic enrollment arrangement described in §301.A.4 applies for such year notice of the employee's rights under such arrangement.

b. The notice provided for in §301.A.4.a above shall provide an explanation of the employee's rights and obligations under the arrangement, including the right to elect not to have contributions made on the employee's behalf or to have such contributions made at a different percentage. The notice shall also provide an explanation of how contributions made under the arrangement will be invested in the absence of any investment election by the employee.

5. - 6. ...

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1964 (October 1998), amended LR 28:1495 (June 2002), LR 32:119 (January 2006), LR 37:

§305. Limited Catch-Up

A. - A.1. ...

2. the sum of:

a. an amount equal to the aggregate limit determined by §303A. of this Plan for the current year and any prior calendar years beginning after December 31, 2001, during which the participant was eligible to participate in this Plan, minus the aggregate amount of compensation that the participant deferred under this Plan during such years, plus

b. an amount equal to the aggregate limit referred to in IRC §457(b)(2) for each prior calendar year beginning after December 31, 1978, and before January 1, 2002, during which the participant was an employee, minus the aggregate contributions made by the participant to Pre-2002 Coordination Plans for such years.

B. - C.2. ...

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1965 (October 1998), amended LR 28:1496 (June 2002), LR 32:120 (January 2006), LR 37:

§317. Custody of Plan Assets

A. - A.2. ...

3. All amounts deferred under the Plan shall be transferred by the employer to the Commission for investment through an account described in §317.A.1 or 2 above within 15 business days following the month in which such amounts would have otherwise been paid to the participant.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1966 (October 1998), LR 37:

§323. Section 3121 Participants

A. Notwithstanding any other provisions in this plan to the contrary, the following shall apply to all section 3121 participants:

1. annual allocations to each section 3121 participant's account must be equal to at least 7.5 percent of the participant's annual compensation;

2. all amounts deferred by a section 3121 participant shall be held in a non-forfeitable account. Such account shall be credited with earnings at a rate that is reasonable under all the facts and circumstances or employees' accounts are held in a separate trust that is subject to general fiduciary standards and are credited with actual net earnings on the trust fund, in accordance with IRS Treas. Reg. §31.3121(b)(7)-2(e)(2)(iii);

3. no distributions from the Plan shall be made to a Section 3121 participant before such Participant severs employment.

B. In the event a section 3121 participant no longer intends to use the plan as a retirement system providing FICA replacement benefits pursuant to IRC §3121(b)(7)(F) and the regulations thereunder, the participant may transfer any amounts being held pursuant to this Subsection to an account described in §505 of the plan.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 37:

Chapter 7. Distributions

§709. Unforeseeable Emergency

A. - A.4. ...

B. The following events are not considered unforeseeable emergencies under the Plan:

1. enrollment of a child in college;

2. purchase of a house;

3. purchase or repair of an automobile, except due to a casualty loss or other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the participant or beneficiary;

4. repayment of loans (unless the loan was the direct result of an unforeseeable emergency, as defined in section 101 of the plan);

5. payment of income taxes, back income taxes, or fines associated with back income taxes (except for income taxes which result from a distribution made in connection with an unforeseeable emergency, as defined in section 101 of the plan);

6. marital separation or divorce; or

7. bankruptcy (except when bankruptcy resulted directly from an unforeseeable emergency, as defined in section 101 of the plan).

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1968 (October 1998), amended LR 28:1498 (June 2002), LR 32:122 (January 2006), LR 37:

§721. Transfers and Rollovers

A. - B. ...

C. Section 3121 Participant Transfers. If a participant was formerly a Section 3121 Participant, then the Plan shall accept assets representing amounts deferred under §323 of this Plan, provided the participant remains an Employee.

D. Rollovers to the Plan

1. The plan shall accept a rollover contribution on behalf of a participant or employee who may become a participant. A rollover contribution, for purposes of this Subsection, is an eligible rollover contribution (as defined in IRC §402(f)(2)) from any:

- a. plan qualified under IRC §401(a) or 403(a);
- b. tax-sheltered annuity or custodial account described in IRC §403(b);
- c. individual retirement account or annuity described in IRC §408;
- d. eligible deferred compensation plan described in IRC §457(b).

2. Prior to accepting any rollover contribution, the commission must reasonably conclude, after a good faith effort, that the amount to be rolled over to the plan is a valid rollover within the meaning of the Internal Revenue Code. A participant's rollover contribution shall be held in a separate rollover account or accounts, as the commission shall determine from time to time. If, at any time, a rollover contribution is determined to be invalid, the commission shall distribute to the participant any such amount determined to be invalid within a reasonable period of time after such a determination is made.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1969 (October 1998), amended LR 28:1499 (June 2002), LR 37:

§723. Eligible Rollover Distributions

A. ...

B. Notice. The commission shall, within a reasonable period of time before making an eligible rollover distribution, provide a written explanation to the distributee explaining the following, as amended from time to time by applicable changes to the law:

1. the provisions under which the distributee may have the distribution directly transferred to an eligible retirement plan and that the automatic distribution by direct transfer applies to certain distributions in accordance with §401(a)(31)(B) of the Internal Revenue Code,

2. the provision which requires the withholding of tax on the distribution if it is not directly transferred to an eligible retirement plan,

3. the provisions under which the distribution will not be subject to tax if transferred to an eligible retirement plan within 60 days after the date on which the recipient received the distribution,

4. the provisions under which distributions from the eligible retirement plan receiving the distribution may be subject to restrictions and tax consequences which are different from those applicable to distributions from the plan making such distribution.

C. Definitions. For purposes of this §723, the following definitions shall apply.

Direct Rollover—a payment by the plan to the eligible retirement plan specified by the distributee.

Distributee—includes an employee or former employee, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a Qualified Domestic Relations Order, as defined in IRC §414(p), are distributees with regard to the interest of the spouse or former spouse.

Eligible Retirement Plan—an eligible retirement plan is an individual retirement account described in IRC §408(a), an individual retirement annuity described in IRC §408(b), an annuity plan described in IRC §403(a) that accepts the distributee's eligible rollover distribution, a qualified trust described in IRC §401(a) (including §401(k)) that accepts the distributee's eligible rollover distribution, a tax-sheltered annuity described in IRC §403(b) that accepts the distributee's eligible rollover distribution, or another eligible deferred compensation plan described in IRC §457(b) that accepts the distributee's eligible rollover distribution. However, in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity.

Eligible Rollover Distribution—any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies and the distributee's designated beneficiary, or for:

- a. a specified period of 10 years or more;
- b. any distribution to the extent such distribution is required under IRC §401(a)(9);
- c. any distribution that is a deemed distribution under the provisions of IRC §72(p);
- d. the portion of any distribution that is not includable in gross income; and
- e. any hardship distribution or distribution on account of unforeseeable emergency.

Reasonable Period of Time—shall have the meaning assigned to it under §401(a)(31) of the Internal Revenue Code and the regulations thereunder.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1969 (October 1998), amended LR 28:1499 (June 2002), LR 32:123 (January 2006), LR 37:

Chapter 11. Participant Loans

§1107. Loan Terms and Conditions

A. - A.9.c. ...

10. Loans shall not be available for a period of 30 days following the repayment of a previous loan from the plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1969 (October 1998), amended LR 28:1499 (June 2002), LR 32:123 (January 2006), LR 37:

Family Impact Statement

This Rule is not expected to have a negative impact on family formation, stability and autonomy.

Public Comments

Inquiries and comments concerning the proposed Rule should be directed to Emery Bares, Chairman of the LDCC by May 10, 2011.

The office hours of the LDCC for purposes of receiving comments and responding to inquiries are 9 a.m. until 5 p.m., Monday through Friday, excepting state holidays. The LDCC's office is located at 2237 S. Acadian Thruway, Suite 702, Baton Rouge, LA 70808. Telephone inquiries and comments will also be accepted at (225) 926-8082 or (800) 937-7604.

Emery Bares
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Public Employees Deferred Compensation Plan

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There will be no costs associated with the adoption of this rule. The proposed rule amends certain sections of the state's deferred compensation plan to comply with recent updates to the Internal Revenue Code and related IRS regulations. The rules codify existing practices.
- 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 proposed rule change will have no anticipated effect on costs and/or economic benefits to directly affected persons or nongovernmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The proposed rule change will have no effect on competition or employment.

Lindsey Hunter
Designee
1102#013

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

General and Wildlife Management Area
Hunting Rules and Regulations (LAC 76:XIX.111)

The Wildlife and Fisheries Commission does hereby give notice of its intent to promulgate rules and regulations governing the hunting of resident game birds and game quadrupeds.

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and the final Rule, including but not limited to, the

filing of the Fiscal and Economic Impact Statement, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Title 76

WILDLIFE AND FISHERIES

Part XIX. Hunting and WMA Regulations

Chapter 1. Resident Game Hunting Season

§111. General and Wildlife Management Area

Hunting Rules and Regulations

A. Hunting Seasons and Wildlife Management Area (WMA) Regulations

1. The rules and regulations contained within this digest have been officially approved and adopted by the Wildlife and Fisheries Commission under authority vested by Sections 115 and 116 of Title 56 of the Louisiana Revised Statutes of 1950 and are in full force and effect in conjunction with all applicable statutory laws. The Secretary of the Department of Wildlife and Fisheries (LDWF) has the authority to close or alter seasons in emergency situations in order to protect fish and wildlife resources.

2. Pursuant to Section 40.1 of Title 56 of the Louisiana Revised Statutes of 1950, the Wildlife and Fisheries Commission has adopted monetary values which are assigned to all illegally taken, possessed, injured or destroyed fish, wild birds, wild quadrupeds and other wildlife and aquatic life. Anyone taking, possessing, injuring or destroying fish, wild birds, wild quadrupeds and other wildlife and aquatic life shall be required to reimburse the LDWF a sum of money equal to the value of the wildlife illegally taken, possessed, injured or destroyed. This monetary reimbursement shall be in addition to any and all criminal penalties imposed for the illegal act.

B. Resident Game Birds and Animals

1. Shooting Hours—one-half hour before sunrise to one-half hour after sunset.

C. Other Season Dates

1. Turkey. Please refer to separate pamphlet.

2. Raccoon and Opossum. No closed season. Raccoon and opossum can be taken at night by one or more licensed hunters with one or more dogs and one .22 rimfire firearm. A licensed hunter may take raccoon or opossum with .22 rimfire rifle, .36 caliber or smaller muzzleloader rifle or shotgun during daylight hours. Hunting from boats or motor vehicles is prohibited. No bag limit for nighttime or daytime raccoon or opossum hunting during the open trapping season except on certain WMAs as listed. The remainder of the year, the raccoon and opossum bag limit for daytime or nighttime is two per person per day or night. No one who hunts raccoons or opossums as prescribed above shall pelt during the closed trapping season nor sell skins or carcasses of raccoons and opossums taken during the open trapping season unless he is the holder of a valid trapping license which shall be required in addition to his basic hunting license. Pelting or selling carcasses is illegal during closed trapping season.

3. Nutria. On WMAs and private property nutria may be taken recreationally by licensed hunters from September 1 through the last day of February, during legal shooting hours by any legal hunting method with a daily limit of five. When taken with a shotgun, steel shot must be used. On WMAs during waterfowl seasons, nutria may be taken only

with the use of shotguns with shot no larger than F steel, and during gun deer seasons, anyone taking nutria must display 400 square inches of hunter orange and wear a hunter orange cap or hat. Recreational nutria hunters must remove each nutria carcass in whole condition from the hunting area, except that nutria may be gutted. Possession of detached nutria parts, including nutria tails, by recreational hunters is illegal. Nutria harvested recreationally may not be pelted nor may such nutria or any nutria parts from recreationally taken nutria be sold, including the tail. Trespassing upon private property for the purpose of taking nutria or other furbearing animals is punishable by fines and possible jail time (R.S. 56:265). The Coastwide Nutria Control Program is a separate program and is in no way related to the nutria recreational season. For questions on the Coastwide Nutria Control Program, call the New Iberia office (337) 373-0032.

4. Blackbirds and Crows. The season for crows shall be September 1 through January 1 with no limit; however crows, blackbirds, cowbirds and grackles may be taken year round during legal shooting hours if they are depredating or about to depredate upon ornamentals or shade trees, agricultural crops, livestock, wildlife, or when concentrated in such numbers as to cause a health hazard. Louisiana has determined that the birds listed above are crop depredators and that crows have been implicated in the spread of the West Nile virus in humans. As described in 50 CFR Part 21, non-toxic shot must be used for the take of crows, blackbirds, cowbirds and grackles under the special depredation order. In addition an annual report has to be submitted to the U.S. Fish and Wildlife Service for those that participate in the take of these species.

5. Pheasant. Open concurrently with the quail season; no limit.

6. Falconry. Special permit required. Resident and migratory game species may be taken except turkeys. Seasons and bag limits are the same as for statewide and WMA regulations. Refer to LAC 76:V.301 for specific Falconry rules.

7. Licensed Hunting Preserve. October 1 - April 30. Pen-raised birds only. No limit entire season. Refer to LAC 76:V.305 for specific Hunting Preserve rules.

8. Deer Management Assistance Program (DMAP). Refer to LAC 76:V.111 for specific DMAP Rules. Deer management assistance tags must be in the possession of the hunter in order to harvest an antlerless deer. The tag shall be attached through the hock in such a manner that it cannot be removed before the deer is transported (including those taken on either-sex days and those taken with approved archery equipment or primitive firearms). Antlerless deer harvested on property enrolled in DMAP does not count in the season or daily bag limit for hunters. Failure to do so is a violation of R.S. 56:115. Failing to follow DMAP rules and regulations may result in suspension and cancellation of the program on those lands involved. DMAP participants must follow the deer season schedule established for their respective areas.

9. Farm Raised White-tailed Deer and Exotics on Licensed Supplemented Shooting Preserves

a. Definitions

Exotics—for purposes of this rule means any animal of the family Bovidae (except the Tribe Bovini [cattle]) or Cervidae which is not indigenous to Louisiana

and which is confined on a Supplemented Hunting Preserve. Exotics shall include, but are not limited to, fallow deer, red deer, elk, sika deer, axis deer, and black buck antelope.

Hunting—in its different tenses and for purposes of this rule means to take or attempt to take, in accordance with R.S. 56:8.

Same as Outside—for purposes of this rule means hunting on a Supplemented Hunting Preserve must conform to applicable statutes and rules governing hunting and deer hunting, as provided for in Title 56 of the Louisiana Revised Statutes and as established annually by the Wildlife and Fisheries Commission.

Supplemented Hunting Preserve—for purposes of this rule means any enclosure for which a current Farm-Raising License has been issued by the Department of Agriculture and Forestry (LDAF) with concurrence of the LDWF and is authorized in writing by the LDAF and LDWF to permit hunting.

White-tailed Deer—for purposes of this rule means any animal of the species *Odocoileus virginianus* which is confined on a supplemented hunting preserve.

b. Seasons

i. Farm-Raised White-tailed Deer—consult the regulations pamphlet.

ii. Exotics—year round.

c. Methods of Take

i. White-tailed Deer—same as outside.

ii. Exotics—exotics may be taken with longbow (including compound bow and crossbow) and arrow; shotguns not larger than 10 gauge, loaded with buckshot or rifled slug; handguns and rifles no smaller than .22 caliber centerfire; or muzzleloading rifles or pistols, .44 caliber minimum, or shotguns 10 gauge or smaller, all of which must load exclusively from the muzzle or cap and ball cylinder, using black powder or an approved substitute only, and using ball or bullet projectile, including sabot bullets only and other approved primitive firearms.

d. Shooting Hours

i. White-tailed Deer—same as outside.

ii. Exotics—one-half hour before sunrise to one-half hour after sunset.

e. Bag Limit

i. Farm-Raised White-tailed Deer—same as outside.

ii. Exotics—no limit.

f. Hunting Licenses

i. White-tailed Deer—same as outside.

ii. Exotics—no person shall hunt any exotic without possessing a valid basic and big game hunting license.

g. Tagging

i. White-tailed Deer and Exotics. Each animal shall be tagged in the left ear or left antler immediately upon being killed and before being moved from the site of the kill with a tag provided by the LDAF. The tag shall remain with the carcass at all times.

10. Bobcat. No person other than the holder of a valid big game license may take or possess bobcat, except licensed trappers who may take or possess bobcat during the open trapping season. A big game licensee shall only take bobcat during the time period from one-half hour before sunrise to one-half hour after sunset with approved archery

equipment, shotgun, muzzleloader or centerfire firearm. A big game licensee shall not take more than one bobcat per calendar year. This regulation applies only to property that is privately owned, state WMAs, and the Bayou des Ourses, Bodcau, Bonnet Carre, Indian Bayou, Loggy Bayou and Soda Lake tracts owned by the Corps of Engineers but does not apply to state wildlife refuges, the Kisatchie National Forest, or other federally owned refuges and lands. On state WMAs, the take of bobcat is restricted to those open seasons on the WMAs which require the respective legal weapons noted above.

D. Hunting-General Provisions

1. A basic resident or non-resident hunting license is required of all persons to hunt, take, possess or cause to be transported by any other person any wild bird or quadruped. See information below for exceptions.

2. All persons born on or after September 1, 1969 must show proof of satisfactorily completing a Hunter Safety course approved by LDWF to purchase a Basic Hunting License, except any active or veteran member of the United States armed services or any POST-certified law enforcement officer. Application for the exemption shall be filed in person at the LDWF main office building in the city of Baton Rouge. A person younger than 16 years of age may hunt without such certificate if he is accompanied by, and is under the direct supervision of a person 18 years of age or older.

3. A big game license is required in addition to the basic hunting license to hunt, take, possess or cause to be transported any deer. A separate wild turkey license is required in addition to the basic hunting license and the big game license to hunt, take, possess or cause to be transported any turkey.

4. Taking game quadrupeds or birds from aircraft or participating in the taking of deer with the aid of aircraft or from automobiles or other moving land vehicles is prohibited.

5. Methods of Taking Resident Game Birds and Quadrupeds

a. It is illegal to intentionally feed, deposit, place, distribute, expose, scatter, or cause to be fed, deposited, placed, distributed, exposed, or scattered raw sweet potatoes to wild game quadrupeds.

b. Use of a longbow (including compound bow and crossbow) and arrow or a shotgun not larger than a 10 gauge fired from the shoulder without a rest shall be legal for taking all resident game birds and quadrupeds. Also, the use of a handgun, rifle and falconry (special permit required) shall be legal for taking all game species except turkey. It shall be illegal to hunt or take squirrels or rabbits at any time with a breech-loaded rifle or handgun larger than a .22 caliber rimfire or a primitive firearm larger than .36 caliber. During closed deer gun season, it shall be illegal to possess shotgun shells loaded with slugs or shot larger than BB lead or F steel shot while small game hunting.

c. Still hunting is defined as stalking or stationary stand hunting without the use of dog(s). Pursuing, driving or hunting deer with dogs is prohibited when or where a still hunting season or area is designated, and will be strictly enforced. Shotguns larger than 10 gauge or capable of holding more than three shells shall be prohibited. Plugs used in shotguns must be incapable of being removed

without disassembly. Refer to game schedules contained within these regulations for specific restrictions on the use of firearms and other devices.

d. No person shall take or kill any game bird or wild quadruped with a firearm fitted with any device to deaden or silence the sound of the discharge thereof; or fitted with an infrared sight, laser sight, or except as provided in R.S. 56:116(A)(8) any sighting device which projects a beam of light to the target or otherwise electronically illuminates the target, or device specifically designed to enhance vision at night [R.S. 56:116.1(B)(3)].

6. Nuisance Animals. Landowners or their designees may remove beaver and nutria causing damage to their property without a special permit. Water set traps and firearms may be used to remove beaver; nutria may be removed by any means except that nutria cannot be taken by the use of headlight and gun between the hours of sunset and sunrise. With a special permit issued by the LDWF, beavers may be taken between one-half hour after official sunset to one-half hour before official sunrise for a period of three consecutive calendar evenings from the effective date of the permit. For specific details contact a region office near you. Any nuisance beaver or nutria trapped or shot outside open trapping season cannot be pelted or sold. A trapping license is required to sell or pelt nuisance beavers or nutria taken during open trapping season. Squirrels found destroying commercial crops of pecans may be taken year-round by permit issued by the LDWF. This permit shall be valid for 30 days from the date of issuance. Contact the local region office for details.

7. Threatened and Endangered Species—Louisiana black bear, Louisiana pearl shell (mussel), sea turtles, gopher tortoise, ringed sawback turtle, brown pelican, bald eagle, peregrine falcon, whooping crane, Eskimo curlew, piping plover, interior least tern, ivory-billed woodpecker, red-cockaded woodpecker, Bachman's warbler, West Indian manatee, Florida panther, pallid sturgeon, Gulf sturgeon, Attwater's greater prairie chicken, whales and red wolf. Taking or harassment of any of these species is a violation of state and federal laws.

8. Outlaw Quadrupeds. Holders of a legal hunting license may take coyotes, feral hogs where legal, and armadillos year round during legal daylight shooting hours. The running of coyotes with dogs is prohibited in all turkey hunting areas during the open turkey season. Coyote hunting is restricted to chase only when using dogs during still hunting segments of the firearm and archery only season for deer. Foxes are protected quadrupeds and may be taken only with traps by licensed trappers during the trapping season. Remainder of the year "chase only" allowed by licensed hunters.

9. Nighttime Take of Nuisance Animals and Outlaw Quadrupeds. On private property, the landowner, or his lessee or agent with written permission and the landowner's contact information in his possession, may take outlaw quadrupeds (coyotes, armadillos and feral hogs), nutria or beaver during the nighttime hours from one-half hour after official sunset on the last day of February to one-half hour after official sunset the last day of August of that same year. The method of such taking shall be limited to a shotgun no larger than a No. 10 gauge fired with buckshot or smaller or a standard .22 caliber rimfire firearm, and may be with or

without the aid of artificial light, infrared or laser sighting devices, or night vision devices.

10. Hunting and/or Discharging Firearms on Public Roads. Hunting, standing, loitering or shooting game quadrupeds or game birds with a gun during open season while on a public highway or public road right-of-way is prohibited. Hunting or the discharge of firearms on roads or highways located on public levees or within 100 feet from the centerline of such levee roads or highways is prohibited. Spot lighting or shining from public roads is prohibited by state law. Hunting from all public roads and rights-of-way is prohibited and these provisions will be strictly enforced.

11. Tags. Any part of the deer or wild turkey divided shall have affixed thereto the name, date, address and big game license number of the person killing the deer or wild turkey and the sex of that animal. This information shall be legibly written in pen or pencil, on any piece of paper or cardboard or any material, which is attached or secured to or enclosing the part or parts. On lands enrolled in DMAP, deer management assistance tags must be attached and locked through the hock of antlerless deer, (including those taken with approved archery and primitive firearms, and those antlerless deer taken on either-sex days) in a manner that it cannot be removed, before the deer is moved from the site of the kill.

12. Sex Identification. Positive evidence of sex identification, including the head, shall remain on any deer taken or killed within the state of Louisiana, or on all turkeys taken or killed during any special gobbler season when killing of turkey hens is prohibited, so long as such deer or turkey is kept in camp or field, or is in route to the domicile of its possessor, or until such deer or turkey has been stored at the domicile of its possessor or divided at a cold storage facility and has become identifiable as food rather than as wild game.

E. General Deer Hunting Regulations

1. Prior to hunting deer, all deer hunters, regardless of age or license status, must obtain deer tags and have in possession when hunting deer. Immediately upon harvesting a deer, the hunter must tag the deer with the appropriate carcass tag and document the kill on the deer tag license. Within 7 days the hunter must validate the kill. Hunters harvesting deer on DMAP lands can validate deer per instructions by LDWF using the DMAP harvest data sheets. Hunters on WMAS can validate deer during mandatory deer check hunts, when deer check stations are in operation. Hunters may validate deer by calling the validation toll free number or using the validation web site.

2. One antlered and one antlerless deer per day (when legal) except on national forest lands and some federal refuges (check refuge regulations) where the daily limit shall be one deer per day. Season limit is six, three antlered bucks and three antlerless deer (all segments included) by all methods of take, except antlerless harvest on property enrolled in DMAP does not count in the season or daily bag limit for hunters. Antlerless deer may be harvested during entire deer season on private lands (all segments included) except in the following parishes: West Carroll and portions of East Carroll. Consult regulations pamphlet, modern firearms table for either-sex days for these parishes. This does not apply to public lands (WMAs, national forest lands,

and federal refuges) which will have specified either-sex days.

3. A legal antlered deer is a deer with at least one visible antler of hardened bony material, broken naturally through the skin, except in Thistlethwaite WMA, see specific Thistlethwaite WMA regulations for more information. Killing antlerless deer is prohibited except where specifically allowed.

4. Either-sex deer is defined as male or female deer. Taking or possessing spotted fawns is prohibited.

5. It is illegal to hunt or shoot deer with firearms smaller than .22 caliber centerfire or a shotgun loaded with anything other than buckshot or rifled slug. Handguns may be used for hunting.

6. Taking game quadrupeds or birds from aircraft, participating in the taking of deer with the aid of aircraft or from automobiles or other moving land vehicles is prohibited.

7. Still hunting is defined as stalking or stationary stand hunting without the use of dog(s). Pursuing, driving or hunting deer with dogs or moving vehicles, including ATVs, when or where a still hunting season or area is designated, is prohibited and will be strictly enforced. The training of deer dogs is prohibited in all still hunting areas during the gun still hunting and archery only season. Deer hunting with dogs is allowed in all other areas having open deer seasons that are not specifically designated as still hunting only. A leashed dog may be used to trail and retrieve wounded or unrecovered deer during legal hunting hours. Any dog used to trail or retrieve wounded or unrecovered deer shall have on a collar with owner's name, address, and phone number. In addition, a dog may be used to trail and retrieve unrecovered deer after legal hunting hours; however, no person accompanying a dog after legal hunting hours may carry a firearm of any sort.

8. It is illegal to take deer while deer are swimming or while the hunter is in a boat with motor attached in operating position; however the restriction in this Paragraph shall not apply to any person who has lost one or more limbs.

9. Areas not specifically designated as open are closed.

10. Primitive Firearms Segment (special license and primitive firearms specifications apply only to the special state, WMA, national forest and preserves, and federal refuge seasons)—still hunt only. Specific WMAs will also be open, check WMA schedule for specific details. Primitive firearms license required for resident hunters between the ages of 16 and 59 inclusive and non-residents 16 years of age and older. Either-sex deer may be taken in all deer hunting areas except Area 5 and as specified on public areas. It is unlawful to carry a gun, other than a primitive firearm, including those powered by air or other means, while hunting during the special primitive firearms segment. Except, it is lawful to carry a .22 caliber rimfire pistol loaded with #12 shot (ratshot only).

a. Legal Primitive Firearms For Special Season. Rifles or pistols, .44 caliber minimum, or shotguns 10 gauge or smaller, all of which must load exclusively from the muzzle or cap and ball cylinder, use black powder or approved substitute only, take ball or bullet projectile only, including sabot bullets and may be fitted with magnified

scopes. This includes muzzleloaders known as “inline” muzzleloaders.

b. Single shot, breech loading rifles, .38 caliber or larger, of a kind or type manufactured prior to 1900 and replicas, reproductions or reintroductions of that type rifle having an exposed hammer that use metallic cartridges loaded either with black powder or modern smokeless powder and may be fitted with magnified scopes.

c. Special Youth Deer Shotgun Season on Private Land (either-sex). Youths 17 or younger may hunt deer with shotguns using slugs only during the Primitive Firearms Season in each deer hunting area.

11. Archery Segment. Consult regulations pamphlet. WMA seasons are the same as outside except as noted below. Archery license required for resident bow hunters between the ages of 16 and 59 inclusive and non-residents 16 years of age and older. Either-sex deer may be taken in all areas open for deer hunting except when a bucks only season is in progress for gun hunting, and except in Area 6 from October 1-15. Archer's must conform to the bucks only regulations. Either-sex deer may be taken on WMAs at anytime during archery season except when bucks only seasons are in progress on the respective WMA. Also, archery season restricted on Atchafalaya Delta, Salvador, Lake Boeuf, and Pointe-aux-Chenes WMAs (see schedule).

a. Bow and Arrow Regulations. Longbow, compound bow and crossbow or any bow drawn, held or released by mechanical means will be a legal means of take for all properly licensed hunters. Hunting arrows for deer must have well-sharpened broadhead points. Bow and arrow fishermen must have a sport fishing license and not carry any arrows with broadhead points unless a big game season is in progress.

i. It is unlawful:

(a). to carry a gun, including those powered by air or other means, while hunting with bow and arrow during the special bow and arrow deer season except it is lawful to carry a .22 caliber rimfire pistol loaded with #12 shot (ratshot) only;

(b). to have in possession or use any poisoned or drugged arrow or arrows with explosive tips;

(c). to hunt deer with a bow having a pull less than 30 pounds;

(d). to hunt with a bow or crossbow fitted with an infrared, laser sight, electrically-operated sight or device specifically designed to enhance vision at night (does not include non-projecting red dot sights) [R.S. 56:116.1(B)(4)].

12. Hunter Orange. Any person hunting any wildlife during the open gun deer hunting season and possessing buckshot, slugs, a primitive firearm, or a centerfire rifle shall display on his head, chest and/or back a total of not less than 400 square inches of hunter orange. Persons hunting on privately owned, legally posted land may wear a hunter orange cap or hat in lieu of the 400 square inches. These provisions shall not apply to persons hunting deer from elevated stands on property that is privately owned and legally posted or to archery deer hunters hunting on legally posted lands where firearm hunting is not allowed by agreement of the landowner or lessee. However, anyone hunting deer on such lands where hunting with firearms is allowed shall be required to display the 400 square inches or a hunter orange cap or hat while walking to and from

elevated stands. While a person is hunting from an elevated stand, the 400 square inches or cap or hat may be concealed.

Warning: Deer hunters are cautioned to watch for persons hunting other game or engaged in activities not requiring hunter orange.

13. Special physically challenged either-sex deer season on private land—first Saturday of October for two days. Restricted to individuals with Physically Challenged Hunter Permit.

14.a. Special Youth Deer Hunt on Private Lands (either-sex)

i. Areas 1, 4, 5 and 6—last Saturday of October for two days;

ii. Area 2—second Saturday of October for two days; and

iii. Areas 3, 7 and 8—fourth Saturday of September for two days.

b. Youths 17 or Younger Only. Youths must be accompanied by an adult 18 years of age or older. Youths must possess a hunter safety certification or proof of successful completion of a hunter safety course. If the accompanying adult is in possession of hunter safety certification, a valid hunting license or proof of successful completion of a hunter safety course, this requirement is waived for the youth. Adults may not possess a firearm. Youths may possess only one firearm while hunting. Legal firearms are the same as described for deer hunting. The supervising adult shall maintain visual and voice contact with the youth at all times, except properly licensed youths 16-17 years old and youths 12 years old or older who have successfully completed a hunter safety course may hunt without a supervising adult.

F. Description of Areas, 2011-2012

1. Area 1

a. All of the following parishes are open:

- i. Concordia;
- ii. East Baton Rouge;
- iii. East Feliciana;
- iv. Franklin;
- v. Madison;
- vi. St. Helena;
- vii. Tensas;
- viii. Washington.

b. Portions of the following parishes are also open:

i. Catahoula—east of Boeuf River to Ouachita River, east of Ouachita River from its confluence with Boeuf River to LA 8, south and east of LA 8 southwesterly to parish line;

ii. East Carroll—east of mainline Mississippi River Levee and south and east of LA 877 from West Carroll Parish line to LA 580, south of LA 580 to US 65, west of US 65 to Madison parish line;

iii. Grant—east of US 165 and south of LA 8;

iv. LaSalle - South of a line beginning where Little River enters Catahoula Lake following the center of the lake eastward to Old River then to US 84, east of US 84 northward to LA 8, south of LA 8 eastward to parish line;

v. Livingston—north of I-12;

vi. Rapides—east of US 165 and north of Red River;

vii. St. Tammany—all except that portion south of I-12, west of LA 1077 to LA 22, south of LA 22 to

Tchefuncte River, west of Tchefuncte River southward to Lake Pontchartrain;

viii. Tangipahoa—north of I-12;

ix. West Feliciana—all except that portion known as Raccourci and Turnbull Island.

c. Still hunting only in all or portions of the following parishes:

i. Catahoula—south of Deer Creek to Boeuf River, east of Boeuf and Ouachita Rivers to LA 8 at Harrisonburg, west of LA 8 to LA 913, west of LA 913 and LA 15 to Deer Creek;

ii. East Carroll—east of mainline Mississippi River Levee and south and east of LA 877 from West Carroll parish line to LA 580, south of LA 580 to US 65, west of US 65 to Madison parish line;

iii. East Feliciana and East Baton Rouge—east of Thompson Creek from the Mississippi state line to LA 10, north of LA 10 from Thompson Creek to LA 67 at Clinton, west of LA 67 from Clinton to Mississippi state line, south of Mississippi state line from LA 67 to Thompson Creek. Also that portion of East Baton Rouge Parish east of LA 67 from LA 64 north to parish line, south of parish line from LA 64 eastward to Amite River, west of Amite River southward to LA 64, north of LA 64 to LA 37 at Magnolia, east of LA 37 northward to LA 64 at Indian Mound, north of LA 64 from Indian Mound to LA 67. Also, that portion of East Feliciana Parish east of LA 67 from parish line north to LA 959, south of LA 959 east to LA 63, west of LA 63 to Amite River, west of Amite River southward to parish line, north of parish line westward to LA 67;

iv. Franklin—all;

v. St. Helena—north of LA 16 from Tickfaw River at Montpelier westward to LA 449, east and south of LA 449 from LA 16 at Pine Grove northward to Rohner Road, south of Rohner Road to LA 1045, south of LA 1045 to the Tickfaw River, west of the Tickfaw River from LA 1045 southward to LA 16 at Montpelier.

vi. Tangipahoa—that portion of Tangipahoa Parish north of LA 10 from the Tchefuncte River to LA 1061 at Wilmer, east of LA 1061 to LA 440 at Bolivar, south of LA 440 to the Tchefuncte River, west of the Tchefuncte River from LA 440 southward to LA 10;

vii. Washington and St. Tammany—east of LA 21 from the Mississippi state line southward to the Bogue Chitto River, north of the Bogue Chitto River from LA 21 eastward to the Pearl River Navigation Canal, east of the Pearl River Navigation Canal southward to the West Pearl River, north of the West Pearl River from the Pearl River Navigation Canal to Holmes Bayou, west of Holmes Bayou from the West Pearl River northward to the Pearl River, west of the Pearl River from Holmes Bayou northward to the Mississippi state line, south of the Mississippi state line from the Pearl River westward to LA 21. Also, that portion of Washington Parish west of LA 25 from the Mississippi state line southward to the Bogue Chitto River, then west of the Bogue Chitto River to its junction with the St. Tammany parish line, north of the St. Tammany parish line to the Tangipahoa parish line, east of the Tangipahoa parish line to the Mississippi state line, south of the Mississippi state line to its junction with LA 25;

viii. West Feliciana—west of Thompson Creek to Illinois-Central Railroad, north of Illinois-Central Railroad

to Parish Road #7, east of Parish Road #7 to the junction of US 61 and LA 966, east of LA 966 from US 61 to Chaney Creek, south of Chaney Creek to Thompson Creek.

2. Area 2

a. All of the following parishes are open:

i. Bienville, Bossier, Caddo, Caldwell, Claiborne, DeSoto, Jackson, Lincoln, Natchitoches, Red River, Sabine, Union, Webster, Winn;

ii. except—Kisatchie National Forest which has special regulations. Caney, Corney, Middlefork tracts of Kisatchie have the same regulations as Area 2, except still hunting only for deer and except National Forest Land within the Evangeline Unit, Calcasieu Ranger District described in Area 2 description shall be still hunting only.

b. Portions of the following parishes are also open:

i. Allen—north of US 190 from parish line westward to Kinder, east of US 165 from Kinder northward to LA 10 at Oakdale, north of LA 10 from Oakdale westward to the parish line;

ii. Avoyelles—that portion west of I-49;

iii. Catahoula—west of Boeuf River to Ouachita River, west of Ouachita River from its confluence with Boeuf River to LA 8, north and west of LA 8 southwesterly to parish line;

iv. Evangeline—all except the following portions:

(a) east of I-49 to junction of LA 29;

(b) east of LA 29 south of I-49 to Ville Platte;

and

(c) north of US 167 east of Ville Platte;

v. Grant—all except that portion south of LA 8 and east of US 165;

vi. Jefferson Davis—north of US 190;

vii. LaSalle—north of a line beginning where Little River enters Catahoula Lake, following the center of the lake eastward to Old River then to US 84, west of US 84 northward to LA 8, north of LA 8 eastward to parish line;

viii. Morehouse—west of US 165 (from Arkansas state line) to Bonita, north and west of LA 140 to junction of LA 830-4 (Cooper Lake Road), west of LA 830-4 to Bastrop, west of LA 139 to junction of LA 593, west and south of LA 593 to Collinston, west of LA 138 to junction of LA 134 and north of LA 134 to Ouachita Parish line at Wham Brake;

ix. Ouachita—all except south of US 80 and east of Ouachita River, east of LA 139 from Sicard to junction of LA 134, south of LA 134 to Morehouse parish line at Wham Brake;

x. Rapides—all except north of Red River and east of US 165, south of LA 465 to junction of LA 121, west of LA 121 and LA 112 to Union Hill, and north of LA 113 from Union Hill to Vernon Parish line, and that portion south of Alexandria between Red River and US 167 to junction of US 167 with I-49 at Turkey Creek exit, east of I-49 southward to parish line;

xi. Vernon—north of LA 10 from the parish line westward to LA 113, south of LA 113 eastward to parish line. Also the portion north of LA 465 west of LA 117 from Kurthwood to Leesville and north of LA 8 from Leesville to Texas state line.

c. Still hunting only in all or portions of the following parishes:

i. Claiborne and Webster—Caney, Corney and Middlefork tracts of Kisatchie National Forest (see Kisatchie National Forest regulations);

ii. Ouachita—east of Ouachita River;

iii. Rapides—west of US 167 from Alexandria southward to I-49 at Turkey Creek Exit, west of I-49 southward to Parish Line, north of parish line westward to US 165, east of US 165 northward to US 167 at Alexandria. North of LA 465 from Vernon Parish line to LA 121, west of LA 121 to I-49, west of I-49 to LA 8, south and east of LA 8 to LA 118 (Mora Road), south and west of LA 118 to Natchitoches parish line;

iv. Vernon—east of Mora-Hutton Road from Natchitoches parish line to Hillman Loop Road, south and east of Hillman Loop Road to Comrade Road, south of Comrade Road to LA 465, east and north of LA 465 to Rapides parish line.

3. Area 3

a. All of Acadia, Cameron and Vermilion Parishes are open.

b. Portions of the following parishes are also open:

i. Allen—south of US 190 and west of LA 113;

ii. Beauregard—west of LA 113 and east of LA 27 from the parish line northward to DeRidder and north of US 190 westward from DeRidder to Texas state line;

iii. Calcasieu—south of US 90 from Sulphur to Texas state line. Also east of LA 27 from Sulphur northward to the parish line;

iv. Iberia—west of US 90 and north of LA 14;

v. Jefferson Davis—all except north of US 190;

vi. Lafayette—west of I-49 and US 90;

vii. Rapides—south of LA 465 to junction of LA 121, west of LA 121 and LA 112 to Union Hill and north of LA 113 from Union Hill to Vernon parish line;

viii. St. Landry—west of US 167;

ix. Vernon—west and north of LA 113, south of LA 465, east of LA 117 from Kurthwood to Leesville, and south of LA 8 from Leesville to Texas state line.

4. Area 4

a. All of Richland parish is open.

b. Portions of the following parishes are open:

i. East Carroll—west of mainline Mississippi River Levee and north and west of LA 877 from West Carroll Parish line to LA 580, north of LA 580 to US 65, east of US 65 to Madison parish line;

ii. Morehouse—east of US 165 (from Arkansas state line) to Bonita, south and east of LA 140 to junction of LA 830-4 (Cooper Lake Road), east of LA 830-4 to Bastrop, east of LA 139 at Bastrop to junction of LA 593, east and north of LA 593 to Collinston, east of LA 138 to junction of LA 134 and south of LA 134 to Ouachita line at Wham Brake;

iii. Ouachita—south of US 80 and east of Ouachita River, east of LA 139 from Sicard to junction of LA 134, south of LA 134 to Morehouse line at Wham Brake.

5. Area 5

a. All of West Carroll Parish is open.

6. Area 6

a. All of the following parishes are open:

i. Ascension;

ii. Assumption;

iii. Iberville;

iv. Jefferson;

v. Lafourche;

vi. Orleans;

vii. Plaquemines;

viii. Pointe Coupee;

ix. St. Bernard;

x. St. Charles;

xi. St. James;

xii. St. John;

xiii. St. Martin;

xiv. Terrebonne;

xv. West Baton Rouge.

b. Portions of the following parishes are also open:

i. Avoyelles—all except that portion west of I-49;

ii. Evangeline—that portion east of I-49 to junction of LA 29, east of LA 29 south of I-49 to Ville Platte and north of US 167 east of Ville Platte;

iii. Iberia—east of US 90;

iv. Lafayette—east of I-49 and US 90;

v. Livingston—south of I-12;

vi. Rapides—south of Alexandria between Red River and US 167 to the junction of US 167 with I-49 at Turkey Creek exit, east of I-49 southward to parish line;

vii. St. Landry—east of US 167;

viii. St. Mary—north of US 90 from Iberia Parish line eastward to Wax Lake Outlet, east of Wax Lake Outlet southward to Intracoastal Waterway, north of Intracoastal Waterway eastward to the Atchafalaya River, east of the Atchafalaya River southward to Bayou Shaffer, north of Bayou Shaffer to Bateman Lake, north and west of Bayou Chene from Bateman Lake to Lake Palourde;

ix. St. Tammany—that portion south of I-12, west of LA 1077 to LA 22, south of LA 22 to Tchefuncte River, west of Tchefuncte River southward to Lake Pontchartrain;

x. Tangipahoa—south of I-12;

xi. West Feliciana—west of Mississippi River, known as Raccourci and Turnbull Islands.

c. Still hunting only in all or portions of the following parishes:

i. Avoyelles—north of LA 1 from Simmesport westward to LA 115 at Marksville, east of LA 115 from Marksville northward to the Red River near Moncla, south and west of the Red River to LA 1 at Simmesport;

ii. Plaquemines—east of the Mississippi River;

iii. Rapides—south of Alexandria between Red River and US 167 to the junction of US 167 with I-49 at Turkey Creek exit, east of I-49 southward to parish line;

iv. St. Bernard—all of the parish shall be still hunting only except that portion of St. Bernard known as the spoil area between the MRGO on the east and Access Canal on the west, south of Bayou Bienvenue and north of Bayou la Loutre;

v. St. John—south of Pass Manchac from Lake Pontchartrain to US 51, east of US 51 from Pass Manchac to LA 638 (Frenier Beach Road). North of LA 638 from US 51 to Lake Pontchartrain, west of Lake Pontchartrain from LA 638 to Pass Manchac;

vi. St. Landry—those lands surrounding Thistlethwaite WMA bounded north and east by LA 359, west by LA 10, and south by LA 103;

vii. high water benchmark closure—deer hunting in those portions of Iberia, Iberville, St. Martin, and St. Mary parishes south of I-10, west of the East Guide Levee, east of the West Guide Levee, and north of US 90 will be closed when the river stage of the Atchafalaya River reaches 18 feet at Butte LaRose.

7. Area 7

a. Portions of the following parishes are open:

- i. Iberia—south of LA 14 and west of US 90;
- ii. St. Mary—all except that portion north of US 90 from Iberia Parish line eastward to Wax Lake Outlet, east of Wax Lake Outlet southward to Intracoastal Waterway, north of Intracoastal Waterway eastward to the Atchafalaya River, east of the Atchafalaya River southward to Bayou Shaffer, north of Bayou Shaffer to Bateman Lake, north and west of Bayou Chene from Bateman Lake to Lake Palourde;

8. Area 8

a. Portions of the following parishes are open:

- i. Allen—that portion east of LA 113 from the parish line to US 190, north of US 190 eastward to Kinder, west of US 165 northward to LA 10 at Oakdale and south of LA 10 from Oakdale westward to parish line;
- ii. Beauregard—that portion east of LA 113. Also that portion west of LA 27 from parish line northward to DeRidder, south of US 190 from DeRidder to Texas state line;
- iii. Calcasieu—that portion east of LA 27 from the parish line southward to Sulphur and north of US 90 from Sulphur to the Texas state line;
- iv. Vernon—that portion west of LA 113 from the parish line northward to Pitkin and south of LA 10 from Pitkin southward to the parish line.

G. Description of Areas, 2012-2013

1. Area 1

a. All of the following parishes are open:

- i. Concordia;
- ii. East Baton Rouge;
- iii. East Carroll;
- iv. East Feliciana;
- v. Franklin;
- vi. Madison;
- vii. Richland;
- viii. St. Helena;
- ix. Tensas;
- x. Washington.

b. Portions of the following parishes are also open:

- i. Catahoula—east of Boeuf River to Ouachita River, east of Ouachita River from its confluence with Boeuf River to LA 8, south and east of LA 8 southwesterly to parish line;
- ii. East Carroll—east of mainline Mississippi River Levee and south and east of LA 877 from West Carroll Parish line to LA 580, south of LA 580 to US 65, west of US 65 to Madison Parish line;
- iii. Grant—east of US 165 and south of LA 8;
- iv. LaSalle—south of a line beginning where Little River enters Catahoula Lake following the center of the lake eastward to Old River then to US 84, east of US 84 northward to LA 8, south of LA 8 eastward to parish line;
- v. Livingston—north of I-12;

vi. Ouachita—south of US 80 and east of Ouachita River, east of LA 139 from Sicard to junction of LA 134, south of LA 134 to Morehouse line at Wham Brake;

vii. Rapides—east of US 165 and north of Red River;

viii. St. Tammany—all except that portion south of I-12, west of LA 1077 to LA 22, south of LA 22 to Tchefuncte River, west of Tchefuncte River southward to Lake Pontchartrain;

ix. Tangipahoa—north of I-12;

x. West Feliciana—all except that portion known as Raccourci and Turnbull Island.

c. Still hunting only in all or portions of the following parishes:

i. Catahoula—south of Deer Creek to Boeuf River, east of Boeuf and Ouachita Rivers to LA 8 at Harrisonburg, west of LA 8 to LA 913, west of LA 913 and LA 15 to Deer Creek;

ii. East Carroll—all;

iii. East Feliciana and East Baton Rouge—east of Thompson Creek from the Mississippi state line to LA 10, north of LA 10 from Thompson Creek to LA 67 at Clinton, west of LA 67 from Clinton to Mississippi state line, south of Mississippi state line from LA 67 to Thompson Creek. Also that portion of East Baton Rouge Parish east of LA 67 from LA 64 north to Parish Line, south of Parish Line from LA 64 eastward to Amite River, west of Amite River southward to LA 64, north of LA 64 to LA 37 at Magnolia, east of LA 37 northward to LA 64 at Indian Mound, north of LA 64 from Indian Mound to LA 67. Also, that portion of East Feliciana Parish east of LA 67 from parish line north to LA 959, south of LA 959 east to LA 63, west of LA 63 to Amite River, west of Amite River southward to parish line, north of parish line westward to LA 67;

iv. Franklin—all;

v. Morehouse—east of US 165 (from Arkansas state line) to Bonita, south and east of LA 140 to junction of LA 830-4 (Cooper Lake Road), east of LA 830-4 to Bastrop, east of LA 139 at Bastrop to junction of LA 593, east and north of LA 593 to Collinston, east of LA 138 to junction of LA 134 and south of LA 134 to Ouachita line at Wham Brake;

vi. Ouachita—south of US 80 and east of Ouachita River, east of LA 139 from Sicard to junction of LA 134, south of LA 134 to Morehouse line at Wham Brake;

vii. Richland—all;

viii. St. Helena—north of LA 16 from Tickfaw River at Montpelier westward to LA 449, east and south of LA 449 from LA 16 at Pine Grove northward to Rohner Road, south of Rohner Road to LA 1045, south of LA 1045 to the Tickfaw River, west of the Tickfaw River from LA 1045 southward to LA 16 at Montpelier;

ix. Tangipahoa—that portion of Tangipahoa Parish north of LA 10 from the Tchefuncte River to LA 1061 at Wilmer, east of LA 1061 to LA 440 at Bolivar, south of LA 440 to the Tchefuncte River, west of the Tchefuncte River from LA 440 southward to LA 10;

x. Washington and St. Tammany—east of LA 21 from the Mississippi state line southward to the Bogue Chitto River, north of the Bogue Chitto River from LA 21 eastward to the Pearl River Navigation Canal, east of the

Pearl River Navigation Canal southward to the West Pearl River, north of the West Pearl River from the Pearl River Navigation Canal to Holmes Bayou, west of Holmes Bayou from the West Pearl River northward to the Pearl River, west of the Pearl River from Holmes Bayou northward to the Mississippi state line, south of the Mississippi state line from the Pearl River westward to LA 21. Also, that portion of Washington Parish west of LA 25 from the Mississippi state line southward to the Bogue Chitto River, then west of the Bogue Chitto River to its junction with the St. Tammany parish line, north of the St. Tammany parish line to the Tangipahoa parish line, east of the Tangipahoa parish line to the Mississippi state line, south of the Mississippi state line to its junction with LA 25;

xi. West Feliciana—west of Thompson Creek to Illinois-Central Railroad, north of Illinois-Central Railroad to Parish Road #7, east of Parish Road #7 to the junction of US 61 and LA 966, east of LA 966 from US 61 to Chaney Creek, south of Chaney Creek to Thompson Creek.

2. Area 2

a. All of the following parishes are open:

i. Bienville, Bossier, Caddo, Caldwell, Claiborne, DeSoto, Jackson, Lincoln, Natchitoches, Red River, Sabine, Union, Webster, Winn;

ii. except, Kisatchie National Forest which has special regulations. Caney, Corney, Middlefork tracts of Kisatchie have the same regulations as Area 2, except still hunting only for deer and except National Forest Land within the Evangeline Unit, Calcasieu Ranger District described in Area 2 description shall be still hunting only.

b. Portions of the following parishes are also open:

i. Allen—north of US 190 from parish line westward to Kinder, east of US 165 from Kinder northward to LA 10 at Oakdale, north of LA 10 from Oakdale westward to the parish line;

ii. Avoyelles—that portion west of I-49.

iii. Catahoula—west of Boeuf River to Ouachita River, west of Ouachita River from its confluence with Boeuf River to LA 8, north and west of LA 8 southwesterly to parish line.

iv. Evangeline—all except the following portions: east of I-49 to junction of LA 29, east of LA 29 south of I-49 to Ville Platte, and north of US 167 east of Ville Platte;

v. Grant—all except that portion south of LA 8 and east of US 165;

vi. Jefferson Davis—north of US 190;

vii. LaSalle—north of a line beginning where Little River enters Catahoula Lake, following the center of the lake eastward to Old River then to US 84, west of US 84 northward to LA 8, north of LA 8 eastward to parish line;

viii. Morehouse—west of US 165 (from Arkansas state line) to Bonita, north and west of LA 140 to junction of LA 830-4 (Cooper Lake Road), west of LA 830-4 to Bastrop, west of LA 139 to junction of LA 593, west and south of LA 593 to Collinston, west of LA 138 to junction of LA 134 and north of LA 134 to Ouachita parish line at Wham Brake;

ix. Ouachita—all except south of US 80 and east of Ouachita River, east of LA 139 from Sicard to junction of LA 134, south of LA 134 to Morehouse parish line at Wham Brake;

x. Rapides—all except north of Red River and east of US 165, south of LA 465 to junction of LA 121, west of LA 121 and LA 112 to Union Hill, and north of LA 113 from Union Hill to Vernon parish line, and that portion south of Alexandria between Red River and US 167 to junction of US 167 with I-49 at Turkey Creek exit, east of I-49 southward to parish line;

xi. Vernon—north of LA 10 from the parish line westward to LA 113, south of LA 113 eastward to parish line. Also the portion north of LA 465 west of LA 117 from Kurthwood to Leesville and north of LA 8 from Leesville to Texas state line.

c. Still hunting only in all or portions of the following parishes:

i. Claiborne and Webster—Caney, Corney and Middlefork tracts of Kisatchie National Forest. (See Kisatchie National Forest regulations);

ii. Ouachita—east of Ouachita River;

iii. Rapides—west of US 167 from Alexandria southward to I-49 at Turkey Creek exit, west of I-49 southward to parish line, north of parish line westward to US 165, east of US 165 northward to US 167 at Alexandria. North of LA 465 from Vernon parish line to LA 121, west of LA 121 to I-49, west of I-49 to LA 8, south and east of LA 8 to LA 118 (Mora Road), south and west of LA 118 to Natchitoches parish line;

iv. Vernon—east of Mora-Hutton Road from Natchitoches Parish line to Hillman Loop Road, south and east of Hillman Loop Road to Comrade Road, south of Comrade Road to LA 465, east and north of LA 465 to Rapides parish line.

3. Area 3

a. All of Acadia, Cameron and Vermilion Parishes are open.

b. Portions of the following parishes are also open:

i. Allen—south of US 190 and west of LA 113;

ii. Beauregard—west of LA 113 and east of LA 27 from the parish line northward to DeRidder and north of US 190 westward from DeRidder to Texas state line;

iii. Calcasieu—south of US 90 from Sulphur to Texas state line. Also east of LA 27 from Sulphur northward to the parish line;

iv. Iberia—west of US 90 and north of LA 14;

v. Jefferson Davis—all except north of US 190;

vi. Lafayette—west of I-49 and US 90;

vii. Rapides—south of LA 465 to junction of LA 121, west of LA 121 and LA 112 to Union Hill and north of LA 113 from Union Hill to Vernon parish line;

viii. St. Landry—west of US 167;

ix. Vernon—west and north of LA 113, south of LA 465, east of LA 117 from Kurthwood to Leesville, and south of LA 8 from Leesville to Texas state line.

4. See Area 1.

5. Area 5

a. All of West Carroll Parish is open.

6. Area 6

a. All of the following parishes are open:

i. Ascension;

ii. Assumption;

iii. Iberville;

iv. Jefferson;

v. Lafourche;

- vi. Orleans;
- vii. Plaquemines;
- viii. Pointe Coupee;
- ix. St. Bernard;
- x. St. Charles;
- xi. St. James;
- xii. St. John;
- xiii. St. Martin;
- xiv. Terrebonne;
- xv. West Baton Rouge.
- b. Portions of the following parishes are also open:
 - i. Avoyelles—all except that portion west of I-49;
 - ii. Evangeline—that portion east of I-49 to junction of LA 29, east of LA 29 south of I-49 to Ville Platte and north of US 167 east of Ville Platte;
 - iii. Iberia—east of US 90;
 - iv. Lafayette—east of I-49 and US 90;
 - v. Livingston—south of I-12;
 - vi. Rapides—south of Alexandria between Red River and US 167 to the junction of US 167 with I-49 at Turkey Creek exit, east of I-49 southward to parish line;
 - vii. St. Landry—east of US 167;
 - viii. St. Mary—north of US 90 from Iberia Parish line eastward to Wax Lake Outlet, east of Wax Lake Outlet southward to Intracoastal Waterway, north of Intracoastal Waterway eastward to the Atchafalaya River, east of the Atchafalaya River southward to Bayou Shaffer, north of Bayou Shaffer to Bateman Lake, north and west of Bayou Chene from Bateman Lake to Lake Palourde;
 - ix. St. Tammany—that portion south of I-12, west of LA 1077 to LA 22, south of LA 22 to Tchefuncte River, west of Tchefuncte River southward to Lake Pontchartrain;
 - x. Tangipahoa—south of I-12;
 - xi. West Feliciana—west of Mississippi River, known as Raccourci and Turnbull Islands.
- c. Still hunting only in all or portions of the following parishes:
 - i. Avoyelles—north of LA 1 from Simmesport westward to LA 115 at Marksville, east of LA 115 from Marksville northward to the Red River near Moncla, south and west of the Red River to LA 1 at Simmesport;
 - ii. Plaquemines—east of the Mississippi River;
 - iii. Rapides—south of Alexandria between Red River and US 167 to the junction of US 167 with I-49 at Turkey Creek Exit, east of I-49 southward to parish line;
 - iv. St. Bernard—all of the parish shall be still hunting only except that portion of St. Bernard known as the spoil area between the MRGO on the east and Access Canal on the west, south of Bayou Bienvenue and north of Bayou la Loutre;
 - v. St. John—south of Pass Manchac from Lake Pontchartrain to US 51, east of US 51 from Pass Manchac to LA 638 (Frenier Beach Road). North of LA 638 from US 51 to Lake Pontchartrain, west of Lake Pontchartrain from LA 638 to Pass Manchac;
 - vi. St. Landry—those lands surrounding Thistlethwaite WMA bounded north and east by LA 359, west by LA 10, and south by LA 103;
 - vii. high water benchmark closure. Deer hunting in those portions of Iberia, Iberville, St. Martin, and St. Mary

parishes south of I-10, west of the East Guide Levee, east of the West Guide Levee, and north of US 90 will be closed when the river stage of the Atchafalaya River reaches 18 feet at Butte LaRose.

7. Area 7

- a. Portions of the following parishes are open:
 - i. Iberia—south of LA 14 and west of US 90;
 - ii. St. Mary—all except that portion north of US 90 from Iberia Parish line eastward to Wax Lake Outlet, east of Wax Lake Outlet southward to Intracoastal Waterway, north of Intracoastal Waterway eastward to the Atchafalaya River, east of the Atchafalaya River southward to Bayou Shaffer, north of Bayou Shaffer to Bateman Lake, north and west of Bayou Chene from Bateman Lake to Lake Palourde.

8. Area 8

- a. Portions of the following parishes are open:
 - i. Allen—that portion east of LA 113 from the parish line to US 190, north of US 190 eastward to Kinder, west of US 165 northward to LA 10 at Oakdale and south of LA 10 from Oakdale westward to parish line;
 - ii. Beauregard—that portion east of LA 113. Also that portion west of LA 27 from parish line northward to DeRidder, south of US 190 from DeRidder to Texas state line;
 - iii. Calcasieu—that portion east of LA 27 from the parish line southward to Sulphur and north of US 90 from Sulphur to the Texas state line;
 - iv. Vernon—that portion west of LA 113 from the parish line northward to Pitkin and south of LA 10 from Pitkin southward to the parish line.

H. WMA Regulations

1. General

a. The following rules and regulations concerning the management, protection and harvest of wildlife have been officially approved and adopted by the Wildlife and Fisheries Commission in accordance with the authority provided in Louisiana Revised Statutes of 1950, Section 109 of Title 56. Failure to comply with these regulations will subject individual to citation and/or expulsion from the management area.

b. Citizens are cautioned that by entering a WMA managed by the LDWF they may be subjecting themselves and/or their vehicles to game and/or license checks, inspections and searches.

c. WMA seasons may be altered or closed anytime by the LDWF Secretary in emergency situations (floods, fire or other critical circumstances).

d. Hunters may enter the WMA no earlier than 4 a.m. unless otherwise specified. Hunters must check out and exit the WMA no later than two hours after sunset, or as otherwise specified.

e. Lands within WMA boundaries will have the same seasons and regulations pertaining to baiting and use of dogs as the WMA within which the lands are enclosed; however, with respect to private lands enclosed within a WMA, the owner or lessee may elect to hunt according to the regular season dates and hunting regulations applicable to the geographic area in which the lands are located, provided that the lands are first enrolled in DMAP. Interested parties should contact the nearest LDWF region office for additional information.

f. Dumping garbage or trash on WMAs is prohibited. Garbage and trash may be properly disposed of in designated locations if provided.

g. Disorderly conduct or hunting under influence of alcoholic beverages, chemicals and other similar substances is prohibited.

h. Damage to or removal of trees, shrubs, hard mast (including but not limited to acorn and pecans), wild plants, non-game wildlife (including reptiles and amphibians) or any species of butterflies, skippers or moths is prohibited without a permit from the LDWF. Gathering and/or removal of soft fruits, mushrooms and berries shall be limited to 5 gallons per person per day.

i. Burning of marshes is prohibited. Hunting actively burning marsh prohibited.

j. Nature Trails. Trails shall be limited to pedestrians only. No vehicles, ATVs, horses, mules, bicycles, etc. allowed. Removal of vegetation (standing or down) or other natural material prohibited.

k. Deer seasons are for legal buck deer unless otherwise specified.

l. Small game, when listed under the WMA regulations may include both resident game animals and game birds as well as migratory species of birds.

m. Oysters may not be harvested from any WMA, except that oysters may be harvested from private oyster leases and state seed grounds located within a WMA, when authorized by the Wildlife and Fisheries Commission and upon approval by the Department of Health and Hospitals.

n. Free ranging livestock prohibited.

2. Permits

a. A WMA Hunting Permit is required for persons ages 18 through 59 to hunt on WMAs.

b. Self-Clearing Permits. A Self-Clearing Permit is required for all activities (hunting, fishing, hiking, birdwatching, sightseeing, etc.) on WMAs unless otherwise specified. The Self-Clearing Permit will consist of two portions: check-in and check-out. On WMAs where Self-Clearing Permits are required, all persons must obtain a WMA Self-Clearing Permit from an information station. The check in portion must be completed and put in a permit box before each day's activity on the day of the activity (except if hunting from a private camp adjacent to the WMA being hunted or if camping on the WMA, users need only to check in once during any 72 hour period). Users may check-in one day in advance of use. The check-out portion must be carried by each person while on the WMA and must be completed and put in a permit box immediately upon exiting the WMA or within 72 hours after checking in if hunting from a private camp adjacent to the WMA being hunted or if camping on the WMA. No permit is required of fishers and boaters who do not travel on a WMA road and/or launch on the WMA as long as they do not get out of the boat and onto the WMA. When mandatory deer checks are specified on WMAs, hunters must check deer at a check station. (Self-Clearing Permits are not required for persons only traveling through the WMA provided that the most direct route is taken and no activities or stops take place.)

c. Persons using WMAs or other LDWF administered lands for any purpose must possess one of the following: a valid Wild Louisiana stamp, a valid Louisiana fishing license, or a valid Louisiana hunting license. Persons

younger than 16 or older than 60 years of age are exempt from this requirement. Also a Self-Clearing WMA permit, detailed above, may be required (available at most entrances to each WMA). Check individual WMA listings for exceptions.

3. Special Seasons

a. Youth Deer Hunt. Youths 17 or younger only. Youths must be accompanied by an adult 18 years of age or older. Youths must possess a hunter safety certification or proof of successful completion of a hunter safety course. If the accompanying adult is in possession of hunter safety certification, a valid hunting license or proof of successful completion of a hunter safety course, this requirement is waived for the youth. Adults may not possess a firearm. Youths may possess only one firearm while hunting. Legal firearms are the same as described for deer hunting. The supervising adult shall maintain visual and voice contact with the youth at all times. Except properly licensed youths 16-17 years old and youths 12 years old or older who have successfully completed a hunter safety course may hunt without a supervising adult. Contact the appropriate region office for maps of specific hunting areas. Either-sex deer may be taken on WMAs with youth hunts. Consult the regulations pamphlet for WMAs offering youth hunts.

NOTE: Some hunts may be by pre-application lottery.

b. Youth Squirrel Hunt (on selected WMAs only). Only youths 17 or younger may hunt. Squirrel, rabbit, raccoon and opossum may be taken. Hogs may not be taken. No dogs allowed. All other seasons will remain open to other hunters. Youths must possess a hunter safety certification or proof of successful completion of a hunter safety course. Youths must be accompanied by one adult 18 years of age or older. If the accompanying adult is in possession of hunter safety certification, a valid hunting license or proof of successful completion of a hunter safety course, this requirement is waived for the youth. Adults may not possess a firearm. Youths may possess only one firearm while hunting. The supervising adult shall maintain visual and voice contact with the youth at all times. Except properly licensed youths 16-17 years old and youths 12 years old or older who have successfully completed a hunter safety course may hunt without a supervising adult. Self-clearing permits are required. Consult the regulations pamphlet for WMAs offering youth squirrel hunts.

c. Youth Mourning Dove Hunt. A youth mourning dove hunt will be conducted on specific WMAs and will follow the same regulations provided for youth deer hunts on the first or second weekend of the mourning dove season (Saturday and/or Sunday only). Consult the regulations pamphlet for WMAs offering youth mourning dove hunts.

d. Physically Challenged Season. An either-sex deer season will be held for hunters possessing a Physically Challenged Hunter Permit on WMAs during the dates specified under the individual WMA. Participants must possess a Physically Challenged Hunter Permit. Contact region office for permit application and map of specific hunting area. Consult the regulations pamphlet for WMAs offering Physically Challenged Seasons. Pointe-aux-Chenes will have an experimental Lottery Physically Challenged Waterfowl Hunt. Contact New Iberia Office, Coastal and Nongame Resources Division for details.

e. Turkey Lottery Hunts—hunts restricted to those persons selected by lottery. Consult the regulations pamphlet

for deadlines. All turkeys must be reported at self-clearing station. Contact region offices for more details. Consult separate turkey hunting regulations pamphlet for more details.

f. Waterfowl Lottery Hunts—hunts restricted to those persons selected by lottery. Consult the regulations pamphlet for deadline. Consult regulations pamphlet for individual WMA schedules or contact any Wildlife Division Office for more details.

g. Mourning Dove Lottery Hunts—consult regulations pamphlet for individual WMA schedules or contact any Wildlife Division Office for more details.

h. Trapping—consult annual trapping regulations for specific dates. All traps must be run daily. Traps with teeth are illegal. Hunter orange required when a deer gun season is in progress.

i. Raccoon Hunting. A licensed hunter may take raccoon or opossum, one per person per day, during daylight hours only, during the open rabbit season on WMAs.

i. Nighttime Experimental. All nighttime raccoon hunting where allowed is with dogs only. There is no bag limit. Self-clearing permit required.

j. Sport Fishing. Sport fishing, crawfishing and frogging are allowed on WMAs when in compliance with current laws and regulations except as otherwise specified under individual WMA listings.

k. Additional LDWF Lands. The LDWF manages additional lands that are included in the WMA system and available for public recreation. Small tracts are located in Vernon, Evangeline, St. Helena and other parishes. These small tracts have been acquired from the Farmers Home Administration or other sources for conservation purposes. Contact the appropriate LDWF Region Office for specific information and any additional season dates.

4. Firearms

a. Firearms having live ammunition in the chamber, magazine, cylinder or clip when attached to firearms and crossbows cocked in the ready position are not allowed in or on vehicles, boats under power, motorcycles, ATVs, ATCs or in camping areas on WMAs. Firearms may not be carried on any area before or after permitted hours except in authorized camping areas and except as may be permitted for authorized trappers.

b. Firearms and bows and arrows are not allowed on WMAs during closed seasons except on designated shooting ranges or as permitted for trapping and except as allowed pursuant to R.S. 56:109(C) and R.S. 56:1691. Bows and broadhead arrows are not allowed on WMAs except during deer archery season, turkey season or as permitted for bowfishing. Active and retired law enforcement officers in compliance with POST requirements, federal law enforcement officers and holders of Louisiana concealed handgun permits or permit holders from a reciprocal state who are in compliance with all other state and federal firearms regulations may possess firearms on WMAs provided these firearms are not used for any hunting purpose.

c. Encased or broken down firearms and any game harvested may be transported through the areas by the most direct route provided that no other route exists except as specified under WMA listing.

d. Loaded firearms are not allowed near WMA check stations.

e. Centerfire rifles and handguns larger than .22 caliber rimfire, shotgun slugs or shot larger than BB lead or F steel shot cannot be carried onto any WMA except during modern firearm deer season and during special shotgun season for feral hogs on Atchafalaya Delta, Pass-a-Loutre, Pointe-aux-Chenes and Salvador WMAs. (Consult regulations pamphlet for specific WMA regulations.)

f. Target shooting and other forms of practice shooting are prohibited on WMAs except as otherwise specified.

g. Discharging of firearms on or hunting from designated roads, ATV trails and their rights-of-way is prohibited during the modern firearm and muzzleloader deer season.

5. Methods of Taking Game

a. Moving deer or hogs on a WMA with organized drivers and standers, drivers or making use of noises or noise-making devices is prohibited.

b. On WMAs the daily limit shall be one antlered deer and one antlerless deer (when legal) per day. Three antlered and three antlerless per season (all segments included) by all methods of take.

c. Baiting or hunting over bait is prohibited on all WMAs (hogs included).

d. Deer may not be skinned nor have any external body parts removed including but not limited to feet, legs, tail, head or ears before being checked out.

e. Deer hunting on WMAs is restricted to still hunting only.

f. Construction of and/or hunting from permanent tree stands or permanent blinds on WMAs is prohibited. Any permanent stand or permanent blind will be removed and destroyed. A permanent blind is any blind using non-natural materials or having a frame which is not dismantled within two hours after the end of legal shooting time each day. Blinds with frames of wood, plastic, metal poles, wire, mesh, webbing or other materials may be used but must be removed from the WMA within two hours after the end of legal shooting time each day. Blinds made solely of natural vegetation and not held together by nails or other metallic fasteners may be left in place but cannot be used to reserve hunting locations. Natural vegetation (including any material used as corner posts) is defined as natural branches that are 2 inches or less in diameter. All decoys must be removed from the WMA daily. Permanent tree stands are any stands that use nails, screws, spikes, etc., to attach to trees and are strictly prohibited. Portable deer stands (those that are designed to be routinely carried by one person) may not be left on WMAs unless the stands are removed from trees and left in a non-hunting position (a non-hunting position is one in which a hunter could not hunt from the stand in its present position). Also, all stands left must be legibly tagged with the user's name, address, phone number and Big Game Hunting License number (or Lifetime License Number). No stand may be left on any WMA prior to the day before deer season opens on that WMA and all stands must be removed from the WMA within one day after the close of deer hunting on that WMA. Free standing blinds must be disassembled when not in use. Stands left will not reserve

hunting sites for the owner or user. All portable stands, blinds, tripods, etc. found unattended in a hunting position or untagged will be confiscated and disposed of by the LDWF. LDWF not responsible for unattended stands left on an area.

g. Physically Challenged Wheelchair Confined Deer and Waterfowl Hunting Areas. Special deer and waterfowl hunting areas, blinds and stands identified with LDWF logos, have been established for PCHP wheelchair confined hunters on WMAs. Hunters must obtain PCHP permits and are required to make reservations to use blinds and stands. PCHP wheelchair hunting areas are available on Alexander State Forest, Big Colewa Bayou, Buckhorn, Clear Creek, Elbow Slough, Floy McElroy, Jackson–Bienville, Ouachita, and Sherburne WMAs. Check WMA hunting schedules or call the LDWF Offices in Pineville, Lake Charles, Opelousas, Minden, Monroe or Hammond for information.

h. Hunting from utility poles, high tension power lines, oil and gas exploration facilities or platforms is prohibited.

i. It is illegal to save or reserve hunting locations using permanent stands or blinds. Stands or blinds attached to trees with screws, nails, spikes, etc. are illegal.

j. Tree climbing spurs, spikes or screw-in steps are prohibited.

k. Unattended decoys will be confiscated and forfeited to the LDWF and disposed of by the LDWF. This action is necessary to prevent preemption of hunting space.

l. Spot lighting (shining) from vehicles is prohibited on all WMAs.

m. Horses and mules may be ridden on WMAs except where prohibited and except during gun seasons for deer and turkey. Riding is restricted to designated roads and trails depicted on WMA map, self-clearing permit is required. Organized trail rides prohibited except allowed by permit only on Camp Beauregard. Hunting and trapping from horses and mules is prohibited except for quail hunting or as otherwise specified. Horse-drawn conveyances are prohibited.

n. All hunters (including archers and small game hunters) except waterfowl hunters and mourning dove hunters on WMAs must display 400 square inches of hunter orange and wear a hunter orange cap during open gun season for deer. Quail and woodcock hunters and hunters participating in special dog seasons for rabbit, squirrel and feral hogs are required to wear a minimum of a hunter orange cap. All other hunters and archers (while on the ground) except waterfowl hunters also must wear a minimum of a hunter orange cap during special dog seasons for rabbit and squirrel and feral hogs. Also all persons afield during hunting seasons are encouraged to display hunter orange. Hunters participating in special shotgun season for feral hogs on Atchafalaya Delta, Pass-a-Loutre, Pointe-aux-Chenes and Salvador WMAs must display 400 square inches of hunter orange and wear a hunter orange cap.

o. Deer hunters hunting from concealed ground blinds must display a minimum of 400 square inches of hunter orange above or around their blinds which is visible from 360 degrees.

p. Archery Season for Deer. The archery season on WMAs is the same as outside and is open for either-sex deer

except as otherwise specified on individual WMAs. Archery season restricted on Atchafalaya Delta and closed on certain WMAs when special seasons for youth or Physically Challenged hunts are in progress. Consult regulations pamphlet for specific seasons.

q. Either-sex deer may be taken on WMAs at any time during archery season except when bucks only seasons are in progress on the respective WMAs. Archers must abide by bucks only regulations and other restrictions when such seasons are in progress.

r. Primitive Firearms Season for Deer. Either-sex unless otherwise specified. See WMA deer schedule. Except youth 17 or younger may use shotgun with slugs during primitive firearms season on the WMA.

6. Camping

a. Camping on WMAs, including trailers, houseboats, recreational vehicles and tents, is allowed only in designated areas and for a period not to exceed 16 consecutive days, regardless if the camp is attended or unattended. Houseboats shall not impede navigation. At the end of the 16 day period, camps must be removed from the area for at least 48 hours. Camping area use limited exclusively to outdoor recreational activities.

b. Houseboats are prohibited from overnight mooring within WMAs except on stream banks adjacent to LDWF-owned designated camping areas. Overnight mooring of vessels that provide lodging for hire are prohibited on WMAs. On Atchafalaya Delta WMA and Pass-a-Loutre, houseboats may be moored in specially designated areas throughout the hunting season. At all other times of the year, mooring is limited to a period not to exceed 16 consecutive days. Permits are required for the mooring of houseboats on Pass-a-Loutre and Atchafalaya Delta WMAs. Permits must be obtained from the New Iberia office.

c. Discharge of human waste onto lands or waters of any WMA is strictly prohibited by State and Federal law. In the event public restroom facilities are not available at a WMA, the following is required. Anyone camping on a WMA in a camper, trailer, or other unit (other than a houseboat or tent) shall have and shall utilize an operational disposal system attached to the unit. Tent campers shall have and shall utilize portable waste disposal units and shall remove all human waste from the WMA upon leaving. Houseboats moored on a WMA shall have a permit or letter of certification from the Health Unit (Department of Health and Hospitals) of the parish within which the WMA occurs verifying that it has an approved sewerage disposal system on board. Further, that system shall be utilized by occupants of the houseboats when on the WMA.

d. No refuse or garbage may be dumped from these boats.

e. Firearms may not be kept loaded or discharged in a camping area unless otherwise specified.

f. Campsites must be cleaned by occupants prior to leaving and all refuse placed in designated locations when provided or carried off by campers.

g. Non-compliance with camping regulations will subject occupant to immediate expulsion and/or citation, including restitution for damages.

h. Swimming is prohibited within 100 yards of boat launching ramps.

7. Restricted Areas

a. For your safety, all oil and gas production facilities (wells, pumping stations and storage facilities) are off limits.

b. No unauthorized entry or unauthorized hunting in restricted areas, refuges, or limited use areas unless otherwise specified.

8. Dogs. All use of dogs on WMAs, except for bird hunting and duck hunting, is experimental as required by law. Having or using dogs on any WMA is prohibited except for nighttime experimental raccoon hunting, squirrel hunting, rabbit hunting, bird hunting, duck hunting, hog hunting and bird dog training when allowed; see individual WMA season listings for WMAs that allow dogs. Dogs running at large are prohibited on WMAs. The owner or handler of said dogs shall be liable. Only recognizable breeds of bird dogs and retrievers are allowed for quail and migratory bird hunting. Only beagle hounds which do not exceed 15 inches at the front shoulders and which have recognizable characteristics of the breed may be used on WMAs having experimental rabbit seasons. A leashed dog may be used to trail and retrieve wounded or unrecovered deer during legal hunting hours. Any dog used to trail or retrieve wounded or unrecovered deer shall have on a collar with owner's name, address and phone number. In addition, a dog may be used to trail and retrieve unrecovered deer after legal hunting hours; however, no person accompanying a dog after legal hunting hours may carry a firearm of any sort.

9. Vehicles

a. An all-terrain vehicle is an off-road vehicle (not legal for highway use) with factory specifications not to exceed the following: weight-750 pounds, length-85", and width-48". ATV tires are restricted to those no larger than 25 x 12 with a maximum 1" lug height and a maximum allowable tire pressure of 7 psi. as indicated on the tire by the manufacturer. Use of all other ATVs or ATV tires are prohibited on a WMA.

b. Utility type vehicle (UTV, also utility terrain vehicle) is defined as any recreational motor vehicle other than an ATV, not legal for highway use, designed for and capable of travel over designated unpaved roads, traveling on four (4) or more low-pressure tires, with factory specifications not to exceed the following: weight-1900 pounds, length-128" and width-68". UTV tires are restricted to those no larger than 26 x 12 with a maximum 1" lug height and a maximum allowable tire pressure of 12 psi. UTV's are commonly referred to as side by sides and may include golf carts.

c. Vehicles having wheels with a wheel-tire combination having a radius of 17 inches or more from the center of the hub (measured horizontal to ground) are prohibited.

d. The testing, racing, speeding or unusual maneuvering of any type of vehicle is prohibited within WMAs due to property damages resulting in high maintenance costs, disturbance of wildlife and destruction of forest reproduction.

e. Tractor or implement tires with farm tread designs R1, R2 and R4 known commonly as spade or lug grip types are prohibited on all vehicles.

f. Airboats, aircraft, personal water craft, "mud crawling vessels" (commonly referred to as crawfish combines which use paddle wheels for locomotion) and hover craft are prohibited on all WMAs and Refuges. Personal water craft are defined as a vessel which uses an inboard motor powering a water jet pump as its primary source of propulsion and is designed to be operated by a person sitting, standing or kneeling on the vessel rather than in the conventional manner of sitting or standing inside the vessel. Personal water craft allowed on designated areas of Alexander State Forest WMA. Except, Type A personal water craft, model year 2003 and beyond, which are eight feet in length and greater, may be operated in the areas of Pearl River Wildlife Management Area, south of U.S. 90 from April 1 until the Monday of Labor Day Weekend, from sunrise to sunset only. No person shall operate such water craft at a speed greater than slow/no wake within 100 feet of an anchored or moored vessel, shoreline, dock, pier, persons engaged in angling or any other manually powered vessel.

g. Driving or parking vehicles on food or cover plots and strips is prohibited.

h. Blocking the entrance to roads and trails is prohibited.

i. Licensed motorized vehicles (LMVs) legal for highway use, including motorcycles, are restricted entirely to designated roads as indicated on WMA maps. UTVs are restricted to marked UTV trails only. ATVs are restricted to marked ATV trails only, except when WMA roads are closed to LMVs. ATVs may then use those roads when allowed. WMA maps available at all region offices. This restriction does not apply to bicycles.

NOTE: All ATV and UTV trails are marked with signs and/or paint, but not all ATV and UTV trails appear on WMA maps.

j. Use of special ATV trails for physically challenged persons is restricted to ATV Physically Challenged permittees. Physically challenged ATV permittees are restricted to physically challenged ATV trails or other ATV trails only as indicated on WMA maps or as marked by sign and/or paint. Persons 60 years of age and older, with proof of age, are also allowed to use special physically challenged trails and need not obtain a permit. However, these persons must abide by all rules in place for these trails. Physically Challenged persons under the age of 60 must apply for and obtain a Physically Challenged Hunter Program Permit from the LDWF.

k. Entrances to ATV trails will be marked with peach colored paint. Entrances to physically challenged-only ATV trails will be marked with blue colored paint. Entrances to ATV trails that are open all year long will be marked with purple paint. The end of all ATV trails will be marked by red paint. WMA maps serve only as a general guide to the route of most ATV trails, therefore all signage and paint marking as previously described will be used to determine compliance. Deviation from this will constitute a violation of WMA rules and regulations.

l. Roads and trails may be closed due to poor condition, construction or wet weather.

m. ATVs, and motorcycles cannot be left overnight on WMAs except on designated camping areas. ATVs are prohibited from two hours after sunset to 4 a.m., except raccoon hunters may use ATVs during nighttime raccoon

take seasons only. ATVs are prohibited from March 1 through August 31 except squirrel hunters are allowed to use ATV trails during the spring squirrel season on the WMA and except certain trails may be open during this time period to provide access for fishing or other purposes and some ATV trails will be open all year long on certain WMAs.

n. Caution. Many LDWF-maintained roadways on WMAs are unimproved and substandard. A maximum 20 mph speed limit is recommended for all land vehicles using these roads.

o. Hunters are allowed to retrieve their own downed deer and hogs with the aid of an ATV except on Thistlethwaite and Sherburne WMAs under the following conditions.

i. No firearms or archery equipment is in possession of the retrieval party or on the ATV.

ii. The retrieval party may consist of no more than one ATV and one helper.

iii. ATVs may not be used to locate or search for wounded game or for any other purpose than retrieval of deer and hogs once they have been legally harvested and located.

iv. UTV's may not be used to retrieve downed deer or hogs.

10. Commercial Activities

a. Hunting Guides/Outfitters. No person or group may act as a hunting guide, outfitter or in any other capacity for which they are paid or promised to be paid directly or indirectly by any other individual or individuals for services rendered to any other person or persons hunting on any WMA, regardless of whether such payment is for guiding, outfitting, lodging or club memberships.

b. Except for licensed activities otherwise allowed by law, commercial activities are prohibited without a permit issued by the Secretary of the LDWF.

c. Commercial Fishing. Permits are required of all commercial fishermen using Grassy Lake, Pomme de Terre and Spring Bayou WMAs. Gill nets or trammel nets and the take or possession of grass carp are prohibited on Spring Bayou WMA. Drag seines (except minnow and bait seines) are prohibited except experimental bait seines allowed on Dewey Wills WMA north of LA 28 in Diversion Canal. Commercial fishing is prohibited during regular waterfowl seasons on Grand Bay, Silver Lake and Lower Sunk Lake on Three Rivers WMA. Commercial fishing is prohibited on Salvador/Timken, Ouachita and Pointe-aux-Chenes WMAs except commercial fishing on Pointe-aux-Chenes is allowed in Cut Off Canal and Wonder Lake. No commercial fishing activity shall impede navigation and no unattended vessels or barges will be allowed. Non-compliance with permit regulations will result in revocation of commercial fishing privileges for the period the license is issued and one year thereafter. Commercial fishing is allowed on Pass-a-Loutre and Atchafalaya Delta WMAs. See Pass-a-Loutre for additional commercial fishing regulations on mullet.

11. WMAs Basic Season Structure. For season dates, bag limits, shooting hours, special seasons and other information consult the annual regulations pamphlet for specific details.

12. Resident Small Game (squirrel, rabbit, quail, mourning dove, woodcock, snipe, rail and gallinule). Same as outside except closed during modern firearm either-sex

deer seasons on certain WMAs (see WMA schedule) and except non-toxic shot must be used for rail, snipe, and gallinule. Consult regulations pamphlet. Unless otherwise specified under a specific WMA hunting schedule, the use of dogs for rabbit and squirrel hunting is prohibited. Spring squirrel season with or without dogs: first Saturday of May for nine days. Consult regulations pamphlet for specific WMAs.

13. Waterfowl (ducks, geese and coots). Consult regulations pamphlet. Hunting after 2 p.m. prohibited on all WMAs except for Atchafalaya Delta, Biloxi, Lake Boeuf, Pass-a-Loutre, Pointe-aux-Chenes, and Salvador/Timken WMAs. Consult specific WMA regulations for shooting hours on these WMAs.

14. Archery. Consult regulations pamphlet.

15. Hogs. Consult regulations pamphlet for specific WMA regulations. Feral hogs may be taken during any legal hunting season, except during the spring squirrel season, on designated WMAs by properly licensed hunters using only guns or bow and arrow legal for specified seasons in progress. Hogs may not be taken with the aid of dogs, except feral hogs may be taken with the aid of dogs on Attakapas, Bodcau, Boeuf, Dewey Wills, Jackson-Bienville, Pearl River, Red River, Sabine and Three Rivers WMAs (consult Bodcau, Dewey Wills, Jackson-Bienville, Pass-a-Loutre, Pearl River, Red River, Sabine and Three Rivers WMAs regulations) by permit from either the Minden, Pineville, Hammond or Opelousas Offices and all hogs must be killed immediately and may not be transported live under any conditions, except as allowed by permit, and hunters may use centerfire pistols in addition to using guns allowed for season in progress. Additionally, feral hogs may be taken on Atchafalaya Delta, Pass-a-Loutre, Pointe-aux-Chenes and Salvador WMAs from February 16 through March 31 with shotguns loaded with buckshot or slugs.

16. Outlaw Quadrupeds and Birds. Consult regulations pamphlet. During hunting seasons specified on WMAs, except the turkey and spring squirrel seasons, take of outlaw quadrupeds and birds, with or without the use of electronic calls, is allowed by properly licensed hunters and only with guns or bows and arrows legal for season in progress on WMA. However, crows, blackbirds, grackles and cowbirds may not be taken before September 1 or after January 1. As described in 50 CFR Part 21, non-toxic shot must be used for the take of crows, blackbirds, cowbirds and grackles under the special depredation order. In addition an annual report has to be submitted to the U.S. Fish and Wildlife Service for those that participate in the take of these species.

17. WMAs hunting schedule and regulations:

a. Acadiana Conservation Corridor;

b. Alexander State Forest. From December through February all hunters must check daily with the Office of Forestry for scheduled burning activity. No hunting or other activity will be permitted in burn units the day of the burning. Call (318) 487-5172 or (318) 487-5058 for information on burning schedules. Vehicles restricted to paved and graveled roads. No parking on or fishing or swimming from bridges. No open fires except in recreation areas;

c. Atchafalaya Delta. Water control structures are not to be tampered with or altered by anyone other than employees of the LDWF at any time. ATVs, ATCs and

motorcycles prohibited except as permitted for authorized WMA trappers. Mudboats or air-cooled propulsion engines greater than 36 horsepower are prohibited on the WMA;

i. Limited Access Area—no internal combustion engines allowed from September through January. See WMA map for specific locations;

d. Attakapas;

e. Bayou Macon. All night activities prohibited except as otherwise provided;

f. Bayou Pierre;

g. Bens Creek;

h. Big Colewa Bayou. All nighttime activities prohibited;

i. Big Lake;

j. Biloxi;

k. Bodcau;

l. Boeuf;

m. Buckhorn;

n. Camp Beauregard. Daily military clearance required for all recreational users. Registration for use of Self-Clearing Permit required once per year. All game harvested must be reported on self-clearing checkout permit. Retriever training allowed on selected portions of the WMA. Contact the Region office for specific details. No hunting in restricted areas;

o. Clear Creek (formerly Boise-Vernon);

p. Dewey W. Wills. Crawfish—100 pounds per person per day;

q. Elbow Slough. Steel shot only for all hunting. All motorized vehicles prohibited;

r. Elm Hall. No ATVs allowed;

s. Floy Ward McElroy;

t. Fort Polk. Daily military clearance required to hunt or trap. Registration for use of Self-Clearing Permit required once per year. New special regulations apply to ATV users;

u. Grassy Lake. Commercial Fishing: Permitted except on Smith Bay, Red River Bay and Grassy Lake proper on Saturday and Sunday and during waterfowl season. Permits available from area supervisor at Spring Bayou headquarters or Opelousas Region Office. No hunting in restricted area;

v. Jackson-Bienville;

w. Joyce;

i. Swamp Walk—adhere to all WMA rules and regulations. No loaded firearms or hunting allowed within 100 yards of walkways. Check hunting schedule and use walkway at your own risk;

x. Lake Boeuf. Hunting allowed until 12 noon on all game. All nighttime activities prohibited;

y. Lake Ramsay. Foot traffic only. All vehicles restricted to parish roads;

z. Little River;

aa. Loggy Bayou;

bb. Manchac;

i. Crabs—no crab traps allowed. Attended lift nets are allowed;

cc. Maurepas Swamp. No loaded firearms or hunting allowed within 100 yards of nature trail;

dd. Ouachita;

i. Waterfowl Refuge—north of LA 15 closed to all hunting, fishing and trapping and ATV use during duck season including early teal season;

ii. Crawfish—100 pounds per person per day limit. Night crawfishing prohibited. No traps or nets left overnight;

iii. Commercial Fishing—closed. All nighttime activities prohibited except as otherwise provided;

ee. Pass-a-Loutre;

i. Commercial Fishing—same as outside. Commercial mullet fishing open only in: South Pass, Pass-a-Loutre, North Pass, Southeast Pass, Northeast Pass, Dennis Pass, Johnson Pass, Loomis Pass, Cadro Pass, Wright Pass, Viveats Pass, Cognevich Pass, Blind Bay, Redfish Bay, Garden Island Bay, Northshore Bay, East Bay (west of barrier islands) and oil and gas canals as described on the LDWF Pass-a-Loutre WMA map. ATVs, ATCs and motorcycles prohibited on this area. Oyster harvesting is prohibited. Mudboats or air-cooled propulsion engines greater than 36 horsepower are prohibited on the WMA;

ii. Limited Access Area—no internal combustion engines allowed from September through January. See WMA map for specific locations;

ff. Pearl River. All roads closed 8 p.m. to 4:30 a.m. to all vehicles. Old Hwy. 11 will be closed when river gauge at Pearl River, Louisiana, reaches 16.5 feet. All hunting except waterfowl will be closed when the river stage at Pearl River reaches 16.5 feet. No hunting in the vicinity of Nature Trail. Observe "No Hunting" signs. Rifle range open Friday, Saturday and Sunday with a fee. Except, Type A personal water craft, model year 2003 and beyond, which are eight feet in length and greater, may be operated in the areas of Pearl River Wildlife Management Area, south of U.S. 90 from April 1 until the Monday of Labor Day Weekend, from sunrise to sunset only. No person shall operate such water craft at a speed greater than slow/no wake within 100 feet of an anchored or moored vessel, shoreline, dock, pier, persons engaged in angling or any other manually powered vessel;

gg. Peason Ridge. Daily military clearance required to hunt or trap. Registration for use of Self-Clearing Permit required once per year. Special federal regulations apply to ATV users;

hh. Pointe-aux-Chenes. Hunting until 12 noon on all game, except for mourning dove hunting and youth lottery deer hunt as specified in regulation pamphlet;

i. Point Farm—gate will be open all weekends during month of February. No motorized vessels allowed in the drainage ditches;

ii. Recreational Fishing—shrimp may be taken by the use of cast nets only. During the inside open shrimp season, 25 pounds per boat per day (heads on) maximum shall be allowed. Size count to conform with open season requirements. During the inside closed season, 10 pounds per boat per day (heads on) may be taken for bait. Oyster harvesting is prohibited. Fish may be taken only by rod and reel or hand lines for recreational purposes only. Crabs may be taken only through the use of hand lines or nets; however, none are to remain set overnight. Twelve dozen crabs maximum are allowed per boat or vehicle per day. Crawfish may be harvested in unrestricted portions of the WMA and

shall be limited to 100 pounds per boat or group. Fishing gear used to catch crawfish shall not remain set overnight. The harvest of all fish, shrimp, crabs and crawfish are for recreational purposes only and any commercial use is prohibited. All boats powered by engines having horsepower ratings above 25 h.p. are not allowed in the Grand Bayou, Montegut and Pointe-aux-Chenes water management units. Public is permitted to travel anytime through the WMA for access purposes only, in the waterways known as Grand Bayou, Humble Canal, Little Bayou Blue and Grand Bayou Blue unless authorized by the LDWF. All other motorized vehicles, horses and mules are prohibited unless authorized by the LDWF;

iii. Limited Access Area—no internal combustion engines allowed from September through January. See WMA map for specific locations;

ii. Pomme de Terre;

i. Commercial Fishing—permitted Monday through Friday, except closed during duck season. Commercial fishing permits available from area supervisor, Opelousas Region Office or Spring Bayou headquarters;

ii. Sport Fishing—same as outside except allowed only after 2 p.m. only during waterfowl season;

iii. Crawfish—March 15-July 31, recreational only, 100 lbs. per boat or group daily;

jj. Red River;

i. Recreational Crawfishing—Yahey Farms only March 15-July 31. 100 pounds per vehicle or group per day. No traps or nets left overnight. No motorized watercraft allowed. Commercial crawfishing now allowed;

kk. Russell Sage. Transporting trash or garbage on WMA roads is prohibited. All nighttime activities prohibited except as otherwise provided. Internal combustion engines and craft limited to 10 h.p. rating or less in the Greentree Reservoirs;

NOTE: All season dates on Chauvin Tract (U.S. 165 North) same as outside, except still hunt only and except deer hunting restricted to archery only. All vehicles including ATVs prohibited.

ll. Sabine;

mm. Sabine Island. Sabine Island boundaries are Sabine River on the west, Cut-Off Bayou on the north, and Old River and Big Bayou on the south and east;

nn. Salvador/Timken. Hunting until 12 noon only for all game. All nighttime activities prohibited, including frogging;

i. Recreational Fishing—shrimp may be taken by the use of cast nets only. During the inside open shrimp season, 25 pounds per boat per day (heads on) maximum shall be permitted. Size count to conform with open season requirements. During the inside closed season, 10 pounds per boat per day (heads on) maximum may be taken for bait. Fish may be taken only by rod and reel or hand lines for recreational purposes only. Crabs may be taken only through the use of hand lines or nets; however, none of the lines are to remain set overnight. Twelve dozen crabs maximum are allowed per boat or vehicle per day. Crawfish may be harvested in unrestricted portions of the WMA and shall be limited to 100 pounds per boat or group. Fishing gear used to catch crawfish shall not remain set overnight. The harvest of all fish, shrimp, crabs and crawfish are for recreational purposes only and any commercial use is prohibited. Boats powered by internal combustion engines having horsepower

ratings above 25 h.p. are permitted only in oil company access canals, Louisiana Cypress Canal, the Netherlands Pond including the West Canal, Lakes—"Baie Des Chactas" and "Baie du Cabanage" and the Rathborne Access ditch. Use of mudboats powered by internal combustion engines with four cylinders or less is permitted in interior ditches from first Saturday in September through January and may be further permitted. Pulling boats over levees, dams or water control structures or any other activities which cause detriment to the integrity of levees, dams and water control structures is prohibited. ATVs, ATCs and motorcycles prohibited on this area;

ii. Limited Access Area—no internal combustion engines allowed from September through January. See WMA map for specific locations;

oo. Sandy Hollow;

i. Bird Dog Training—consult regulation pamphlet. Wild birds only (use of pen-raised birds prohibited);

ii. Bird Dog Field Trials—permit required from Baton Rouge region office;

iii. Horseback Riding—Self-Clearing Permit required. Organized trail rides prohibited. Riding allowed only on designated roads and trails depicted on WMA map. Horses and mules are specifically prohibited during turkey and gun season for deer except as allowed for bird dog field trials. No horses and mules on green planted areas. Horse-drawn conveyances are prohibited;

pp. Sherburne;

i. Crawfishing—recreational crawfishing only on the South Farm complexes. Crawfish harvest limited to 100 pounds per vehicle or boat per day. No traps or nets left overnight. No motorized watercraft allowed on farm complex. Commercial crawfishing not allowed. Retriever training allowed on selected portions of the WMA. Contact the region office for specific details. Vehicular traffic prohibited on Atchafalaya River levee within Sherburne WMA boundaries. Rifle and pistol range open daily. Skeet ranges open by appointment only, contact Hunter Education Office. No trespassing in restricted area behind ranges;

Note: Atchafalaya National Wildlife Refuge, and U.S. Army Corps of Engineers land holdings adjacent to the Sherburne WMA will have the same rules and regulations as Sherburne WMA. No hunting or trapping in restricted area.

qq. Sicily Island Hills;

rr. Soda Lake. No motorized vehicles allowed. Bicycles allowed. All trapping and hunting prohibited except archery hunting for deer and falconry;

ss. Spring Bayou;

i. Commercial Fishing—permitted Monday through Friday except slat traps and hoop nets permitted any day and except gill or trammel nets or the take or possession of grass carp are prohibited. Permits available from area supervisor or Opelousas Region Office. Closed until after 2 p.m. during waterfowl season;

ii. Sport Fishing—same as outside except allowed only after 2 p.m. during waterfowl season;

iii. Crawfish—recreational only. No hunting allowed in headquarters area. Only overnight campers allowed in the improved Boggy Bayou Camping area. Rules and regulations posted at camp site. A fee is assessed for use of this campsite. Water skiing allowed only in Old River and Grand Lac;

tt. Tangipahoa Parish School Board. No horseback riding during gun season for deer or turkey. ATVs are not allowed;

uu. Thistlethwaite. All motorized vehicles restricted to improved roads only. All users must enter and leave through main gate only;

vv. Three Rivers;

ww. Tunica Hills. All vehicles restricted to Parish roads. Access to restricted areas is unauthorized. Refer to WMA map. Camping limited to tents only;

xx. Union. All nighttime activities prohibited except as otherwise provided.

yy. West Bay.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115 and R.S. 56:116.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 25:1279 (July 1999), amended LR 26:1494 (July 2000), LR 27:1049 (July 2001), LR 28:1603 (July 2002), LR 29:1124 (July 2003), repromulgated LR 29:1522 (August 2003), amended LR 30:1495 (July 2004), LR 31:1611 (July 2005), LR 32:1251 (July 2006), LR 33:1382 (July 2007), LR 34:1429 (July 2008), LR 35:1264 (July 2009), LR 36:1566 (July 2010), LR 37:

Family Impact Statement

In accordance with Act 1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent: This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Public Comments

Comments will be accepted at regularly scheduled Wildlife and Fisheries Commission Meetings from March through May. Interested persons may submit written comments relative to the proposed rule until 4:30 p.m., Thursday, May 5, 2011 to Randy Myers, Wildlife Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA, 70898-9000.

Public Hearing

Public hearings will be held at the following locations: March 9 beginning at 6 p.m., Alexandria Convention Hall, 915 Third Street, Alexandria; March 15 beginning at 6:30 p.m., at the LDWF Office, 9961 Highway 80, Minden; March 15 beginning at 6:30 p.m., Yambilee Festival Building, 1939 W. Landry, Opelousas; March 16 beginning at 6 p.m., Ponchatoula High School Cafeteria, 19452 Highway 22, Ponchatoula; March 17 beginning at 6 p.m., Bastrop Visitor Center, 124 North Washington Street, Bastrop; and March 22 beginning at 6:30 p.m., LSU Ag Center (next to Burton Coliseum), 7101 Gulf Highway, Lake Charles.

Stephen W. Sagera
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: General and Wildlife Management Area Hunting Rules and Regulations

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This rule amends permanent hunting regulations for the state at large as well as for Wildlife Management Areas. The

establishment of hunting regulations is an annual process. Aside from staff time, no implementation costs to state governmental units are anticipated. Enforcement of the proposed rule will be carried out using existing staff and funding levels.

Local governmental units will not be impacted.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

State hunting license fee collections are \$9 - \$10 million dollars annually. Additionally, hunting and related activities generate approximately \$62 million in state and local tax revenues annually (Southwick Associates, 2007). Failure to adopt rule changes would result in no hunting seasons being established and a potential loss of some of these revenues.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Over 300,000 hunters and numerous businesses that provide goods and services to hunters are directly affected by this proposal. Hunting in Louisiana generates approximately \$594 million in revenue annually through the sale of outdoor related equipment, associated items and trip-related expenditures (Southwick Associates, 2007). Failure to adopt rule changes would result in no hunting seasons being established and a potential loss of commerce associated with these activities.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Hunting in Louisiana provides an estimated 13,084 jobs (Southwick Associates, 2007). Not establishing hunting seasons might have a negative and direct impact on these jobs.

Lois Azzarello
Undersecretary
1102#063

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Methods of Payment for Commercial Licenses and Oyster Tags (LAC 76:VII.413)

The Wildlife and Fisheries Commission does hereby give notice of its intent to promulgate rules and regulations relative to credit card or business checks purchases. Authority to establish such rules and regulations is vested in the Wildlife and Fisheries Commission by R.S. 56:642(C).

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 4. License and License Fees

§413. Methods of Payment for Commercial Licenses and Oyster Tags

A. Commercial licenses and oyster tags may be purchased using the following forms of payment:

1. cash;
2. money order;
3. cashier's check;
4. business checks certified by the issuing bank; and
5. credit cards (MasterCard, American Express, or Discover only).

B. Payment by credit card will be allowed only by the card holder at the Baton Rouge Licensing location with the credit card present at the time of purchase.

C. No other forms of payment will be accepted.

Authority Note: Promulgated in accordance with R.S. 56:642(C).

Historical Note: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 37:

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the Commission to promulgate and effectuate this Notice of Intent and the final Rule, including, but not limited to, the filing of the fiscal and economic impact statements, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Family Impact Statement

In accordance with Act 1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent: This Notice of Intent will have no impact on the six criteria set out in R.S. 49:972(B).

Public Comments

Interested persons may submit written comments on the proposed Rule to Janis Landry, Licensing Manager, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898 prior to Thursday, April 7, 2011.

Stephen W. Sagraera
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Methods of Payment for Commercial Licenses and Oyster Tags

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

A three (3) percent charge to the state will be incurred from implementing the use of credit cards to purchase commercial licenses or oyster tags at the Baton Rouge licensing location. This increase in costs will be passed on to the credit card holder (purchaser) in the form of an additional state charge for using a credit card. The increase in operating costs cannot be determined at this time and will depend on how many commercial licenses and oyster tags are purchased with a credit card.

There are no estimated implementation costs or savings to local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule is anticipated to result in a slight increase in revenue collections deposited into the Conservation Fund. Any such increase will be utilized to pay the state's cost for use of credit cards for purchase of commercial licenses or oyster tags at the Baton Rouge licensing location. When a credit card is used to purchase commercial licenses or oyster tags, the purchaser will be assessed a three (3) percent state charge, equivalent to the fee charged to the state by the credit card company. The increase in revenue collections cannot be determined and will depend on how many commercial licenses and oyster tags are purchased by credit cards rather than one of the other payment methods available. Average revenue collections from the sale of commercial licenses and oyster tags for the last three years (FY08 - FY10) were \$3,140,714.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule establishes the payment methods the department will accept for purchasing commercial licenses and oyster tags. Currently commercial licenses and oyster tags can be purchased using cash, money orders or cashier checks by mail or at the Baton Rouge licensing location. This rule adds two additional payment methods, credit cards or business checks certified by the issuing bank. Thus, individuals will benefit from having a variety of payment methods available to purchase commercial licenses and oyster tags. The rule limits the use of credit card transactions to the Baton Rouge licensing location only. In addition, if an individual chooses to purchase their commercial licenses or oyster tags with a credit card, a three (3) percent state charge will be assessed to recoup the usage fee charged to the state by the credit card company.

Credit card companies will benefit when their credit card is used to purchase commercial licenses or oyster tags. The credit card company will receive a usage fee when their card is used to purchase commercial licenses or oyster tags, which is anticipated to have a slight positive impact on receipts and income for the credit card company.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment as a result of this rule change.

Lois Azzarello
Undersecretary
1102#065

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Resident Game Hunting Season
(LAC 76:XIX.101 and 103)

The Wildlife and Fisheries Commission does hereby give notice of its intent to promulgate hunting seasons for resident game birds and game quadrupeds.

Title 76

WILDLIFE AND FISHERIES

Part XIX. Hunting and WMA Regulations

Chapter 1. Resident Game Hunting Season

§101. General

A. The Resident Game Hunting Season regulations are hereby adopted by the Wildlife and Fisheries Commission. A complete copy of the Regulation Pamphlet may be obtained from the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 21:707 (July 1995), amended LR 22:585 (July 1996), LR 23:871 (July 1997), LR 24:1324 (July 1998), LR 25:1290 (July 1999), LR 26:1506 (July 2000), LR 27:1061 (July 2001), LR 28:1615 (July 2002), LR 29:1122 (July 2003), LR 30:1493 (July 2004), LR 31:1627 (July 2005), LR 32:1253 (July 2006), LR 33:1399 (July 2007), LR 34:1447 (July 2008), LR 35:1278 (July 2009), LR 36:1580 (July 2010), LR 37: .

§103. Resident Game Birds and Animals

A. Shooting hours. One-half hour before sunrise to one-half hour after sunset.

B. Consult Regulation Pamphlet for seasons or specific regulations on Wildlife Management Areas or specific localities.

Species	Season Dates	Daily Bag Limit	Possession Limit
Quail	OPENS: 3 rd Saturday of November CLOSES: Last Day of February	10	20
Rabbit and Squirrel	OPENS: 1 st Saturday of October CLOSES: Last Day of February	8	16

Species	Season Dates	Daily Bag Limit	Possession Limit
Squirrel *	OPENS: 1 st Saturday of May for 23 days	3	6
Deer	See Schedule	1 antlered and 1 antlerless (when legal)	6/season (3 antlered deer & 3 antlerless deer)

*NOTE: Spring squirrel season is closed on the Kisatchie National Forest, National Wildlife Refuges, U.S. Army Corps of Engineers property. Some State Wildlife Management Areas will be open, check WMA season schedule.

C. Deer Hunting Schedule, 2011-2012

Area	Archery	Primitive Firearms (All Either Sex Except as Noted)	Still Hunt (No dogs allowed)	With or Without Dogs
1	OPENS: 1 st day of Oct. CLOSES: Last day of Jan.	OPENS: 2 nd Sat. of Nov. CLOSES: Fri. after 2 nd Sat. of Nov. OPENS: Mon. after the next to last Sun. of Jan. CLOSES: Last Sun. of Jan.	OPENS: Sat. before Thanksgiving Day EXCEPT when there are 5 Sats. in Nov., then it will open on the 3 rd Sat. of Nov. CLOSES: Fri. before 2 nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov. and then it will close on the Fri. before the 1 st Sat. of Dec. OPENS: Mon. after 1 st Sat. of Jan. CLOSES: next to last Sun. of Jan.	OPENS: 2 nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov., then it will open on the 1 st Sat. of Dec. CLOSES: Sun. after 1 st Sat. of Jan.
2	OPENS: 1 st day of Oct. CLOSES: Last day of Jan.	OPENS: Next to last Sat. of Oct. CLOSES: Fri. before last Sat. of Oct. OPENS: Mon. after the last day of Modern Firearm Season in Jan. CLOSES: After 7 days.	OPENS: Last Sat. of Oct. CLOSES: Tues. before 2 nd Sat. of Dec. in odd numbered years and on Wed. during even numbered years EXCEPT when there are 5 Sats. in Nov. and then it will close on the Tues. in odd numbered years or Wed. during even numbered years before the 1 st Sat. of Dec.	OPENS: Wed. before the 2 nd Sat. of Dec. in odd numbered years and on Thurs. during even numbered years EXCEPT when there are 5 Sats. in Nov., then it will open on the Wed. before the 1 st Sat. of Dec. on odd years and Thurs. during even numbered years CLOSES: 40 days after opening in odd numbered years or 39 days after opening in even numbered years
3	OPENS: 3 rd Sat. of Sept. CLOSES: Jan. 15	OPENS: 2 nd Sat. of Oct. CLOSES: Fri. before 3 rd Sat. of Oct. OPENS: Mon. after Thanksgiving Day CLOSES: Fri. before 1 st Sat. of Dec.	OPENS: 3 rd Sat. of Oct. CLOSES: Sun. after Thanksgiving Day OPENS: 1 st Sat. of Dec. CLOSES: After 37 days	
4	OPENS: 1 st day of Oct. CLOSES: Last day of Jan.	OPENS: 2 nd Sat. of Nov. CLOSES: Fri. before 3 rd Sat. of Nov. OPENS: Mon. after 2 nd Sat. of Jan. CLOSES: Mon. after 3 rd Sat. of Jan.	OPENS: 3 rd Sat. of Nov. CLOSES: Sun. after 2 nd Sat. of Jan.	
5	OPENS: 1 st day of Oct. CLOSES: Last day of Jan.	OPENS: 2 nd Sat. of Nov. CLOSES: Fri. before 3 rd Sat. of Nov. (BUCKS ONLY) OPENS: Day after Christmas Day CLOSES: Jan. 1 st (BUCKS ONLY)	OPENS: Day after Thanksgiving Day CLOSES: Sun. after 2 nd Sat. of Dec.	
6	OPENS: 1 st day of Oct. CLOSES: Feb. 15 (1 st 15 days are BUCKS ONLY)	OPENS: 2 nd Sat. of Nov. CLOSES: Fri. before 3 rd Sat. of Nov. OPENS: Mon. after the next to last Sun. of Jan. CLOSES: Last Sun. of Jan.	OPENS: Sat. before Thanksgiving Day EXCEPT when there are 5 Sats. in Nov., then it will open on the 3 rd Sat. of Nov. CLOSES: Fri. before 2 nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov. and then it will close on the Fri. before the 1 st Sat. of Dec.	OPENS: 2 nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov., then it will open on the 1 st Sat. of Dec. CLOSES: Next to last Sun. of Jan.
7	OPENS: 1 st day of Oct. CLOSES: Last day of Jan.	OPENS: 2 nd Sat. of Oct. CLOSES: Fri. before 3 rd Sat. of Oct. OPENS: 1 st Sat. of Nov. CLOSES: Fri. before 2 nd Sat. of Nov.	OPENS: 3 rd Sat. of Oct. CLOSES: Fri. before 1 st Sat. of Nov. OPENS: 2 nd Sat. of Nov. CLOSES: Sun. after Thanksgiving Day	OPENS: Mon. after Thanksgiving Day CLOSES: After 35 days

Area	Archery	Primitive Firearms (All Either Sex Except as Noted)	Still Hunt (No dogs allowed)	With or Without Dogs
8	OPENS: 3 rd Sat. of Sept. CLOSES: Jan. 15	OPENS: 2 nd Sat. of Oct. CLOSES: Fri. before 3 rd Sat. of Oct. OPENS: Mon. after Thanksgiving Day CLOSES: Fri. before 1 st Sat. of Dec.	OPENS: 3 rd Sat. of Oct. CLOSES: Sun. after Thanksgiving Day	OPENS: 1 st Sat. of Dec. CLOSES: After 37 days.

D. Modern Firearm Schedule (Either Sex Seasons)

Parish	Area	Modern Firearm Either-sex Days
East Carroll	Area 4 portion	Opens 3 rd Saturday of November for 2 days and opens Friday after Thanksgiving Day for 3 days, west of mainline Mississippi River Levee and north and west of La. 877 from West Carroll Parish line to La. 580, north of La. 580 to U.S. 65, east of U.S. 65 to Madison Parish line.

Parish	Area	Modern Firearm Either-sex Days
West Carroll	Area 5	Opens Friday after Thanksgiving Day for 3 days.

E. Deer Hunting Schedule, 2012-2013

Area	Archery	Primitive Firearms (All Either Sex Except as Noted)	Still Hunt (No dogs allowed)	With or Without Dogs
1	OPENS: 1 st day of Oct. CLOSES: Last day of Jan.	OPENS: 2 nd Sat. of Nov. CLOSES: Fri. after 2 nd Sat. of Nov. OPENS: Mon. after the next to last Sun. of Jan. CLOSES: Last day of Jan.	OPENS: Sat. before Thanksgiving Day EXCEPT when there are 5 Sats. in Nov., then it will open on the 3 rd Sat. of Nov. CLOSES: Fri. before 2 nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov. and then it will close on the Fri. before the 1 st Sat. of Dec. OPENS: Mon. after 1 st Sat. of Jan. CLOSES: next to last Sun. of Jan.	OPENS: 2 nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov., then it will open on the 1 st Sat. of Dec. CLOSES: Sun. after 1 st Sat. of Jan.
2	OPENS: 1 st day of Oct. CLOSES: Last day of Jan.	OPENS: Next to last Sat. of Oct. CLOSES: Fri. before last Sat. of Oct. OPENS: Mon. after the last day of Modern Firearm Season in Jan. CLOSES: After 7 days.	OPENS: Last Sat. of Oct. CLOSES: Tues. before 2 nd Sat. of Dec. in odd numbered years and on Wed. during even numbered years EXCEPT when there are 5 Sats. in Nov. and then it will close on the Tues. in odd numbered years or Wed. during even numbered years before the 1 st Sat. of Dec.	OPENS: Wed. before the 2 nd Sat. of Dec. in odd numbered years and on Thurs. during even numbered years EXCEPT when there are 5 Sats. in Nov., then it will open on the Wed. before the 1 st Sat. of Dec. on odd years and Thurs. during even numbered years CLOSES: 40 days after opening in odd numbered years or 39 days after opening in even numbered years
3	OPENS: 3 rd Sat. of Sept. CLOSES: Jan. 15	OPENS: 2 nd Sat. of Oct. CLOSES: Fri. before 3 rd Sat. of Oct. OPENS: Mon. after Thanksgiving Day CLOSES: Fri. before 1 st Sat. of Dec.	OPENS: 3 rd Sat. of Oct. CLOSES: Sun. after Thanksgiving Day OPENS: 1 st Sat. of Dec. CLOSES: After 37 days	
4	See Area 1.			
5	OPENS: 1 st day of Oct. CLOSES: Last day of Jan.	OPENS: 2 nd Sat. of Nov. CLOSES: Fri. before 3 rd Sat. of Nov. (BUCKS ONLY) OPENS: Day after Christmas Day CLOSES: Jan. 1 st (BUCKS ONLY)	OPENS: Day after Thanksgiving Day CLOSES: Sun. after 2 nd Sat. of Dec.	
6	OPENS: 1 st day of Oct. CLOSES: Feb. 15 (1 st 15 days are BUCKS ONLY)	OPENS: 2 nd Sat. of Nov. CLOSES: Fri. before 3 rd Sat. of Nov. OPENS: Mon. after the next to last Sun. of Jan. CLOSES: Last day of Jan.	OPENS: Sat. before Thanksgiving Day EXCEPT when there are 5 Sats. in Nov., then it will open on the 3 rd Sat. of Nov. CLOSES: Fri. before 2 nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov. and then it will close on the Fri. before the 1 st Sat. of Dec.	OPENS: 2 nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov., then it will open on the 1 st Sat. of Dec. CLOSES: Next to last Sun. of Jan.

Area	Archery	Primitive Firearms (All Either Sex Except as Noted)	Still Hunt (No dogs allowed)	With or Without Dogs
7	OPENS: 1 st day of Oct. CLOSES: Last day of Jan.	OPENS: 2 nd Sat. of Oct. CLOSES: Fri. before 3 rd Sat. of Oct. OPENS: 1 st Sat. of Nov. CLOSES: Fri. before 2 nd Sat. of Nov.	OPENS: 3 rd Sat. of Oct. CLOSES: Fri. before 1 st Sat. of Nov. OPENS: 2 nd Sat. of Nov. CLOSES: Sun. after Thanksgiving Day	OPENS: Mon. after Thanksgiving Day CLOSES: After 35 days
8	OPENS: 3 rd Sat. of Sept. CLOSES: Jan. 15	OPENS: 2 nd Sat. of Oct. CLOSES: Fri. before 3 rd Sat. of Oct. OPENS: Mon. after Thanksgiving Day CLOSES: Fri. before 1 st Sat. of Dec.	OPENS: 3 rd Sat. of Oct. CLOSES: Sun. after Thanksgiving Day	OPENS: 1 st Sat. of Dec. CLOSES: After 37 days.

F. Modern Firearm Schedule (Either Sex Seasons)

Parish	Area	Modern Firearm Either-Sex Days
West Carroll	Area 5	Opens Friday after Thanksgiving Day for 3 days.

G. Farm Raised White-tailed Deer on Supplemented Shooting Preserves: Archery, Firearm, Primitive Firearms: October 1 - January 31 (either-sex).

H. Exotics on Supplemented Shooting Preserves: Either Sex, no closed season.

I. Spring Squirrel Hunting

1. Season Dates: Opens 1st Saturday of May for 23 days.

2. Closed Areas: Kisatchie National Forest, National Wildlife Refuges, and U.S. Army Corps of Engineers property and all WMAs except as provided in Paragraph 3 below.

3. Wildlife Management Area Schedule: Opens 1st Saturday of May for 9 days on all WMAs except Fort Polk, Peason Ridge, Camp Beauregard, Pass-a-Loutre and Salvador. Dogs are allowed during this season for squirrel hunting. Feral hogs may not be taken on Wildlife Management Areas during this season.

4. Limits: Daily bag limit is 3 and possession limit is 6.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115, R.S. 56:109(B) and R.S. 56:141(C).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 21:707 (July 1995), amended LR 22:585 (July 1996), LR 23:871 (July 1997), LR 24:1324 (July 1998), LR 25:1290 (July 1999), repromulgated LR 25:1526 (August 1999), LR 26:1506 (July 2000), LR 27:1061 (July 2001), LR 28:1615 (July 2002), LR 29:1122 (July 2003), repromulgated LR 29:1521 (August 2003), amended LR 30:1494 (July 2004), LR 31:1627 (July 2005), LR 32:1254 (July 2006), LR 33:115 (January 2007), LR 33:1399 (July 2007), LR 34:1447 (July 2008), LR 35:1278 (July 2009), LR 35:2856 (December 2009), LR 36:1580 (July 2010), LR 37:

Family Impact Statement

In accordance with Act 1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent: This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Public Comments

Interested persons may submit written comments relative to the proposed rule until 4:30 p.m., Thursday, May 5, 2011 to Mr. Randy Myers, Wildlife Division, Department of

Wildlife and Fisheries, Box 98000, Baton Rouge, LA, 70898-9000.

Public Hearing

Public hearings will be held at the following locations: March 9 beginning at 6 p.m., at Alexandria Convention Hall, 915 Third Street, Alexandria; March 15 beginning at 6:30 p.m., at the LDWF Office, 9961 Highway 80, Minden; March 15 beginning at 6:30 p.m., Yambilee Festival Building, 1939 W. Landry, Opelousas; March 16 beginning at 6 p.m., Ponchatoula High School Cafeteria, 19452 Highway 22, Ponchatoula; March 17 beginning at 6 p.m., Bastrop Visitor Center, 124 North Washington Street, Bastrop; and March 22 beginning at 6:30 p.m., LSU Ag Center (next to Burton Coliseum), 7101 Gulf Highway, Lake Charles. Also comments will be accepted at regularly scheduled Wildlife and Fisheries Commission Meetings from March through May.

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and the final Rule, including but not limited to, the filing of the Fiscal and Economic Impact Statements, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Stephen W. Sagraera
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Resident Game Hunting Season

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Establishment of hunting regulations is an annual process. Aside from staff time, no implementation costs to state governmental units are anticipated. Enforcement of the proposed rule will be carried out using existing staff and funding levels.

Local governmental units will not be impacted.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

State hunting license fee collections are \$9 - \$10 million annually. Additionally, hunting and related activities generate approximately \$62 million in state and local tax revenues annually (Southwick Associates, 2007). Of this \$62 million, approximately 66 percent is generated from big game hunting, 17 percent from migratory bird hunting and 17 percent from small game hunting activities. Failure to adopt rule changes

would result in no hunting seasons being established and a potential loss of some of these revenues.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Over 300,000 resident and non-resident hunters, numerous sporting good retailers and landowners are directly affected by this proposal. The Louisiana hunter hunts an average of 22 days per year, which amounts to approximately 6 million hunting days annually. Approximately 84 percent of hunters participate in big game hunting, 50 percent participate in small game hunting and 37 percent participate in migratory bird hunting activities each year. According to Southwick Associates, hunting in Louisiana generates approximately \$594 million in revenues annually through the sale of outdoor related

equipment, associated items and trip-related expenditures (Southwick Associates, 2007). Failure to adopt rule changes would result in no hunting seasons being established and a potential loss of commerce associated with these activities.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Hunting in Louisiana provides an estimated 13,084 jobs (Southwick Associates, 2007). Not establishing hunting seasons might have a negative and direct impact on these jobs.

Lois Azzarello
Undersecretary
1102#064

Evan Brasseaux
Staff Director
Legislative Fiscal Office

Potpourri

POTPOURRI

Department of Agriculture and Forestry Horticulture Commission

Landscape Architect Registration Exam

The next landscape architect registration examination will be given June 13-14, 2011, beginning at 7:45 a.m. at the Nelson Memorial Building, Louisiana State University Campus, Baton Rouge, LA. The deadline for sending the application and fee is as follows.

New Candidates:	February 18, 2011
Re-Take Candidates:	March 18, 2011
Reciprocity Candidates:	April 22, 2011

Further information pertaining to the examinations may be obtained from Craig Roussel, Director, Horticulture Commission, P.O. Box 3596, Baton Rouge, LA 70821-3596, phone (225) 952-8100.

Any individual requesting special accommodations due to a disability should notify the office prior to March 18, 2011. Questions may be directed to (225) 952-8100.

Mike Strain, DVM
Commissioner

1102#004

POTPOURRI

Department of Environmental Quality Office of the Secretary Legal Affairs Division

Standards for the Use or Disposal of Sewage Sludge and Biosolids (LAC 33:IX.Chapter 73)

Standards for the use or disposal of sewage sludge generated during the treatment of domestic sewage in a treatment works are established in the Louisiana Sewage Sludge and Biosolids Program of LAC 33:IX.Chapter 73. LAC 33:IX.7301.D.1.b.v states that all minor sanitary wastewater treatment facilities that do not receive domestic septage and/or portable toilet waste into their systems shall apply for a Sewage Sludge and Biosolids Use or Disposal Permit as expeditiously as practicable, but in no case later than five years from June 1, 2006. The Louisiana Department of Environmental Quality (Department) is preparing a proposed rule change for requirements of Chapter 73 which is expected to be published in the *Louisiana Register* in April 2011. Included in the proposed changes to Chapter 73 will be a revision to LAC 33:IX.7301.D.1.b.v to extend the deadline to January 1, 2013. Accordingly, under the Department's enforcement discretionary authority, the Department will not pursue enforcement actions against facilities which are subject to the application deadline of LAC 33:IX.7301.D.1.b.v which do not apply for a Sewage Sludge and Biosolids Use or

Disposal Permit by the deadline stated in the current regulations. After the establishment of a new deadline in a final rule, the Department may pursue enforcement actions against facilities which do not apply by the new deadline. All other permitting requirements set forth by LAC 33:IX.7301.D will remain unchanged.

Questions may be directed to Mr. Eura DeHart, Jr. at (225) 219-3213.

Herman Robinson, CPM
Executive Counsel

1102#071

POTPOURRI

Department of Health and Hospitals Emergency Response Network Board

Interregional Transfer Protocol

On January 20, 2011, the Louisiana Emergency Response Network Board (La. R.S. 40:2842(1) and (3)) adopted and promulgated "LERN Hospital Interregional Transfer Guidelines" and "LERN Hospital Interregional Transfer Protocol", replacing "Interregional Transfer Protocol" adopted June 18, 2009, as follows.

LERN Hospital Interregional Transfer Guidelines

- All patients whose conditions exceed the regionally available resources provided by local area hospitals may be transferred from one region to another following LERN Interregional Transfer Protocol.
- The LERN Hospital Interregional Transfer Protocol only applies to hospitals that are participating in the LERN network.
- Regions or individual parishes that have MOU's (which include medical control and destination guidelines), between an ACS verified Level 1 trauma center and a local parish medical society (ies) will be incorporated into the LCC standard operating procedure for the effected region(s).

LERN Hospital Interregional Transfer Protocol

1. Patients transferred via the LERN Hospital Interregional Transfer Protocol must:
 - a. meet LERN Standard Entry Criteria that requires resources and/or capabilities not available in that region;
 - b. be assessed and stabilized to the best of their ability at a local area hospital prior to transport to the closest appropriate hospital;
 - c. the treating physician/nurse must contact LERN to request a transfer. The LERN Communications Center (LCC) will determine the closest and most appropriate facility available following the LERN Standard Destination Protocol.

Coletta Barrett, RN, MBA
Chair

1102#029

POTPOURRI

**Department of Health and Hospitals
Emergency Response Network Board**

Standard LERN Entry and Destination Criteria

On January 20, 2011, the Louisiana Emergency Response Network Board [R.S. 40:2842(1) and (3)] revised,

adopted and promulgated “Standard LERN Entry Trauma Criteria” and “Standard LERN Entry Trauma Criteria Destination Protocol” for use in all Regions, except Region 7, of the Louisiana Emergency Response Network, replacing the “Standard LERN Entry Criteria” and “Standard Destination Protocol,” adopted and promulgated November 20, 2010, as follows:

STANDARD LERN ENTRY TRAUMA CRITERIA
Pre-Hospital & Hospital Triage Protocol

Call LERN Communications Center (XXX) XXX XXX for:

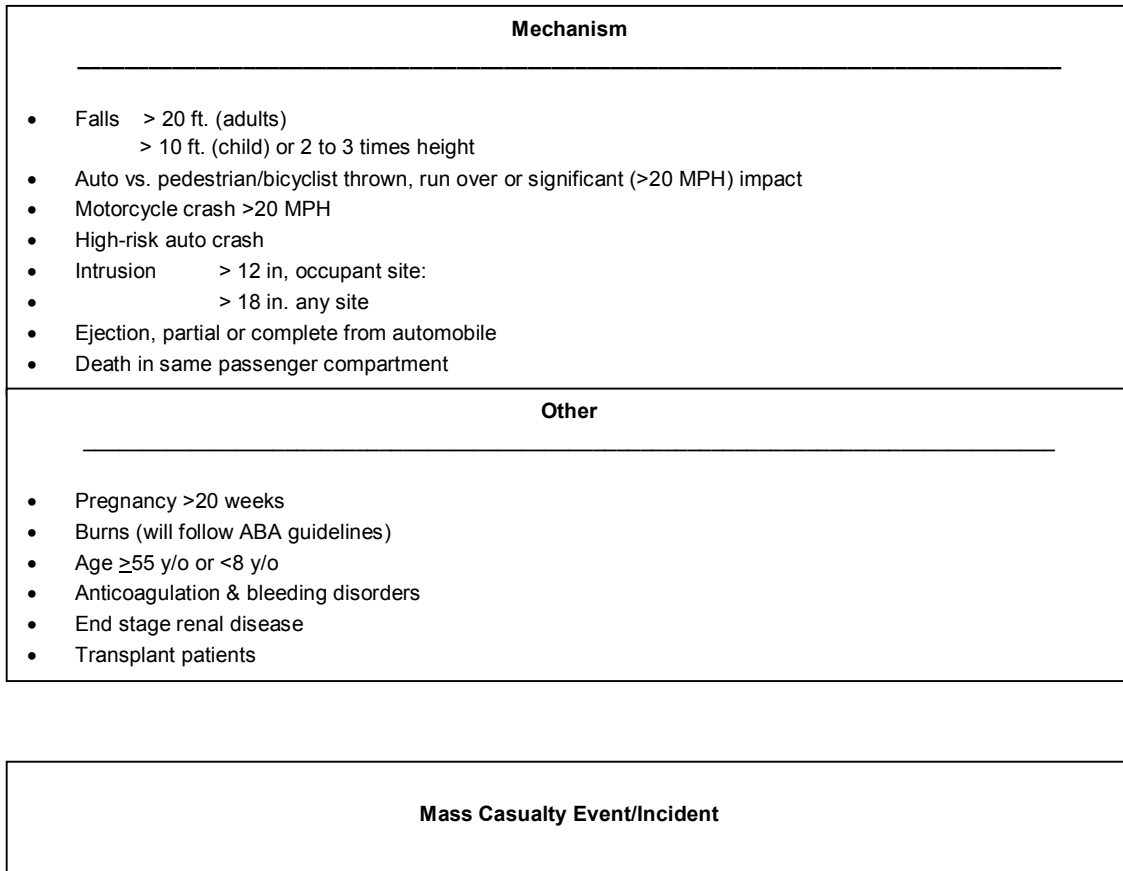
- Unmanageable Airway
- Tension Pneumothorax
- Traumatic cardiac arrest
- Burn patient without patent airway
- Burn patient >40% BSA without IV

Physiologic

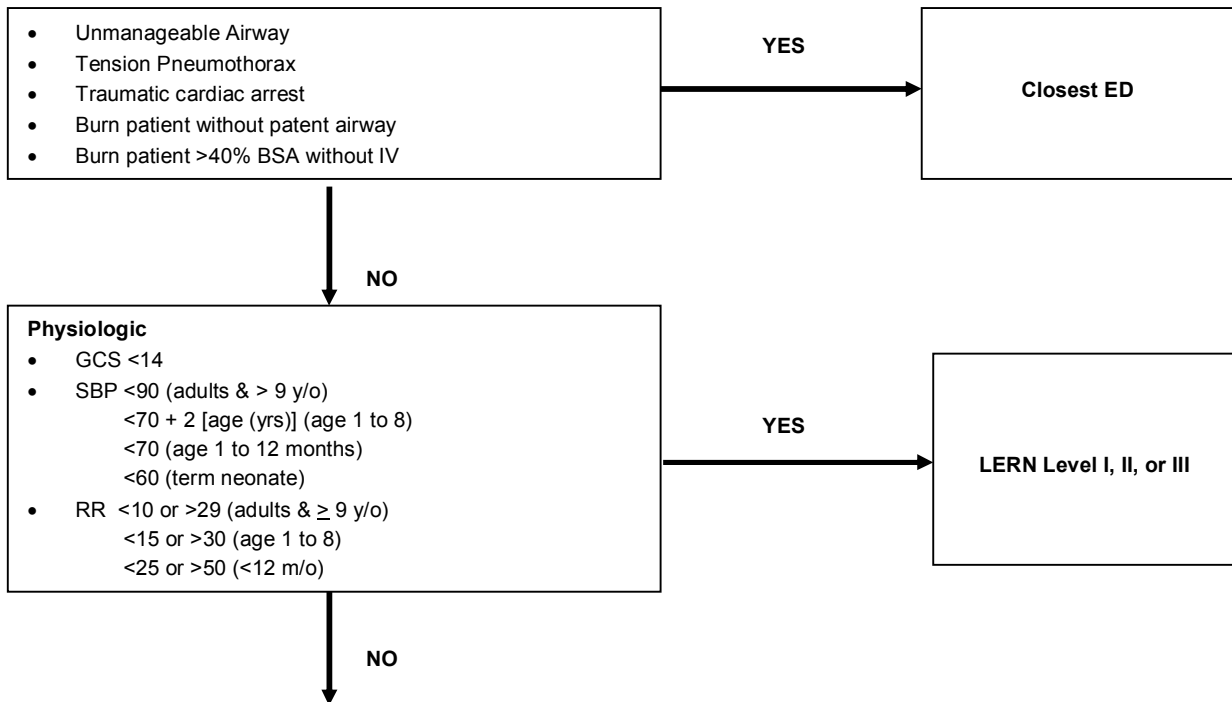
- GCS <14
- SBP < 90 (adults and > 9 y/o)
 < 70 + 2 [age (yrs)] (age 1 to 8)
 < 70 (age 1 to 12 months)
 < 60 (term neonate)
- RR < 01 or > 29 (adults & ≥ 9 y/o)
 < 15 or > 30 (age 1 to 8)
 < 25 or > 50 (<12 m/o)

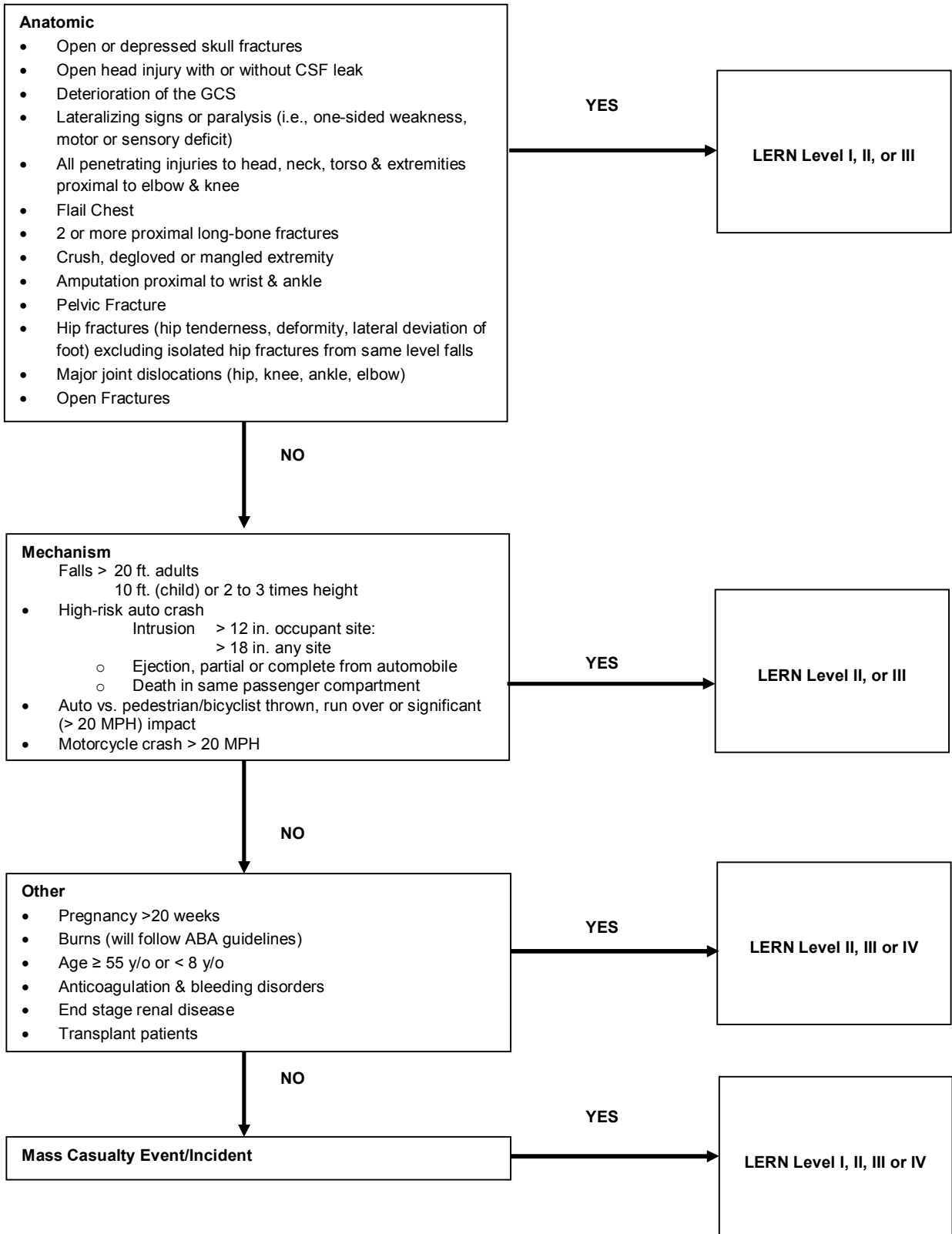
Anatomic

- Open or depressed skull fractures
- Open head injury with or without CSF leak
- Deterioration of the GCS
- Lateralizing signs or paralysis (i.e., one-sided weakness, motor or sensory deficit)
- All penetrating injuries to neck, torso & extremities proximal to elbow & knee
- Flail Chest
- 2 or more proximal long-bone fractures
- Crush, degloved or mangled extremity
- Amputation proximal to wrist & ankle
- Pelvic Fractures
- Hip fractures (hip tenderness, deformity, lateral deviation of foot) excluding isolated hip fractures from same level falls
- Major joint dislocations (hip, knee, ankle, elbow)
- Open Fractures



STANDARD LERN ENTRY TRAUMA CRITERIA DESTINATION PROTOCOL





Coletta Barrett, RN, MHA
Chair

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
Sallie Mat C. Bush	Caddo Pine Island	S	Swann Heirs	A-1	49803

James H. Welsh
Commissioner

1102#015

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 \$20,015.91 were received for payment during the period January 1, 2011-January 31, 2011.

There were 5 paid and 0 denied.

Latitude/Longitude Coordinates of reported underwater obstructions are:

2911.231	9018.343	Lafourche
2943.232	8932.805	St. Bernard
2949.357	8936.388	St. Bernard
3002.170	8920.980	St. Bernard
3003.808	8910.667	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

1102#028

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