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Executive Orders

EXECUTIVE ORDER BJ 10-09

Emergency Partial Suspension of Certain EMT Licensing Laws

WHEREAS, Pursuant to the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, et seq., and as a result of the Deepwater Horizon oil spill, a state of emergency (Emergency) was declared through Executive Proclamation No. 20 BJ 2010, extended by Executive Proclamation No. 37 BJ 2010;

WHEREAS, the Emergency has been declared a Spill of National Significance (SONS) and has significantly impacted wildlife, other natural resources, industry, and the health and safety of individuals living and working in Louisiana coastal areas;

WHEREAS, British Petroleum has contracted with many fishermen and other residents of the State of Louisiana to engage in the assessment and cleanup efforts related to the oil spill and its inundation of Louisiana's coastal beaches, marshes and wetlands;

WHEREAS, British Petroleum has been unable to procure within the state of Louisiana, the large number of Emergency Medical Technicians ("EMTs") needed to adequately assist in providing medical aid and assistance to those persons engaged in the assessments and cleanup efforts;

WHEREAS, EMTs licensed in states other than Louisiana are available to provide medical aid and assistance to those persons engaged in the oil spill assessment and cleanup efforts;

WHEREAS, La. R.S. 29:724 authorizes the governor during a declared state of emergency to suspend the provisions of any state regulatory statute prescribing procedures for conducting state business, or the orders, rules, or regulations of any state agency, if strict compliance with the provision of any statute, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in coping with the emergency;

WHEREAS, The Secretary of the Louisiana Department of Health and Hospitals and the State Health Officer have requested that the Louisiana statutes, laws, rules, and regulations related to licensing of EMTs be temporarily suspended for those EMTs duly licensed to practice in other states who wish to provide their services in affected coastal and offshore areas to those persons engaged in the oil spill assessment and cleanup efforts.

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

SECTION 1: Louisiana's statutes, rules, and regulations regarding the licensure of EMTs, as required by Revised Statutes Title 40, specifically the EMT-Basic

(EMT-B), EMT-Intermediate (EMT-I), and EMT-Paramedic (EMT-P) (Paramedic) designations, are hereby suspended for EMTs duly licensed to practice in other states who wish to provide their services in affected coastal and offshore areas to those persons engaged in the ongoing oil spill response, removal, assessment, and other cleanup efforts. An individual currently licensed and in good standing as an EMT-B, EMT-I, or EMT-P in another state may practice in such geographic areas of the State of Louisiana, subject to the following conditions, qualifications, and parameters:

A. The individual must be duly licensed and in good standing in another state.

B. Prior to practicing in Louisiana pursuant to this Order, the individual shall submit to the State Health Officer (or his designee) a copy of the individual's out-of-state license and photo identification. Such information may be provided by contacting the Department of Public Health, Bureau of EMS.

C. The individual must submit a reciprocity application for a temporary timed permit along with appropriate fees.

D. Under the medical direction of a Louisiana Licensed Physician the individual may provide pre-hospital services only in local, parish, or state declared areas at medical sites specifically operated and designated to assist with oil spill related activities.

E. The individual may work only alongside a team of other EMTs, and must be supervised by an EMT-P licensed in Louisiana.

F. The individual must not exceed the applicable scope of practice applicable to his license, as provided for by applicable law of the state in which he is licensed.

G. The individual must cease practicing in Louisiana upon the termination or rescission of this Order or of the declared state of emergency cited herein, or any extension thereof.

SECTION 2: This Order is effective upon signature and shall be made applicable June 4, 2010, and continue in effect until amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the City of Baton Rouge, on this 4th day of June, 2010.

Bobby Jindal
Governor

ATTEST BY
THE GOVERNOR
Jay Dardenne
Secretary of State
1005#114

EXECUTIVE ORDER BJ 10-10

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 2010 Ceiling for financing for and the construction and equipping of a multi-purpose building to be used for economic development in Vidalia, Louisiana. The building will be owned by the Town of Louisiana and leased to Louisiana Elastomer, L.L.C., to provide additional facilities for expansion.

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 2010 Ceiling in the amount shown:

Amount of Allocation	Name of Issuer	Name of Project
\$2,500,000	Local Government Environmental Development Project	Vidalia Economic Development Project Series 2010

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, 2010, provided that such bonds are delivered to the initial purchasers thereof on or before September 1, 2010.

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 June 2010.

Bobby Jindal
Governor

ATTEST BY
THE GOVERNOR
Jay Dardenne
Secretary of State
1005#115

Emergency Rules

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry
Board of Animal Health

Trichomoniasis (LAC 7:XXI.339)

In accordance with the emergency provisions of the Administrative Procedure Act, specifically R.S. 49:953 (B), and under the authority of R.S. 3:2093, 3:2095, and 3:2097 the Louisiana Board of Animal Health declares an emergency to exist and adopts by emergency process the attached amendments to provide for the testing and reporting of cattle for Trichomoniasis, movement and disposition of bulls and cows that test positive for Trichomoniasis, the quarantine of cattle relative to Trichomoniasis, and to provide for related matters.

Trichomoniasis is a venereal disease of cattle brought about by *Tritrichomonas foetus*, a protozoal parasite, which may cause early embryonic death of the fetus or late term abortion. Bulls carry the parasite and pass it on to cows during breeding. The parasite is almost impossible to detect in cows and is difficult to detect in bulls. The parasite may be transmitted from the cow to her calf during birthing. The financial losses caused by trichomoniasis are substantial. Infected herds have a decrease in the number of calves being born, sometimes as much as a 55 percent decrease. The Louisiana cattle industry has approximately 420,000 breeding age cows and 25,600 bulls. Based on this number of cows the calving rate is approximately 85 percent, for a total of 544,000 calves a year. A breeding cow will sell, on average, for approximately \$1,200 and a breeding bull will sell, on average for approximately \$2,000. A calf will sell, on average, for \$500. A cow or bull sold for slaughter will bring, on average, \$500. If Louisiana's cattle become infected statewide with Trichomoniasis it is conservatively estimated that 50 percent of the cows and bulls will be infected and that the calving rate will decrease to a 50 percent birthing rate. Based on this estimate the Louisiana cattle industry would lose \$112 million from unborn calves, \$22.4 million from the sale of infected breeding cows for slaughter rather than as a breeder, and \$19.2 million from the sale of infected bulls for slaughter, rather than as a breeding bull. The cost for replacing the infected cows and bulls with cows and bulls capable of breeding immediately would be \$38.4 million for replacement cows and \$25.6 million for replacement bulls. The threat posed by Trichomoniasis creates an imminent peril to the public welfare of the citizens of this state, the viability of Louisiana's cattle industry and to the health of the cattle in this state, thereby requiring promulgation of these emergency regulations.

These Emergency Rules are effective upon the signature of the commissioner and shall remain in effect for 120 days, unless renewed or until permanent rules and regulations become effective.

Title 7

AGRICULTURE AND ANIMALS

Part XXI. Diseases of Animals

Chapter 3. Cattle

§339. Trichomoniasis Testing and Movement

Requirements for Cattle

A. Every bull moved into this state and every bull within this state which is sold, exchanged, leased, rented, sold, or otherwise transferred in ownership or possession (hereafter collectively referred to as "transferred") from one person to another shall be accompanied by a test result showing that the bull is free from Trichomoniasis (hereafter referred to as "negative test result" or "testing negative") except for the following bulls:

1. exhibition and rodeo bulls that are temporarily in the state only for the purpose of the event and will be leaving the state immediately after the event;
2. bulls going direct to slaughter or being sold to go direct to slaughter;
3. virgin bulls accompanied by a certification of virgin status signed by the owner of the bull, or the owner's representative or an accredited veterinarian and including the bull's individual identification; and
4. bulls being transported through this state in interstate commerce unless offloaded and comingled with female cattle already in this state that are not going direct to slaughter.

B. Every bull required to be accompanied by a negative test result shall be tested no later than 30 days prior to being moved into the state or the date of transfer, except for bulls that are in a Trichomoniasis-free certification program or a semen certification program, recognized by the state veterinarian.

C. Every bull moved into this state and every bull within this state which is transferred from one person to another, except for the bulls listed in Subparagraph 1-4 of Subsection A of this Section, shall be identified by one or more of the following means:

1. Brucellosis ear tag;
2. official 840 radio frequency identification device (RFID);
3. official 840 flap or bangle tag;
4. official individual animal breed registry brand;
5. official individual animal breed registry tattoo; or
6. an official state of origin trichomoniasis tag.

D. The requirements for testing a bull for Trichomoniasis are as follows.

1. All test samples shall be drawn by an accredited veterinarian.
2. The testing of samples shall be through the use of a test approved by the state veterinarian or by USDA APHIS VS that is performed at an official laboratory or by an accredited veterinarian qualified to test for Trichomoniasis.

3. Test results that show that the tested animal has Trichomoniasis (hereafter referred to as “positive test results” or “testing positive”) shall immediately cause the tested animal to be classified as Trichomoniasis infected and subject to the restrictions set out in this Section.

4. An additional test to confirm the presence of Trichomoniasis may be requested in the event of an initial positive test result, but the request for the confirmatory test must be made to the state veterinarian within five business days of notification of the positive test result.

a. If the confirming test comes back negative then the tested animal is considered negative for Trichomoniasis and may be moved as such.

b. If the confirming test comes back positive then the tested animal shall be subject to the restrictions set out in this Section.

5. A bull being tested for Trichomoniasis shall be kept separate from female cattle at all times during the entire test period from the taking of samples until receipt of the results of the initial test results. A bull testing negative on the initial test may be comingled with female cattle upon receipt of the test results while a bull testing positive shall be immediately subject to the restriction on Trichomoniasis infected bulls set out in this Section.

6. All test results for Trichomoniasis, whether negative or positive, shall be reported to the state veterinarian within 24 hours after receipt of the results.

7. When a positive test result is received the treating veterinarian shall consult with the state veterinarian on the first business day after receipt of the test results to determine a plan of action regarding the animal testing positive.

E. Bulls that are required to be tested for Trichomoniasis prior to being moved into this state or prior to being transferred from one person to another but which have not been tested shall be kept separate from breedable-type cattle until tested and a negative result is obtained.

F. Bulls, except for virgin bulls, that are not required to be tested for Trichomoniasis prior to being moved into this state or prior to being transferred from one person to another shall, at all times, be kept separate from female cattle until tested and a negative result is obtained. However, a bull being moved direct to slaughter or sold to go direct to slaughter may be comingled with breedable-type cattle also being moved direct to slaughter or being sold to go direct to slaughter.

G. Bulls testing positive for Trichomoniasis are subject to the following restrictions.

1. No known Trichomoniasis infected bull shall be moved into or within this state or transferred within this state from one person to another, unless the bull is going direct to slaughter or being sold to go direct to slaughter.

2. No known Trichomoniasis infected bull, whether being moved into or within this state, shall be used for breeding purposes and shall be kept separate from female cattle, from the time the first positive test result is received.

3. A Trichomoniasis infected bull shall be moved direct to slaughter, or sold to go direct to slaughter within 30 days from receipt of the positive results of the original test or the results of the confirming test, whichever is later.

4. A Trichomoniasis infected bull may be moved only after a VS 1-27 permit is issued by the testing veterinarian or the state veterinarian or his representative. The VS 1-27

permit shall accompany the bull upon movement of the animal.

H. If a Trichomoniasis infected bull has been in a herd with female cattle then the infected bull and the other bulls in the herd are subject to the following requirements.

1. The Trichomoniasis infected bull shall be immediately separated from the herd and all other bulls in the herd and shall be moved or transferred only as allowed by this Section.

2. If there is any other bull or bulls in the herd then all other such bulls shall be immediately separated from, and kept separate from all female cattle.

3. Each such bull shall be tested for Trichomoniasis as soon as possible. Test samples shall not be pooled.

4. A bull testing negative shall be immediately removed from all other bulls that have not been tested or for which the test results have not been received and shall be considered to be a negative bull for all purposes.

5. A bull testing positive shall immediately be classified as a Trichomoniasis infected bull and shall be subject to the restrictions imposed in this Section on such bulls.

6. An additional test to confirm the presence of trichomoniasis may be requested in the event of an initial positive test result, but the request for the confirmatory test must be made to the state veterinarian within five business days of notification of the positive test result.

a. If the confirming test comes back negative then the bull shall be considered negative for Trichomoniasis.

b. If the confirming test comes back positive then the bull shall be considered to be infected with Trichomoniasis and subject to the restrictions imposed in this Section on such bulls.

I. A Trichomoniasis infected herd is a herd known to contain or have contained a Trichomoniasis infected bull or cow. If a virgin bull or bull that has tested negative for Trichomoniasis is comingled with female cattle from a Trichomoniasis infected herd then the virgin bull or bull with negative test results shall be tested for and found to be free of Trichomoniasis before being moved, placed into another herd, or transferred from one person to another.

J. A cow is not required to be tested for Trichomoniasis before being moved into this state or transferred from one person to another but if a cow is tested then the same procedure set out in this Section for testing a bull shall apply to the testing of a cow.

K. A cow testing positive for Trichomoniasis shall be subject to the following restrictions.

1. A cow testing positive for Trichomoniasis shall not be moved into this state, except to go direct to slaughter or to be sold to go direct to slaughter.

2. A cow within this state that has tested positive for Trichomoniasis shall be immediately separated from, and kept separate from all bulls.

a. The cow shall be moved direct to slaughter or sold to go direct to slaughter within 30 days from receipt of the positive result of the original test or the confirming test, whichever is later, unless placed under a quarantine program approved by the state veterinarian.

b. If the cow is quarantined then it may not be moved from quarantine until the quarantine is released in writing by the state veterinarian. The cow may be released

from quarantine only if the cow is subsequently tested and found to be free from Trichomoniasis or if the cow is to be moved direct to slaughter or to be sold to go direct to slaughter.

3. A Trichomoniasis infected cow may be moved only after a VS 1-27 permit is issued by the testing veterinarian or the state veterinarian or his representative. The VS 1-27 permit shall accompany the cow upon movement of the animal.

L. Quarantine facilities

1. A livestock owner or lessor, livestock dealer, and a public livestock market facility may, with the written approval of the state veterinarian, establish a quarantine facility to hold bulls being moved into this state or being sold in this state until they can be tested for Trichomoniasis.

2. The quarantine facility shall be inspected and approved by the state veterinarian or his representative prior to being placed into use.

3. The fencing or railing of the quarantine facility must be of material that will keep a bull from being able to breed with a cow located in an adjacent pen or pasture and of sufficient strength to keep a bull from escaping the quarantine facility.

4. A bull in a quarantine facility testing positive for Trichomoniasis shall be immediately separated from, and kept separate from, all female cattle and shall be subject to the restrictions imposed by this Section on a Trichomoniasis infected bull.

M. The state veterinarian may grant a written exception or variance to the provisions of this Section, with such conditions as the state veterinarian may impose, if such action is necessary to provide for unforeseen situations or circumstances. Any such exception or variance shall balance the need to protect cattle from Trichomoniasis with the need to allow cattle to move in commerce.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093, 3:2095, and 3:2097.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Board of Animal Health, LR 35:1466 (August 2009), amended LR 36:

Mike Strain DVM
Commissioner

1006#026

DECLARATION OF EMERGENCY

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

Scholarship/Grant Programs (LAC 28:IV.1603)

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

This rulemaking amends the definition of Participating Institution to allow the payment of Health Care Education Loan Forgiveness Program funds to a student who will attend an out-of-state institution of higher education.

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

This Declaration of Emergency is effective June 3, 2010, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act. (SG10118ER)

Title 28

EDUCATION

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

**Chapter 16. Health Care Educator Loan Forgiveness
Program**

§1603. 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.

* * *

Participating Institution—a postsecondary institution that has been approved by the Board of Regents to participate in the Health Care Educator Loan Forgiveness Program.

* * *

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 36:

George Badge Eldredge
General Counsel

1006#061

DECLARATION OF EMERGENCY

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

Scholarship/Grant Programs
(LAC 28:IV.Chapter 18)

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

This rulemaking will create a new Chapter 18 in the Commission's Scholarships/Grants rules to provide for the administration of the Chafee Educational Training Voucher (ETV) Program by the Commission in accordance with a Memorandum of Understanding between the Louisiana Student Financial Assistance Commission and the Louisiana Department of Social Services, Office of Community Services. The Chafee Program provides grants to certain

students who have been in the foster care system to pursue postsecondary education or training to enter the workforce.

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

This Declaration of Emergency is effective June 3, 2010, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act. (SG10117E)

Title 28

EDUCATION

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

Chapter 18. Chafee Educational And Training Voucher Program

§1801. General Provisions

A. The Chafee Educational and Training Voucher (ETV) Program is administered by the Louisiana Office of Student Financial Assistance (LOSFA) in accordance with a Memorandum of Understanding by and between the Louisiana Student Financial Assistance Commission (LASFAC) and the Louisiana Department of Social Services, Office of Community Services (DSS/OCS).

B. Description, History and Purpose. The Chafee ETV Program is administered in accordance with the federal Chafee Act, 42 U.S.C.A. 677 et seq., to provide grants to certain students who have been in the foster care system to pursue postsecondary education or training to enter the workforce.

C. Effective Date. The Chafee ETV Program will be administered by LOSFA beginning with the 2010-2011 academic year.

D. Eligible Semesters/Terms. The Chafee ETV is available to students throughout the academic year.

E. Award Amount. A Chafee ETV recipient may receive up to \$5,000 during the academic year. The award amount is determined by the recipient's financial need as calculated in accordance with the Higher Education Act of 1965, as amended.

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 36:

§1803. 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—the academic year begins with the fall semester or term of the award year, includes the winter term, if applicable, the spring semester or term, and concludes with the completion of the summer session, if applicable.

Educational and Training Voucher—a federal grant that is available to certain students who have been in the foster care system based on the student's financial need.

Foster Care System—a protective service administered by the Louisiana Department of Social Services, Office of Community Services, or by a similar agency in another state, for children who must live apart from their parents due to neglect, abuse, or special family circumstances which requires that the child be cared for outside the family home.

Institution of Higher Education—a school that:

- a. is eligible to receive funds under Title IV of the Higher Education Act of 1965; and
- b. awards a bachelor's degree; or
- c. provides a program of study that is at least two years long in which a student can earn credit toward a bachelor's degree; or
- d. provides not less than 1 year of training towards gainful employment; or
- e. provides vocational training for gainful employment and has been in existence for at least two years.

Legal Guardianship—the duty and authority to make important decisions in matters having a permanent effect on the life and development of the child and the responsibility for the child's general welfare until he reaches the age of majority, subject to any residual rights possessed by the child's parents. It shall include but not necessarily be limited to the rights and responsibilities of legal custody as established in the Louisiana Children's Code.

Postsecondary Education—any educational program at an institution of higher education which admits as regular students those individuals with a high school diploma or equivalent, or admits as regular students persons who are beyond the age of compulsory school attendance, including, but not limited to, academic programs leading to an associate or baccalaureate, graduate or professional degree, or training which leads to a skill, occupational, or technical certificate or degree.

Satisfactory Academic Progress—a standard established in accordance with the Higher Education Act of 1965, as amended, by the institution at which a Chafee ETV recipient will be enrolled when receiving the ETV for measuring a student's progress in his or her educational program.

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 36:

§1805. Eligibility

A. To establish eligibility, a student must:

1. be ages 15 to 21, except that a student who was participating in the Chafee ETV Program at age 21 may continue to receive ETVs until he attains the age of 23; and
2. be in the foster care system, or aged out of the foster care system, or was under Legal Guardianship, or was in the foster care system or under Legal Guardianship and was adopted after age 16; and
3. be enrolled in postsecondary education; and
4. annually complete the Free Application for Federal Student Aid.

B. To continue to receive Chafee ETV, a student must:

1. not have attained the age of 21, or the age of 23 if the student was receiving a Chafee ETV at the age of 21 and received the Chafee ETV continuously; and
2. be making satisfactory academic progress in his program of study.

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 36:

§1807. Eligibility of Institutions of Higher Education

A. Institutions of Higher Education Eligible to Participate

1. Louisiana public colleges and universities are authorized to participate in the Chafee ETV program.

2. Regionally accredited private colleges and universities that are members of the Louisiana Association of Independent Colleges and Universities, Inc. (LAICU) are authorized to participate in the Chafee ETV program. As of June 2010, LAICU membership included Centenary College, Dillard University, Louisiana College, Loyola University, New Orleans Baptist Theological Seminary, Our Lady of the Lake College, Our Lady of Holy Cross College, St. Joseph Seminary College, Tulane Medical Center, Tulane University and Xavier University.

3. Louisiana proprietary schools licensed pursuant to Chapter 24-A of Title 17 of the Louisiana Revised Statutes are authorized to participate in the Chafee ETV program.

4. Any other institution of learning that is an institution of higher education.

B. Audits

1. Institutions of higher education that participate in the Chafee ETV Program grant LOSFA, the Louisiana legislative auditor, and the Louisiana Department of Social Services the right to inspect records and perform on-site audits of each institution's administration of the program for the purpose of determining the institution's compliance with state law and applicable program rules and regulations.

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 36:

§1809. Responsibilities of Participating Institutions of Higher Education

A. Preliminary Eligibility Determination

1. Institutions of Higher Education must verify the student's age.

2. Institutions of higher education must determine whether the student is or was prior to age 18 an orphan or ward of the court in accordance with procedures established by the postsecondary institution for verifying information reported by the student on the Free Application for Federal Student Aid.

3. If the school determines that the student is an orphan or ward of the court in accordance with its procedures and this Section, it shall provide to LOSFA the student's name, social security number, and current address.

B. Continuing Eligibility

1. Institutions of higher education must verify the student is making satisfactory academic progress.

2. If a prior recipient is making satisfactory academic progress, it shall provide to LOSFA the student's name, social security number, and current address.

C. Award Amount Determination

1. Institutions of higher education will determine the student's Chafee ETV amount based upon his financial need in accordance with the Higher Education Act of 1965, as amended, and will report that award amount to LOSFA.

2. Institutions of higher education shall provide students the opportunity to appeal the amount of the Chafee ETV amount if the award to the student is less than \$5,000. Such appeals shall be conducted in accordance with the institution of higher education's procedures for appealing Title IV student aid eligibility. Immediately upon receipt of an appeal, the institution of higher education shall notify LOSFA of the appeal, the student's name, and the reason for awarding less than the full grant amount. In the event the student is not satisfied with the school's final decision on the appeal, the institution of higher education shall advise the student that he may appeal the institution of higher education's decision to the Department of Social Services.

D. Certification of Student Data

1. Upon request by LOSFA, and for the purpose of meeting federal audit requirements for the Chafee Grant, an institution of higher education shall report the following data:

- a. admission and enrollment; and
- b. semester hours attempted; and
- c. semester hours earned; and
- d. resignation from the institution or withdrawal from all courses.

E. Program Billing

1. If institution of higher education operates on a semester or term basis, it shall divide the student's annual Chafee ETV amount by the number of semester/terms the student will be attending and it shall bill LOSFA for the resulting amount at the beginning of each semester or term the student attends.

2. If the institution of higher education operates on a basis other than semester or term, it shall bill LOSFA for one quarter of the student's Chafee grant amount on September 1, December 1, March 1, and June 1, if the student's program of study is at least one full year. If the student's program of study is less one full year, the school will divide the Chafee ETV amount by the number of billing dates encompassed by that program and bill LOSFA the resulting amount.

3. Submission of a bill for a student is certification by the post-secondary institution that the student is enrolled at the institution and has maintained satisfactory academic progress.

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 36:

§1813. Responsibilities of the Louisiana Department of Social Services

A. The Department of Social Services shall verify that a student:

1. was in the foster care system or aged out of the foster care system; or

2. was under legal guardianship; or
3. was in the foster care system or under legal guardianship and was adopted after age 16; or
4. is a Native American whose Indian tribe has an approved plan under Title IV-E of the Social Security Act for foster care, adoption assistance, and kinship guardianship within that Indian tribe.

B. The Department of Social Services will notify LOSFA of any students who are eligible to receive a Chafee ETV and for whom LOSFA did not previously request verification in accordance with §1817.A., including those students who may be attending school in a state other than Louisiana.

C. In the event of receipt of notice of a shortfall and additional funds are not allocated for payment of all anticipated awards for subsequent semesters, terms and sessions during the academic year, the Department of Social Services shall develop, approve and deliver a plan to LOSFA to address the shortfall.

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 36:

§1817. Responsibilities of LOSFA

A. LOSFA shall:

1. verify a student's eligibility to receive a Chafee ETV with the Department of Social Services;
2. pay program funds to the eligible post-secondary institution in which the student is enrolled;
3. maintain a secure database of all information collected on recipients and former recipients, including name, address, social security number, program of study, name of the institution(s) the recipient attended, and amounts disbursed;
4. notify the Department of Social Services immediately if projections indicate that sufficient funds will not be available to pay all eligible students the amount originally awarded to those students at the beginning of the Academic Year.

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 36:

§1819. Responsibilities of LASFAC

A. LASFAC shall promulgate administrative rules in accordance with the Louisiana Administrative Procedure Act, in consultation with the Louisiana Department of Social Services and in accordance with a Memorandum of Understanding entered into by and between LASFAC and the Louisiana Department of Social Services.

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 36:

George Badge Eldredge
General Counsel

1006#063

DECLARATION OF EMERGENCY

**Louisiana Tuition Trust Authority
Office of Student Financial Assistance**

START Savings Program
(LAC 28:VI.305, 307, 311)

The Louisiana Tuition Trust Authority (LATTA) is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to amend rules of the Student Tuition Assistance and Revenue Trust (START Saving) Program (R.S. 17:3091 et seq.).

This rulemaking increases the time an account owner has to make his/her first deposit after opening a START account from 60 to 180 days and extends the deadline for account owners to provide the tax documents required to establish the proper allocation of earnings enhancements.

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

This Declaration of Emergency is effective on June 3, 2010, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act. (ST10119E)

**Title 28
EDUCATION**

**Part VI. Student Financial Assistance—Higher
Education Savings**

Chapter 3. Education Savings Account

§305. Deposits to Education Savings Accounts

A. – A.2. ...

3. An initial deposit is not required to open an Education Savings Account; however, a deposit of at least \$10 must be made within 180 days from the date on the letter of notification of approval of the account.

A.4. – E.4. ...

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:715 (June 1997), amended LR 24:1270 (July 1998), LR 26:2263 (October 2000), LR 27:1880 (November 2001), LR 30:788 (April 2004), LR 30:1169 (June 2004), LR 30:2302 (October 2004), LR 32:1433 (August 2006), LR 32:2240 (December 2006), LR 35:236 (February 2009), LR 35:1234 (July 2009), LR 36:492 (March 2010), LR 36:

§307. Allocation of Earnings Enhancements

A. – B.4. ...

5. If an account owner is classified in §305.A.1 or 2 and the tax documents required by §307.B.2 are not received by February 15 immediately following the year for which the beneficiary of the account is being considered for an earnings enhancement, as an exception to §307.D, the account shall be allocated an earnings enhancement for the

year being considered at the earnings enhancement rate shown in §307.D for account owners who are members of the family of the beneficiary who report an adjusted gross income of \$100,000 and above.

6. Example: An account owner has made deposits in a START account for a beneficiary during calendar year 2010 and desires to receive the highest earnings enhancement rate authorized for those deposits. If the account owner did not file a Louisiana Income Tax Return for the tax year 2009 or is notified by LATTA that the Louisiana Department of Revenue could not validate his federal adjusted gross income, he must submit the tax documents for tax year 2009 required by §307.B.2.b so that they are received by LATTA no later than February 15, 2011, or his earnings enhancement rate will be defaulted to the rate for account owners who are members of the family of the beneficiary who report an adjusted gross income of \$100,000 and above.

C. – J.3. ...

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:715 (June 1997), amended LR 24:1271 (July 1998), LR 25:1794 (October 1999), LR 26:1263 (June 2000), LR 26:2263 (October 2000), LR 27:37 (January 2001), LR 27:1222 (August 2001), LR 27:1880 (November 2001), LR 28:779 (April 2002), LR 30:788 (April 2004), LR 30:2302 (October 2004), LR 34:1886 (September 2008), LR 36:

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

A. – B.2. ...

3. The LATTA may terminate an account if no deposit of at least \$10 has been made within 180 days from the date on the letter of notification of approval of the account.

B.4. – I.2.b. ...

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:717 (June 1997), amended LR 24:1273 (July 1998), repromulgated LR 26:2265 (October 2000), amended LR 27:38 (January 2001), LR 27:1882 (November 2001), LR 28:779 (April 2002), LR 30:790 (April 2004), LR 31:639 (March 2005), LR 32:1434 (August 2006), LR 32:2240 (December 2006), LR 33:444 (March 2007), LR 35:236 (February 2009), LR 36:492 (March 2010), LR 36:

George Badge Eldredge
General Counsel

1006#062

DECLARATION OF EMERGENCY

Office of the Governor Division of Administration Office of Group Benefits

PPO Plan of Benefits

Eligibility, Medical Benefits, and Schedule of Benefits
(LAC 32: III.103, 301, 323, 701, and 703)

Pursuant to the authority granted by R.S. 42:801(C) and 802(B)(2), vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the

power to adopt and promulgate rules with respect thereto, OGB, hereby invokes the Emergency Rule provisions of R.S. 49:953(B).

OGB finds that it is necessary to amend its plan eligibility provisions in order to avoid sanctions or penalties from the United States by providing availability of continued coverage for students enrolled in post-secondary educational institutions who would otherwise lose eligibility due to a medically necessary leave of absence as required by "Michelle's Law" (Public Law 110-381). OGB also finds that imminent peril to the public health, safety, or welfare requires it to revise and amend provisions of its PPO Plan Document relative to wellness benefits, to increase the benefits from \$200 to \$500, for prescription drug benefits, to increase the member co-pay when a FDA Approved generic equivalent but a brand drug is dispensed, and to modify the mental health and substance abuse benefits to more closely align those benefits with the requirements of the Wellstone-Domenici Mental Health Parity and Addiction Equity Act of 2008 (parts of Public Law 110-343). Failure to adopt this rule on an emergency basis may result in unreasonable delays and/or denial of medically appropriate health care services for covered employees, retirees, and their dependents, adversely affecting their own health and welfare as well as the delivery of vital services to the citizens of the state by the public workforce. Accordingly, the following Emergency Rule, revising and amending the PPO Plan of Benefits, is effective July 1, 2010, and shall remain in effect for a maximum of 120 days, or until a final rule is promulgated, which ever occurs first.

Title 32

EMPLOYEE BENEFITS

Part III. Preferred Provider (PPO) Plan of Benefits

Chapter 1. Eligibility

§103. Continued Coverage

A. - E.2.b. ...

F. Coverage may continue for an Employee's never-married Dependent child under the age of twenty-four (24) years of age if, while enrolled as a full-time student in a post-secondary institution, the student ceases to meet the institution's full-time student criteria due to a Medically Necessary leave of absence. Coverage may continue until the earlier of:

1. one year from the start of the Medically Necessary leave of absence (COBRA rights would apply after the one year period has expired); or

2. the day the student's coverage would have otherwise ended under the terms of the plan.

3. For purposes of this provision, a "Medically Necessary leave of absence" includes an actual leave of absence from the post-secondary educational institution, as any other change in enrollment at the institution that:

a. begins while the student is suffering from a serious illness or injury.

b. is Medically Necessary; and

c. causes the loss of student status under the terms of the plan.

4. Written certification must be provided by a treating physician certifying that the student is suffering from a serious illness or injury that requires the Medically Necessary leave of absence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1827 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 30:1191 (June 2004), LR 32:1884 (October 2006), LR 36:

Chapter 3. Medical Benefits

§301. Eligible Expenses

A. – A.23.b.ii. ...

c. well adult care expenses, not subject to the annual deductible, but limited to a maximum benefit of \$500:

23.c.i. – 35.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1830 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:480 (March 2002), LR 29:339, 343 (March 2003), LR 30:1192 (June 2004), LR 31:441 (February 2005), LR 32:1888 (October 2006), LR 32:1898 (October 2006), LR 34:646 (April 2008), LR 34:646 (April 2008), effective May 1, 2008, LR 34:649 (April 2008), effective May 1, 2008, LR 34:2562 (December 2008), effective January 1, 2009, LR 36:

§323. Prescription Drug Benefits

A. – B.12 ...

C. Outpatient prescription drug benefits are adjudicated by a third-party prescription benefits manager with whom the program has contracted. In addition to all provisions, exclusions and limitations relative to prescription drugs set forth elsewhere in this plan document, the following apply to expenses incurred for outpatient prescription drugs.

1. In Network (participating pharmacy) Benefits

a. Regular Benefits. Upon presentation of the Group Benefits Program Health Benefits Identification Card at a network pharmacy, the plan member will be responsible for payment of 50 percent of the cost of the drug, up to \$50 per prescription dispensed. The plan will pay the balance of the eligible expense for prescription drugs dispensed at a network pharmacy. There is a \$1,200 per person per plan year out-of-pocket threshold for eligible prescription drug expenses. Once this threshold is reached, that is, the plan member has paid \$1,200 of co-insurance/co-payments for eligible prescription drug expenses, the plan member will be responsible for a \$15 co-pay for brand name drugs, with no co-pay for generic drugs. The plan will pay the balance of the eligible expense for prescription drugs dispensed at a network pharmacy.

b. Dispense as Written (DAW) Reduced Benefits. The foregoing notwithstanding, when a generic is available but a brand drug is dispensed, the member will be responsible for payment of the full amount of excess cost (the difference between the brand and generic costs) in addition to the 50 percent of the cost the drug, up to \$50 per prescription dispensed.

2. In the event the plan member does not present the Group Benefits Program identification card to the network pharmacy at the time of purchase, the plan member will be responsible for full payment for the drug and must then file a claim with the prescription benefits manager for

reimbursement, which will be limited to the rates established for non-network pharmacies.

3. If the plan member obtains a prescription drug from a non-network pharmacy in state, reimbursement will be limited to 50 percent of the amount that would have been paid if the drug had been dispensed at a network pharmacy. If the plan member obtains a prescription drug from a non-network pharmacy out of state, benefits will be limited to 80 percent of the amount that would have been paid if the drug had been dispensed at a network pharmacy.

4. Regardless of where the prescription drug is obtained, eligible expenses for brand name drugs will be limited to:

a. The prescription benefits manager's maximum allowable charge for the generic, when available; or

b. The prescription benefits manager's maximum allowable charge for the brand drug dispensed, when a generic is not available.

c. There is no per prescription maximum on the plan member's responsibility for payment of costs in excess of the eligible expense. Plan member payments for such excess costs are not applied toward satisfaction of the annual out-of-pocket threshold (above).

5. Prescription drug dispensing and refills will be limited in accordance with protocols established by the prescription benefits manager, including the following limitations.

a. Up to a 30-day supply of drugs may be dispensed upon initial presentation of a prescription or for refills dispensed more than 120 days after the most recent fill.

b. For refills dispensed within 120 days of the most recent fill, up to a 90-day supply of drugs may be dispensed at one time, provided that co-payments shall be due and payable as follows.

i. For a supply of 1-30 days the plan member will be responsible for payment of 50 percent of the eligible expense for the drug, up to a maximum of \$50 per prescription dispensed, and 100 percent of excess cost.

ii. For a supply of 31-60 days the plan member will be responsible for payment of 50 percent of the eligible expense for the drug, up to a maximum of \$100 per prescription dispensed, and 100 percent of excess cost.

iii. For a supply of 61-90 days the plan member will be responsible for payment of 50 percent of the eligible expense for the drug, up to a maximum of \$150 per prescription dispensed, and 100 percent of excess cost.

NOTE: Repealed.

5.b.iv. – 7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1835 (October 1999), amended LR 27:720, 721 (May 2001), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 27:1887 (November 2001), LR 28:2344 (November 2002), LR 29:342 (March 2003), LR 32:1892 (October 2006), LR 32:2254 (December 2006), LR 36:

Chapter 7. Schedule of Benefits—PPO

§701. Comprehensive Medical Benefits

A. – C.2. ...

3. Well Adult (No deductible—limited to a maximum benefit of \$500)

Age 16-39—1 physical every 3 years	² See % payable below
Age 40-49—1 physical every 2 years	² See % payable below
Age 50 and over—1 physical every year	² See % payable below

²Participating providers are reimbursed at 100 percent of eligible expenses up to the maximum benefit; non-participating providers are reimbursed at 70 percent of eligible expenses up to the maximum benefit.

Services include screenings to detect illness or health risks during a physician office visit. The covered services are based on prevailing medical standards and may vary according to age and family history.

Specialized age appropriate wellness (not subject to deductible) – For a complete list of benefits, see §301.A.24 of this Part.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1843 (October 1999), amended LR 26:488 (March 2000), LR 27:719, 720, 722 (May 2001), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 27:1887 (November 2001), LR 28:2345 (November 2002), LR 29:340, 342, 343 (March 2003), repromulgated LR 29:578 (April 2003), amended LR 30:1192 (June 2004), LR 32:1897 (October 2006), LR 33:644 (April 2007), LR 33:1122 (June 2007), LR 34:646 (April 2008), effective May 1, 2008, LR 36:

§703. Mental Health and Substance Abuse

A. Co-Payments

Inpatient Co-Payment	\$100 per day (Maximum \$300 per admission)
Outpatient Co-Payment	\$25 per visit

B. Benefits

NOTE: Requires prior approval of services.

In-Network - 100 % of eligible expenses after applicable Co-Payment
Out-of-Network (Member resides in Louisiana) - 70 % of eligible expenses after applicable Co-Payment, subject to balance billing
Out-of-Network (Member resides outside Louisiana) - 90 % of eligible expenses after applicable Co-Payment, subject to balance billing

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1844 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 29:340 (March 2003), LR 36:

Tommy D. Teague
Chief Executive Officer

1006#048

DECLARATION OF EMERGENCY

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

Forensic Supervised Transitional Residential and Aftercare Facilities Minimum Licensing Standards (LAC 48:I.Chapter 72)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 48:I.Chapter 72 in the Medical Assistance Program as authorized by R.S.

36:254 and R.S. 28:31. 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 332 of the 2008 Regular Session of the Louisiana Legislature directed the Department of Health and Hospitals to adopt provisions governing the licensing standards for forensic supervised transitional residential and aftercare facilities. Forensic supervised transitional residential and aftercare facilities shall provide care and services to clients referred by state forensic hospitals or state forensic inpatient psychiatric units currently operated by the department. In compliance with the directives of Act 332, the Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt provisions governing the minimum licensing standards for forensic supervised transitional residential and aftercare facilities.

Effective July 1, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing adopts the following provisions governing forensic supervised transitional residential and aftercare facilities.

This action is being taken to avoid imminent peril to the public health, safety and welfare by ensuring that individuals who are not capable of living independently and need structure in order to function adequately are placed in a setting that not only protects the public, but also provides a controlled environment to maximize the client’s functioning. It is estimated that implementation of this Emergency Rule will have no programmatic costs for state fiscal year 2010-2011.

Title 48

PUBLIC HEALTH—GENERAL

Part 1. General Administration

Subpart 3. Licensing and Certification

Chapter 72. Forensic Supervised Transitional Residential and Aftercare Facilities Licensing Standards

Subchapter A. General Provisions

§7201. Introduction

A. These rules and regulations contain the minimum licensure standards for forensic supervised transitional residential and aftercare (FSTRA) facilities, pursuant to La. R.S. 28:31-28:37. These licensing regulations contain core requirements as well as module specific requirements, depending upon the services provided by the Forensic supervised transitional residential and aftercare facility provider. The modules to be licensed under an FSTRA license are:

1. secure community supervised transitional/residential facility; and
2. secure forensic facility.

B. A Forensic supervised transitional residential and aftercare facility serves clients referred by state forensic hospitals or state forensic inpatient psychiatric units operated by the Department of Health and Hospitals, including persons in court-ordered conditional release status. An FSTRA facility shall operate seven days per week, 24 hours a day.

C. The care and services to be provided through arrangement or by the FSTRA facility shall include, but are not limited to the following:

1. behavioral health services;
2. nutritional services;
3. medication management;
4. assistance with independent living skills;
5. recreational services; and
6. transportation services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

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

§7203. Definitions

Administrator—the person responsible for the on-site, daily implementation and supervision of the overall facility's operation commensurate with the authority conferred by the governing body.

Behavior Management—techniques, measures, interventions and procedures applied in a systematic fashion to promote positive behavioral or functional change which fosters the client's self-control, and to prevent or interrupt a client's behavior which threatens harm to the client or others.

Department—the Louisiana Department of Health and Hospitals.

Forensic Clients—persons transitioned from a forensic facility established pursuant to R.S. 28:25.1(A) or (B).

Forensic Supervised Transitional Residential and Aftercare Facility—a facility that provides supervised transitional residential and aftercare services to forensic clients, including persons in court-ordered conditional release status. A forensic supervised transitional residential and aftercare facility shall provide clients, referred by state operated forensic facilities/hospitals or under court-ordered forensic conditional release, with individualized services to develop daily living skills and to prepare for vocational adjustment and reentry into the community.

Forensic Psychiatrist—a physician, currently licensed to practice medicine in Louisiana, who:

1. signs the order admitting the individual to the FSTRA facility;
2. maintains overall responsibility for the client's medical management; and
3. is available for consultation and collaboration with the FSTRA facility staff.

Licensee—the person, partnership, company, corporation, association, organization, professional entity, or other entity to whom a license is granted by the licensing agency and upon whom rests the ultimate responsibility and authority for the conduct of and services provided by the FSTRA facility.

Secure Community Supervised Transitional/Residential Facility—a secure residential facility within the community that provides individualized services to persons who are under a court-ordered forensic conditional release and who are referred by a state forensic hospital or state forensic psychiatric unit. These services enable such persons to develop daily living skills and to prepare for vocational adjustment and reentry into the community.

Secure Forensic Facility—a secure residential facility located on the grounds of a state hospital that provides individualized services, including personal care services and medication administration, to persons who are under a court-ordered forensic conditional release and who are referred by a state forensic hospital or state forensic psychiatric unit. These services prepare such persons for transition to a less

restrictive environment before transitioning to the community.

Treatment Plan—a comprehensive plan developed by the FSTRA facility for each client that includes the services each client needs. It shall include the provision of medical/psychiatric, nursing and psychosocial services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

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

§7205. Licensing Requirements

A. Any person or entity applying for an FSTRA license shall meet all of the core licensing requirements contained in this Subchapter as well as module specific requirements, unless otherwise specifically noted herein.

B. All facilities providing forensic supervised transitional residential and aftercare services shall be licensed by the department. An FSTRA facility shall not be established, opened, operated, managed, maintained, or conducted in this state without a license issued by the Department of Health and Hospitals. Each facility shall be separately licensed.

C. The Department of Health and Hospitals is the only licensing authority for FSTRA facilities in the State of Louisiana. It shall be unlawful to operate an FSTRA facility without possessing a current, valid license issued by the department.

D. Each FSTRA license shall:

1. be issued only to the person or entity named in the license application;
2. be valid only for the facility to which it is issued and only for the specific geographic address of that facility;
3. be valid for one year from the date of issuance, unless revoked, suspended, or modified prior to that date, or unless a provisional license is issued;
4. expire on the last day of the twelfth month after the date of issuance, unless timely renewed by the facility;
5. not be subject to sale, assignment, donation, or other transfer, whether voluntary or involuntary; and
6. be posted in a conspicuous place on the licensed premises at all times.

E. In order for the FSTRA facility to be considered operational and retain licensed status, the facility shall meet the following conditions.

1. The facility shall provide 24-hour, seven days per week supervision consisting of:
 - a. at least three direct care staff persons during the day and two awake staff during the night;
 - b. at least two direct care staff persons in each building and/or unit at all times when clients are present; and
 - c. a functional security system on all points of ingress and egress with 24-hour, seven days per week monitoring by awake staff.
2. There shall be staff employed and available to be assigned to provide care and services to each client during all operational hours consistent with the behavioral health needs of each client.

3. The FSTRA facility shall have provided services to at least two clients in the preceding 12 month period in order to be eligible to renew its license.

F. The licensed FSTRA facility shall abide by and adhere to any state law, rules, policy, procedure, manual, or memorandums pertaining to such facilities.

G. A separately licensed FSTRA facility shall not use a name which is substantially the same as the name of another such facility licensed by the department, unless the facility is under common ownership with other FSTRA facilities.

H. No branches, satellite locations or offsite campuses will be authorized for an FSTRA facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

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

§7207. Initial Licensing Application Process

A. An initial application for licensing as an FSTRA facility shall be obtained from the department. A completed initial license application packet for an FSTRA facility must be submitted to and approved by the department prior to an applicant providing services. An applicant must submit a completed initial licensing packet to the department, which shall include:

1. a completed FSTRA facility licensure application and the non-refundable licensing fee as established by statute;

2. a copy of the approval letter of the architectural facility plans from the Office of the State Fire Marshal and any other office/entity designated by the department to review and approve the facility's architectural plans;

3. a copy of the on-site inspection report with approval for occupancy by the Office of the State Fire Marshal;

4. a copy of the health inspection report with approval of occupancy from the Office of Public Health;

5. a copy of the statewide criminal background checks on the following persons:

a. all individual owners with a 5 percent or more ownership interest in the FSTRA facility entity;

b. facility administrators; and

c. members of the facility's board of directors, if applicable;

6. proof of financial viability, comprised of the following:

a. a line of credit issued from a federally insured, licensed lending institution in the amount of at least \$100,000;

b. general and professional liability insurance of at least \$300,000; and

c. worker's compensation insurance.

7. if applicable, Clinical Laboratory Improvement Amendments (CLIA) certificate or CLIA certificate of waiver;

8. a letter-sized floor sketch or drawing of the premises to be licensed; and

9. any other documentation or information required by the department for licensure.

B. If the initial licensing packet is incomplete when submitted, the applicant will be notified of the missing information and will have 90 days from receipt of the notification to submit the additional requested information. If the additional requested information is not submitted to the department within 90 days, the application will be closed. After an initial licensing application is closed, an applicant who is still interested in becoming an FSTRA facility must submit a new initial licensing packet with a new initial licensing fee to start the initial licensing process.

C. Once the initial licensing application packet has been approved by the department, notification of such approval shall be forwarded to the applicant. Within 90 days of receipt of the approval of the application, the applicant must notify the department that the FSTRA facility is ready and is requesting an initial licensing survey. If an applicant fails to notify the department within 90 days, the initial licensing application shall be closed. After an initial licensing application is closed, an applicant who is still interested in becoming a licensed FSTRA facility must submit a new initial licensing packet with a new initial licensing fee to start the initial licensing process.

D. When issued, the initial Forensic supervised transitional residential and aftercare facility license shall specify the capacity of the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

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

§7209. Types of Licenses

A. The department shall have the authority to issue the following types of licenses.

1. Full Initial License. The department shall issue a full license to the facility when the initial licensing survey finds that the facility is compliant with all licensing laws and regulations, and is compliant with all other required statutes, laws, ordinances, rules, regulations, and fees. The license shall be valid until the expiration date shown on the license unless the license is modified, revoked, or suspended.

2. Provisional Initial License. The department shall issue a provisional initial license to the facility when the initial licensing survey finds that the facility is noncompliant with any licensing laws or regulations or any other required statutes, laws, ordinances, rules, regulations or fees, but the department determines that the noncompliance does not present a threat to the health, safety or welfare of the individuals receiving services. The provisional license shall be valid for a period not to exceed six months.

3. Full Renewal License. The department shall issue a full renewal license to an existing licensed FSTRA facility which is in substantial compliance with all applicable federal, state, departmental and local statutes, laws, ordinances, rules, regulations and fees. The license shall be valid until the expiration date shown on the license unless the license is modified, revoked, or suspended.

B. The department, in its sole discretion, may issue a provisional license to an existing licensed FSTRA facility for a period not to exceed six months for the following reasons.

1. The existing facility has more than five deficient practices or deficiencies cited during any one survey.

2. The existing facility has more than three validated complaints in one licensed year period.

3. The existing facility has been issued a deficiency that involved placing a client at risk for serious harm or death.

4. The existing facility has failed to correct deficient practices within 60 days of being cited for such deficient practices or at the time of a follow-up survey.

5. The existing facility is not in substantial compliance with all applicable federal, state, departmental and local statutes, laws, ordinances, rules regulations and fees at the time of renewal of the license.

C. When the department issues a provisional license to an existing licensed FSTRA facility, the department shall conduct an on-site follow-up survey at the facility prior to the expiration of the provisional license, and shall issue written notice of the results of the follow-up survey.

1. If the on-site follow-up survey determines that the facility has corrected the deficient practices and has maintained compliance during the period of the provisional license, the department may issue a full license for the remainder of the year until the anniversary date of the facility license.

2. If the on-site follow-up survey determines that the facility has not corrected the deficient practices or has not maintained compliance during the period of the provisional license, the provisional license shall expire and the facility shall be required to begin the initial licensing process again by submitting a new initial license application packet and fee, if no timely informal reconsideration or administrative appeal is filed pursuant to this Chapter.

a. At the sole discretion of the department, the provisional license may be extended for a period, not to exceed 90 days, in order for the FSTRA facility to correct the noncompliance or deficiencies.

D. When the department issues a provisional license as a result of the initial licensing survey, the facility shall submit a plan of correction to the department for approval, and shall be required to correct all such noncompliance or deficiencies prior to the expiration of the provisional license. The department shall conduct an on-site follow-up survey at the facility prior to the expiration of the provisional license and shall issue written notice to the provider of the results of the follow-up survey.

1. If all such noncompliance or deficiencies are determined by the department to be corrected on a follow-up survey, a full license will be issued.

2. If all such noncompliance or deficiencies are not corrected on the follow-up survey, the provisional license shall expire and the provider shall be required to begin the initial licensing process again by submitting a new initial license application packet and fee.

a. At the sole discretion of the department, the provisional license may be extended for an additional period, not to exceed 90 days, in order for the FSTRA facility to correct the noncompliance or deficiencies.

E. The license for an FSTRA facility shall be valid for one year from the date of issuance, unless revoked, suspended, or modified prior to that time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

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

§7211. Licensing Surveys

A. Prior to the initial license being issued to the FSTRA facility, an initial licensing survey shall be conducted on-site at the facility to assure compliance with licensing standards. The facility shall not provide services until the initial licensing survey has been performed and the facility found in compliance with the licensing standards. The initial licensing survey shall be an announced survey.

B. In the event that the initial licensing survey finds that the FSTRA facility is compliant with all licensing laws, regulations and other required statutes, laws, ordinances,

rules, regulations, and fees, the department shall issue a full license to the provider.

C. In the event that the initial licensing survey finds that the FSTRA facility is noncompliant with any licensing laws or regulations, or any other required statutes, laws, ordinances, rules or regulations, that present a potential threat to the health, safety, or welfare of clients, the department shall deny the initial license.

D. Once an initial license has been issued, the department shall conduct licensing and other surveys at intervals deemed necessary by the department to determine compliance with licensing standards and regulations, as well as other required statutes, laws, ordinances, rules, regulations, and fees. These surveys shall be unannounced.

E. A follow-up survey may be conducted for any survey where deficiencies have been cited to ensure correction of the deficient practices.

1. An acceptable plan of correction may be required from an FSTRA facility for any survey where deficiencies have been cited.

2. If deficiencies have been cited, regardless of whether an acceptable plan of correction is required, the department may issue appropriate sanctions, including, but not limited to:

- a. civil monetary penalties;
- b. directed plans of correction; and
- c. license revocations.

F. DHH surveyors and staff shall be:

1. given access to all areas of the facility and all relevant files during any licensing or other survey; and
2. allowed to interview any provider staff, or client as necessary to conduct the survey.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:
§7213. Changes in Licensee Information or Personnel

A. An FSTRA facility license shall be valid only for the person or entity named in the license application and only for the specific geographic address listed on the license application.

B. Any change regarding the FSTRA facility name, "doing business as" name, mailing address, phone number, or any combination thereof, shall be reported in writing to the department within five days of the occurrence. Any change regarding the facility name or "doing business as" name requires a change to the facility license and requires a \$25 fee for the reissuance of an amended license.

C. Any change regarding the facility's key administrative personnel shall be reported in writing to the department within five days of the change.

1. Key administrative personnel include the administrator, physician/psychiatrist and the registered nurse supervisor.

2. The facility's notice to the department shall include the individual's:

- a. name;
- b. facility address;
- c. hire date; and
- d. qualifications.

D. A change of ownership (CHOW) of the FSTRA facility shall be reported in writing to the department within five days of the change of ownership.

1. The license of an FSTRA facility is not transferable or assignable. The license of an FSTRA facility cannot be sold.

2. In the event of a CHOW, the new owner shall submit the legal CHOW document, all documents required for a new license, and the applicable licensing fee. Once all application requirements are completed and approved by the department, a new license shall be issued to the new owner.

3. An FSTRA facility that is under license suspension, revocation, or denial of renewal may not undergo a CHOW.

E. Any request for a duplicate license shall be accompanied by a \$25 fee.

F. An FSTRA facility that intends to change the physical address of its geographic location is required to have plan review approval, Office of State Fire Marshall approval, Office of Public Health approval, compliance with other applicable licensing requirements, and an on-site licensing survey prior to the relocation of the facility.

1. Written notice of intent to relocate shall be submitted to the licensing section of the department when plan review request is submitted to the department for approval.

2. The relocation of the facility's physical address results in a new anniversary date and the full licensing fee shall be paid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31–28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36: **§7215. Renewal of License**

A. License Renewal Application. The FSTRA facility shall submit a completed license renewal application packet to the department at least 30 days prior to the expiration of the existing current license. The license renewal application packet shall include:

1. the license renewal application;
2. a copy of the current on-site inspection with approval for occupancy from the Office of the State Fire Marshal;
3. a copy of the current on-site inspection report with approval of occupancy from the Office of Public Health;
4. proof of financial viability, comprised of the following:
 - a. a line of credit issued from a federally insured, licensed lending institution in the amount of at least \$100,000;
 - b. general and professional liability insurance of at least \$300,000; and
 - c. worker's compensation insurance;
5. the license renewal fee; and
6. any other documentation required by the department.

B. The department may perform an on-site survey and inspection upon annual renewal of a license.

C. Failure to submit a completed license renewal application packet prior to the expiration of the current license will result in the voluntary non-renewal of the Forensic Supervised Transitional Client and Aftercare license.

D. The renewal of a license or the denial of a renewal application does not in any manner affect any sanction, civil monetary penalty, or other action imposed by the department against the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

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

§7217. Denial of License, Revocation of License, Denial of License Renewal

A. In accordance with the provisions of the Administrative Procedure Act, the department may:

1. deny an application for a license;
2. deny a license renewal; or
3. revoke a license

B. Denial of an Initial License

1. The department shall deny an initial license when the initial licensing survey finds that the FSTRA facility is noncompliant with any licensing laws or regulations or with any other required statutes, laws, ordinances, rules or regulations that present a potential threat to the health, safety, or welfare of the clients who will be served by the facility.

2. The department may deny an initial license for any of the reasons in this Chapter that a license may be revoked or non-renewed.

C. Voluntary Non-Renewal of a License

1. If a provider fails to timely renew its license, the license expires on its face and is considered voluntarily surrendered. There are no appeal rights for such surrender or non-renewal of the license, as this is a voluntary action on the part of the provider.

2. If a provider fails to timely renew its license, the facility shall immediately cease and desist providing services, unless the provider is actively treating clients, in which case the provider shall comply with the following:

- a. immediately provide written notice to the department of the number of clients receiving treatment at the FSTRA facility;
- b. immediately provide written notice to the prescribing physician and to the client or legal representative of the following:
 - i. notice of voluntary non-renewal;
 - ii. notice of closure; and
 - iii. plans for orderly transition of the client(s);
- c. discharge and transition of each client within 15 days of voluntary non-renewal; and
- d. notify the department of the location where records will be stored and the contact person for the records.

3. If an FSTRA facility fails to follow these procedures, the owners, managers, officers, directors, and administrators may be prohibited from opening, managing, directing, operating, or owning an FSTRA facility for a period of two years.

D. Revocation of License or Denial of License Renewal. An FSTRA facility license may be revoked or may be denied renewal for any of the following reasons, including but not limited to:

1. failure to be in substantial compliance with the FSTRA facility licensing laws, rules and regulations, or with other required statutes, laws, ordinances, rules, or regulations;
2. failure to comply with the terms and provisions of a settlement agreement or education letter with or from the department, the Attorney General's office, any regulatory agency, or any law enforcement agency;

3. failure to uphold clients' rights whereby deficient practices result in harm, injury, or death of a client;

4. negligent or harmful failure to protect a client from a harmful act of an employee or other client including, but not limited to:

- a. mental or physical abuse, neglect, exploitation, or extortion;
- b. any action posing a threat to a client's health and safety;
- c. coercion;
- d. threat or intimidation;
- e. harassment; or
- f. criminal activity;

5. failure to notify the proper authorities, as required by federal or state law, rules or regulations, of all suspected cases of:

- a. mental or physical abuse, neglect, exploitation, or extortion;
- b. any action posing a threat to a client's health and safety;
- c. coercion;
- d. threat or intimidation;
- e. harassment; or
- f. criminal activity;

6. knowingly making a false statement in any of the following areas, including but not limited to:

- a. application for initial license or renewal of license;
- b. data forms;
- c. clinical records, client records or facility records;
- d. matters under investigation by the department or the Office of the Attorney General; or
- e. information submitted for reimbursement from any payment source;

7. knowingly making a false statement or providing false, forged, or altered information or documentation to department employees or to law enforcement agencies;

8. the use of false, fraudulent or misleading advertising;

9. fraudulent operation of an FSTRA facility by the owner, administrator, manager, member, officer or director;

10. an owner, officer, member, manager, administrator, director or person designated to manage or supervise client care has pled guilty or nolo contendere to a felony, or has been convicted of a felony, as documented by a certified copy of the record of the court. For purposes of these provisions, conviction of a felony includes a felony relating to any of the following:

- a. violence, abuse, or negligence of a person;
- b. misappropriation of property belonging to another person;
- c. cruelty, exploitation, or sexual battery of a person with disabilities;
- d. a drug offense;
- e. crimes of sexual nature;
- f. a firearm or deadly weapon;
- g. fraud or misappropriation of federal or state funds, including Medicare or Medicaid funds;

11. failure to comply with all reporting requirements in a timely manner as required by the department;

12. failure to allow or refusal to allow the department to conduct an investigation or survey, or to interview provider staff or clients;

13. failure to allow or refusal to allow access to facility or client records by authorized departmental personnel; or

14. cessation of business or non-operational status.

E. If an existing FSTRA facility has been issued a notice of license revocation or suspension and the provider's license is due for annual renewal, the department shall deny the license renewal. The denial of the license renewal does not affect in any manner the license revocation.

F. If an FSTRA facility license is revoked or renewal is denied, (other than for cessation of business or non-operational status) any owner, officer, member, director, manager, or administrator of such FSTRA facility may be prohibited from opening, managing, directing, operating, or owning another FSTRA facility for a period of two years from the date of the final disposition of the revocation or denial action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

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

§7219. Notice and Appeal of License Denial, License Revocation and License Non-Renewal and Appeal of Provisional License

A. Notice of a license denial, license revocation or license non-renewal shall be given to the provider in writing.

B. An FSTRA facility has a right to an informal reconsideration of the license denial, license revocation, or license non-renewal. There is no right to an informal reconsideration of a voluntary non-renewal or surrender of a license by the provider.

1. The FSTRA facility shall request the informal reconsideration within 10 calendar days of the receipt of the notice of the license denial, license revocation, or license non-renewal. The request for informal reconsideration shall be in writing and shall be forwarded to the department's Health Standards Section.

2. The request for informal reconsideration shall include any documentation that demonstrates that the determination was made in error.

3. If a timely request for an informal reconsideration is received by the Health Standards Section, an informal reconsideration shall be scheduled and the facility will receive written notification of the date of the informal reconsideration.

4. The facility shall have the right to appear in person at the informal reconsideration and may be represented by counsel.

5. Correction of a violation or deficiency which is the basis for the denial, revocation or non-renewal, shall not be a basis for reconsideration.

6. The informal reconsideration process is not in lieu of the administrative appeals process.

7. The facility will be notified in writing of the results of the informal reconsideration.

C. An FSTRA facility has a right to an administrative appeal of the license denial, license revocation, or license non-renewal. There is no right to an administrative appeal of a voluntary non-renewal or surrender of a license by the provider.

1. The FSTRA facility shall request the administrative appeal within 30 calendar days of the receipt of the notice of the results of the informal reconsideration of the license denial, license revocation, or license non-renewal. The facility may forego its rights to an informal reconsideration, and if so, the facility shall request the administrative appeal within 30 calendar days of the receipt of the notice of the license denial, license revocation, or license non-renewal. The request for administrative appeal shall be in writing and shall be submitted to the DHH Bureau of Appeals.

2. The request for administrative appeal shall include any documentation that demonstrates that the determination was made in error and shall include the basis and specific reasons for the appeal.

3. If a timely request for an administrative appeal is received by the Bureau of Appeals, the administrative appeal of the license revocation or license non-renewal shall be suspensive, and the facility shall be allowed to continue to operate and provide services until such time as the department issues a final administrative decision.

a. If the secretary of the department determines that the violations of the facility pose an imminent or immediate threat to the health, welfare, or safety of a client, the imposition of the license revocation or license non-renewal may be immediate and may be enforced during the pendency of the administrative appeal. The facility shall be notified of this determination in writing.

4. Correction of a violation or a deficiency which is the basis for the denial, revocation, or non-renewal, shall not be a basis for the administrative appeal.

D. If a timely administrative appeal has been filed by the facility on a license denial, license non-renewal, or license revocation, the Bureau of Appeals shall conduct the hearing within 90 days of the docketing of the administrative appeal. One extension, not to exceed 90 days, may be granted by the Bureau of Appeals if good cause is shown.

1. If the final agency decision is to reverse the license denial, the license non-renewal or the license revocation, the facility's license will be re-instated or granted upon the payment of any licensing or other fees due to the department and the payment of any outstanding sanctions due to the department.

2. If the final agency decision is to affirm the license non-renewal or the license revocation, the facility shall discharge any and all clients receiving services. Within 10 days of the final agency decision, the facility shall notify the department's licensing section in writing of the secure and confidential location of where its records will be stored.

E. There is no right to an informal reconsideration or an administrative appeal of the issuance of a provisional license to a new FSTRA facility. A provider who has been issued a provisional license is licensed and operational for the term of the provisional license. The issuance of a provisional license to an existing FSTRA facility is not considered to be a denial of license, a denial of license renewal, or a license revocation.

F. A provider with a provisional initial license or an existing provider with a provisional license that expires due to noncompliance or deficiencies cited at the follow-up survey, shall have the right to an informal reconsideration and the right to an administrative appeal regarding the deficiencies cited at the follow-up survey.

1. The facility has five calendar days from the receipt of the department's notice of the results of the follow-up survey to submit a written request for informal reconsideration of the follow-up survey findings.

2. The informal reconsideration and the administrative appeal are limited to whether the deficiencies were properly cited at the follow-up survey.

3. The correction of a violation, noncompliance, or deficiency after the follow-up survey shall not be the basis for the informal reconsideration or for the administrative appeal.

4. The facility has five calendar days from the receipt of the department's notice of the result of the informal reconsideration to submit a written request for an administrative appeal. If the facility chooses not to request an informal reconsideration, the facility may submit a written request for an administrative appeal within five calendar days of receipt of the notice of the results of the follow-up survey.

G. A facility with a provisional license that expires under the provisions of this Chapter shall cease providing services and discharge clients unless the Bureau of Appeals issues a stay of the expiration.

1. A stay may be granted by the Bureau of Appeals upon application by the provider at the time the administrative appeal is filed and only:

a. after a contradictory hearing; and

b. upon a showing that there is no potential harm to the clients being served by the facility.

H. If a timely administrative appeal has been filed by a facility with a provisional license that has expired under the provisions of this Chapter, the Bureau of Appeals shall conduct the hearing within 90 days of the docketing of the administrative appeal. One extension, not to exceed 90 days, may be granted by the Bureau of Appeals if good cause is shown.

1. If the final agency decision is to remove all deficiencies, the facility's license will be reinstated upon the payment of any licensing or other fees due to the department and the payment of any outstanding sanctions due to the department.

2. If the final agency decision is to uphold the deficiencies and affirm the expiration of the provisional license, the facility shall discharge all clients receiving services. Within 10 days of the final agency decision, the facility shall notify the department's licensing section in writing of the secure and confidential location of where records will be stored.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

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

§7221. Complaint Surveys

A. The department shall conduct complaint surveys in accordance with R.S. 40:2009.13 et seq.

B. Complaint surveys shall be unannounced surveys.

C. An acceptable plan of correction may be required by the department for any complaint survey where deficiencies have been cited.

D. A follow-up survey may be conducted for any complaint survey where deficiencies have been cited to ensure correction of the deficient practices. If the department determines that other action, such as license revocation, is

appropriate, a follow-up survey may not be required. The facility will be notified of any action.

E. The department may issue appropriate sanctions, including but not limited to, civil monetary penalties, directed plans of correction, and license revocations, for deficiencies and non-compliance with any complaint survey.

F. DHH surveyors and staff shall be given access to all areas of the facility and all relevant files during any complaint survey. DHH surveyors and staff shall be allowed to interview any provider staff, client, or participant, as necessary or required to conduct the survey.

G. An FSTRA facility which has been cited with violations or deficiencies on a complaint survey has the right to request an informal reconsideration of the validity of the violations or deficiencies. The written request for an informal reconsideration shall be submitted to the department's Health Standards Section. The department must receive the written request within 10 calendar days of the facility's receipt of the notice of the violations or deficiencies.

H. A complainant shall have the right to request an informal reconsideration of the findings of the complaint survey or investigation. The written request for an informal reconsideration shall be submitted to the department's Health Standards Section. The department must receive the written request within 30 calendar days of the complainant's receipt of the results of the complaint survey or investigation.

I. An informal reconsideration for a complaint survey or investigation shall be conducted by the department as an administrative review. The facility or complainant shall submit all documentation or information for review for the informal reconsideration, and the department shall consider all documentation or information submitted. There is no right to appear in person at the informal reconsideration of a complaint survey or investigation. Correction of the violation or deficiency shall not be the basis for the reconsideration. The facility and/or the complainant shall be notified in writing of the results of the informal reconsideration.

J. Except as provided in paragraph §7221.K, the informal reconsideration shall constitute final action by the department regarding the complaint survey or investigation, and there shall be no right to an administrative appeal.

K. In those complaints in which the department's Health Standards Section determines that the complaint involves issues that have resulted in, or are likely to result in, serious harm or death to the client, the complainant or the provider may appeal the informal reconsideration findings to the Bureau of Appeals.

1. The written request for administrative appeal shall be submitted to the Bureau of Appeals and must be received within 30 calendar days of the receipt of the results of the informal reconsideration.

2. The hearing before the Bureau of Appeals is limited to the evidence presented at the informal reconsideration, unless the complainant or the facility has obtained additional evidence vital to the issues which he could not have with due diligence obtained before or during the informal reconsideration.

3. The administrative law judge shall only make a determination on the administrative appeal, based on the

evidence presented, as to whether or not the complaint investigation or survey was conducted properly or improperly. The administrative law judge shall not have the authority to overturn or delete deficiencies or violations, and shall not have the authority to add deficiencies or violations.

4. If the administrative law judge determines that the complaint investigation or survey was not conducted properly, he shall designate in writing and with specificity the methods by which a re-investigation shall be conducted.

5. No appeal shall lie from a re-investigation upon a prima facie showing that the re-investigation was conducted in accordance with the designations of the administrative law judge.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

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

§7223. Statement of Deficiencies

A. The following statements of deficiencies issued by the department to an FSTRA facility shall be posted in a conspicuous place on the licensed premises:

1. the most recent annual survey statement of deficiencies; and

2. any subsequent complaint survey statement of deficiencies.

B. Any statement of deficiencies issued by the department to an FSTRA facility shall be available for disclosure to the public 30 calendar days after the provider submits an acceptable plan of correction of the deficiencies or 90 calendar days after the statement of deficiencies is issued to the provider, whichever occurs first.

C. Unless otherwise provided in statute or in this Chapter, a facility shall have the right to an informal reconsideration of any deficiencies cited as a result of a survey or investigation.

1. Correction of the deficient practice, of the violation, or of the noncompliance shall not be the basis for the reconsideration.

2. The informal reconsideration of the deficiencies shall be requested in writing within 10 calendar days of receipt of the statement of deficiencies, unless otherwise provided for in these provisions.

3. The written request for informal reconsideration of the deficiencies shall be submitted to the Health Standards Section.

4. Except as provided for complaint surveys pursuant to R.S. 40:2009.11 et seq., and as provided in this Chapter for license denials, revocations, and non-renewals, the decision of the informal reconsideration team shall be the final administrative decision regarding the deficiencies. There is no administrative appeal right of such deficiencies.

5. The facility shall be notified in writing of the results of the informal reconsideration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

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

§7225. Cessation of Business

A. A facility that intends to close or cease operations shall comply with the following procedure:

1. give 30 days advance written notice to the:
 - a. department;
 - b. forensic physician; and

c. ordering court of any conditional release client(s);

2. notify the department of the location where records will be stored and the contact person for the records; and

3. provide for an orderly discharge and transition of all clients admitted to the facility.

B. If an FSTRA facility fails to follow these procedures, the owners, managers, officers, directors and administrators may be prohibited from opening, managing, directing, operating or owning an FSTRA facility for a period of two years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

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

Subchapter B. Administration and Organization

§7231. Governing Body

A. Each provider shall have an identifiable governing body with responsibility for, and authority over, the policies and activities of the program/facility.

B. A provider shall have documents identifying the following information regarding the governing body:

1. names and addresses of all members;
2. terms of membership;
3. officers of the governing body; and
4. terms of office of any officers.

C. When the governing body of a provider is comprised of more than one person, the governing body shall hold formal meetings at least twice a year. There shall be written minutes of all formal meetings and bylaws specifying frequency of meetings and quorum requirements.

D. When the governing body is composed of only one person, this person shall assume all responsibilities of the governing body.

E. Responsibilities of a Governing Body. The governing body of a provider shall:

1. ensure the provider's compliance and conformity with the provider's charter or other organizational documents;
2. ensure the provider's continual compliance and conformity with all relevant federal, state, local, and municipal laws and regulations;
3. ensure that the provider is adequately funded and fiscally sound;
4. review and approve the provider's annual budget;
5. designate a person to act as Administrator and delegate sufficient authority to this person to manage the provider (a sole owner may be the administrator);
6. formulate and annually review, in consultation with the administrator, written policies concerning the provider's philosophy, goals, current services, personnel practices, job descriptions and fiscal management;
7. annually evaluate the administrator's performance (if a sole owner is not acting as administrator);
8. have the authority to dismiss the administrator (if a sole owner is not acting as administrator);
9. meet with designated representatives of the department whenever required to do so;
10. inform designated representatives of the department prior to initiating any substantial changes in the services provided by the provider; and
11. notify the Health Standards Section in writing at least 30 days prior to any change in ownership.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

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

§7233. Policy and Procedures

A. An FSTRA provider shall establish procedures to assure written communication among staff to provide continuity of services to all clients.

B. Direct care employees shall have access to information concerning clients that is necessary for effective performance of the employee's assigned tasks.

C. Confidentiality and Security of Files. A provider shall have written procedures for the maintenance and security of records specifying who shall supervise the maintenance of records, who shall have custody of records and to whom records may be released.

D. A provider shall allow designated representatives of the department, in the performance of their mandated duties, to inspect all aspects of a provider's functioning which impact on clients and to interview any staff member or client.

1. A provider shall make any information or records that the provider is required to have and any information reasonably related to assessment of compliance with these requirements available to the department.

2. The client's rights shall not be considered abridged by this requirement.

E. Procedures shall address the following.

1. Confidentiality of Records

a. A provider shall maintain the confidentiality of all clients' records. Employees of the facility shall not disclose or knowingly permit the disclosure of any information concerning the client or his/her family, directly, or indirectly, to any unauthorized person.

b. A provider may use material from records for teaching and research purposes, if names are deleted and other identifying information is disguised or deleted.

2. Release of Information

a. A provider shall obtain the client's or legal representative's written, informed permission prior to releasing any information from which the client or his/her family might be identified, except to the department.

b. Identifying information may be given to appropriate authorities in cases of an emergency.

c. The provider shall have a procedure by which representatives or family of clients is given an opportunity to receive information about the individual client in care of the facility.

3. Publicity

a. A provider shall have written policies and procedures regarding the photographing and audio or audiovisual recordings of clients.

b. No client shall be photographed or recorded without the client's prior informed, written consent. Such consent cannot be made a condition for admission into, remaining in, or participating fully in the activities of the facility.

i. Consent agreements must clearly notify the client of his/her rights under this regulation, must specify precisely what use is to be made of the photograph or recordings, and are valid for a maximum of one year from the date of execution.

ii. Clients are free to revoke such agreements at any time, either orally or in writing.

c. All photographs and recordings shall be used in a way that respects the dignity and confidentiality of the client.

F. Personnel Policies. A provider shall have written personnel policies that include:

1. a plan for recruitment, screening, orientation, ongoing training, development, supervision, and performance evaluation of staff members;

2. written job descriptions for each staff position including volunteers;

3. policies which provide for staff, upon offer of employment, to have a health assessment as defined in the provider's policy and procedures.

a. These policies shall, at a minimum, require that the individual has no evidence of active tuberculosis and that staff shall be retested on a time schedule as mandated by the Office of Public Health. Test results dated within one year prior to the offer of employment are acceptable for initial employment;

4. an employee grievance procedure;

5. abuse reporting procedures that require all employees to report any incidents of abuse or mistreatment whether that abuse or mistreatment is done by another staff member, a family member, a client, or any other person; and

6. a written policy to prevent discrimination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

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

Subchapter C. Admissions, Transfers and Discharges **§7235. Admissions**

A. The facility shall have a clear and specific written description of admission policies and procedures. This written description shall include, but is not limited to the following:

1. the application process and the possible reasons for the rejection of an application;

2. types of clients suitable to the FSTRA facility;

3. services offered and allowed in the facility; and

4. the facility's house rules.

B. Intake Evaluation

1. An intake evaluation shall take place on the first day of admission and shall include the client's:

a. demographic data;

b. family information; and

c. psychiatric and social background.

2. All of the facility's rules and regulations shall be reviewed with the client. A complete clothing inventory shall be completed and the client shall be assigned to a room.

C. Nursing Assessment

1. The nurse shall complete a nursing assessment and review the client's medication(s). The client's medication administration records shall contain a detailed description of the client's:

a. medication;

b. dosage(s) of medication;

c. frequency medications should be taken; and

d. ability to self-administer medications.

D. Diagnostic Evaluation

1. The diagnostic evaluation shall include examination of the medical, psychosocial, social, behavioral and

developmental aspects of the client's situation and reflect the need for services from an FSTRA facility.

2. Each medical evaluation shall include:

a. diagnoses;

b. summary of medical findings;

c. medical history;

d. mental and physical functional capacity;

e. prognosis; and

f. physician's recommendations.

E. An individualized plan of care for each client shall be developed upon admission and shall be revised to include recommended changes in the therapeutic plan. The plan to be followed in the event of emergency situations shall be specified in the plan of care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

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

§7237. Mandatory Transfers and Discharges

A. The administrator/director shall, in coordination with the client, forensic aftercare provider, Community Forensic Service, and state level forensic coordinator (as appropriate), assist in planning and implementing the mandatory transfer or discharge of the client when:

1. the treatment plan goals and objectives are substantially met and a crisis relapse/prevention plan is developed and support systems are in place that allow the client to reside safely in a less restrictive environment;

2. the client's physician certifies that the client's physical condition necessitates transfer to a medical facility or psychiatric condition necessitates transfer to a higher level of care; or

a. In this situation, plans for transfer must be made as soon as possible.

3. the client's condition is such that he or she is:

a. a danger to self or others; or

b. is consistently disruptive to the peace and order of the facility, staff services, or other clients.

B. Emergency Discharge. The provider shall immediately report to the Community Forensic Service, probation officer, state level forensic coordinator, and provider(s) of behavioral health services any program violations (i.e. illegal drugs, suspected or confirmed weapon possession or access, gross deterioration of behavior, or non-compliance with medication). The provider in collaboration with the probation officer and community forensic staff, as appropriate, will be responsible for the relocation of the client to an appropriate secure placement.

C. The facility shall initiate outpatient services for the client upon discharge and provide consultation to the client concerning where to obtain necessary medications, resources and follow-up outpatient behavioral health services.

D. Discharge Records

1. The following discharge information shall be recorded in the client's record:

a. date of discharge;

b. destination; and,

c. reason(s) for leaving.

2. Discharge records shall be retained for at least three years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

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

Subchapter D. Participation Requirements

§7241. Assessment, Service Coordination, and Monitoring

A. Once the client is admitted, the FSTRA facility shall conduct an assessment to determine the needs of the client. The assessment shall be kept in the client's record and shall at a minimum, include:

1. the client's interests, likes and dislikes;
2. review of physical health, psycho-social status, and cognitive status and the determination of services necessary to meet those needs;
3. a summary of the client's health needs, if any, including medication, treatment and special diet orders obtained from professionals with responsibility for the client's physical or emotional health;
4. a written description of the activities of daily living and instrumental activities of daily living for which the client requires assistance, if any, obtained from the client or the client's physician;
5. recreational and social activities which are suitable;
6. a plan for handling special emergency evacuation needs, if any; and
7. additional information or documents pertinent to the client's treatment planning, such as guardianship papers, power of attorney, living wills, do not-resuscitate orders, or other relevant medical documents.

B. Within 30 days after admission, the facility, with input from the client, shall develop a service plan using information from the assessment.

C. The service plan shall be responsive to the client's needs and preferences. The service plan shall include:

1. the client's needs;
2. the scope, frequency, and duration of services and monitoring that will be provided to meet the client's needs; and
3. staff/providers responsible for providing the services.

D. The client's service plan shall be revised when a client's condition changes. The revised service plan shall be signed by the client and the designated facility staff.

E. The service plan shall be monitored on an ongoing basis to determine its continued appropriateness and to identify when a client's condition or preferences have changed. A documented review of the service plan shall be made at least every quarter. However, changes to the plan may be made at any time, as necessary.

F. All service plans and reviews shall be signed by the client and facility staff.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

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

§7243. Personal and Supportive Services

A. The facility shall provide adequate services and oversight/supervision, including adequate security measures, around the clock as needed for any client.

B. Medications

1. The provider shall have clear written policies and procedures on medication assistance.
2. The provider shall assist clients in the self-administration of prescription and non-prescription

medication as agreed to in their contract or service plan and as allowed by state statute/regulations.

3. Assistance with self-administration of medications shall be limited to the following.

- a. The client may be reminded to take his/her medication.
- b. The medication regimen, as indicated on the container, may be read to the client.
- c. The dosage may be checked according to the container label.
- d. The staff may open the medicine container (i.e. bottle, mediset, blister pak, etc.) if the client lacks the ability to open the container.
- e. The client may be physically assisted in pouring or otherwise taking medications, so long as the client is cognitive of what the medication is, what it is for and the need for the medication.

4. An employee that provides assistance with the self-administration of medications to a client shall have documented training on the policies and procedures for medication assistance including the limitations of this assistance. Documentation shall include the signature of the employee. This training shall be repeated at least annually.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

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

§7245. Nutrition

A. The facility shall provide three varied, appetizing meals a day, seven days a week. Meals shall take into account clients' preferences and needs.

B. Menus shall be planned and written at least one week in advance and dated as served. The current week's menu shall be posted in one or more conspicuous places in the facility.

C. The facility shall provide medically prescribed diets as ordered by the client's physician. These menus shall be planned or approved by a registered dietician.

D. The provider shall purchase and provide to the clients only food and drink of safe quality. The storage, preparation and serving techniques shall ensure that nutrients are retained and spoilage is prevented. Milk and milk products shall be Grade A and pasteurized.

E. Staff shall be available in the dining area to provide supervision as needed.

F. Written reports of inspections by the Department of Health and Hospitals, Office of Public Health, Sanitarian Services shall be kept on file in the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

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

§7247. Transportation Requirements

A. The provider shall have the capacity to provide or to arrange transportation for the following:

1. transportation to behavioral health services (i.e., community mental health center or addictive disorder clinic); and
2. all other related medical appointments.

B. The FSTRA facility must:

1. have liability insurance coverage and have proof of such coverage; and

2. conform to all state laws and regulations pertaining to drivers, vehicles and insurance.

C. The number of occupants allowed in a car, bus, station wagon, van, or any other type of transportation shall not exceed the number for which the vehicle is designed.

D. Provisions shall be made to accommodate clients who use assistive devices for ambulation.

E. Each vehicle shall be maintained in good repair.

F. If the center contracts with a commercial proprietor for transportation, it shall select one with a good reputation and reliable drivers. All rules established for transportation furnished by the center shall be observed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

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

Subchapter E. Client Protection

§7251. Client Rights

A. A provider shall have a written policy on clients' civil rights and the practices of the provider shall assure that no client of a facility shall be deprived of civil or legal rights, benefits or privileges guaranteed by law or the Constitution of the United States solely by reason of status as a client of a facility. A copy of these rights shall be posted conspicuously in the facility.

B. In addition to the basic rights enjoyed by other adults, the provider's written policy on rights shall assure that clients shall be afforded the rights enumerated in R.S. 28:171.

C. The client shall receive, upon admission and during his/her stay, a written statement of the services provided by the facility and the charges for these services.

D. The client shall be free from mental, emotional, and physical abuse and neglect and assured that no chemical restraints will be used.

E. The facility shall ensure that records and other information about the client are kept confidential and released only with a client's expressed written consent or in accordance with Louisiana law.

F. The facility shall ensure that the client:

1. receives a timely response to a request from the administrator/director and/or staff;

2. has access to private telephone communication;

3. is able to send and receive mail promptly and unopened;

4. is notified in writing by the provider when the facility's license status is suspended, revoked or limited, and to be informed of the basis of the licensing agency's action;

5. is allowed to select a health care provider and arrange for the services, at his/her own expense, which are not available through the facility as long as the client remains in compliance with the conditions of his/her admission to the facility;

6. is encouraged and assisted to exercise rights as a citizen;

7. is allowed to voice grievances and suggest changes in policies and services to either staff or outside representatives without fear of restraint, interference, coercion, discrimination, or reprisal;

8. is fully informed of all client rights and all rules governing client conduct and responsibilities; and

9. is allowed to consult freely with counsel of their choice.

G. Each client shall be fully informed of these rights and of all rules and regulations governing client conduct and responsibilities, as evidenced by written acknowledgment, prior to or at the time of admission and when changes occur.

1. Each client's file shall contain a copy of the written acknowledgment which shall be signed and dated by the director or his/her designee, the client and/or representative.

H. A provider shall establish and have written grievance procedures that include, but are not limited to:

1. a formal process to present grievances; and

2. a process to respond to grievances in a timely manner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

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

Subchapter F. Facility Responsibilities

§7255. General Provisions

A. Providers shall comply and show proof of compliance with all relevant standards, regulations and requirements established by state, local, and municipal regulatory bodies. It is the provider's responsibility to secure the approvals from the following entities:

1. DHH, Health Standards Section;

2. Office of Public Health;

3. Office of State Fire Marshal;

4. City Fire Department, if applicable; and,

5. the applicable local governing authority (e.g., Zoning, Building Department or Permit Office).

B. The administrator/director or person authorized to act on behalf of the administrator/director shall be accessible to facility staff or designated representatives of DHH at all times.

C. A provider shall have an administrative file that includes:

1. the Articles of Incorporation or certified copies thereof, if incorporated, or partnership documents, if applicable;

2. a current copy of the approved constitution and/or bylaws of the governing body;

3. a current roster of the governing body membership which includes the members' addresses;

4. written policies and procedures approved by the owner/governing body that address the following:

a. confidentiality and security of files;

b. publicity;

c. personnel;

d. client's rights;

e. grievance procedure;

f. safekeeping of personal possessions, if applicable;

g. clients' funds, if applicable;

h. emergency and evacuation procedures;

i. abuse and neglect;

j. critical incidents;

k. admissions and discharge procedures; and

l. medication.

5. the minutes of formal governing body meetings;

6. an organizational chart of the provider;

7. all leases, contracts and purchase-of-service agreements to which the provider is a party, which includes all appropriate credentials;

8. insurance policies;

a. every provider shall maintain in force at all times a comprehensive general business insurance policy or policies in an amount adequate to cover all foreseeable occurrences. The insurance shall include coverage for any:

- i. personal or professional negligence, malpractice or misconduct by facility owners or employees;
- ii. injuries received by any client while being transported by facility staff or third-party contractors; and
- iii. injuries sustained by any client while in the facility; and

b. the policies shall be without limitations or exclusions of any kind; and

9. copies of Incident/Accident Reports.

D. An FSTRA facility shall maintain a personnel record for each employee. At a minimum, this file shall contain the following:

1. the application for employment and/or résumé of education, training, and experience;
 2. evidence of a criminal history check prior to an offer of employment, in accordance with state law;
 3. evidence of applicable professional credentials or certifications according to state law;
 4. documentation of Tuberculosis test results and any other provider required medical examinations;
 5. documentation of three reference checks;
 6. annual performance evaluation;
 7. the employee's hire and termination dates;
 8. documentation of orientation and annual training;
- and
9. documentation of a valid driver's license if driving or transporting clients.

E. A provider shall not release an employee's personnel record without the employee's written permission, except as required by state law.

F. A provider shall have a personnel record for each employee to be kept on the premises or at the corporate office. These records shall be made available and accessible to the survey staff within one hour of request by department surveyors.

1. All records shall be maintained in an accessible, standardized order and format, and shall be retained and disposed of in accordance with state laws.

2. A provider shall have sufficient space, facilities and supplies for providing effective record keeping services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

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

§7257. Core Staffing Requirements

A. Each FSTRA facility shall be staffed to properly safeguard the health, safety and welfare of the clients, as required by these regulations. At a minimum, the following staff positions are required; however, one person may occupy more than one position.

B. Administrator/Director

1. Each facility shall have a qualified administrator/director who is an on-site employee and is responsible for the day-to-day management, supervision and operation of the facility.

2. During periods of temporary absence of the administrator/director, there shall be a responsible staff person designated to be in charge that has the knowledge and responsibility to handle any situation that may occur.

3. There shall be a responsible staff person designated to be in charge on the premises of the FSTRA facility 24 hours per day.

4. The administrator/director shall be at least 21 years of age and have the responsibility and authority to carry out the policies of the facility.

5. The administrator/director shall meet one of the following criteria upon date of hire:

a. possess a bachelor's degree plus one year of administrative experience in the fields of health care, behavioral health services, or forensics;

b. possess an associate's degree plus two years of administrative experience in the fields of health care, behavioral health services, or forensics; or

c. in lieu of a degree, possess six years of administrative experience in health care, behavioral health services, or forensics.

6. Documentation of the administrator/director's qualifications shall be maintained on file at the facility.

C. Nursing Services

1. The facility shall provide a sufficient number of nursing service personnel consisting of registered nurses, licensed practical nurses and other staff to provide nursing care to all clients in accordance with the client's treatment plan.

2. Registered Nurse (RN). An FSTRA facility shall employ or contract with at least one RN who is responsible for the overall delivery and supervision of nursing services.

a. The RN must be currently licensed by, and in good standing with, the state of Louisiana and must comply with all requirements, including continuing education requirements, as established by law or regulation. No individual who is unlicensed may be employed as an RN.

b. The RN shall:

i. be on-site or available by telephone during the day time hours of the facility;

ii. develop policies and procedures related to the delivery of nursing services; and

iii. provide medication management through administration, supervision, education and training.

3. Licensed Practical Nurse (LPN). An FSTRA facility shall employ or contract with LPNs to meet the nursing needs of the clients.

a. The LPN must be currently licensed by, and in good standing with, the state of Louisiana and must comply with all requirements, including continuing education requirements, as established by law or regulation. No individual who is unlicensed may be employed as a LPN.

b. LPNs may administer medication and deliver nursing services as provided by Louisiana law or applicable regulations.

D. Direct Care Staff

1. An FSTRA facility must ensure that an adequate number of trained direct care staff is available to meet the needs of the clients in accordance with the client's scheduled and unscheduled needs.

2. Direct care staff may include care assistants, activities personnel, or other staff who clearly provide direct care services to clients on a regular basis.

3. Direct care staff shall have the following qualifications:

a. a minimum of a high school diploma and six months of experience working with adults with a serious and persistent behavioral health diagnosis; or

b. two years of experience working with adults with a serious and persistent behavioral health diagnosis.

3. An FSTRA facility shall have at least two direct care staff on duty when there is at least one client at the facility.

4. An FSTRA facility shall demonstrate that sufficient staff are scheduled and available (working) to meet the 24-hour scheduled and unscheduled needs of the clients. The provider shall have at a minimum, one direct care staff person to every 15 clients.

5. An FSTRA facility shall not share direct care staff with another licensed facility. (Staff cannot fill two staff positions on the same shift at different licensed facilities.)

E. An FSTRA facility shall maintain a current work schedule for all employees, including relief workers, showing adequate coverage for each day and night.

F. FSTRA facility professional staff shall be licensed and/or certified by, and in good standing with, the state of Louisiana. The license shall be unrestricted. Professional staff must comply with all requirements, including continuing education requirements, as established by law or regulation.

G. Designated Recreational/Activity Staff. There shall be an individual designated to organize and oversee the recreational and social program of the facility.

H. An FSTRA facility must provide, as needed, consultation(s) with a registered dietician.

I. Staff Orientation and Training

1. During the first week of hire and prior to providing services to clients, the provider shall provide a 20-hour documented orientation including, but not limited to the following:

a. the policies and procedures of the facility, including program components;

b. emergency and evacuation procedures;

c. training in proper fire and emergency safety procedures including:

i. CPR;

ii. the Heimlich Maneuver;

iii. first aid;

iv. crisis management; and

v. risk reduction;

d. effective communication skills for forensic, behavioral health clients;

e. confidentiality and HIPPA requirements;

f. trainings and intervention programs as deemed appropriate and mutually agreed upon by Community Forensic Services and the state level forensic coordinator;

g. client's rights; and

h. procedures and requirements regarding the reporting of abuse, neglect and critical incidents.

2. Orientation for direct care staff shall include an additional five days of supervised training. Training, at a minimum, shall include the following:

a. training in client care services (ADL'S & IADL'S) provided by the facility;

b. infection control to include blood borne pathogens;

c. crisis de-escalation and the management of aggressive behavior including acceptable and prohibited responses; and

d. any specialized training to meet clients' needs.

3. A new employee shall not be given sole responsibility for the implementation of a client's program plan until this orientation and training is completed.

a. The staff member shall sign a statement certifying that such training has occurred and this shall be maintained in the staff members personnel file.

4. Orientation and five days of supervised training shall meet the first year's annual training requirements.

5. All direct care staff shall receive certification in adult first aid within the first 30 days of employment.

J. Annual Training

1. A provider shall ensure that each direct care worker participates in in-service training each year. Normal supervision shall not be considered as meeting this requirement.

2. The provider shall document that direct care staff receives training on an annual basis in:

a. the facility's policies and procedures;

b. emergency and evacuation procedures;

c. client's rights;

d. the procedures and legal requirements concerning the reporting of abuse and critical incidents;

e. client care services (ADL'S & IADL'S);

f. infection control to include blood borne pathogens; and

g. any other areas that may require specialized training to meet clients' needs.

3. All direct care staff shall have documentation of current certification in first aid.

4. The administrator/director shall participate annually in at least 12 hours of continuing education in the field of behavioral health and specialized training in the population served and/or supervisory/management techniques.

5. Each employee shall sign a statement of understanding certifying that annual training has occurred.

K. An employee's Annual Performance Evaluation shall include his/her interaction with clients, family, staff, and other providers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

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

§7259. Client Records

A. An FSTRA facility shall maintain a separate record for each client. Such records shall be current and complete and shall be maintained in the facility or in a central administrative location readily available to facility staff and to the department.

B. All records shall be maintained in an accessible, standardized order and format and shall be retained and disposed of in accordance with state laws.

C. The facility shall have sufficient space, facilities, and supplies for providing effective record keeping services.

D. The facility shall have a storage area that ensures the safeguarding of all client records and prevents loss from, including but not limited, to fire or water.

E. Each record shall contain at least the following information:

1. the client's identifying and personal information including:

- a. the client's name;
 - b. date of birth;
 - c. sex;
 - d. Social Security number;
 - e. previous home address; and
 - f. marital status, if applicable;
2. dates of admission and discharge;
3. names, addresses, and telephone numbers of responsible persons to be notified in case of accident, death or other emergency;
4. name, address, and telephone number of a physician and dentist to be called in an emergency;
5. ambulatory status;
6. the client's plan/authorization for routine and emergency medical care, as required;
7. the client's written authorization for a representative and their name, address and telephone number, if applicable;
8. the pre-admission assessment by a forensic physician and admission agreement;
9. findings of the assessment and any special problems or precautions identified;
10. the service plan, updates, and quarterly reviews;
11. continuing record of any illness, injury or medical or dental care when it impacts the client's ability to function or the services he/she needs;
12. a record of all personal property and funds which the client has entrusted to the facility;
13. reports of any client complaints or grievances and the conclusion or disposition of these reports;
14. incident reports; and
15. written acknowledgments that the client has received clear verbal explanations and:
- a. copies of his/her rights and the house rules;
 - b. written procedures for safekeeping of valuable personal possessions of clients; and
 - c. a written statement explaining the client's rights regarding personal funds and the right to examine his/her record.

F. All information and records obtained from or regarding clients shall be stored and kept confidential.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

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

§7261. Abuse and Neglect

A. The provider shall have comprehensive written procedures concerning client abuse and neglect to include provisions for:

1. training and maintaining staff awareness of abuse prevention, current definitions of abuse and neglect, reporting requirements and applicable laws;
2. ensuring that regulations stipulated in this rule for reporting critical incidents involving abuse and neglect are followed;
3. ensuring that the administrator/director completes an investigation report within 10 working days;
4. ensuring that the client is protected from potential harassment during the investigation;

5. disciplining staff members who abuse or neglect clients; and

6. protecting clients from abuse inflicted by other clients or third parties, including but not limited to, criminal prosecution of the offending person and his/her permanent removal from the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

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

§7263. Critical Incidents

A. A provider shall have written procedures for the reporting and documentation of unusual incidents and other situations or circumstances affecting the health, safety or well-being of a client(s) (i.e. death by unnatural causes, injuries, fights or physical confrontations, situations requiring the use of passive physical restraints, suspected incidents of abuse or neglect).

1. Such procedures shall ensure timely verbal reporting to the director or designee and a preliminary written report within 24 hours of the incident.

2. Copies of all critical incident reports shall be kept as part of the client's record and a separate copy shall be kept in the administrative file of the provider.

B. Incident/Accident Report. When and if an incident occurs, a detailed report of the incident shall be made. At a minimum, the incident report shall provide documentation of the following:

1. the circumstances under which the incident occurred;
2. the date and time the incident occurred;
3. the location where the incident occurred (bathroom, bedroom, street, lawn, etc.);
4. immediate treatment and follow-up care;
5. the names and addresses of witnesses;
6. the date and time the family or representative was notified;
7. any symptoms of pain and injury discussed with the physician; and
8. the signatures of the staff completing the report, client, and director.

C. When an incident results in the death of a client, involves abuse or neglect of a client or entails any serious threat to the client's health, safety or well-being, a provider shall:

1. immediately report the incident verbally to the Administrator and submit a preliminary written report within 24 hours of the incident;
2. immediately notify the Department of Health and Hospitals, Health Standards Section, and other appropriate authorities in accordance with state law, with written notification to the above agencies to follow within 24 hours of the suspected incident;
3. immediately notify the family or the client's representative, with written notification to follow within 24 hours;
4. immediately notify the appropriate law enforcement authority in accordance with state law;
5. provide follow-up written reports to all of the persons and agencies identified in this §7261.C;
6. take appropriate corrective action to prevent future incidents; and

7. document its compliance with all of the above procedures for each incident and shall keep such documentation (including any written reports or notifications) in the client's file. A separate copy of all such documentation shall be kept in the provider's administrative file.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

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

§7265. Personal Possessions

A. An FSTRA facility may, at its discretion, offer to clients the service of safekeeping their valuable possessions. The facility shall have a written statement of its policy.

B. If the facility offers such a service, a copy of the written policy and procedures shall be given to a client at the time of his/her admission.

C. The facility shall give the client a receipt listing each item that it is holding in trust for the client. A copy of the receipt shall be placed in the client's record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

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

§7267. Client Funds

A. The facility's admission agreement shall include the client's rights regarding personal funds and list the services offered and charges, if any.

B. The provider shall offer safekeeping and management of a client's funds. If a client chooses to entrust funds with the provider, the provider shall obtain written authorization from the client and/or his/her representative for the safekeeping and management of the funds.

C. The provider shall:

1. provide each client with an account statement on a quarterly basis with a receipt listing the amount of money the facility is holding in trust for the client;

2. maintain a current balance sheet containing all financial transactions to include the signatures of staff and the client for each transaction;

3. provide a list or account statement regarding personal funds upon request of the client;

4. maintain a copy of each quarterly account statement in the client's record;

5. keep the funds received from the client in a separate interest-bearing account; and

6. not commingle the clients' funds with the facility's operating account.

D. The facility shall have and implement written policies and procedures to protect client funds.

E. Unless otherwise provided by state law, upon the death of a client, the provider shall provide the executor or administrator of the client's estate or the client's representative, as agreed upon in the admission agreement, with a complete account statement of the client's funds and personal property of the client being held by the provider.

F. A client with a personal fund account managed by an FSTRA facility may sign an account agreement acknowledging that any funds deposited into the personal

account by, or on the client's behalf, are jointly owned by the client and his legal representative or next of kin. The account agreement must state that:

1. the funds in the account shall be jointly owned with the right of survivorship;

2. the funds in the account shall be used by, for or on behalf of the client;

3. the client or the joint owner may deposit funds into the account; and

4. the client or joint owner may endorse any check, draft or other monetary instrument to the order of any joint owner, for deposit into the account.

G. If a valid account agreement has been executed by the client, upon the client's death, the facility shall transfer the funds in the client's personal fund account to the joint owner within 30 days of the client's death. This provision only applies to personal fund accounts not in excess of \$2,000.

H. If a valid account agreement has not been executed, upon the client's death, the facility shall comply with the federal and state laws and regulations regarding the disbursement of funds in the account and the properties of the deceased. The facility shall abide by the procedures of the Louisiana Department of the Treasury and the Louisiana Uniform Unclaimed Property Act for the handling of funds of a deceased client that remain unclaimed.

I. The provisions of this Section shall have no effect on federal or state tax obligations or liabilities of the deceased client's estate. If there are other laws or regulations which conflict with these provisions, those laws or regulations will govern over and supersede the conflicting provisions.

J. A termination date of the account and the reason for termination shall be recorded on the client's participation file. A notation shall read, "to close account." The endorsed cancelled check with check number noted on the ledger sheet shall serve as sufficient receipt and documentation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

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

§7269. Contraband

A. There shall be no contraband, illegal drugs, or controlled dangerous substances that are not prescribed to a client on the campus of the facility. Clients may be subjected to random periodic drug testing as a requirement for residency at the facility. A positive drug test will be reported to the attending psychiatrist and the applicable court.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

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

Subchapter G. Safety and Emergency Preparedness

§7271. General Provisions

A. An FSTRA facility shall have an emergency preparedness plan designed to manage the consequences of natural disasters or other emergencies that could disrupt the facility's ability to provide care and treatment or threatens the lives or safety of the clients and/or the community it serves. The emergency preparedness plan shall be made available, upon request or if mandated to do so, to local,

parish, regional and/or state emergency planning organizations, the department and the Office of the State Fire Marshal.

B. At a minimum, the emergency preparedness plan shall include:

1. identification of potential hazards that could necessitate an evacuation, including internal and external disasters such as a natural disaster, acts of bioterrorism, weapons of mass destruction, labor work stoppage or industrial or nuclear accidents;

2. emergency procedures for evacuation of the facility;

3. procedures in the case of interruption of utility services in a way that affects the health and safety of clients;

4. identification of the facility and an alternate facility to which evacuated clients would be relocated;

5. the estimated number of clients and staff that would require relocation in the event of an evacuation;

6. the system or procedure to ensure that medical charts accompany clients in the event of a client evacuation and that supplies, equipment, records and medications would be transported as part of an evacuation; and

7. the roles and responsibilities of staff members in implementing the disaster plan.

C. An FSTRA facility shall conduct and document fire drills once per month, one drill per shift every 90 days, at varying times of the day.

D. An FSTRA facility shall immediately notify the Health Standards Section and other appropriate agencies of any fire, disaster or other emergency that may present a danger to clients or require their evacuation from the facility.

E. The facility shall have access to 24-hour telephone service, and shall either post telephone numbers of emergency services, including the fire department, police department, medical services, poison control and ambulance services or show evidence of an alternate means of immediate access to these services.

F. General Safety Practices

1. The facility shall not maintain any firearm or chemical weapon in the living units of the facility.

2. The facility shall ensure that all poisonous, toxic and flammable materials are safely stored in appropriate containers labeled as to the contents. Such materials shall be maintained only as necessary and shall be used in a manner that ensures the safety of clients, staff and visitors.

3. The facility shall ensure that an appropriately equipped first aid kit is available in the living units and in all vehicles used to transport clients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

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

Subchapter H. Physical Environment

§7275. General Provisions

A. Location

1. The area to be licensed as an FSTRA facility shall meet all of the licensing regulations established for FSTRA facilities.

2. An FSTRA facility that is located within any other facility shall be secure and have its own identifiable staff, space and storage. The FSTRA facility shall have a separate entrance, separate dining area and separate common areas.

B. General Appearance and Conditions

1. Heating, cooling and ventilation systems shall permit comfortable conditions.

2. Furniture in good repair shall be available to facilitate usage by the number of clients in the facility.

3. The facility shall have sufficient space and equipment to accommodate the full range of program activities and services.

4. The facility shall be flexible and adaptable for large and small groups and individual activities and services.

5. There shall be sufficient office space to permit staff to work effectively and without interruption.

6. There shall be adequate storage space for program and operating supplies.

C. Interior Space

1. Floors and steps shall have a non-slippery surface and be dry when in use by the clients.

2. Doorways and passageways shall be kept clear to allow free and unhindered passage.

3. The facility shall provide an appropriate controlled-egress system on all required exit doors and doors leading to other areas of the facility unless prior approval of an alternative method for prevention of client elopement from the facility has been obtained from the authority (Office of the State Fire Marshal) having jurisdiction over such matters.

4. All staff shall have a key to locked exit doors.

5. All operable windows shall be equipped with a mechanism to limit exterior openings to prevent elopement.

6. Windows used for ventilation to the outside and exterior doors used for ventilation shall be screened and in good repair.

7. The facility shall be constructed, equipped, and maintained in good repair and kept free of hazards.

8. The facility shall have sufficient storage space for administration records, locked areas for medications, cleaning supplies (janitorial), food service (supplies) and lawn maintenance (equipment).

9. There shall be evidence of routine maintenance and cleaning programs in all areas of the facility.

10. The facility shall have an effective pest control program. Pest control services may be provided by maintenance personnel of the facility or by contract with a pest control company. If pest control chemicals are stored in the facility, they shall be kept in a locked location.

11. The facility shall have an area for the safe and secure maintenance and storage of medical records and other facility files, records and manuals.

D. Bedrooms

1. Single rooms must contain at least 100 square feet and multi-bed rooms shall contain at least 80 square feet per bed, exclusive of fixed cabinets, fixtures, and equipment. An existing state hospital that converts a building, unit or wing to an FSTRA facility shall contain a minimum of 65 square feet per bed in a multi-bed room.

2. Any client room shall not contain more than four beds.

a. Beds shall be of solid construction, appropriate to the size and age of the client and have a clean, comfortable, non-toxic fire-retardant mattress that fits the bed.

b. Cots or other portable beds are to be used in emergencies only.

3. Rooms shall have at least a 7 1/2 foot ceiling height over the required area.

a. In a room with varying ceiling heights, only portions of the room with a ceiling height of at least 7 1/2 feet are allowed in determining usable space.

4. There shall be at least three feet between beds.

5. There shall be sufficient and satisfactory separate storage space for clothing, toilet articles and other personal belongings of clients.

6. Doors to individual bedrooms shall not be equipped with locks or any other device that would prohibit the door from being opened from either side.

7. The provider shall not use any room that does not have a window as a bedroom space.

8. The facility shall provide sheets, pillows, bedspreads and blankets that are in good repair for each client. Linens not in good repair shall not be used.

9. Each client shall have his/her own dresser or other adequate storage space for private use and designated space for hanging clothing in proximity to the bedroom occupied by the client.

10. The facility shall not have male and female clients at the same location.

E. Bathrooms

1. The number of toilets and hand-washing facilities shall be not less than one for each 12 clients.

2. A facility shall have wash basins with hot and cold water, flush toilets, and bath or shower facilities with hot and cold water according to client care needs.

3. Bathrooms shall be so placed as to allow access without disturbing other clients during sleeping hours.

4. Each bathroom shall be properly equipped with toilet paper, towels, soap and other items required for personal hygiene, unless clients are individually given such items.

a. Clients shall be provided individual items such as hair brushes and toothbrushes.

5. Tubs and showers shall have slip proof surfaces.

6. An FSTRA facility shall have toilets and baths or showers that allow for individual privacy, unless the clients in care require assistance.

7. Toilets, wash basins and other plumbing or sanitary facilities in an FSTRA facility shall, at all times, be maintained in good operating condition and shall be kept free of any materials that might clog or otherwise impair their operation.

8. The facility shall have separate toilet facilities for staff.

F. Furnishings

1. The facility shall be furnished so as to meet the needs of the clients. All furnishings and equipment shall be kept clean and in good repair.

2. Adequate furniture shall be available and shall be appropriate for use by the clients in terms of comfort and safety.

3. Furnishings must include tables and chairs sufficient in number to serve all clients.

G. Kitchen

1. An FSTRA facility that has a kitchen area shall meet all health and sanitation requirements and must be of sufficient size to accommodate meal preparation for the proposed number of clients.

2. Kitchens used for meal preparations shall have the equipment necessary for the preparation, serving and storage and clean up of all meals regularly served to all of the clients and staff. All equipment shall be maintained in proper working order.

3. An FSTRA facility's refrigerator(s) shall be maintained at a temperature of 45 degrees Fahrenheit or below. Freezers shall be maintained at a temperature of 0 degrees Fahrenheit or below. Thermometers shall be provided for all refrigerators and freezers. The facility shall maintain logs of temperatures of the refrigerator and freezers. Abnormal temperatures shall be reported to management and arrangements made for repair/service.

4. The facility shall ensure that all dishes, cups and glasses used by clients are free from chips, cracks or other defects and are in sufficient number to accommodate all clients.

5. If food is prepared in a central kitchen and delivered to the facility, provisions shall be made and approved by the Department of Health and Hospitals, Office of Public Health, Sanitarian Services for proper maintenance of food temperatures and a sanitary mode of transportation.

H. Medication Storage and Monitoring

1. The facility shall have policies and procedures for the storage, administration and disposal of both prescription and over-the-counter medications.

2. There shall be a designated secure area for the storage and preparation of medications.

3. Medications that require refrigeration shall be stored in a separate refrigerator (not with food, beverages, etc.).

4. The FSTRA shall have a process for monitoring the inventory and reconciliation of controlled substances. The process shall include the reporting of lost or missing medications in accordance with the Louisiana State Board of Pharmacy.

5. Medications may be administered from a central area of the facility.

I. Laundry

1. An FSTRA facility shall provide for laundry services, either on-site or at an off-site location that is adequate to handle the needs of the clients.

2. If on-site, laundry facilities shall be located in a specifically designated area and there shall be adequate rooms and spaces for sorting, processing, and storage of soiled material.

3. Laundry rooms shall not open directly into client common areas or food service areas.

4. Domestic washers and dryers that are for the exclusive use of clients may be located in client areas, provided they are installed in such a manner that they do not cause a sanitation problem.

J. Water Supply

1. An adequate supply of water, under pressure, shall be provided at all times.

2. Clean sanitary drinking water shall be available and accessible in adequate amounts at all times. Disposable cups, if used, shall be stored in such a way as to prevent contamination.

3. When a public water system is available, a connection shall be made thereto. If water from a source other than a public water supply is used, the supply shall

meet the requirements set forth under the rules and regulations of the Office of Public Health (OPH).

4. The facility shall have a plan and policy for an alternative water supply in the event of interruption of water supply and for the prolonged loss of water.

K. All sewage shall be disposed of by means of either:

1. a public system where one is accessible within 300 feet; or

2. an approved sewage disposal system that is constructed and operated in conformance with the standards established for such systems by OPH.

L. Facility Exterior

1. The provider shall maintain all areas of the facility that are accessible to the clients in good repair and free from any reasonably foreseeable hazard to health or safety.

2. All structures on the grounds of the facility shall be maintained in good repair.

3. Garbage and rubbish stored outside shall be secured in noncombustible, covered containers and shall be removed on a regular basis.

4. Fences shall be in good repair and constructed in such a way as to provide security.

5. Areas determined unsafe, including steep grades, open pits, swimming pools, high voltage boosters or high speed roads shall be fenced or have natural barriers to protect clients.

6. Clients shall have access to safe, suitable outdoor recreational space.

7. The facility shall ensure that exterior areas are well lit at night.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

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

Subchapter I. Secure Community Supervised Transitional/Residential Facility Module

§7279. General Provisions

A. Providers applying for the Secure Community Supervised

Transitional/Residential (SCSTR) Facility module under the FSTRA facility license shall meet the core licensing requirement as well as the following module specific requirements.

B. A secure community supervised transitional/residential facility is a secure residential facility within the community that provides individualized services to develop daily living skills and to prepare for vocational adjustment and reentry into the community, to persons who are under a court-ordered forensic conditional release and who are referred by a state forensic hospitals or state forensic psychiatric unit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

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

§7281. Operational Requirements

A. Staff Requirements

1. The FSTRA-SCSTR facility shall provide 24-hour, seven day per week "supervision" consisting of at least three direct care staff persons during the day, one of which must be a licensed nurse and at least two awake staff during the night.

2. The FSTRA-SCSTR facility shall have a licensed nurse on call when there are no licensed nurses on duty at the facility.

B. Admissions. The SCSTR facility shall:

1. only accept clients referred by DHH state forensic facilities or those who are under a court-ordered forensic conditional release;

2. admit only those clients who have the ability to self administer medications and provide for their own personal care needs;

3. not admit more clients into care than the number specified on the FSTRA facility's license; and

4. provide contact information, including the telephone number and mailing address, for the appropriate state protection and advocacy organization.

C. Medication Administration

1. The facility shall have clear written policies and procedures on medication self-administration.

2. The facility shall assist clients in the self-administration of prescriptions and non-prescription medication according to the client's service plan and as allowed by state laws and regulations.

3. Assistance with self-administration of medication shall be limited to the following:

a. the client may be reminded to take his/her medication;

b. the medication regimen, as indicated on the container, may be read to the client;

c. the dosage may be checked according to the container label;

d. staff may open the medicine container (i.e. bottle, mediset, blister pack, etc.) if the client lacks the ability to open the container; and

e. the client may be physically assisted in pouring or otherwise taking medications, so long as the client is cognitive of what the medication is, what it is for, and the need for the medication.

4. An employee that provides assistance with the self-administration of medications to a client shall have documented training on the policies and procedures for medication assistance including the limitations of this assistance. Documentation shall include the signature of the employee. This training shall be repeated at least annually.

5. Medications shall be stored in a secure central location and not stored in the client's own room.

6. The facility may require the clients to come to a "medication" area to take their medications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

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

Subchapter J. Secure Forensic Facility Module §7285. General Provisions

A. Providers applying for the Secure Forensic (SF) Facility module under the FSTRA facility license shall meet the core licensing requirement as well as the following module specific requirements.

B. A secure forensic facility is a secure residential facility located on the grounds of a state hospital that provides individualized services, including personal care services and medication administration, to persons who are

under a court-ordered forensic conditional release and who are referred by a state forensic hospital or state forensic psychiatric unit, in order to prepare such persons for transition to a less restrictive environment before transitioning to the community.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36: §7287. **Operational Requirements**

A. The SF facility shall provide 24-hour, seven day per week “supervision” consisting of at least three direct care staff persons during the day and two awake staff during the night. There shall be at least two direct care staff persons in each building and/or unit at all times when clients are present.

1. The SF facility shall have an RN on duty during the day shift to oversee the nursing services of the facility.

2. The SF facility shall have at least one licensed nurse on duty for each shift.

3. The SF Facility shall provide for, either directly or through contract, a medical doctor on call.

B. Admission

1. The SF facility shall:

a. admit clients who are under a court-ordered forensic conditional release and who are referred by a DHH state forensic facility;

b. not admit more clients into care than the number specified on the FSTRA facility’s license; and

c. provide contact information, including the phone number and mailing address, for the appropriate state protection and advocacy organization.

C. Client Services

1. The facility shall provide or coordinate, to the extent needed or desired by clients, the following services:

a. assistance with activities of daily living and all instrumental activities of daily living;

b. medication administration;

c. opportunities for individual and group socialization;

d. services for clients who have behavior problems requiring ongoing staff support, intervention, and supervision to ensure no danger or infringement of the rights of other clients or individuals;

e. household services essential for the health and comfort of clients (e.g. floor cleaning, dusting, bed making, etc.);

g. basic personal laundry services; and

h. a program of recreational activities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

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

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

Alan Levine
Secretary

1006#127

DECLARATION OF EMERGENCY

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

Home and Community-Based Services Waivers

Elderly and Disabled Adults

Personal Assistance Services

(LAC 50:XXI. 8105, 8301, 8503)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services amends LAC 50:XXI.8105, §8301, and §8503 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.

To assure compliance with federal requirements regarding the cost-effectiveness of the Elderly and Disabled Adults (EDA) Waiver Program, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services amended the provisions governing the EDA Waiver to: 1) change the allocation priority of waiver opportunities; 2) implement uniform needs-based assessments to determine the level of support needs and establish an individual cost cap based on need; 3) clarify the service cap for environmental accessibility adaptation services; 4) add shared supports to companion services; and 5) mandate that personal representatives cannot be the paid companion care worker (*Louisiana Register*, Volume 35, Number 11). The department now proposes to amend the provisions governing the EDA Waiver to implement a new service that will incorporate the current functions of companion services and further clarify the provisions governing responsible representatives and discharge criteria. This Emergency Rule will also reorganize the provisions governing covered services in a more clear and concise manner in the *Louisiana Administrative Code*.

This action is being taken to avoid federal sanctions for noncompliance with waiver cost-effectiveness requirements and to ensure long-term financial viability for the Elderly and Disabled Adults Waiver. It is anticipated that implementation of this Emergency Rule will be cost neutral for state fiscal year 2010-2011.

Effective July 4, 2010, the Department of Health and Hospitals, Office of Aging and Adult Services amends the provisions governing the Elderly and Disabled Adults Waiver.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE Part XXI. Home and Community-Based Services Waivers

Subpart 7. Elderly and Disabled Adults Waiver Chapter 81. General Provisions §8105. Programmatic Allocation of Waiver Opportunities

A. ...

B. EDA Waiver opportunities shall be offered to individuals on the registry according to needs-based priority groups. The following groups shall have priority for EDA Waiver opportunities, in the order listed:

B.1. - 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 30:1699 (August 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Division of Long Term Supports and Services, LR 32:1245 (July 2006), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:1030 (June 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:2447 (November 2009), amended LR 36:

Chapter 83. Covered Services

§8301. Service Descriptions

A. Support coordination is services that will assist recipients in gaining access to necessary waiver and State Plan services, as well as needed social, educational and other services, regardless of the funding source for these services. Support coordinators shall be responsible for ongoing monitoring of the provision of services included in the recipient's approved CPOC.

B. Transition intensive support coordination is services that will assist recipients who are currently residing in nursing facilities in gaining access to necessary waiver and State Plan services, as well as needed social, educational and other services, regardless of the funding source for these services. Support coordinators will initiate and oversee the process for assessment and reassessment, as well as be responsible for ongoing monitoring of the provision of services included in the recipient's approved CPOC.

C. Environmental accessibility adaptation is necessary physical adaptations made to the home to ensure the health, safety, and welfare of the recipient, or enable the recipient to function with greater independence in the home. Without these necessary adaptations, the recipient would require institutionalization. These services must be provided in accordance with state and local laws governing licensure and/or certification.

1. There is a lifetime cap of \$3,000 per recipient for this service.

D. Personal Emergency Response System (PERS). This is an electronic device which enables the recipient to secure help in an emergency. PERS services are limited to specific recipients.

5.-5.e. Repealed.

E. Personal Assistance Services (PAS) provides assistance to participants in performing the activities of daily living and household chores necessary to maintain the home in a clean, sanitary and safe environment, based on their CPOC.

1. PAS may also include the following services based on the CPOC:

a. protective supervision provided solely to assure the health and welfare of a participant with cognitive/memory impairment and/or physical limitations;

b. supervising or assisting, as approved in the CPOC, a participant with functional impairments with health related tasks (any health related procedures governed under

the Nurse Practice Act) if he/she is unable to do so without supports according to applicable delegation/medication administration;

c. supervising or assisting the participant, who has no supports and is unable to do so without supports or has no available natural supports, to socialize in his/her community according to the desired outcomes included in the CPOC;

d. escort services, which are used to accompany the individual outside of the home during the performance of tasks related to instrumental activities of daily living and health maintenance, and to provide the same assistance as would be rendered in the home; and

e. extension of therapy services.

i. For purposes of these provisions, extension of therapy services may include instances where licensed practitioners may provide instruction to the attendant so they are able to better assist the participant.

ii. Licensed therapists may choose to instruct the attendants on the proper way to assist the participant in follow-up therapy sessions. This assistance and support provides reinforcement of instruction and aids in the rehabilitative process. An RN may instruct an attendant to perform basic interventions with participants that would increase and optimize functional abilities for maximum independence in performing activities of daily living, such as range of motion exercises.

2. PAS is provided in the participant's home unless the participant requests to receive PAS outside of the home.

a. PAS shall not duplicate the services a participant who resides in an assisted living facility receives.

b. The participant must be present while PAS services are being provided.

3. PAS will not be provided during the same designated hours or time period a participant receives adult day health care services. Participants who receive PAS cannot receive long-term personal care services.

4. PAS services may be provided by one worker for up to three waiver participants who live together and who have a common direct service provider.

a. Waiver participants may share PAS service staff when agreed to by the participants and health, safety and welfare can be assured for each individual.

b. PAS services will be reflected on the CPOC of each participant.

5. Reimbursement shall not be paid for services furnished by a personal representative. "Personal representative" includes persons who possess power of attorney as well as persons who have been designated by the participant to act on his/her behalf.

F. Transition Services. These services assist an individual, who has been approved for an EDA Waiver opportunity, to leave a nursing facility and return to live in the community.

1. Service Limit. Funds are available one time per lifetime for specific items as approved in the recipient's CPOC.

G. Adult Day Health Care (ADHC). ADHC services are a planned, diverse daily program of individual services and group activities structured to enhance the recipient's physical functioning and to provide mental stimulation. Services are furnished for five or more hours per day (exclusive of transportation time to and from the ADHC facility) on a

regularly scheduled basis for one or more days per week, or as specified in the plan of care. An adult day health care facility shall, at a minimum, furnish the following services:

1. individualized training or assistance with the activities of daily living (toileting, grooming, eating, ambulation, etc.);

2. health and nutrition counseling;

3. an individualized, daily exercise program;

4. an individualized, goal directed recreation program;

5. daily health education;

6. medical care management;

7. one nutritionally balanced hot meal and two snacks served each day;

8. nursing services that include the following individualized health services:

a. monitoring vital signs appropriate to the diagnosis and medication regimen of each recipient no less frequently than monthly;

b. administering medications and treatments in accordance with physicians' orders;

c. monitoring self-administration of medications while the recipient is at the ADHC facility; and

Note: All nursing services shall be provided in accordance with acceptable professional practice standards.

d. transportation to and from the facility.

Note: If transportation services that are prescribed in any individual's approved CPOC are not provided by the ADHC facility, the facility's reimbursement rate shall be reduced accordingly.

AUTHORITY NOTE: Promulgated in 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 30:1699 (August 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Division of Long Term Supports and Services, LR 32:1245 (July 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:2448 (November 2009), amended LR 36:

Chapter 85. Admission and Discharge Criteria **§8503. Admission Denial or Discharge Criteria**

A. Admission shall be denied or the recipient shall be discharged from the EDA Waiver Program if any of the following conditions are determined.

1. - 7. ...

8. It is not cost effective or appropriate to serve the individual in the EDA Waiver.

AUTHORITY NOTE: Promulgated in 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 30:1699 (August 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Division of Long Term Supports and Services, LR 32:1246 (July 2006), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:1030 (June 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 36:

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

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

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

Alan Levine
Secretary

1006#093

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

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

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XIII.10301 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 10 of the 2009 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, and other measures as permitted under federal law." This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for medical equipment, supplies and appliances to further reduce the reimbursement rates (*Louisiana Register*, Volume 35, Number 5). As a result of the allocation of additional funds by the legislature to lessen the impact of state fiscal year 2010 budget reductions, the bureau repealed the rate reduction provisions of the May 1, 2009 Emergency Rule (*Louisiana Register*, Volume 35, Number 8) and adjusted the reimbursement rate reductions (*Louisiana Register*, Volume 35, Number 8). The department subsequently amended the provisions of the August 4, 2009 Emergency Rule to exclude services to recipients under the age of 21 from the rate reduction (*Louisiana Register*, Volume 35, Number 9). The department promulgated an Emergency Rule which amended the provisions of the September 1, 2009 Emergency Rule to revise the formatting of LAC 50:XIII.10301 as a result of the promulgation of the September 20, 2009 final Rule governing the reimbursement methodology for medical equipment, supplies and appliances (*Louisiana Register*, Volume 35, Number 12).

As a result of a continuing budgetary shortfall in state fiscal year 2010, the department promulgated an Emergency Rule which further reduced the reimbursement rates for medical equipment, supplies and appliances (*Louisiana Register*, Volume 36, Number 1). The department

promulgated an Emergency Rule which amended the January 22, 2010 Emergency Rule in order to revise the listing of medical equipment, supplies and appliances that are excluded from the rate reduction (*Louisiana Register*, Volume 36, Number 2). A final rule is being published June 20, 2010 which incorporates the provisions of the August 4, 2009, September 1, 2009 and December 20, 2009 Emergency Rules (*Louisiana Register*, Volume 36, Number 6). The department now proposes to amend the provisions of the February 20, 2010 Emergency Rule to revise the formatting of LAC 50:XIII.10301 as a result of the promulgation of the June 20, 2010 final Rule governing the reimbursement methodology for medical equipment, supplies and appliances. This action is being taken to ensure that these provisions are appropriately incorporated into the *Louisiana Administrative Code*.

Effective June 20, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions of the February 20, 2010 Emergency Rule governing the reimbursement methodology for medical equipment, supplies and appliances covered under the Home Health Program.

Title 50

PUBLIC HEALTH-MEDICAL ASSISTANCE

Part XIII. Home Health Program

Subpart 3. Medical Equipment, Supplies and Appliances

Chapter 103. Reimbursement Methodology

§10301. General Provisions

A. - D.2. ...

E. Effective for dates of service on or after January 22, 2010, the reimbursement paid for medical equipment, supplies and appliances shall be reduced by 5 percent of the rates on file as of January 21, 2010.

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

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

2. Effective for dates of service on or after February 20, 2010, oxygen, equipment and related supplies shall also be excluded from the rate reduction.

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

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

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

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

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

Alan Levine
Secretary

1006#094

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

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

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions which established the prospective reimbursement methodology for inpatient hospital services rendered in private (non-state) acute care general hospitals (*Louisiana Register*, Volume 20, Number 6).

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 the reimbursement methodology for inpatient hospital services to provide a supplemental Medicaid payment to non-rural, non-state hospitals that demonstrated substantial financial and operational challenges in the aftermath of Hurricanes Katrina, Rita, Gustav and Ike (*Louisiana Register*, Volume 35, Number 7). The July 1, 2009 Emergency Rule was amended in order to reorganize the provisions in the appropriate place in LAC 50:V.953 of the *Louisiana Administrative Code* as a result of August 4, 2009 Emergency Rules which amended the reimbursement methodology for inpatient hospital services (*Louisiana Register*, Volume 35, Number 10). In October 2009, the department also amended the provisions governing reimbursements to inpatient hospitals in order to align the prospective per diem rates more closely with reported costs (*Louisiana Register*, Volume 35, Number 10). Provisions governing reimbursements to children's specialty hospitals were erroneously incorporated into the provisions for the rate adjustment to acute care hospitals. The department promulgated an Emergency Rule in order to repeal the children's specialty hospital provisions from the rate adjustment for acute care hospitals (*Louisiana Register*, Volume 35, Number 12).

In January 2010, the department promulgated an Emergency Rule to amend the provisions governing the reimbursement methodology for inpatient hospital services in order to establish a Medicaid upper payment limit

financing mechanism to provide supplemental payments to acute care general hospitals (*Louisiana Register*, Volume 36, Number 1). This initiative, known as the Low Income and Needy Care Collaboration, will provide supplemental payments to non-rural, non-state hospitals that enter into an agreement with a state or local governmental entity for the purpose of providing healthcare services to low income and needy patients. The department amended the January 1, 2010 Emergency Rule in order to incorporate the provisions of the December 20, 2009 Emergency Rule and to reorganize these provisions in the appropriate place in the *Louisiana Administrative Code* (LAC) (*Louisiana Register*, Volume 36, Number 2). This Emergency Rule is being promulgated to continue the provisions of the February 20, 2010 Emergency Rule. This action is being taken to secure new federal funding and to promote the health and welfare of Medicaid recipients by ensuring sufficient provider participation in the Hospital Services Program. This action will also assure that these provisions are promulgated in the appropriate location in the LAC.

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

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 1. Inpatient Hospitals

Chapter 9. Non-Rural, Non-State Hospitals

Subchapter B. Reimbursement Methodology

§953. Acute Care Hospitals

A. - G.3. ...

H. Neonatal Intensive Care Units (NICU)

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

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

I. Pediatric Intensive Care Unit (PICU)

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

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

J. Hospitals Impacted by Hurricane Katrina (Region 1). Effective for dates of service on or after July 1, 2009, a quarterly supplemental payment will be issued to qualifying non-rural, non-state acute care hospitals for services rendered from July 1, 2009 through December 31, 2010. Maximum aggregate payments to all qualifying hospitals in

this group (along with those in §963.A and outpatient supplemental payments) will not exceed \$170,000,000.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2. – 2.b. Repealed.

N. Low Income and Needy Care Collaboration. Effective for dates of service on or after January 1, 2010, quarterly supplemental payments will be issued to qualifying non-rural, non-state acute care hospitals for inpatient services rendered during the quarter. Maximum aggregate payments to all qualifying hospitals in this group shall not exceed the available upper payment limit per state fiscal year.

1. Qualifying Criteria. In order to qualify for the supplemental payment, the non-rural, non-state hospital must be affiliated with a state or local governmental entity through a Low Income and Needy Care Collaboration Agreement.

a. A non-state hospital is defined as a hospital which is owned or operated by a private entity.

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

2. Each qualifying hospital shall receive quarterly supplemental payments for the inpatient services rendered during the quarter. Quarterly payment distribution shall be limited to one-fourth of the lesser of:

a. the difference between each qualifying hospital's inpatient Medicaid billed charges and Medicaid payments the hospital receives for covered inpatient services provided to Medicaid recipients. Medicaid billed charges and payments will be based on a 12 consecutive month period for claims data selected by the department; or

b. for hospitals participating in the Medicaid Disproportionate Share Hospital (DSH) Program, the difference between the hospital's specific DSH limit and the hospital's DSH payments for the applicable payment period.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:876 (May 2008), amended LR 34:877

(May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1896 (September 2009), repromulgated LR 35:2182 (October 2009), amended LR 36:

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

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

Alan Levine
Secretary

1006#097

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Inpatient Hospital Services
Non-Rural, Non-State Hospitals
Major Teaching Hospitals
(LAC 50:V.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 now proposes to amend the provisions governing the qualifying criteria for major teaching hospitals. This Emergency Rule will also repromulgate the March 20, 2000 Rule governing teaching hospitals in a codified format for inclusion in the *Louisiana Administrative Code*.

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. It is estimated that the implementation of this Emergency Rule will increase

expenditures in the Medicaid Program by approximately \$2,928,867 for state fiscal year 2010-11.

Effective for dates of service on or after July 1, 2010, 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 36:

§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 36:

§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 36:

§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 36:

§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 36:

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

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

Alan Levine
Secretary

1006#095

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

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

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:V.953, 955 and 959 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 10 of the 2009 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification,

preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, and other measures as permitted under federal law.” This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

As a result of a budgetary shortfall in state fiscal year (SFY) 2009, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which reduced the reimbursement rates paid to non-rural, non-state hospitals for inpatient services (*Louisiana Register*, Volume 35, Number 2). The final Rule was published September 20, 2009 (*Louisiana Register*, Volume 35, Number 9). In anticipation of a budgetary shortfall in SFY 2010, the bureau further reduced the reimbursement rates paid for inpatient hospital services (*Louisiana Register*, Volume 35, Number 5). In July 2009, an Emergency Rule was promulgated to provide a supplemental payment to hospitals that demonstrated substantial financial and operational challenges in the aftermath of Hurricanes Katrina, Rita, Gustav and Ike (*Louisiana Register*, Volume 35, Number 7). As a result of the legislature allocating additional funds to lessen the impact of SFY 2010 budget reductions, the bureau repealed the rate reduction provisions of the May 1, 2009 Emergency Rule (*Louisiana Register*, Volume 35, Number 8) and amended the reimbursement methodology for inpatient hospital services to adjust the rate reductions (*Louisiana Register*, Volume 35, Number 8). In October 2009, the bureau amended the July 1, 2009 Emergency Rule for supplemental payments to incorporate the provisions of the August 4, 2009 Emergency Rule which adjusted the rate reductions (*Louisiana Register*, Volume 35, Number 10). The bureau also revised the reimbursement methodology for inpatient hospital services to align the prospective per diem rates more closely with reported costs (*Louisiana Register*, Volume 35, Number 10). In November 2009, the department amended the August 4, 2009 Emergency Rule to incorporate the provisions of the October 20, 2009 Emergency Rule and reorganized these provisions in the appropriate place in the *Louisiana Administrative Code* (*Louisiana Register*, Volume 35, Number 11). In December 2009, the department promulgated an Emergency Rule to repeal the provisions for children’s specialty hospitals which were erroneously incorporated into the rate alignment for acute care hospitals (*Louisiana Register*, Volume 35, Number 12). The department amended the provisions of the November 20, 2009 Emergency Rule in order to incorporate the provisions of the December 20, 2009 Emergency Rule (*Louisiana Register*, Volume 36, Number 3). This Emergency Rule is being promulgated to continue the provisions of the March 20, 2010 Emergency Rule. This action is being taken to ensure that these provisions are appropriately adopted into the *Louisiana Administrative Code*.

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

hospital services under the State Plan are available at least to the extent that they are available to the general population in the state.

Effective July 19, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions of the November 20, 2009 Emergency Rule governing the reimbursement methodology for inpatient hospital services.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 1. Inpatient Hospitals

Chapter 9. Non-Rural, Non-State Hospitals

Subchapter B. Reimbursement Methodology

§953. Acute Care Hospitals

A. - G.3. ...

H. Neonatal Intensive Care Units (NICU)

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

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

I. Pediatric Intensive Care Unit (PICU)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2. - 2.b. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:876 (May 2008), amended LR 34:877 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1895 (September 2009), amended LR 36:

§955. Long Term Hospitals

A. - C. ...

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

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

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

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

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

1. - 2. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR: 34:876 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1895 (September 2009), amended LR 36:

§959. Inpatient Psychiatric Hospital Services

A. - C. ...

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

1. Qualifying Criteria. Non-rural, non-state free-standing psychiatric hospitals that do not qualify for

payment under §953.F provisions may receive a supplemental payment if the hospital is located in either the New Orleans or Lake Charles metropolitan statistical area (MSA), had at least 1,000 paid Medicaid days for state fiscal year 2008 service dates and is currently operational.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. - 2.b. Repealed.

G. Effective for dates of service on or after August 4, 2009, the prospective per diem rate paid to non-rural, non-state distinct part psychiatric units shall be reduced by 6.3 percent of the rate on file as of August 3, 2009.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:876 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1895 (September 2009), amended LR 36:

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

Alan Levine
Secretary

1006#098

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

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

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:XXVII.325 and §353 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 10 of the 2009 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, and other measures as permitted under federal law." This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for emergency and non-emergency ambulance transportation services to increase the reimbursement for ground mileage and ancillary services (*Louisiana Register*, Volume 34, Number 5) and repromulgated the existing provisions in a codified format for inclusion in the *Louisiana Administrative Code*. The bureau amended the provisions governing the reimbursement methodology for emergency medical transportation to increase the reimbursement rates for rotor winged aircraft emergency transportation services and repromulgated the existing Rule in its entirety for the purpose of adopting the provisions in a codified format for inclusion in the *Louisiana Administrative Code* (*Louisiana Register*, Volume 35, Number 1).

In anticipation of projected expenditures in the Medical Vendor Program exceeding the funding allocated in the General Appropriations Act for state fiscal year 2010, the

bureau determined that it was necessary to amend the provisions governing reimbursement for emergency medical transportation services to reduce the reimbursement rates (*Louisiana Register*, Volume 35, Number 5).

Act 122 of the 2009 Regular Session of the Louisiana Legislature allocated additional funds to the Medical Vendor Program for the purpose of making supplemental payments to private providers to lessen the impact of potential budget reductions in state fiscal year 2010. The department determined that it was necessary to repeal the provisions of the May 1, 2009 Emergency Rule and amended the reimbursement methodology for emergency medical transportation services to reduce the reimbursement for disposable and routine supplies (*Louisiana Register*, Volume 35, Number 8). The department promulgated an Emergency Rule to amend the August 4, 2009 Emergency Rule to clarify the reimbursement methodology for aircraft transportation (*Louisiana Register*, Volume 35, Number 9). This Emergency Rule is being promulgated to continue the provisions of the September 20, 2009 Emergency Rule. This action is necessary to promote the health and welfare of participants by assuring continued access to emergency medical transportation services through ongoing participation of providers.

Effective May 20, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for emergency medical transportation reimbursement rates.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXVII. Medical Transportation Program

Chapter 3. Emergency Medical Transportation

Subchapter B. Ground Transportation

§325. Reimbursement

A. - E. ...

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:878 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

Subchapter C. Aircraft Transportation

§353. Reimbursement

A. - D. ...

E. - E.2. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:70 (January 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and

Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

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

Alan Levine
Secretary

1006#046

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

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

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:XXVII.325 and §353 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 10 of the 2009 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, and other measures as permitted under federal law." This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for emergency and non-emergency ambulance transportation services to increase the reimbursement for ground mileage and ancillary services and repromulgated the existing provisions in a codified format for inclusion in the *Louisiana Administrative Code* (*Louisiana Register*, Volume 34, Number 5). The bureau amended the provisions governing the reimbursement methodology for emergency medical transportation to increase the reimbursement rates for rotor winged aircraft emergency transportation services and repromulgated the existing Rule in its entirety for the purpose of adopting the provisions in a codified format for inclusion in the *Louisiana Administrative Code* (*Louisiana Register*, Volume 35, Number 1). In anticipation of projected expenditures in the Medical Vendor Program exceeding the funding allocated in the General Appropriations Act for state fiscal year 2010, the bureau determined that it was necessary to amend the provisions governing reimbursement for emergency medical transportation services to reduce the reimbursement rates (*Louisiana Register*, Volume 35,

Number 5). The department determined that it was necessary to repeal the provisions of the May 1, 2009 Emergency Rule and amended the reimbursement methodology for emergency medical transportation services to reduce the reimbursement for disposable and routine supplies (*Louisiana Register*, Volume 35, Number 8). The department promulgated an Emergency Rule to amend the August 4, 2009 Emergency Rule to clarify the reimbursement methodology for aircraft transportation (*Louisiana Register*, Volume 35, Number 9).

As a result of a continuing budgetary shortfall, the department determined that it was necessary to amend the provisions governing the reimbursement methodology for emergency medical transportation services to further reduce the reimbursement rates (*Louisiana Register*, Volume 36, Number 2). This Emergency Rule is being promulgated to continue the provisions of the January 22, 2010 Emergency Rule. This action is being taken to avoid a budget deficit in the medical assistance programs.

Effective May 23, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for emergency medical transportation reimbursement rates.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXVII. Medical Transportation Program

Chapter 3. Emergency Medical Transportation

Subchapter B. Ground Transportation

§325. Reimbursement

A. - E. ...

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

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

G. Effective for dates of service on or after January 22, 2010, the reimbursement rates for emergency ambulance transportation services shall be reduced by 5 percent of the rate on file as of January 21, 2010.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:878 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

Subchapter C. Aircraft Transportation

§353. Reimbursement

A. - D. ...

E. Effective for dates of service on or after January 22, 2010, the reimbursement rates for fixed winged and rotor winged emergency air ambulance services shall be reduced by 5 percent of the rate on file as of January 21, 2010.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:70 (January 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

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

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

Alan Levine
Secretary

1006#047

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Nursing Facilities Reimbursement Methodology Rate Determination (LAC 50:VII.1305)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:VII.1305 in the Medical Assistance Program as authorized by R.S. 46:2742.B.7, Act 244 of the 2009 Regular Session of the Louisiana Legislature and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:953(B)(1), et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for nursing facilities by increasing the reimbursement paid to providers to implement a wage enhancement for direct care staff employed with the nursing facility (*Louisiana Register*, Volume 33, Number 10).

Act 244 of the 2009 Regular Session of the Louisiana Legislature directed the Department to establish provisions which provide for the periodic rebasing of nursing facility rates utilizing the most current cost reports. In compliance with Act 244, the department promulgated an Emergency Rule to amend the provisions governing the reimbursement methodology for nursing facilities to implement periodic rebasing of the nursing facility rates (*Louisiana Register*, Volume 35, Number 7). This Emergency Rule is being promulgated to continue the provisions of the July 3, 2009 Emergency Rule. This action is being taken to promote the health and well-being of nursing facility residents by assuring that nursing facility providers receive reimbursement commensurate with actual cost of providing care to assure their continued participation in the Medicaid Program.

Effective July 1, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for nursing facilities to implement periodic rebasing of the nursing facility rates.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part VII. Long Term Care Services
Subpart 1. Nursing Facilities

Chapter 13. Reimbursement

§1305. Rate Determination

A. ...

B. For dates of service on or after January 1, 2003, the Medicaid daily rates shall be based on a case-mix price-based reimbursement system. Rates shall be calculated from cost report and other statistical data.

1. Effective July 3, 2009, and at a minimum, every second year thereafter, the base resident-day-weighted median costs and prices shall be rebased using the most recent four month or greater unqualified audited or desk reviewed cost reports that are available as of the April 1, prior to the July 1, rate setting. The department, at its discretion, may rebase at an earlier time.

a. For rate periods between rebasing, an index factor shall be applied to the base resident-day weighted medians and prices.

C. – E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 46:2742, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1791 (August 2002), amended LR 31:1596 (July 2005), LR 32:2263 (December 2006), LR 33:2203 (October 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

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

Alan Levine
Secretary

1006#099

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing

Outpatient Hospital Services
Non-Rural, Non-State Hospitals
Supplemental Payments
(LAC 50:V.5315, 5515, 5717, 5915 and 6117)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:V.5315, §5515, §5717, §5915 and §6117 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 which established the reimbursement methodology for outpatient hospital services (*Louisiana Register*, Volume 22, Number 1). In compliance with the directives of Act 17 of the 2006 Regular Session of the Louisiana Legislature, the bureau amended the provisions governing the reimbursement methodology for outpatient hospital services to increase the reimbursement rates paid to private (non-state) acute care hospitals for cost-based outpatient services (*Louisiana Register*, Volume 33, Number 2). As a result of a budgetary shortfall and to avoid a budget deficit in the medical assistance programs, the bureau promulgated an Emergency Rule to reduce the reimbursement paid to non-rural, non-state hospitals for outpatient services (*Louisiana Register*, Volume 35, Number 2). In anticipation of projected expenditures in the Medical Vendor Program exceeding the funding allocated in the General Appropriations Act, the bureau promulgated an Emergency Rule to further reduce the reimbursement rates paid to non-rural, non-state hospitals for outpatient services (*Louisiana Register*, Volume 35, Number 5).

Act 228 of the 2009 Regular Session of the Louisiana Legislature directed the department to issue a supplemental payment to hospitals that demonstrated substantial financial and operational challenges in the aftermath of Hurricanes Katrina, Rita, Gustav and Ike. In compliance with Act 228, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for outpatient hospital services to provide a supplemental Medicaid payment to non-rural, non-state public hospitals (*Louisiana Register*, Volume 35, Number 7). This Emergency Rule is being promulgated to continue the provisions of the July 1, 2009 Emergency Rule.

This action is being taken to promote the health and welfare of Medicaid recipients by ensuring sufficient provider participation in the Hospital Services Program and ensuring recipient access to providers of these medically necessary services.

Effective June 29, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing outpatient hospital services provided by non-rural, non-state public hospitals.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services
Subpart 5. Outpatient Hospitals

Chapter 53. Outpatient Surgery

Subchapter B. Reimbursement Methodology

§5315. Non-Rural, Non-state Public Hospitals

A. Hurricane Katrina Impacted Hospitals. Effective for dates of service on or after July 1, 2009, a quarterly supplemental payment will be issued to qualifying non-rural, non-state public hospitals for outpatient surgical services rendered from July 1, 2009 through December 31, 2010. Maximum aggregate payments to all qualifying hospitals in this group, including inpatient supplemental payments, will not exceed \$170,000,000.

1. Qualifying Criteria. In order to qualify for the supplemental payment, the non-rural, non-state public hospital must be located in DHH Administrative Region 1 (New Orleans) and identified in the July 17, 2008 United States Government Accountability Office report as a hospital

that has demonstrated substantial financial and operational challenges in the aftermath of Hurricane Katrina.

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

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

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

Chapter 55. Clinic Services

Subchapter B. Reimbursement Methodology

§5515. Non-Rural, Non-State Public Hospitals

A. Hurricane Katrina Impacted Hospitals. Effective for dates of service on or after July 1, 2009, a quarterly supplemental payment will be issued to qualifying non-rural, non-state public hospitals for clinic services rendered from July 1, 2009 through December 31, 2010. Maximum aggregate payments to all qualifying hospitals in this group, including inpatient supplemental payments, will not exceed \$170,000,000.

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

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

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

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

Chapter 57. Laboratory Services

Subchapter B. Reimbursement Methodology

§5717 Non-Rural, Non-State Public Hospitals

A. Hurricane Katrina Impacted Hospitals. Effective for dates of service on or after July 1, 2009, a quarterly supplemental payment will be issued to qualifying non-rural, non-state public hospitals for laboratory services rendered from July 1, 2009 through December 31, 2010. Maximum aggregate payments to all qualifying hospitals in this group, including inpatient supplemental payments, will not exceed \$170,000,000.

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

2. Each eligible hospital shall receive quarterly supplemental payments which in total do not exceed a specified individualized hospital limit. Payments will be

distributed based on Medicaid paid claims data from state fiscal year 2008 service dates. Payments will end on December 31, 2010 or when the hospital specific cap is reached, whichever occurs first.

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

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

Chapter 59. Rehabilitation Services

Subchapter B. Reimbursement Methodology

§5915. Non-Rural, Non-State Public Hospitals

A. Hurricane Katrina Impacted Hospitals. Effective for dates of service on or after July 1, 2009, a quarterly supplemental payment will be issued to qualifying non-rural, non-state public hospitals for rehabilitation services rendered from July 1, 2009 through December 31, 2010. Maximum aggregate payments to all qualifying hospitals in this group, including inpatient supplemental payments, will not exceed \$170,000,000.

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

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

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

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

Chapter 61. Other Outpatient Hospital Services

Subchapter B. Reimbursement Methodology

§6117. Non-Rural, Non-State Public Hospitals

A. Hurricane Katrina Impacted Hospitals. Effective for dates of service on or after July 1, 2009, a quarterly supplemental payment will be issued to qualifying non-rural, non-state public hospitals for outpatient hospital services other than clinical diagnostic laboratory services, outpatient surgeries and rehabilitation services rendered from July 1, 2009 through December 31, 2010. Maximum aggregate payments to all qualifying hospitals in this group, including inpatient supplemental payments, will not exceed \$170,000,000.

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

2. Each eligible hospital shall receive quarterly supplemental payments which in total do not exceed a specified individualized hospital limit. Payments will be distributed based on Medicaid paid claims data from state fiscal year 2008 service dates. Payments will end on

December 31, 2010 or when the hospital specific cap is reached, whichever occurs first.

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

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

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

Alan Levine
Secretary

1006#100

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

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

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

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

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

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

The department subsequently determined that it was necessary to repeal the January 1, 2010 Emergency Rule in its entirety and amend the provisions governing the methods of payment for prescription drugs to redefine the LMAC (*Louisiana Register*, Volume 36, Number 2). The department promulgated an Emergency Rule to amend the February 1, 2010 Emergency Rule to revise the provisions governing the methods of payment for prescription drugs to further redefine the LMAC and increase the dispensing fee (*Louisiana Register*, Volume 36, Number 3). The department determined that it was necessary to repeal the March 1, 2010 Emergency Rule in its entirety and promulgated an Emergency Rule to amend the provisions governing the methods of payment for prescription drugs to revise the LMAC provisions (*Louisiana Register*, Volume 36, Number 3). This Emergency Rule is being promulgated to continue the provisions of the March 20, 2010 Emergency Rule. This action is being taken to control expenditures in the Medical Assistance Program and to avoid a budget deficit.

Effective July 19, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing repeals the March 1, 2010 Emergency Rule and amends the provisions governing the methods of payment for prescriptions covered under the Pharmacy Benefits Management Program.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXIX. Pharmacy

Chapter 9. Methods of Payment

Subchapter D. Maximum Allowable Costs

§949. Cost Limits

A. - B. ...

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

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

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

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

5. In addition to the semi-annual review, the Louisiana Medicaid Agency will evaluate on an ongoing basis

throughout the year and adjust the rates as necessary to reflect prevailing market conditions and to assure that pharmacies have reasonable access to drugs at or below the applicable LMAC rate. Providers shall be given advance notice of any additions, deletions, or adjustments in price. A complete LMAC rate listing will be available to providers and updated periodically.

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

C. – E.2. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1065 (June 2006), amended LR 34:88 (January 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

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

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

Alan Levine
Secretary

1006#101

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 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. It is estimated that implementation of this Emergency Rule will increase expenditures in the Professional Services Program by approximately \$2,000,000 for state fiscal year 2010-2011.

Effective July 1, 2010, 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 one. 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 36: **§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 36:

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.

Alan Levine
Secretary

1006#096

DECLARATION OF EMERGENCY

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

Targeted Case Management
Nurse Family Partnership Program
Reimbursement Rate Reduction
(LAC 50:XV.10701, 11101 and 11103)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50.XV.10701 and §11101 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for targeted case management (TCM) services to: 1) require case management agencies to bill in 15 minute increments; 2) establish cost reporting requirements; and 3) increase the reimbursement rate paid for targeted case management services provided to infants and toddlers (*Louisiana Register*, Volume 35, Number 1). As a result of a budgetary shortfall and to avoid a budget deficit in the medical assistance programs, the bureau promulgated an Emergency Rule to amend the provisions governing the reimbursement methodology for TCM to reduce the reimbursement rates. This rate reduction was not applicable to Infants and Toddlers and Early and Periodic Screening, Diagnosis and Treatment case management (*Louisiana Register*, Volume 35, Number 2). In anticipation of projected expenditures in the Medical Vendor Program exceeding the funding allocated in the General Appropriations Act for state fiscal year 2010, the bureau promulgated an Emergency Rule to amend the February 1, 2009 Emergency Rule to further reduce the reimbursement rates paid for targeted case management services, including the TCM services provided in the Nurse Family Partnership Program (*Louisiana Register*, Volume 35, Number 5).

The Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions of the May 1, 2009 Emergency Rule to further reduce the reimbursement rates paid for TCM services provided in the Nurse Family Partnership Program and restrict reimbursement of TCM services in the Nurse Family Partnership Program to prenatal and postnatal services only (*Louisiana Register, Volume 35, Number 7*). This Emergency Rule is being promulgated to continue the provisions of the July 1, 2009 Emergency Rule.

This action is being taken to avoid a budget deficit in the medical assistance programs and to assure that reimbursements for targeted case management services remain within budget allocations.

Effective June 29, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing targeted case management services provided in the Nurse Family Partnership Program.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 7. Targeted Case Management

Chapter 107. Reimbursement

§10701. Reimbursement

A. - D. ...

E. Effective for dates of service on or after February 1, 2009, the reimbursement for case management services provided to the following targeted populations shall be reduced by 3.5 percent of the rates on file as of January 31, 2009:

1. participants in the Nurse Family Partnership Program;
2. individuals with developmental disabilities who are participants in the New Opportunities Waiver; and
3. individuals with disabilities resulting from HIV.

F. Effective for dates of service on or after May 1, 2009, the reimbursement to non-state providers of case management services provided to the following targeted populations shall be reduced by 6.25 percent of the rates on file as of April 30, 2009:

1. participants in the Nurse Family Partnership Program;
2. individuals with developmental disabilities who are participants in the New Opportunities Waiver; and
3. individuals with disabilities resulting from HIV.

G. Effective for dates of service on or after July 1, 2009, the reimbursement for case management services provided to participants in the Nurse Family Partnership Program shall be reduced to \$115.93 per visit.

1. Medicaid reimbursement shall be limited to prenatal and postnatal services only. Case management services provided to infants and toddlers shall be excluded from reimbursement under the Nurse Family Partnership Program.

AUTHORITY NOTE: Promulgated in 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 30:1040 (May 2004), amended LR 31:2032 (August 2005), LR 35:73 (January 2009), amended by the

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

Chapter 111. Nurse Family Partnership Program

§11101. Introduction

A. - B. ...

C. Case management services rendered in the Nurse Family Partnership Program shall be limited to prenatal and postnatal services only.

AUTHORITY NOTE: Promulgated in 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 30:1041 (May 2004), amended LR 31:2028 (August 2005), LR 34:1036 (June 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

§11103. Recipient Qualifications

A. - B. ...

C. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1041 (May 2004), amended LR 31:2028 (August 2005), LR 34:1037 (June 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

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

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

Alan Levine
Secretary

1006#102

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

Supplemental Nutrition Assistance Program (SNAP)
Family Independence Temporary
Assistance Program (FITAP)
Kinship Care Subsidy Program (KCSP)
(LAC 67: III.1229, 1949, 1980, 1987, 5329)

The Department of Social Services, Office of Family Support, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt LAC 67:III, Subpart 2, Section 1229; Subpart 3, Sections 1949, 1980, and 1987; and Subpart 13, Section 5329. This Emergency Rule is effective May 12, 2010 and shall remain in effect for a period of 120 days.

Due to the Mississippi Canyon 252 Well Incident on April 20, 2010, thousands of barrels of oil were released into the Gulf of Mexico. The oil spill has threatened hundreds of species of fish, birds, and other wildlife along the Gulf Coast. This, in turn, will affect thousands of licensed commercial fishermen, shrimpers, oystermen, and crabbers, and other small businesses. Hundreds of other seafood-related businesses and their employees will also likely suffer substantial economic injury. Many individuals who have recently lost income have resources that exceed the Supplemental Nutrition Assistance Program (SNAP) resource limit.

Due to the Mississippi Canyon 252 Well Incident, Louisiana requested a waiver from Food and Nutrition Service (FNS) to implement a modified SNAP. FNS denied the waiver request and suggested that Louisiana implement broad-based categorical eligibility to provide immediate access to SNAP benefits by those affected by the oil spill.

The agency will amend LAC 67 in order to implement broad-based-categorical eligibility which will make most if not all households categorically eligible for SNAP benefits because they will receive a non-cash, Temporary Assistance to Needy Families (TANF)/Maintenance of Effort (MOE) funded service. Any payments other than wages received as a result of the Mississippi Canyon 252 Well Incident will be excluded as income for SNAP, Family Independence Temporary Assistance Program (FITAP), and Kinship Care Subsidy Program (KCSP).

Pursuant to 7 CFR 273.2(j) subject to FNS approval, the State agency, at its option, may extend categorical eligibility to any household (except those listed in paragraph (j)(2)(vii) of that section) in which all members receive or are authorized to receive non-cash or in-kind services from a program that is less than 50 percent funded with state money counted for MOE purposes under Title IV-A or federal money under Title IV-A and that is designed to further purposes of goals three and four of the TANF block grant, as set forth in section 401 of P.L. 104-193, which requires participants to have a gross monthly income at or below 200 percent of the federal poverty level.

This change will help many recently unemployed fishermen and other individuals who worked in the seafood industry who have modest savings. Current rules require these workers to liquidate their savings before they can receive assistance, undermining their long-term financial stability.

Title 67
SOCIAL SERVICES

Part III. Office of Family Support

Subpart 2. Family Independence Temporary Assistance Program

Chapter 12. Application, Eligibility, and Furnishing Assistance

Subchapter B. Conditions of Eligibility

§1229. Income

A. - A.31. ...

32. any payments other than wages received as a result of the Mississippi Canyon 252 Well Incident in the Gulf of Mexico on April 20, 2010.

B. - G. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq. and 10602(c), R.S. 36:474, R.S. 46:231.1(B),

R.S. 46:231.2, P.L. 108-447, Act 16, 2005 Reg. Session; 7 CFR 273.2(j).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2449 (December 1999), amended LR 26:1342 (June 2000), LR 26:2831 (December 2000), LR 31:2956 (November 2005), LR 32:383 (March 2006), LR 32:1616 (September 2006), LR 32:1912 (October 2006), LR 34:2678 (December 2008, LR), LR 36:

Subpart 3. Supplemental Nutrition Assistance Program (SNAP)

Chapter 19. Certification of Eligible Households

Subchapter H. Resource Eligibility Standards

§1949. Exclusions from Resources

A. ...

B. all of the resources of individuals who are included in a household that is categorically eligible.

AUTHORITY NOTE: Promulgated in accordance with F.R. 52:26937 et seq., 7 CFR 273.8 and 273.9C(v), P.L. 103-66, P.L. 106-387, 45 CFR 263.20, and P.L. 107-171, 7 CFR 273.2(j).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:656 (November 1987), amended by the Department of Social Services, Office of Family Support, LR 18:1267 (November 1992), LR 21:187 (February 1995), LR 27:867 (June 2001), LR 27:1934 (November 2001), LR 28:1031 (May 2002), LR 29:606 (April 2003), LR 32:646 (April 2006), LR 34:2679 (December 2008), LR 36:

Subchapter I. Income and Deductions

§1980. Income Exclusions

A. - A.42. ...

43. any payments other than wages received as a result of the Mississippi Canyon 252 Well Incident in the Gulf of Mexico on April 20, 2010.

AUTHORITY NOTE: Promulgated in accordance with P.L. 103-66, 7 CFR 273.9(c)(11), P.L. 104-193, P.L. 107-171, P.L. 108-447, 7 CFR 273.2(j).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 21:188 (February 1995), LR 23:82 (January 1997), LR 29:607 (April 2003), LR 31:2956 (November 2005), LR 32:383 (March 2006), LR 32:1616 (September 2006), LR 36:

Subchapter J. Determining Household Eligibility and Benefit Levels

§1987. Categorical Eligibility for Certain Recipients

A. - A.4.b....

c. any member of the household is ineligible because of a drug related felony;

d. an individual who is disqualified for failure to comply with the work registration requirements;

e. an individual who is disqualified for failure to provide or apply for a social security number;

f. an individual who is on strike.

A.5. - D....

E. Households considered broad-based categorically eligible for Supplemental Nutrition Assistance Program (SNAP) benefits are households who receive a non-cash TANF/MOE funded benefit or service.

1. A household shall not be considered broad-based categorically eligible if:

a. any member of that household is disqualified for an intentional program violation;

b. the household is disqualified for failure to comply with the work registration requirements;

c. any member of the household is ineligible because of a drug related felony.

2. The following persons shall not be considered a member of a household when determining broad-based categorical eligibility:

- a. an ineligible alien;
- b. an ineligible student;
- c. an institutionalized person;
- d. an individual who is disqualified for failure to comply with the work registration requirements;
- e. an individual who is disqualified for failure to provide or apply for a social security number;
- f. an individual who is on strike.

3. Households which are broad-based categorically eligible are considered to have met the resource eligibility factor without additional verification.

4. Broad-based categorically eligible households must meet all Supplemental Nutrition Assistance Program eligibility factors except as outlined above.

5. Benefits for broad-based categorically eligible households shall be based on net income as for any other household.

AUTHORITY NOTE: Promulgated in accordance with F.R. 51:28196 et seq., 7 CFR 271, 272, 273.10, and 274; F.R. 56:63612-63613, P.L. 104-193, 7 CFR 273.2(j)(2)(xi), Act 58, 2003 Reg. Session, 7 CFR 273.2(j).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:90 (February 1987), amended by the Department of Social Services, Office of Family Support, LR 18:1267 (November 1992), LR 24:1783 (September 1998), LR 26:349 (February 2000), LR 27:867 (June 2001), LR 27:1934 (November 2001), LR 30:495 (March 2004), LR 36:

**Subpart 13. Kinship Care Subsidy Program (KCSP)
Chapter 53. Application, Eligibility, and Furnishing Assistance**

Subchapter B. Conditions of Eligibility

§5329. Income

A. - A.31. ...

32. any payments other than wages received as a result of the Mississippi Canyon Well Incident in the Gulf of Mexico on April 20, 2010.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq. and 10602(c), R.S. 36:474, R.S. 46:231.1.B, R.S. 46:237, and P.L. 108-447, Act 16, 2005 Reg. Session, 7 CFR 273.2(j).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:353 (February 2000), amended LR 26:2832 (December 2000), LR 31:2958 (November 2005), LR 32:1617 (September 2006), LR 32:1913 (October 2006), repromulgated LR 32:2098 (November 2006), LR 36:

Kristy Nichols
Secretary

1006#005

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

TANF Initiatives—Family Violence Prevention and Intervention Program
(LAC 67:III 5501, 5509, 5545, 5551, 5567, 5571, and 5575)

The Department of Social Services, Office of Family Support, has exercised the emergency provision of R.S. 49:953(B), the Administrative Procedure Act, to amend Louisiana Administrative Code (LAC) 67:III, Subpart 15, Chapter 55, Temporary Assistance for Needy Families (TANF) Initiatives.

An Emergency Rule is necessary to add Section 5501, which provides an introduction to the TANF Initiatives and to address funding.

Section 5509 Domestic Violence Services is being amended to include males ages 18 and older in the audience targeted to receive education and training addressing the problem of statutory rape, a requirement that must be met to remain in compliance with Title IV of the Social Security Act, section 402. Additionally, the title of the program is being changed from Domestic Violence Services to Family Violence Prevention and Intervention Program to more accurately reflect the services being provided.

Sections 5545, 5551, 5567, 5571, and 5575 have been added as they were incorrectly removed through prior rulemaking.

This Emergency Rule is effective May 21, 2010 and rescinds any other Emergency Rule issued prior to this date referencing Family Violence Prevention and Intervention Program.

This Emergency Rule will remain in effect for a period of 120 days. The authorization for emergency action in this matter is contained in Act 10 of the 2009 Regular Session of the Louisiana Legislature.

Title 67 SOCIAL SERVICES

Part III. Office of Family Support

Subpart 15. Temporary Assistance for Needy Families (TANF) Initiatives

Chapter 55. TANF Initiatives

§5501. Introduction to the TANF Initiatives

A. The programs known collectively as the TANF Initiatives provide benefits in the form of services to needy families, defined as families who have earned income at or below 200 percent of the federal poverty level, or a family in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Supplemental Nutrition Assistance Program (SNAP) benefits, Child Care Assistance Program (CCAP) services, Title IV-E, Medicaid, Louisiana Children's Health Insurance Program (LaCHIP) benefits, Supplemental Security Income (SSI), or free or reduced school lunch.

B. Not all TANF Initiatives require a family to be "needy" as defined above in order to receive services. There are initiatives that target children, parents, or caretaker relatives of minor children and require only that the person be in need of the services provided by the initiative.

C. The goals of the TANF Initiatives are:

1. to provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives;

2. to end dependence of needy parents on government benefits by promoting job preparation, work, and marriage;

3. to prevent and reduce the incidence of out-of-wedlock pregnancies; and

4. to encourage the formation and maintenance of two-parent families.

D. These programs or services may be adjusted or eliminated at the discretion of the secretary, based upon the availability of funds.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 36:

§5509. Family Violence Prevention and Intervention Program

A. The Office of Family Support shall enter into Memoranda of Understanding or contracts to provide services for victims of domestic violence and their children, including rural outreach and community collaboration training for the purpose of educating attendees about domestic violence and the available services provided by the Department of Social Services including but not limited to TANF, Supplemental Nutrition Assistance Program, child care, and employment training. Additionally, these services will include education and training addressing the problem of statutory rape. These programs are designed to not only reach the public, but also law enforcement officials, educators, relevant counseling services, and males 18 and older.

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; HB 1 2006 Reg. Session, Act 18, 2007 Reg. Session, Act 10, 2009 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 32:2099 (November 2006), amended LR 33:2205 (October 2007), LR 34:693 (April 2008), LR 34:2415 (November 2008), LR 36:

§5545. Remediation and Tutoring Programs

A. OFS shall enter into a Memorandum of Understanding with the Department of Education to establish programs designed to increase the likelihood of a student scoring above the "unsatisfactory" achievement level on the Graduate Exit Exam and the LEAP 21 exam and include:

1. Graduate Exit Exam Summer Remediation—designed to provide additional remedial instruction to targeted students, that is, students who scored "unsatisfactory" on the English language arts and/or mathematics components of the Graduate Exit Exam;

2. Louisiana Education Assessment Program (LEAP) 21 Summer Remediation—designed to provide additional remedial instruction to targeted students, that is, fourth and eighth grade students who did not take the spring LEAP 21 test and fourth and eighth grade students who scored

"unsatisfactory" on the English language arts and/or mathematics components of the LEAP 21; and

3. Louisiana Education Assessment Program (LEAP) 21 Tutoring—designed to provide intense early intervention and remedial instruction to targeted students in an effort to increase the likelihood of them scoring above the "unsatisfactory" level on the LEAP 21. The targeted group includes fourth and eighth grade students who have been retained because of their having scored at the "unsatisfactory" level on the English language arts and/or mathematics components of the LEAP 21 tests, and fourth and eighth grade students whose third and seventh grade IOWA test scores were below the thirtieth percentile and are considered to be at risk of scoring at the "unsatisfactory" level on the English language arts and/or mathematics components of the LEAP 21 tests.

B. These services meet TANF goal 3, to prevent and reduce the incidence of out-of-wedlock pregnancies by encouraging youths to remain in school, reducing their risk of engaging in negative behavior and increasing opportunities for families to become self-sufficient through education and training.

C. Eligibility for services is limited to families which include a minor child living with a custodial parent or an adult caretaker relative. A family in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamps, Child Care Assistance Program (CCAP) benefits, Medicaid, Louisiana Children's Health Insurance Program (LaCHIP), Supplemental Security Income (SSI), or Free or Reduced School Lunch is eligible.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:353 (February 2002), amended LR 31:485 (February 2005), LR 34:695 (April 2008), LR 36:

§5551. Community Response Initiative (Effective July 1, 2002)

A. The Office of Family Support, may enter into Memoranda of Understanding or contracts to develop innovative and strategic programming solutions suited to the unique needs of Louisiana's communities.

B. The services provided by the various partners must meet one, or a combination of, the four TANF goals:

1. Goal 1—to provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives;

2. Goal 2—to end dependence of needy parents on government benefits by promoting job preparation, work, and marriage;

3. Goal 3—to prevent and reduce the incidence of out-of-wedlock pregnancies; and

4. Goal 4—to encourage the formation and maintenance of two-parent families.

C. Eligibility for those services meeting TANF goals 1 and 2 is limited to needy families, that is, a family in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamp benefits, Child Care Assistance Program (CCAP) services, Title IV-E, Medicaid,

Louisiana Children's Health Insurance Program (LaChip) benefits, Supplemental Security Income (SSI), Free or Reduced Lunch, or who has earned income at or below 200 percent of the federal poverty level. For TANF goals 1 and 2 a family consists of minor children residing with custodial parents, or caretaker relatives of minor children.

D. Eligibility for those services meeting TANF goals 3 and 4 may include any family in need of the provided services regardless of income. For TANF goals 3 and 4 a family consists of a minor child residing with a custodial parent or caretaker relative of the minor child, and non-custodial parents, and legal guardians.

E. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 13, 2002 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:2374 (November 2002), amended LR 34:695 (April 2008), LR 36:

§5567. Legal Access and Visitation

A. Effective January 1, 2009, the Office of Family Support will implement the TANF Initiative, Legal Access and Visitation.

B. Services provided include legal services that may include: mediation, development of parenting plans, court ordered visitation, or other services to obtain regular visitation arrangements with the children. Referrals that assist non-custodial parents to overcome social, financial and emotional barriers that hinder access to their children will also be provided.

C. These services meet the TANF goal to encourage the formation of and maintenance of two-parent families by improving the parent's ability to act in the best interest of their children, providing the children continuous and quality access to both parents, improving the well-being of the children, and encouraging healthy relationships, youth development, and responsible fatherhood.

D. Eligibility for services is limited to non-custodial parents of minor children who have active child support cases under Title IV-D of the Social Security Act.

E. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 USC 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 19, 2008 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 35: 966 (May 2009), amended LR 36:

§5571. Parenting/Fatherhood Services Program (Effective September 30, 2002)

A. The Office of Family Support shall enter into contracts to create programs that will assist low-income fathers with various skills including employment, life, parenting, and other skills in order to increase their ability to provide emotional and financial support for their children, and to create a network of community- and faith-based programs that will provide linkages to and for state entities, specifically Child Support Enforcement Services.

B. These services meet TANF goal 2, to end the dependence of needy parents on government benefits by promoting job preparation, work, and marriage, and TANF goal 4, to encourage the formation and maintenance of two-parent families by eliminating emotional, social, financial,

and legal barriers that hinder a father's ability to be fully engaged in his children's lives.

C. Eligibility for services is limited to fathers of minor children, who have earned income at or below 200 percent of the federal poverty level.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 13, 2002 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 29:191 (February 2003), amended LR 34: 697 (April 2008), LR 36:

§5575. Teen Pregnancy Prevention Program

A. Effective July 1, 2003, The Office of Family Support shall enter into Memoranda of Understanding or contracts to prevent or reduce out-of-wedlock and teen pregnancies by enrolling individuals 8 through 20 in supervised, safe environments, with adults leading activities according to a research-based model aimed at reducing teen pregnancy. These programs will consist of curriculums which include, but are not limited to, topics designed to educate males 18 years and older on the problem of statutory rape.

B. Services offered by providers meet TANF goal 3, to prevent and reduce the incidence of out-of-wedlock pregnancies by providing research-based prevention and intervention programming for students who live in poor communities and/or show evidence of academic underperformance, dropping out, or engaging in negative behaviors that can lead to dependency, out-of-wedlock births, or imprisonment.

C. Eligibility for services is not limited to needy families. Custodial and non-custodial parents, legal guardians, or caretaker relatives of youth who are participants in the program may also receive parenting training and educational services.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 14, 2003 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:502 (March 2004), amended LR 34:697 (April 2008), LR 34:2415 (November 2008), LR 36:

Kristy H. Nichols
Secretary

1006#007

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

TANF Initiatives—Family Violence Prevention and
Intervention Program
(LAC 67:III 5509, 5545, 5551, 5567, 5571, and 5575)

The Department of Social Services, Office of Family Support, has exercised the emergency provision of R.S. 49:953(B), the Administrative Procedure Act, to amend Louisiana Administrative Code (LAC) 67:III, Subpart 15, Chapter 55, Temporary Assistance for Needy Families (TANF) Initiatives, at Section 5509 Domestic Violence Services, and to repeal the following initiatives: Section

5545, Remediation and Tutoring Initiative; Section 5567, Legal Access and Visitation; Section 5571, Parenting-Fatherhood Services Program; and Section 5575, Teen Pregnancy Prevention. An Emergency Rule is necessary to amend 5509 to include males ages 18 and older to the audience targeted to receive education and training addressing the problem of statutory rape, a requirement that must be met to remain in compliance with Title IV of the Social Security Act, section 402.

Additionally, the title of the program is being changed from Domestic Violence Services to Family Violence Prevention and Intervention Program to more accurately reflect the services being provided.

This Emergency Rule is effective May 14, 2010 and will remain in effect for a period of 120 days. The authorization for emergency action in this matter is contained in Act 10 of the 2009 Regular Session of the Louisiana Legislature.

Title 67 SOCIAL SERVICES

Part III. Office of Family Support

Subpart 15. Temporary Assistance for Needy Families (TANF) Initiatives

Chapter 55. TANF Initiatives

§5509. Family Violence Prevention and Intervention Program

A. The Office of Family Support shall enter into Memoranda of Understanding or contracts to provide services for victims of domestic violence and their children, including rural outreach and community collaboration training for the purpose of educating attendees about domestic violence and the available services provided by the Department of Social Services including but not limited to TANF, Supplemental Nutrition Assistance Program, child care, and employment training. Additionally, these services will include education and training addressing the problem of statutory rape. These programs are designed to not only reach the public, but also law enforcement officials, educators, relevant counseling services, and males 18 and older.

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; HB 1 2006 Reg. Session, Act 18, 2007 Reg. Session, Act 10, 2009 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 32:2099 (November 2006) amended LR 33:2205 (October 2007, LR 34:693 (April 2008), LR 34:2415, (November 2008), LR 36:

§5545. Remediation and Tutoring Programs

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:353 (February 2002), amended LR 31:485 (February 2005), LR 34:695 (April 2008), LR 36:

§5551. Community Response Initiative (Effective July 1, 2002)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 13, 2002 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:2374 (November 2002), amended LR 34:695 (April 2008), LR 36:

§5567. Legal Access and Visitation

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 USC 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 19, 2008 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 35:966 (May 2009), LR 36:

§5571. Parenting/Fatherhood Services Program (Effective September 30, 2002)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 13, 2002 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 29:191 (February 2003), amended LR 34:697 (April 2008), LR 36:

§5575. Teen Pregnancy Prevention Program

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 14, 2003 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:502 (March 2004), amended LR 34:697 (April 2008), LR 34:2415 (November 2008), LR 36:

Kristy H. Nichols
Secretary

1006#006

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Fishing Closure, Portion of Territorial Seas

In accordance with the emergency provisions of R.S. 49:953.B and R.S. 49:967.D of the Administrative Procedure Act, and under the authority of R.S. 56:6.1, the Department of Wildlife and Fisheries hereby closes all recreational and commercial fishing, effective May 9, 2010, 6:00 p.m., in the following area:

Department of Wildlife and Fisheries (LDWF) Secretary Robert Barham announced that the state territorial seas and the beaches that border the area extending seaward of the inside/outside shrimp line as described in LA R.S. 56:495 to the state/federal territorial sea boundary from the eastern shore of South Pass of the Mississippi River westward to the eastern portion of Atchafalaya Bay at Point au Fer Island at 91 degrees 20 minutes 44 seconds west longitude will close to all commercial and recreational fishing effective 6:00 p.m., May 9, 2010.

Secretary Barham also announced that recreational and commercial fishing is closed on all beaches that border the area closed by the Louisiana Wildlife and Fisheries Commission's Declaration of Emergency issued on May 6, 2010.

The Deep Horizon drilling rig accident has resulted in a significant release of hydrocarbon pollutants into the waters offshore of southeast Louisiana and these pollutants have the potential to impact fish and other aquatic life in portions of these coastal waters. Efforts have been made and are

continuing to be made to minimize the potential threats to fish and other aquatic life.

This action is taken in close coordination with the Department of Health and Hospitals, and the Department of Environmental Quality to avoid the possibility that commercially harvested and recreationally caught fish and other aquatic life used for consumption are tainted with hydrocarbons. Governor Jindal in a Declaration of Emergency issued on April 29, 2010 stated in part that "a declaration that a state of emergency exists is appropriate due to the predicted impact of oil along the Louisiana coast leaking from the Deepwater Horizon which threatens the state's natural resources, including land, water, fish, wildlife, fowl and other birds, and likewise threatens the livelihoods of Louisiana's citizens living along the coast which increases the economic impact of this incident".

Effective with the closure, no person shall take or possess or attempt to take any species of fish from waters within the closed area or the beaches that border the closed area. The possession, sale, barter, trade, or exchange of any fish or other aquatic life from the closed area during the closure is prohibited. This area will remain closed to fishing until reopened by the Secretary of the Department of Wildlife and Fisheries.

Robert J. Barham
Secretary

1006#003

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Recreational and Commercial Fisheries Closure—Barataria and Terrebonne Basins and Territorial Seas

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967(D) of the Administrative Procedure Act, which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, and R.S. 56:6.1 which provides the Secretary of the Department of Wildlife and Fisheries with authority to declare a closed season on any and all species of fish found or existing in the waters of the state, and a resolution adopted by the Wildlife and Fisheries Commission on May 6, 2010 which granted the secretary the authority to open any area, or re-open any previously closed area, of inside waters to shrimping based upon biological and technical data, the secretary hereby closes to all recreational and commercial fishing that portion of state inside waters south of 29 degrees 30 minutes 00 seconds north latitude and north of the inside/outside shrimp line, from the western shore of the Mississippi River westward to the western shore of Bayou Lafourche, and that portion of state inside waters south of 29 degrees 21 minutes 00 seconds north latitude and north of the inside/outside shrimp line from the western shore of Bayou Lafourche westward to 91 degrees 20 minutes 20 seconds west longitude, and that portion of state outside waters seaward of the inside/outside shrimp line

from 91 degrees 00 minutes 00 seconds west longitude westward to 91 degrees 20 minutes 20 seconds west longitude effective immediately May 22, 2010.

The Deep Horizon drilling rig accident has resulted in a significant release of hydrocarbon pollutants into the waters offshore of southeast Louisiana and these pollutants have the potential to impact fish and other aquatic life in portions of these coastal waters. Efforts have been made and are continuing to be made to minimize the potential threats to fish and other aquatic life. Based upon confirmed reports of oil within a portion of this area, the secretary has determined that this area shall close to all recreational and commercial fishing effective immediately May 22, 2010.

Robert J. Barham
Secretary

1006#015

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Recreational and Commercial Fisheries Closure—Barataria to Caminada Pass

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967(D) of the Administrative Procedure Act, which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, and R.S. 56:6.1 which provides the Secretary of the Department of Wildlife and Fisheries with authority to declare a closed season on any and all species of fish found or existing in the waters of the state, and a resolution adopted by the Wildlife and Fisheries Commission on May 6, 2010 which granted the secretary the authority to open any area, or re-open any previously closed area, of inside waters to shrimping based upon biological and technical data, the secretary hereby closes to all recreational and commercial fishing that portion of state outside waters seaward of the inside/outside shrimp line as described in R.S. 56:495 extending from the eastern shore of Barataria Pass at 89 degrees 56 minutes 44 seconds west longitude westward to the western shore of Caminada Pass at 90 degrees 02 minutes 46.597 seconds west longitude effective sunset May 20, 2010.

The Deep Horizon drilling rig accident has resulted in a significant release of hydrocarbon pollutants into the waters offshore of southeast Louisiana and these pollutants have the potential to impact fish and other aquatic life in portions of these coastal waters. Efforts have been made and are continuing to be made to minimize the potential threats to fish and other aquatic life. Based upon confirmed reports of oil within a portion of this area, the secretary has determined that this area shall close to all recreational and commercial fishing effective sunset May 20, 2010.

Robert J. Barham
Secretary

1006#008

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Recreational and Commercial Fisheries Closure—Bayous Lafourche and Terrebonne, Reopen Territorial Seas

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967(D) of the Administrative Procedure Act, which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, and R.S. 56:6.1 which provides the Secretary of the Department of Wildlife and Fisheries with authority to declare a closed season on any and all species of fish found or existing in the waters of the state, and a declaration of emergency adopted by the Wildlife and Fisheries Commission on May 6, 2010 which grants authority to the secretary to broaden or to reopen the area closed to fishing if biological and technical data indicate the need to do so, the secretary hereby closes to all recreational and commercial fishing that portion of state inside waters south of 29 degrees 30 minutes 00 seconds north latitude from the western shore of Bayou Lafourche westward to the eastern shore of Bayou Terrebonne and south to 29 degrees 21 minutes 00 seconds north latitude and opens to all recreational and commercial fishing that portion of state outside waters extending seaward of the inside/outside shrimp line as described in R.S. 56:495 from South Point of Marsh Island at 91 degrees 45 minutes 48 seconds west longitude westward to the eastern shore of Freshwater Bayou at 92 degrees 18 minutes 27 seconds west longitude effective immediately May 28, 2010.

The Deep Horizon drilling rig accident has resulted in a significant release of hydrocarbon pollutants into the waters offshore of southeast Louisiana and these pollutants have the potential to impact fish and other aquatic life in portions of these coastal waters. Efforts have been made and are continuing to be made to minimize the potential threats to fish and other aquatic life. Based upon confirmed reports of oil within a portion of the closed area, the secretary has determined that this area shall close to all recreational and commercial fishing effective immediately May 28, 2010. The secretary has determined that state outside waters from South Point of Marsh Island to the eastern shore of Freshwater Bayou shall open to all recreational and commercial fishing effective immediately May 28, 2010.

Robert J. Barham
Secretary

1006#030

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Recreational and Commercial Fisheries Closure—Chaland Pass to Barataria, West of Bayou Lafourche

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967(D) of the Administrative Procedure Act, which allows the Wildlife and Fisheries

Commission to use emergency procedures to set shrimp seasons, and R.S. 56:6.1 which provides the Secretary of the Department of Wildlife and Fisheries with authority to declare a closed season on any and all species of fish found or existing in the waters of the state, and a resolution adopted by the Wildlife and Fisheries Commission on May 6, 2010 which granted the secretary the authority to open any area, or re-open any previously closed area, of inside waters to shrimping based upon biological and technical data, the secretary hereby closes to all recreational and commercial fishing that portion of state outside waters seaward of the inside/outside shrimp line as described in R.S. 56:495 extending from the eastern shore of Chaland Pass at 89 degrees 44 minutes 06.3 seconds west longitude to the eastern shore of Barataria Pass at 89 degrees 56 minutes 44 seconds west longitude and that portion of inside waters from the western shore of Bayou Lafourche westward to 90 degrees 40 minutes 00 seconds west longitude, north of 29 degrees 10 minutes 16 seconds north latitude and south of 29 degrees 14 minutes 00 seconds north latitude will close effective sunset May 21, 2010.

The Deep Horizon drilling rig accident has resulted in a significant release of hydrocarbon pollutants into the waters offshore of southeast Louisiana and these pollutants have the potential to impact fish and other aquatic life in portions of these coastal waters. Efforts have been made and are continuing to be made to minimize the potential threats to fish and other aquatic life. Based upon confirmed reports of oil within a portion of this area, the secretary has determined that this area shall close to all recreational and commercial fishing effective sunset May 21, 2010.

Robert J. Barham
Secretary

1006#017

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Recreational and Commercial Fisheries Closure Due to Oil Spill

In accordance with the emergency provisions of R.S. 49:953(B) and R.S.49:967(D) of the Administrative Procedure Act, and under the authority of R.S. 56:6.1, the Wildlife and Fisheries Commission hereby closes all recreational and commercial fishing, effective immediately June 3, 2010, in the following area:

That portion of state inside waters north of Martin Island on the eastern shore of the Biloxi Marsh at 29 degrees 57 minutes 29.6 seconds north latitude; thence northward to Isle au Pitre at 30 degrees 09 minutes 20.5 seconds north latitude from the double rig line westward to 89 degrees 15 minutes 30 seconds west longitude, and the open waters of Breton and Chandeleur Sounds as described by the double rig line defined in R.S. 56:495.1, and that portion of state inside waters south and east of Baptiste Collette westward to the southern shoreline of Red Pass at 89 degrees 28 minutes 13.4 seconds north latitude, and that portion of state inside waters south and west of a line beginning at the intersection of the western shoreline of the Empire Canal and the

inside/outside shrimp line as described in R.S.56:495; thence northerly along the western shoreline of the Empire Canal to 29 degrees 20 minutes 00 seconds north latitude; thence west along 29 degrees 20 minutes 00 seconds north latitude to the western shoreline of Grand Bayou; thence northerly along the western shoreline of Grand Bayou to 29 degrees 30 minutes 00 seconds north latitude; thence west along 29 degrees 30 minutes 00 seconds north latitude to 89 degrees 52 minutes 00 seconds west longitude near the western shoreline of Bay Batiste; thence north along 89 degrees 52 minutes 00 seconds west longitude to 29 degrees 35 minutes 00 seconds north latitude; thence west along 29 degrees 35 minutes 00 seconds north latitude to 90 degrees 14 minutes 00 seconds west longitude near the western shoreline of Little Lake; thence south along 90 degrees 14 minutes 00 seconds west longitude to 29 degrees 30 minutes 00 seconds north latitude; thence west-along 29 degrees 30 minutes 00 seconds north latitude to the eastern shore of Bayou Terrebonne; thence southerly along the eastern shore of Bayou Terrebonne to 29 degrees 21 minutes 00 seconds north latitude; thence westward along 29 degrees 21 minutes 00 seconds north latitude from the eastern shoreline of Bayou Terrebonne to the eastern shore of Bayou Grand Caillou, thence southerly along the eastern shoreline of Bayou Grand Caillou to the intersection of the inside/outside shrimp line as described in R.S. 56:495 and the eastern shoreline of Bayou Grand Caillou at 29 degrees 10 minutes 16 seconds north latitude, and that portion of state outside waters seaward of the inside/outside shrimp line as described in R.S. 56:495 from the Mississippi/Louisiana state line westward to 91 degrees 20 minutes 20 seconds west longitude near the southwestern shoreline of Point au Fer and outside waters seaward of the inside/outside shrimp line as described in R.S. 56:495 from 92 degrees 18 minutes 00 seconds west longitude near Freshwater Bayou westward to 92 degrees 25 minutes 00 seconds west longitude.

Effective with the closure, no person shall take or possess or attempt to take any species of fish from waters within the closed area. The possession, sale, barter, trade, or exchange of any fish or other aquatic life from the closed area during the closure is prohibited.

The Commission hereby grants authority to the Secretary of the Department of Wildlife and Fisheries to broaden or to reopen the area closed to fishing if biological and technical data indicates the need to do so.

The Deepwater Horizon drilling rig accident has resulted in a significant release of hydrocarbon pollutants into the waters offshore of southeast Louisiana and these pollutants have the potential to impact fish and other aquatic life in portions of Louisiana's coastal waters. Efforts have been made and are continuing to minimize the potential threats to fish and other aquatic life.

This action is taken in coordination with Louisiana Department of Health and Hospitals, to avoid the possibility that commercially harvested and recreationally caught fish and other aquatic life used for consumption are tainted with hydrocarbons. Governor Jindal in a declaration of emergency issued on April 29, 2010 stated in part that "a declaration that a state of emergency exists is appropriate due to the predicted impact of oil along the Louisiana coast leaking from the Deepwater Horizon which threatens the state's natural resources, including land, water, fish, wildlife,

fowl and other birds, and likewise threatens the livelihoods of Louisiana's citizens living along the coast which increases the economic impact of this incident".

Stephen J. Oats
Chairman

1006#054

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Recreational and Commercial Fisheries Closure—Outside Waters From Caminada Pass to Belle Pass

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967(D) of the Administrative Procedure Act, which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, and R.S. 56:6.1 which provides the Secretary of the Department of Wildlife and Fisheries with authority to declare a closed season on any and all species of fish found or existing in the waters of the state, and a resolution adopted by the Wildlife and Fisheries Commission on May 6, 2010 which granted the secretary the authority to open any area, or re-open any previously closed area, of inside waters to shrimping based upon biological and technical data, the secretary hereby closes to all recreational and commercial fishing that portion of state outside waters seaward of the inside/outside shrimp line as described in R.S. 56:495 extending from the western shore of Caminada Pass at 90 degrees 02 minutes 46.597 seconds west longitude westward to the western shore of Belle Pass at 90 degrees 13 minutes 36 seconds west longitude effective immediately May 20, 2010.

The Deep Horizon drilling rig accident has resulted in a significant release of hydrocarbon pollutants into the waters offshore of southeast Louisiana and these pollutants have the potential to impact fish and other aquatic life in portions of these coastal waters. Efforts have been made and are continuing to be made to minimize the potential threats to fish and other aquatic life. Based upon confirmed reports of oil within a portion of this area, the secretary has determined that this area shall close to all recreational and commercial fishing effective immediately May 20, 2010.

Robert J. Barham
Secretary

1006#009

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Recreational and Commercial Fisheries Closure—Outside Waters From Chaland Pass to Red Pass

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967(D) of the Administrative Procedure Act, which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp

seasons, and R.S. 56:6.1 which provides the Secretary of the Department of Wildlife and Fisheries with authority to declare a closed season on any and all species of fish found or existing in the waters of the state, and a resolution adopted by the Wildlife and Fisheries Commission on May 6, 2010 which granted the secretary the authority to open any area, or re-open any previously closed area, of inside waters to shrimping based upon biological and technical data, the secretary hereby closes to all recreational and commercial fishing that portion of state outside waters seaward of the inside/outside shrimp line as described in R.S. 56:495 extending from the eastern shore of Chaland Pass at 89 degrees 44 minutes 06.3 seconds west longitude eastward to the mouth of Red Pass at 89 degrees 28 minutes 13.4 seconds west longitude effective sunrise May 20, 2010.

The Deep Horizon drilling rig accident has resulted in a significant release of hydrocarbon pollutants into the waters offshore of southeast Louisiana and these pollutants have the potential to impact fish and other aquatic life in portions of these coastal waters. Efforts have been made and are continuing to be made to minimize the potential threats to fish and other aquatic life. Based upon confirmed reports of oil within a portion of this area, the secretary has determined that this area shall close to all recreational and commercial fishing effective sunrise May 20, 2010.

Robert J. Barham
Secretary

1006#010

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Recreational and Commercial Fisheries Closure—Portion of Barataria Basin

In accordance with the emergency provisions of R.S. 49:953.B and R.S. 49:967.D of the Administrative Procedure Act, which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, and R.S. 56:6.1 which provides the Secretary of the Department of Wildlife and Fisheries with authority to declare a closed season on any and all species of fish found or existing in the waters of the state, and a declaration of emergency adopted by the Wildlife and Fisheries Commission on June 3, 2010 which grants authority to the Secretary to broaden or to reopen the area closed to fishing if biological and technical data indicate the need to do so, the Secretary hereby closes to all recreational and commercial fishing that portion of state inside waters north of the inside/outside shrimp line and south of the Mississippi River from the southern shoreline of Red Pass at 89 degrees 28 minutes 13.4 seconds west longitude westward to the western shoreline of the Empire Canal effective sunset June 6, 2010.

The Deepwater Horizon drilling rig accident has resulted in a significant release of hydrocarbon pollutants into the waters offshore of southeast Louisiana and these pollutants

have the potential to impact fish and other aquatic life in portions of these coastal waters. Efforts have been made and are continuing to be made to minimize the potential threats to fish and other aquatic life. The secretary has determined that a portion of state inside waters north of the inside/outside shrimp line and south of the Mississippi River from the southern shoreline of Red Pass at 89 degrees 28 minutes 13.4 seconds north latitude westward to the western shoreline of the Empire Canal shall close to recreational and commercial fishing effective sunset June 6, 2010. This area is closed due to confirmed reports of oil.

Robert J. Barham
Secretary

1006#089

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Recreational and Commercial Fisheries Closure—Portion of Inside Waters Within Barataria Basin

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967(D) of the Administrative Procedure Act, which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, and R.S. 56:6.1 which provides the Secretary of the Department of Wildlife and Fisheries with authority to declare a closed season on any and all species of fish found or existing in the waters of the state, and a resolution adopted by the Wildlife and Fisheries Commission on May 6, 2010 which granted the secretary the authority to open any area, or re-open any previously closed area, of inside waters to shrimping based upon biological and technical data, the secretary hereby closes to all recreational and commercial fishing that portion of state inside waters from the eastern shore of Louisiana Department of Health and Hospitals Harvest Area 12 near Lake Grand Ecaille westward to the western shore of the Barataria Waterway as marked by the green buoy line and south of 29 degrees 23 minutes and 50 seconds north latitude effective immediately May 22, 2010.

The Deep Horizon drilling rig accident has resulted in a significant release of hydrocarbon pollutants into the waters offshore of southeast Louisiana and these pollutants have the potential to impact fish and other aquatic life in portions of these coastal waters. Efforts have been made and are continuing to be made to minimize the potential threats to fish and other aquatic life. Based upon confirmed reports of oil within a portion of this area, the secretary has determined that this area shall close to all recreational and commercial fishing effective immediately May 22, 2010.

Robert J. Barham
Secretary

1006#016

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Recreational and Commercial Fisheries Closure—Portion of State Inside and Outside Waters, Terrebonne Parish

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967(D) of the Administrative Procedure Act, which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, and R.S. 56:6.1 which provides the Secretary of the Department of Wildlife and Fisheries with authority to declare a closed season on any and all species of fish found or existing in the waters of the state, and a resolution adopted by the Wildlife and Fisheries Commission on May 6, 2010 which granted the secretary the authority to open any area, or re-open any previously closed area, of inside waters to shrimping based upon biological and technical data, the secretary hereby closes to all recreational and commercial fishing: that portion of state inside waters south of 29 degrees 19 minutes 59 seconds north latitude extending from Pointe au Fer Island at 91 degrees 21 minutes 09 seconds west longitude eastward to 90 degrees 39 minutes 00 seconds west longitude in the vicinity of Cocodrie and state outside waters seaward of the inside/outside shrimp line as described in R.S. 56:495 extending from Pointe au Fer Island at 91 degrees 21 minutes 09 seconds west longitude eastward to 91 degrees 0 minutes 00 seconds west longitude effective immediately May 15, 2010.

The Deep Horizon drilling rig accident has resulted in a significant release of hydrocarbon pollutants into the waters offshore of southeast Louisiana and these pollutants have the potential to impact fish and other aquatic life in portions of these coastal waters. Efforts have been made and are continuing to be made to minimize the potential threats to fish and other aquatic life. Based upon confirmed reports of oil within a portion of this area, the secretary has determined that this area shall close to all recreational and commercial fishing immediately on May 15, 2010.

Robert J. Barham
Secretary

1005#022

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Recreational and Commercial Fisheries Closure St. Bernard Parish

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967(D) of the Administrative Procedure Act, which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, and R.S. 56:6.1 which provides the Secretary of the Department of Wildlife and Fisheries with authority to declare a closed season on any and all species of fish found or existing in the waters of the state, and a declaration of

emergency adopted by the Wildlife and Fisheries Commission on May 6, 2010 which grants authority to the secretary to broaden or to reopen the area closed to fishing if biological and technical data indicate the need to do so, the secretary hereby closes to all recreational and commercial fishing that portion of state inside waters north of Martin Island on the eastern shore of the Biloxi Marsh at 29 degrees 57 minutes 29.6 seconds north latitude; thence northward to Isle au Pitre at 30 degrees 09 minutes 20.5 seconds north latitude from the double rig line westward to 89 degrees 17 minutes 10 seconds west longitude effective immediately May 28, 2010.

The Deep Horizon drilling rig accident has resulted in a significant release of hydrocarbon pollutants into the waters offshore of southeast Louisiana and these pollutants have the potential to impact fish and other aquatic life in portions of these coastal waters. Efforts have been made and are continuing to be made to minimize the potential threats to fish and other aquatic life. Based upon confirmed reports of oil within portions of this area, the secretary has determined that this area shall close to all recreational and commercial fishing effective immediately May 28, 2010.

Robert J. Barham
Secretary

1006#031

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Recreational and Commercial Fisheries Closure—Territorial Seas Near Marsh Island

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967(D) of the Administrative Procedure Act, which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, and R.S. 56:6.1 which provides the Secretary of the Department of Wildlife and Fisheries with authority to declare a closed season on any and all species of fish found or existing in the waters of the state, and a resolution adopted by the Wildlife and Fisheries Commission on May 6, 2010 which granted the secretary the authority to open any area, or re-open any previously closed area, of inside waters to shrimping based upon biological and technical data, the secretary hereby closes to all recreational and commercial fishing that portion of state outside waters extending seaward of the inside/outside shrimp line from South Point of Marsh Island at 91 degrees 45 minutes 48 seconds west longitude westward to the eastern shore of Freshwater Bayou at 92 degrees 18 minutes 27 seconds west longitude effective immediately May 26, 2010.

The Deepwater Horizon drilling rig accident has resulted in a significant release of hydrocarbon pollutants into the waters offshore of southeast Louisiana and these pollutants have the potential to impact fish and other aquatic life in portions of these coastal waters. Efforts have been made and are continuing to be made to minimize the potential threats to fish and other aquatic life. This area was originally closed on May 18, 2010 due to a confirmed report of oil on a small section of the southern shoreline of Marsh Island. This area

was re-opened to recreational and commercial fishing on May 24, 2010 based on the Department of Health and Hospitals sensory test. Since that time, the Louisiana Department of Health and Hospitals requested this area close pending the outcome of seafood tissue test results. This area shall close to all recreational and commercial fishing effective immediately May 26, 2010.

Robert J. Barham
Secretary

1006#027

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Recreational and Commercial Fisheries
Closure—Vermilion Parish

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967(D) of the Administrative Procedure Act, which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, and R.S. 56:6.1 which provides the Secretary of the Department of Wildlife and Fisheries with authority to declare a closed season on any and all species of fish found or existing in the waters of the state, and a declaration of emergency adopted by the Wildlife and Fisheries Commission on May 6, 2010 which grants authority to the secretary to broaden or to reopen the area closed to fishing if biological and technical data indicate the need to do so, the secretary hereby closes to all recreational and commercial fishing that portion of state outside waters extending seaward of the inside/outside shrimp line as described in R.S.56:495 from 92 degrees 18 minutes 00 seconds west longitude near Freshwater Bayou westward to 92 degrees 25 minutes 00 seconds west longitude effective immediately June 2, 2010.

The Deepwater Horizon drilling rig accident has resulted in a significant release of hydrocarbon pollutants into the waters offshore of southeast Louisiana and these pollutants have the potential to impact fish and other aquatic life in portions of these coastal waters. Efforts have been made and are continuing to be made to minimize the potential threats to fish and other aquatic life. Based upon confirmed reports of oil within a portion of the closed area, the secretary has determined that state outside waters from 92 degrees 18 minutes 00 seconds west longitude near Freshwater Bayou westward to 92 degrees 25 minutes 00 seconds west longitude shall close immediately June 2, 2010 to all recreational and commercial fishing.

Robert J. Barham
Secretary

1006#056

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Recreational and Commercial Fisheries
Closure—Vicinity of Marsh Island

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967(D) of the Administrative Procedure Act, which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, and R.S. 56:6.1 which provides the secretary of the Department of Wildlife and Fisheries with authority to declare a closed season on any and all species of fish found or existing in the waters of the state, and a resolution adopted by the Wildlife and Fisheries Commission on May 6, 2010 which granted the Secretary the authority to open any area, or re-open any previously closed area, of inside waters to shrimping based upon biological and technical data, the secretary hereby closes to all recreational and commercial fishing in that portion of state outside waters seaward of the inside/outside shrimp line as described in R.S. 56:495 extending from South Point of Marsh Island at 91 degrees 45 minutes 48 seconds west longitude westward to the eastern shore of Freshwater Bayou at 92 degrees 18 minutes 27 seconds west longitude effective sunset May 18, 2010.

The Deep Horizon drilling rig accident has resulted in a significant release of hydrocarbon pollutants into the waters offshore of southeast Louisiana and these pollutants have the potential to impact fish and other aquatic life in portions of these coastal waters. Efforts have been made and are continuing to be made to minimize the potential threats to fish and other aquatic life. Based upon confirmed reports of oil within a portion of this area, the secretary has determined that this area shall close to all recreational and commercial fishing effective sunset May 18, 2010.

Robert J. Barham
Secretary

1006#012

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Recreational and Commercial Fisheries Closure—West of
Mississippi River, Plaquemines Parish

In accordance with the emergency provisions of R.S. 49:953.B and R.S. 49:967.D of the Administrative Procedure Act, which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, and R.S. 56:6.1 which provides the Secretary of the Department of Wildlife and Fisheries with authority to declare a closed

season on any and all species of fish found or existing in the waters of the state, and a declaration of emergency adopted by the Wildlife and Fisheries Commission on June 3, 2010 which grants authority to the Secretary to broaden or to reopen the area closed to fishing if biological and technical data indicate the need to do so, the Secretary hereby closes to all recreational and commercial fishing that portion of state inside waters west of the Mississippi River and south of 29 degrees 30 minutes 00 seconds north latitude and north of 29 degrees 20 minutes 00 seconds north latitude from the western shoreline of the Empire Canal westward to the western shoreline of Grand Bayou effective immediately today, June 8, 2010.

The Deepwater Horizon drilling rig accident has resulted in a significant release of hydrocarbon pollutants into the waters offshore of southeast Louisiana and these pollutants have the potential to impact fish and other aquatic life in portions of these coastal waters. Efforts have been made and are continuing to be made to minimize the potential threats to fish and other aquatic life. The secretary has determined that portion of state inside waters west of the Mississippi River and south of 29 degrees 30 minutes 00 seconds north latitude and north of 29 degrees 20 minutes 00 seconds north latitude from the western shoreline of the Empire Canal westward to the western shoreline of Grand Bayou is closed to recreational and commercial fishing effective immediately today, June 8, 2010.

Robert J. Barham
Secretary

1006#088

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Recreational and Commercial Fisheries Opening and Closing—Portions of Barataria Basin

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967(D) of the Administrative Procedure Act, which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, and R.S. 56:6.1 which provides the Secretary of the Department of Wildlife and Fisheries with authority to declare a closed season on any and all species of fish found or existing in the waters of the state, and a declaration of emergency adopted by the Wildlife and Fisheries Commission on May 6, 2010 which grants authority to the secretary to broaden or to reopen the area closed to fishing if biological and technical data indicate the need to do so, the secretary hereby opens to all recreational and commercial fishing that portion of state inside waters north of the inside/outside shrimp line as described in R.S. 56:495 and south of the Mississippi River from the southern shoreline of Red Pass at 89 degrees 28 minutes 13.4 seconds north latitude westward to the western shoreline of the Empire Canal; thence north along the western shoreline of the Empire Canal to 29 degrees 20 minutes 00 seconds north latitude; thence west along 29 degrees 20 minutes 00 seconds north latitude to the western shoreline of Grand Bayou; thence north along the western shoreline of Grand

Bayou and closes to all recreational and commercial fishing that portion of state inside waters north of 29 degrees 30 minutes 00 seconds north latitude and south of 29 degrees 35 minutes 00 seconds north latitude from 89 degrees 52 minutes west longitude near the western shoreline of Bay Batiste westward to 90 degrees 14 minutes 00 seconds west longitude near the western shoreline of Little Lake effective immediately May 27, 2010.

The Deep Horizon drilling rig accident has resulted in a significant release of hydrocarbon pollutants into the waters offshore of southeast Louisiana and these pollutants have the potential to impact fish and other aquatic life in portions of these coastal waters. Efforts have been made and are continuing to be made to minimize the potential threats to fish and other aquatic life. The area to open was originally closed on May 22, 2010 due to a precautionary fisheries closure. Since that time, no oil has been reported in these waters and the area will re-open to all recreational and commercial fishing effective immediately May 27, 2010. The area to close is due to confirmed reports of oil and this area will close to all recreational and commercial fishing effective immediately May 27, 2010.

Robert J. Barham
Secretary

1006#032

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Recreational and Commercial Fisheries Opening—Inside Waters near Cocodrie and Portions of Territorial Seas

In accordance with the emergency provisions of R.S. 49:953.B and R.S. 49:967.D of the Administrative Procedure Act, which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, and R.S. 56:6.1 which provides the Secretary of the Department of Wildlife and Fisheries with authority to declare a closed season on any and all species of fish found or existing in the waters of the state, and a declaration of emergency adopted by the Wildlife and Fisheries Commission on June 3, 2010 which grants authority to the Secretary to broaden or to reopen the area closed to fishing if biological and technical data indicate the need to do so, the Secretary hereby opens to all recreational and commercial fishing that portion of state inside waters south of 29 degrees 21 minutes 00 seconds north latitude west of the western shore of Bayou Petit Caillou and east of the eastern shore of the Houma Navigation Canal, and that portion of state inside waters north of the inside/outside shrimp line from 90 degrees 49 minutes 00 seconds west longitude westward to the eastern shore of Bayou Grand Caillou, and that portion of state outside waters seaward of the inside/outside shrimp line as described in R.S. 56:495 from 90 degrees 49 minutes 00 seconds west longitude westward to 91 degrees 20 minutes 20 seconds west longitude near the southwestern shore of Pointe au Fer Island, and that portion of state outside waters seaward of the inside/outside shrimp line as described in R.S. 56:495 from 92 degrees 18 minutes 00 seconds west longitude near Freshwater Bayou westward to 92 degrees 25

minutes 00 seconds west longitude effective immediately June 7, 2010.

The Deepwater Horizon drilling rig accident has resulted in a significant release of hydrocarbon pollutants into the waters offshore of southeast Louisiana and these pollutants have the potential to impact fish and other aquatic life in portions of these coastal waters. Efforts have been made and are continuing to be made to minimize the potential threats to fish and other aquatic life. The secretary has determined that these portions of state inside and outside waters shall open to recreational and commercial fishing immediately June 7, 2010. These areas were previously closed as a precautionary effort.

Robert J. Barham
Secretary

1006#090

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Recreational and Commercial Fisheries Openings—Portion of State Outside and Inside Waters, Zones 1 and 2 Reopened to Fishing Except Shrimp in Zone 1

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967(D) of the Administrative Procedure Act, which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, and R.S. 56:6.1 which provides the Secretary of the Department of Wildlife and Fisheries with authority to declare a closed season on any and all species of fish found or existing in the waters of the state, and a resolution adopted by the Wildlife and Fisheries Commission on May 6, 2010 which granted the Secretary the authority to open any area, or re-open any previously closed area, of inside waters to shrimping based upon biological and technical data, the secretary hereby opens to all recreational and commercial fishing: that portion of state inside waters within Shrimp Management Zone 1 from the Mississippi/Louisiana state line to the eastern shore of South Pass of the Mississippi River with the exception of the open waters of Breton and Chandeleur Sounds as described by the double rig line defined in R.S. 56:495.1 and the area south and east of Baptiste Collette; however the shrimp season shall remain closed within these waters until further notice and opens in that portion of state inside waters from Sandy Point Bay at 89 degrees 30 minutes 12 seconds west longitude eastward to the eastern shore of South Pass of the Mississippi River with the exception of those inside waters east and south of Red Pass channel which runs from Venice to the Gulf of Mexico and that portion of state outside waters seaward of the inside/outside shrimp line as described in R.S. 56:495 from Sandy Point Bay at 89 degrees 30 minutes 12 seconds west longitude eastward to the mouth of Red Pass at 89 degrees 28 minutes 13.4 seconds west longitude and that portion of state outside waters seaward of the inside/outside shrimp line from Pointe au Fer island at 91 degrees 21 minutes 09 seconds west longitude eastward to 91 degrees

00 minutes and 00 seconds west longitude effective sunrise, Friday, May 15, 2010.

The Deep Horizon drilling rig accident has resulted in a significant release of hydrocarbon pollutants into the waters offshore of southeast Louisiana and these pollutants have the potential to impact fish and other aquatic life in portions of these coastal waters. Efforts have been made and are continuing to be made to minimize the potential threats to fish and other aquatic life. As a precaution, these areas had been closed to all recreational and commercial fishing by the secretary on April 30, 2010 and May 10, 2010. Based upon the most recent information available, the secretary has determined that this area can currently be re-opened.

Robert J. Barham
Secretary

1005#024

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Recreational and Commercial Fisheries Reopening—Inside Waters, Western Terrebonne Parish

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967(D) of the Administrative Procedure Act, which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, and R.S. 56:6.1 which provides the Secretary of the Department of Wildlife and Fisheries with authority to declare a closed season on any and all species of fish found or existing in the waters of the state, and a resolution adopted by the Wildlife and Fisheries Commission on May 6, 2010 which granted the secretary the authority to open any area, or re-open any previously closed area, of inside waters to shrimping based upon biological and technical data, the secretary hereby opens to all recreational and commercial fishing that portion of state inside waters extending from the eastern shore of Bayou Grand Caillou westward to 91 degrees 20 minutes 20 seconds west longitude near the southwestern shoreline of Pointe au Fer Island, effective 6:00 p.m., May 26, 2010.

The Deepwater Horizon drilling rig accident has resulted in a significant release of hydrocarbon pollutants into the waters offshore of southeast Louisiana and these pollutants have the potential to impact fish and other aquatic life in portions of these coastal waters. Efforts have been made and are continuing to be made to minimize the potential threats to fish and other aquatic life. Portions of these waters were closed to recreational and commercial fishing as a precaution on May 22, 2010. Since that time, no oil has been reported within the area and the secretary has determined that this area shall re-open to all recreational and commercial fishing effective 6:00 p.m., May 26, 2010.

Robert J. Barham
Secretary

1006#028

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Recreational and Commercial Fisheries Reopening Outside Waters South of Marsh Island

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967(D) of the Administrative Procedure Act, which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, and R.S. 56:6.1 which provides the Secretary of the Department of Wildlife and Fisheries with authority to declare a closed season on any and all species of fish found or existing in the waters of the state, and a resolution adopted by the Wildlife and Fisheries Commission on May 6, 2010 which granted the secretary the authority to open any area, or re-open any previously closed area, of inside waters to shrimping based upon biological and technical data, the secretary hereby opens to all recreational and commercial fishing that portion of state outside waters extending seaward of the inside/outside shrimp line from South Point of Marsh Island at 91 degrees 45 minutes 48 seconds west longitude westward to the eastern shore of Freshwater Bayou at 92 degrees 18 minutes 27 seconds west longitude effective immediately May 24, 2010.

The Deep Horizon drilling rig accident has resulted in a significant release of hydrocarbon pollutants into the waters offshore of southeast Louisiana and these pollutants have the potential to impact fish and other aquatic life in portions of these coastal waters. Efforts have been made and are continuing to be made to minimize the potential threats to fish and other aquatic life. This area was originally closed on May 18, 2010 due to a confirmed report of oil on a small section of the southern shoreline of Marsh Island. Since that time, no additional oil has been reported from the area and this area shall re-open to all recreational and commercial fishing effective immediately May 24, 2010.

Robert J. Barham
Secretary

1006#014

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Recreational and Commercial Fisheries Re-Opening Portion of Inside and Outside Waters

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967(D) of the Administrative Procedure Act, which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, and R.S. 56:6.1 which provides the Secretary of the Department of Wildlife and Fisheries with authority to declare a closed season on any and all species of fish found or existing in the waters of the state, and a resolution adopted by the Wildlife and Fisheries Commission on May 6, 2010 which granted the secretary the authority to open any area, or re-open any previously closed area, of inside

waters to shrimping based upon biological and technical data, the secretary hereby opens to all recreational and commercial fishing: that portion of state outside waters seaward of the inside/outside shrimp line as described in R.S. 56:495 from the eastern shore of the Empire Canal at 89 degrees 36 minutes 19.9 seconds west longitude eastward to the western shoreline of Sandy Point Bay at 89 degrees 30 minutes 12 seconds west longitude and that portion of state inside waters from the eastern shore of the Empire Canal eastward to 89 degrees 30 minutes 12 seconds west longitude and that portion of state inside waters south of 29 degrees 13 minutes 12 seconds north latitude and north of 29 degrees 10 minutes 16 seconds north latitude from the western shore of Bayou Lafourche westward to the eastern shore of Bayou Grand Caillou at 90 degrees 56 minutes 14 seconds west longitude effective sunrise, Friday, May 14, 2010.

The Deep Horizon drilling rig accident has resulted in a significant release of hydrocarbon pollutants into the waters offshore of southeast Louisiana and these pollutants have the potential to impact fish and other aquatic life in portions of these coastal waters. Efforts have been made and are continuing to be made to minimize the potential threats to fish and other aquatic life. As a precaution, these areas had been closed to all recreational and commercial fishing by the secretary on May 6, 2010 and May 10, 2010. Based upon the most recent information available, the secretary has determined that this area can currently be re-opened.

Robert J. Barham
Secretary

1005#023

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Recreational and Commercial Fisheries Re-Opening Portion of State Inside and Outside Waters, Terrebonne Parish

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967(D) of the Administrative Procedure Act, which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, and R.S. 56:6.1 which provides the Secretary of the Department of Wildlife and Fisheries with authority to declare a closed season on any and all species of fish found or existing in the waters of the state, and a resolution adopted by the Wildlife and Fisheries Commission on May 6, 2010 which granted the secretary the authority to open any area, or re-open any previously closed area, of inside waters to shrimping based upon biological and technical data, the Secretary hereby opens to all recreational and commercial fishing: that portion of state inside waters south of 29 degrees 19 minutes 59 seconds north latitude and north of 29 degrees 10 minutes 16 seconds north latitude extending from Pointe au Fer Island at 91 degrees 21 minutes 09 seconds west longitude eastward to 90 degrees 39 minutes 00 seconds west longitude in the vicinity of Cocodrie and state outside waters seaward of the inside/outside shrimp line as described in R.S. 56:495

extending from Pointe au Fer Island at 91 degrees 21 minutes 09 seconds west longitude eastward to 91 degrees 00 minutes 00 seconds west longitude effective immediately May 16, 2010.

The Deep Horizon drilling rig accident has resulted in a significant release of hydrocarbon pollutants into the waters offshore of southeast Louisiana and these pollutants have the potential to impact fish and other aquatic life in portions of these coastal waters. Efforts have been made and are continuing to be made to minimize the potential threats to fish and other aquatic life. Based upon test results confirming that the oily substance found on the May 14, 2010 catch of a fishing vessel was not related to the Deepwater Horizon spill, the secretary has determined that this area shall re-open to all recreational and commercial fishing immediately on May 16, 2010.

Robert J. Barham
Secretary

1005#025

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Recreational and Commercial Fisheries Reopening—Portion of State Outside Waters

In accordance with the emergency provisions of R.S. 49:953.B and R.S. 49:967.D of the Administrative Procedure Act, which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, and R.S. 56:6.1 which provides the Secretary of the Department of Wildlife and Fisheries with authority to declare a closed season on any and all species of fish found or existing in the waters of the state, and a resolution adopted by the Wildlife and Fisheries Commission on May 6, 2010 which granted the secretary the authority to open any area, or re-open any previously closed area, of inside waters to shrimping based upon biological and technical data, the secretary hereby opens that portion of state outside waters seaward of the inside/outside shrimp line as described in R.S.56:495 from the eastern shore of the Empire Canal at 89 degrees 36 minutes 19.9 seconds west longitude westward to the western shore of Belle Pass at 90 degrees 13 minutes 36 seconds west longitude to all recreational and commercial fishing effective immediately May 12, 2010.

The Deep Horizon drilling rig accident has resulted in a significant release of hydrocarbon pollutants into the waters offshore of southeast Louisiana and these pollutants have the potential to impact fish and other aquatic life in portions of these coastal waters. Efforts have been made and are continuing to be made to minimize the potential threats to fish and other aquatic life. As a precaution, this area had been closed to all recreational and commercial fishing by the secretary on May 9, 2010. Based upon the most recent information available, the secretary has determined that this area can currently be re-opened.

Robert J. Barham
Secretary

1006#001

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Recreational and Commercial Fisheries Reopening St. Bernard Parish

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967(D) of the Administrative Procedure Act, which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, and R.S. 56:6.1 which provides the Secretary of the Department of Wildlife and Fisheries with authority to declare a closed season on any and all species of fish found or existing in the waters of the state, and a declaration of emergency adopted by the Wildlife and Fisheries Commission on May 6, 2010 which grants authority to the secretary to broaden or to reopen the area closed to fishing if biological and technical data indicate the need to do so, the secretary hereby opens to all recreational and commercial fishing that portion of state inside waters on the eastern shore of the Biloxi Marsh north of 29 degrees 57 minutes 29.6 seconds north and south of 30 degrees 09 minutes 20.5 seconds north latitude from 89 degrees 15 minutes 30 seconds west longitude westward to 89 degrees 17 minutes 10 seconds west longitude effective sunrise June 3, 2010.

The Deepwater Horizon drilling rig accident has resulted in a significant release of hydrocarbon pollutants into the waters offshore of southeast Louisiana and these pollutants have the potential to impact fish and other aquatic life in portions of these coastal waters. Efforts have been made and are continuing to be made to minimize the potential threats to fish and other aquatic life. The secretary has determined that portion of state inside waters on the eastern shore of the Biloxi Marsh north of 29 degrees 57 minutes 29.6 seconds north and south of 30 degrees 09 minutes 20.5 seconds north latitude from 89 degrees 15 minutes 30 seconds west longitude westward to 89 degrees 17 minutes 10 seconds west longitude shall open to all recreational and commercial fishing effective sunrise June 3, 2010. This area was previously closed as a precautionary effort. To date no oil has been confirmed in these waters.

Robert J. Barham
Secretary

1006#055

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Recreational Red Snapper Season Closure

The recreational season for the harvest of red snapper in Louisiana state waters has previously been set to open at 12:01 a.m., June 1, 2010. The season is hereby established to close effective 12:01 a.m. on July 24, 2010. The secretary has been informed that the recreational season for red snapper in the federal waters of the Gulf of Mexico off the coast of Louisiana will close at 12:01 a.m. on July 24, 2010, and will remain closed until 12:01 a.m., June 1, 2011, when

the season is scheduled to re-open in both state and federal waters.

In accordance with the emergency provisions of R.S. 49:953(B), 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 modify opening and closing dates of the 2010 recreational red snapper seasons in Louisiana state waters when he is informed by the Regional Director of NOAA Fisheries that the season dates have been modified in adjacent Federal waters, and that NOAA Fisheries requests that the season be modified in Louisiana state waters, the secretary hereby declares:

The recreational fishery for red snapper in Louisiana waters will close at 12:01 a.m. on July 24, 2010, and remain closed until 12:01 a.m., June 1, 2011. Effective with this closure, no person shall recreationally harvest or possess red snapper whether within or without Louisiana waters.

The secretary has been notified by NOAA Fisheries that the recreational red snapper season in federal waters of the Gulf of Mexico will close at 12:01 a.m. on July 24, 2010, and the season will remain closed until 12:01 a.m., June 1, 2011. Having compatible season regulations 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

1006#011

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Shrimp Season Changes State Outside Waters Zones 2 and 3

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, and R.S. 56:6.1 which provides the Secretary of the Department of Wildlife and Fisheries with authority to declare a closed season on any and all species of fish found or existing in the waters of the state, and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall have the authority to open or close outside waters by zone each year as it deems appropriate upon inspection of and based upon technical and biological data which indicates that marketable shrimp, in sufficient quantities, are available for harvest; and a resolution adopted by the Wildlife and Fisheries Commission on May 6, 2010 which authorizes the Secretary of the Department of Wildlife and Fisheries to delay the opening of, or close, the 2010 spring inshore shrimp season if biological and technical data indicate the presence of significant numbers of small, unmarketable size brown

shrimp; and to close any portion of Louisiana's inside waters to protect small white shrimp if biological and technical data indicate the need to do so, or enforcement problems develop; and further granted the Secretary the authority to open any area, or re-open any previously closed area, of inside waters based upon biological and technical data, the secretary hereby declares:

The shrimp season in that portion of state outside waters seaward of the inside/outside shrimp line as described in LA R.S. 56:495 from the eastern shore of Quatre Bayou Pass at 89 degrees 50 minutes 32.5 seconds west longitude westward to the western shore of Freshwater Bayou Canal at longitude 92 degrees 18 minutes 33 seconds west longitude shall close effective sunset May 8, 2010. State outside waters west of Freshwater Bayou Canal shall remain open to shrimping until further notice.

The spring inshore shrimp season is delayed until further notice in Shrimp Management Zone 2 extending from the eastern shore of South Pass of the Mississippi River to the western shore of Vermilion Bay and Southwest Pass at Marsh Island.

The spring inshore shrimp season in Shrimp Management Zone 3, extending from the western shore of Vermilion Bay and Southwest Pass at Marsh Island to the Louisiana/Texas state line shall open at sunset on May 8, 2010.

Robert J. Barham
Secretary

1006#002

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Shrimp Seasons and Fishing Closures

In accordance with the emergency provisions of R.S. 49:953.B and R.S. 49:967.D of the Administrative Procedure Act, which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, and R.S. 56:6.1 which provides the Secretary of the Department of Wildlife and Fisheries with authority to declare a closed season on any and all species of fish found or existing in the waters of the state, and a resolution adopted by the Wildlife and Fisheries Commission on May 6, 2010 which granted the secretary the authority to open any area, or re-open any previously closed area, of inside waters to shrimping based upon biological and technical data, the secretary hereby opens the 2010 spring inshore shrimp season and opens a portion of the state's outside waters in the following portions of Shrimp Management Zone 2, effective at 12:00 noon May 10, 2010:

All state inside waters north of the inside/outside shrimp line as described in R.S. 56:495 from the eastern shore of the Empire Canal at 89 degrees 36 minutes 19.9 seconds west longitude westward to the western shore of Bayou Lafourche; that portion of state inside waters north of 29 degrees 13 minutes 12 seconds north latitude from the western shore of Bayou Lafourche westward to the western shore of Oyster Bayou at 91 degrees 07 minutes 53 seconds west longitude; and all state inside waters north of the inside/outside shrimp line extending from the western shore

of Oyster Bayou at 91 degrees 07 minutes 53 seconds west longitude to the western shore of Vermilion Bay and Southwest Pass at Marsh Island and all state outside waters seaward from the inside/outside shrimp line from the eastern portion of Atchafalaya Bay at Point au Fer Island at 91 degrees 20 minutes 44 seconds west longitude westward to the western shore of Freshwater Bayou Canal at longitude 92 degrees 18 minutes 33 seconds west longitude.

Department of Wildlife and Fisheries (LDWF) Secretary Robert Barham also declares that the portion of state inside waters north of the inside/outside shrimp line from the eastern shore of the Empire Canal at 89 degrees 36 minutes 19.9 seconds west longitude eastward to the Mississippi River and all inside waters north of the inside/outside shrimp line from the Mississippi River eastward to the Louisiana/Mississippi state line except for Lake Pontchartrain, Lake Borgne, Lake Maurepas, Chef and Rigoletes Passes and all state inside waters south of 29 degrees 13 minutes 12 seconds north latitude from the western shore of Bayou Lafourche westward to the western shore of Oyster Bayou at 91 degrees 07 minutes 53 seconds west longitude Fer Island at 91 degrees 20 minutes 44 seconds west longitude will close to all commercial and recreational fishing effective 12:00 noon, May 10, 2010.

The Deep Horizon drilling rig accident has resulted in a significant release of hydrocarbon pollutants into the waters offshore of southeast Louisiana and these pollutants have the potential to impact fish and other aquatic life in portions of these coastal waters. Efforts have been made and are continuing to be made to minimize the potential threats to fish and other aquatic life.

This action is taken in close coordination with the Department of Health and Hospitals, and the Department of Environmental Quality to avoid the possibility that commercially harvested and recreationally caught fish and other aquatic life used for consumption are tainted with hydrocarbons. Governor Jindal in a Declaration of Emergency issued on April 29, 2010 stated in part that "a declaration that a state of emergency exists is appropriate due to the predicted impact of oil along the Louisiana coast leaking from the Deepwater Horizon which threatens the state's natural resources, including land, water, fish, wildlife, fowl and other birds, and likewise threatens the livelihoods of Louisiana's citizens living along the coast which increases the economic impact of this incident".

Effective with the closure, no person shall take or possess or attempt to take any species of fish from waters within the closed area or the beaches that border the closed area. The possession, sale, barter, trade, or exchange of any fish or other aquatic life from the closed area during the closure is prohibited. This area will remain closed to fishing until reopened by the Secretary of the Department of Wildlife and Fisheries.

Robert J. Barham
Secretary

1006#004

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Spring Shrimp Season Opening—Portion of Zone 1

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, and R.S. 56:6.1 which provides the Secretary of the Department of Wildlife and Fisheries with authority to declare a closed season on any and all species of fish found or existing in the waters of the state, and a resolution adopted by the Wildlife and Fisheries Commission on May 6, 2010 which granted the secretary the authority to open any area, or re-open any previously closed area, of inside waters to shrimping based upon biological and technical data, the secretary hereby opens the 2010 spring inshore shrimp season in the following portions of Shrimp Management Zone 1: Pass Manchac east of the railway bridge, Lake Pontchartrain, Rigolets Pass, Chef Menteur Pass, Lake Borgne and that portion of Mississippi Sound north of the Biloxi Marsh and west of 89 degrees 11 minutes 15.5 seconds west longitude at Isle au Pitre, to open at 6:00 a.m., May 31, 2010.

Robert J. Barham
Secretary

1006#029

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Spring Shrimp Season Opening Remaining Portion of Zone 1

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, and R.S. 56:6.1 which provides the secretary of the Department of Wildlife and Fisheries with authority to declare a closed season on any and all species of fish found or existing in the waters of the state, and a declaration of emergency adopted by the Wildlife and Fisheries Commission on May 6, 2010 which grants the Secretary the authority to open any area, or re-open any previously closed area, of inside waters to shrimping based upon biological and technical data and a declaration of emergency adopted by the Wildlife and Fisheries Commission on May 6, 2010 which grants the secretary the authority to broaden or to reopen the area closed to fishing if biological and technical data indicate the need to do so, the secretary hereby opens the 2010 spring

inshore shrimp season in the remaining portions of Shrimp Management Zone 1 at 6 a.m., May 31, 2010, excluding all areas closed to recreational and commercial fishing.

Robert J. Barham
Secretary

1006#033

Rules

RULE

Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences Seed Commission

Seed Certification Standards and Fees
(LAC 7:XIII.101, 113, 191, and 207)

In accordance with the Administrative Procedures Act, R.S. 49:950 et seq., and with the enabling statute, R.S. 3:1433, the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, is amending these regulations to (1) increase the license fee for seed dealers, beginning July 1, 2010, from \$75 a year to \$100 a year, which is the maximum allowed by law; (2) update the sweet potato certification standards to conform with current industry standards; (3) consolidate the sweet potato certifications standards for general certification and virus-tested certification into one section to avoid duplication; (4) reduces the number of sugarcane certification inspections from 4 to 3; (5) provide for inspections and sampling for Sugarcane Yellow Leaf Virus; and (6) includes the Mexican Rice Borer as a listed sugarcane pest.

Title 7

AGRICULTURE AND ANIMALS

Part XIII. Seeds

Chapter 1. Louisiana Seed Law

Subchapter A. Enforcement of the Louisiana Seed Law

§101. Definitions

* * *

LAES—Louisiana Agricultural Experiment Station

LDAF—Louisiana Department of Agriculture and Forestry

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1431 and R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 4:104 (April 1978), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:825 (December 1986), LR 36:1220 (June 2010).

§113. License Fee; Laboratory Fees

A. The annual fee for a Seed Dealer's License shall be \$100.

B. - B.8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433 and 3:1437.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 4:105 (April 1978), amended LR 7:164 (April 1981), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:825 (December 1986), LR 14:603 (September 1988), LR 29:2632 (December 2003), LR 36:1220 (June 2010).

Subchapter C. Certification of Specific Crops/Varieties §191. Sweet Potato Certification Standards (Virus-Tested and Non Virus-Tested)

A. The standards for certification of virus-tested and non virus-tested sweet potatoes are the general seed certification standards for roots, plants and cuttings as adopted in Subchapter B of this Part and the following specific standards.

B. The following definitions apply to this Section only.

Certified G0 Plant—a plant grown in a greenhouse and which has been produced by a certified greenhouse grower from a foundation plant.

Daughter Plant—a plant produced by cuttings from a mother plant.

Foundation Plant—a plant that has been produced by the LAES from a virus-tested nuclear stock plant recognized by LDAF if the plant is grown in a greenhouse under strict isolation in a screen cage in which only plants that are virus-tested are grown.

Mericlone—plants clonally propagated from a single meristem tip. For example, mericlone B-63 includes all plants descended from the sixty-third meristem-tip culture derived from the variety Beauregard.

Micropropagated—plant multiplication in vitro. The process includes many steps; stock plant care, explant selection and sterilization, media manipulation to obtain proliferation, rooting, acclimation, and growing on. Sweet potato is most commonly micropropagated in tissue culture by aseptic transfer of stem segments containing 1-3 nodes to sterile tissue culture medium.

Mini-Roots—storage roots produced on plants grown in certified G0 greenhouses that may be used to establish certified G2 field plantings.

Mother Plant—a plant obtained from LAES.

Nuclear Stock Plant—plant that is derived from Source Seed and which has been micropropagated, virus-tested, is apparently free of other pests, and has been evaluated in field test for trueness to variety.

Source Seed—material entering the LAES seed program obtained by methods acceptable to DAF).

Symptomatic Plant—a plant that shows an indication or symptom of a disease, mutation, pest, virus, or other problem that may affect sweet potato production.

Vine Cutting—a section of a vine, preferably 10-12 inches in length, capable of being transplanted.

Virus-Tested—a plant that has been previously tested for the presence of viruses by grafting a sweet potato shoot to the Brazilian morning glory (*Ipomoea setosa*) on at least three separate occasions and by at least one negative assay by the DNA and PCR assay for Sweet potato geminiviruses using the Li et al. method (Li, R., Salih, S., and Hurtt, S. 2004. Detection of geminiviruses in sweet potato by polymerase chain reaction. *Plant Dis.* 88:1347-1351)

C. Plant Generations

1. Mother plants may be cut repeatedly for no more than five months and the cuttings propagated to produce daughter plants.

2. Daughter plants may be cut repeatedly for no more than five months and the cuttings propagated to produce additional daughter plants. All daughter plants shall be designated as certified G0 and may be used to establish certified G1 field plantings.

3. All plants, vine cuttings and roots produced from mini-roots shall be designated as certified G2.

4. Certified G1 (Field Generation 1) plantings will be established from certified G0 plants. Vine cuttings may be taken repeatedly from this original G1 planting, to establish a second G1 planting. Vine cuttings may be taken repeatedly from the second G1 planting to establish a third G1 planting. No additional plantings may be established from this third G1 planting. All vine cuttings and roots produced during this first year of field production shall be designated as certified G1.

5. Certified G2 (Field Generation 2) plantings will be established from certified G1 stocks. Vine cuttings may be taken repeatedly from this original G2 planting, to establish a second G2 planting. Vine cuttings may be taken repeatedly from the second G2 planting, to establish a third G2 planting. No additional plantings may be established from this third G2 planting. All vine cuttings and roots produced during this second year of field production shall be designated as certified G2.

6. Certified G3 (Field Generation 3) plantings will be established from Certified G2 stocks. Vine cuttings may be taken repeatedly from this original G3 planting, to establish a second G3 planting. Vine cuttings may be taken repeatedly from the second G3 planting to establish a third G3 planting. No additional plantings may be established from this third G3 planting. All vine cuttings and roots produced during this third year of field production shall be designated as Certified G3.

D. Greenhouse Requirements for Certification of Virus-Tested Sweet Potatoes

1. LDAF must approve greenhouses before mother plants are released to the grower.

2. Mother plants grown in a greenhouse shall be kept isolated in screen cages.

3. Greenhouses used for production of mother plants shall meet the following requirements.

- a. The entry points shall use a set of double doors.
- b. A system for sanitizing hands and feet prior to entry into the growing areas of the greenhouse.
- c. Yellow sticky traps shall be used to monitor aphids and other insects.
- d. Screens of such mesh as to prevent entry of aphids shall cover all openings (vents, fans, windows, etc.).
- e. A legible signs shall be prominently placed in front of every entrance to each greenhouse so as to be clearly visible by workers and other persons warning them that they shall not enter, if they are coming from the field or from non-certified greenhouses.
- f. An integrated pest management program shall be in place to control aphids, whiteflies or other insects with sucking, mouthparts.

g. Cutting tools used in a greenhouse shall be decontaminated on a regular basis and shall always be decontaminated prior to being used on another group of stock plants or plant lots.

h. All growing medium, including benches, containers, etc. used in the greenhouse shall be cleaned by a method approved by LDAF.

i. All plants shall be removed from the greenhouse and the greenhouse kept free of plants for a minimum of 6 weeks between crop years.

j. No plants shall be allowed to grow within 10 feet of the greenhouse, except for turf grass used for stabilization of the soil.

k. No plants other than mother plants shall be allowed in the greenhouse.

l. Greenhouses shall be a minimum of 200 feet away from sweet potato storage sheds, cull piles or other potential sources of sweet potato viruses unless LDAF approves a closer distance.

m. Different varieties or mericlones must be clearly identified and separated.

4. Producer shall inspect vines twice weekly. If symptomatic plants are found, they shall be removed and destroyed and parent plants shall be inspected for disease symptoms. The grower shall keep a log showing that inspections were made and if plants were removed.

5. Producers shall inspect each greenhouse and its perimeter at least once weekly to ensure that the greenhouse isolation requirements are being met. LDAF shall be immediately notified if an inspection indicates that one or more of the isolation requirements have been breached.

6. LDAF shall inspect certified greenhouses at least once prior to cuttings going to the field and as needed if problems are observed. If symptomatic plants are found during these inspections the grower must rogue and dispose of these plants properly.

7. Once shipping of plants begins, final certification will not be allowed if symptomatic plants are found.

8. A Unit of Certification shall be the entire greenhouse and such unit cannot be divided for the purpose for certification.

9. Specific Greenhouse Requirements for the Certification of Virus-tested Sweet Potatoes

Maximum Tolerance Allowed		
Certified	Foundation Plants	
Presence or symptoms of:	(LAES)	
Bacterial Stem Rot (<i>Erwinia chrysanthemi</i>)*	0	0
Black Rot (<i>Ceratocystis fimbriata</i>)*	0	0
Scurf (<i>Monilochaetes infuscans</i>)*	0	0
Root-Knot Nematode (<i>Meloidogyne</i> spp.)	0	0
Feathery Mottle (sweet potato feathery mottle virus [SPFMV])*	0	0
Russet Crack (a strain of SPFMV)*	0	0
Internal Cork (a virus)*	0	0
Wilt (<i>Fusarium oxysporum</i> f. sp. <i>batatas</i>)*	0	0
Sweetpotato Weevil (<i>Cylas formicarius</i>)	0	0
Exotic or hazardous pests	0	0
Variety mixture	0	0
Off-types (mutations)	0	0

*Plants or mini-roots exhibiting symptoms

E. Field Requirements for Certification of Virus-Tested and Non-Virus-tested Sweet Potatoes

1. Seed Bed Inspections and Standards

a. A seed bed field shall contain only certified sweet potato plants.

b. Prior to planting, seed sweet potatoes shall be treated with an approved pesticide approved by LDAF and in accordance with recommendations from the LAES.

c. Seed beds shall be located at least 100 feet from where sweet potatoes were grown or bedded in the previous two years, and in such manner that there will be no wash from the previous two years' seed beds or fields; or treated in a manner satisfactory to LDAF.

d. At least one seed bed inspection shall be made by LDAF to determine that quality plants are being produced and that the plants are apparently free of injurious insects and harmful diseases. Additional seed bed inspection may be made by LDAF when deemed appropriate by LDAF.

2. Field Production for Certification of Virus-Tested and Non-Virus-Tested Sweet Potatoes

a. Sweet potato seed shall not be eligible for certification if produced on land which:

- i. has produced sweet potatoes in the last 2 years;
- ii. has received manure or sweet potato residue in the last 2 years;
- iii. is subject to drainage from fields in which sweet potatoes have been grown in the last 2 years.

b. Isolation

i. Non Virus-tested sweet potato seed production fields shall have a minimum isolation distance of 20 feet.

ii. Virus-tested sweet potato seed production fields shall be isolated by a minimum of 20 feet from sweet potato fields that contain certified but non virus-tested sweet potatoes, and by a minimum of 750 feet from non-certified and non virus-tested sweet potatoes.

d. Specific Field Tolerance Requirements (Vine Inspection)

iii. If the seed of two virus-tested varieties are grown in the same field, they must be clearly identified and separated by at least 20 feet.

iv. Nuclear stock plants shall be maintained under strict isolation in laboratory facilities approved by LDAF and maintained by LAES and/or any contracted micropropagation provider. The facilities shall be in a clean, dust-free building that is at least 250 feet from any sweet potato field or greenhouse.

c. An LDAF approved program shall be in place to control perennial morning glories (e.g. Ipomoea andurata, Bigroot Morning Glory, Ipomoea cordatotriloba sharp-pod or cotton Morning Glory), and volunteer sweet potato plants.

d. Different varieties or mericlones will be clearly identified and separated from each other by a minimum of 20 feet.

e. Each unit of sweet potatoes that has passed field inspection shall be marked or labeled at harvest to correspond with the field unit.

3. Inspections for certification of Virus-Tested and Non-Virus-Tested Sweet Potatoes

a. The grower shall inspect fields weekly during the growing season and rogue any symptomatic plants that are found. LDAF shall be informed if any problems concerning certification requirements are found.

b. LDAF shall make a minimum of two inspections of each sweet potato seed production field during each growing season.

i. The first field inspection shall be made before vines have covered the ground so that symptomatic plants may be easily identified.

ii. The second inspection shall be made prior to harvest, but as close to harvest as is practical.

c. The unit of certification for production is a field and cannot be divided for the purpose for certification.

Maximum Tolerance Allowed						
G1 Plants			G2 Plants		G3 Plants	
Factor [†]	Virus-Tested	Certified	Virus-Tested	Certified	Virus-Tested	Certified
Bacterial Stem Rot	None	None	None	5 plants/acre	None	5 plants/acre
Fusarium Wilt	None	None	None	5 plants/acre	None	5 plants/acre
Sweetpotato Weevil	None	None	None	None	None	None
Exotic/Hazardous Pests	None	None	None	None	None	None
Off-Types (Mutations)	0.05%	0.05%	0.05%	0.05%	0.10%	10 plants/acre
Variety Mixture	None	None	None	10 plants/acre	None	10 plants/acre

[†] If other severe factors are observed at time of inspection, rejection of all or a portion of a field may occur.

F. Storage Requirement for Certification of Virus-Tested and Non-Virus-Tested Sweet Potatoes

1. The procedures for cleaning and sanitizing the structure where sweet potatoes grown for certification are to be stored shall be in accordance with recommendations from the LAES and approved by LDAF and before any such sweet potatoes are stored in the structure.

2. Sweet potatoes grown for certification shall be stored in new containers (crates, pallet boxes, etc.) or used containers that have been cleaned according to sanitation guidelines approved by LDAF.

3. Certified seed roots shall be stored in a separate room from any non-certified roots.

4. Sweet potatoes from different field units shall be separated in storage by an aisle at least two feet wide.

5. LDAF shall inspect a minimum of 20 percent of each lot of sweet potatoes entered for certification during the storage inspection.

G. General Standards for Plants and Seed Roots of Virus-tested and Non-Virus-tested Sweet Potatoes

1. Plants shall be:

a. apparently free of injurious insects, harmful diseases or other significant pests;

b. true to variety characteristics;

- c. of good color, fresh, firm, and strong; and
- d. of satisfactory size for commercial planting (cuttings approximately 10"-12" long).

2. All such cuttings will be made at least one inch above the surface of the soil or growing medium. Slips that have been pulled are not to be used to avoid the possibility of carrying pathogens or insects that can be present on stems below the soil surface.

3. Cuttings shall be loosely packed, shipped in an upright position in boxes, and shall not be shipped with non-certified sweet potato plants.

4. Seed Roots

a. LDAF shall make one seed root storage inspection after harvest and before shipment.

b. The minimum size shall be one inch in diameter, four inches in length and 30 ounces maximum weight.

c. Specific Seed Root Tolerance Standards of Virus-Tested and Non-Virus-Tested Sweet Potatoes

Maximum Tolerance Allowed for Virus-tested and Non Virus-tested Sweet Potatoes		
Presence or symptoms of:	G1(Foundation)G2 (Certified) Seed Roots	G3(Certified) Seed Roots
Surface rots (Fusarium spp.) & Soft Rots (Rhizopus spp.)	5%	5%
Bacterial Root Rot (Erwinia spp.)	none	None
Black Rot (Ceratocystis fimbriata)	none	None
Scurf (Monilochaetes infuscans)	1.0%	2.0%
Streptomyces soil rot (Streptomyces ipomoeae)	2.5%	5.0%
Root-Knot Nematode (Meloidogyne spp.)	1.0%	2.0%
Russet Crack (a strain of SPFMV)	None	None
Wilt (Fusarium oxysporum f. sp. batatas)	None	None
Sweetpotato Weevil (Cylas formicarius)	None	None
Exotic or hazardous pests	None	None
Variety Mixture	None	None
Off-types (mutations)	0.20%	0.50%

H. Tagging and Certificate Reporting System

1. An official numbered certificate or tag provided by LDAF shall accompany each sale of certified sweet potato cuttings and seed roots.

a. When issuing official certificates the grower shall:

i. send a copy of each completed certificate to LDAF within 10 days after each sale; and

ii. maintain a copy of each issued certificate on file.

b. A complete record of certified sweet potato cuttings and seed roots sales shall be maintained and made available to LDAF. The record shall include the purchaser's name, the kind and variety/cultivar, the class, the date of shipment, and the number of plants or bushels shipped.

I. Quarantine of Areas Used for Certification

1. If a Sweetpotato weevil is found in any field, greenhouse, seed bed, storage or packing shed, or other structure or area affiliated with the production of certified sweet potatoes or sweet potato plants or within 300 yards of any such structure or area, then the entire area and all

structures affiliated with the certification process shall be immediately quarantined in accordance with the Sweetpotato weevil quarantine regulations found in Subchapter C of Part XV of Title 7 of the Louisiana Administrative Code (LAC 7:XV.133 et seq.).

2. If any plant pest or disease subject to regulation or quarantine under Part II or Part III of Chapter 12 of Title 3 of the Louisiana Revised Statutes of 1950, (R.S. 3:1651 et seq.) that may affect sweet potato production is found in any field, greenhouse, seed bed, storage or packing shed, or other structure or area affiliated with the production of certified sweet potatoes or sweet potato plants then the entire area and all structures affiliated with the certification process may be subject to quarantine in accordance with applicable law and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:579 (November 1982), amended LR 9:202 (April 1983), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:825 (December 1986), LR 22:1210 (December 1996), LR 36:1220 (June 2010).

§207. Sugarcane (Tissue Culture) Certification Standards

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

C. Field Inspections and Sampling

1. At least three field inspections by Louisiana Department of Agriculture and Forestry inspectors shall be made each year to determine if certified seedcane is being produced that apparently meets field standards.

2. The second inspection to be conducted in June by Louisiana Department of Agriculture and Forestry inspectors will include the collection of leaf samples for the detection of Sugarcane Yellow Leaf Virus.

3. ...

4. Tissue samples shall be submitted to the LSU Ag Center Sugarcane Disease Detection Lab for analysis.

5. The department shall have the right to re-inspect, re-sample and re-test fields that are out of tolerance for Sugarcane Yellow Leaf Virus prior to certification.

D. ...

E. Field Standards

Factor	Foundation	Registered	Certified
Isolation	10 ft.	10 ft.	10 ft.
Other Varieties (obvious)	None	1.00%	1.00%
Off-Type (definite)	None	1.00%	1.00%
Noxious Weeds:			
Johnsongrass	None	5 Plants/Acre	5 Plants/Acre
Itchgrass	None	1 Plant/Acre	1 Plant/Acre
Other Weeds: Browntop panicum (Panicum fasciculatum)	None	20 Plants/Acre	20 Plants/Acre
Harmful Diseases:			
*Sugarcane Yellow Leaf Virus	None	10.00%	10.00%
** Sugarcane Mosaic Virus	None	10.00%	10.00%
** Sugarcane Smut	None	0.50%	0.50%
Harmful Insects: Mexican Rice Borer	None	None	None
***Sugarcane Borer	None	5.00%	5.00%

Factor	Foundation	Registered	Certified
*Determined by lab analysis for the LSU Sugarcane Disease Detection Lab			
**Plants exhibiting symptoms			
***Determined by percentage of internodes bored			

F. - G.2.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:825 (December 1986), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 23:1284 (October 1997), amended by the Department of Agriculture and Forestry, Office of the Commissioner, Seed Commission, LR 30:1143 (June 2004), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 33:1609 (August 2007), LR 36:1223 (June 2010).

§222. Virus-Tested Sweet Potato Certification Standards

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Seed Commission, LR 25:1617 (September 1999), amended LR 26:1428 (July 2000), repealed LR 36:1224 (June 2010).

Mike Strain, DVM
Commissioner

1006#067

RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook
for School Administrators
(LAC 28:CXV.337, 709, 1103, 1109, 1301 and 2313)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 741—Louisiana Handbook for School Administrators*: §337. Written Policies and Procedures, §709. Transfer of Student Records, §1103. Compulsory Attendance, §1109. Assignment and Transfer of Students, §1301. Disciplinary Regulations, and §2313. Elementary Program of Studies. The revision to Section 1301 is required by Act 240 of the 2009 legislative session. It relates to awarding credit to students who are suspended or expelled. The change to Section 709 requires principals to provide records for transfer students. The change to Section 2313 required by Act 286 of the 2009 legislative session extends the requirement for 30 minutes of vigorous physical activity each day to students in the seventh and eighth grades. The changes to Sections 337 and 1109 relate to the placement of students in foster care and are required by Act 297 of the 2009 legislative session. The student shall be allowed to remain in the public school the child was previously attending. If the foster care placement is outside the boundaries of the public school, the Department of Social Services (DSS) is responsible for providing transportation from the child's residence to a designated location where the school district may then transport the

child to the school. DSS anticipates a small number of children may need to be transported, but the costs will be dependent upon the number of eligible students, the cost of the transportation, and the distance the students must be transported. The costs may be split between federal Title IV-E funding and state general fund dollars. If the children are eligible for the Title IV-E funding, there will be a 50 percent general fund match rate. The revision to Section 1103 is required by legislative action and allows excused absences up to five days per school year for visitation with a parent in the military who has been called to duty for, or is on leave from, overseas deployment to a combat zone.

Title 28

EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 3. Operation and Administration
§337. Written Policies and Procedures

A. - C.18. ...

19. the school assignment of students in foster care (refer to §1109).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S. 17:81; R.S.17:240.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1261 (June 2005), amended LR 33:429 (March 2007), LR 35:1101 (June 2009), LR 36:1224 (June 2010).

Chapter 7. Records and Reports

§709. Transfer of Student Records

A. The principal shall provide for the transfer of the education records, including special education records, of any current or former student at the school upon the written request of any authorized person on behalf of a public or nonpublic elementary or secondary school within or outside of the state of Louisiana, where the student has become enrolled or is seeking enrollment.

1. The transfer of such records, whether by mail or otherwise, shall occur not later than 10 business days from the date of receipt of the written request.

2. If a student has been expelled, the transferred records shall include the dates of the expulsion and the reasons for which the student was expelled.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:112; R.S. 17:221.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1270 (June 2005), amended LR 36:1224 (June 2010).

Chapter 11. Student Services

§1103. Compulsory Attendance

A. - J.5. ...

6. visitation with a parent who is a member of the United States Armed Forces or the National Guard of a state and such parent has been called to duty for or is on leave from overseas deployment to a combat zone or combat support posting. Excused absences in this situation shall not exceed five school days per school year.

K. - N. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:112; R.S. 17:221.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1270 (June 2005), amended LR 36:1224 (June 2010).

§1109. Assignment and Transfer of Students

A. - B.2. ...

* * *

C. LEAs shall ensure that a student who is in foster care pursuant to placement through the Department of Social Services shall be allowed to remain enrolled in the public school in which the student was enrolled at the time he or she entered foster care if the Department of Social Services determines that remaining in such school is in the best interest of the student.

1. If the foster care placement is outside the jurisdictional boundaries of the public school in which the student is enrolled, the LEA shall be responsible for providing free transportation for the student to and from a designated location which is within that school district and is located nearest to the student's residence and is determined to be appropriate by the LEA and the Department of Social Services.

2. The Department of Social Services shall be responsible for providing the child's transportation between that location and the child's residence.

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

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

Chapter 13. Discipline

§1301. Disciplinary Regulations

A. - F. ...

G. Students who are removed from the classroom for disruptive, dangerous, or unruly behavior or who are suspended for ten days or less shall be assigned school work missed and shall receive either full or partial credit for such work if it is completed satisfactorily and timely as determined by the principal or designee, upon the recommendation of the student's teacher. A student who is suspended for more than ten days or is expelled and receives educational services in an alternative school site, shall be assigned school work by a certified teacher and shall receive credit for school work if it is completed satisfactorily and timely as determined by the teacher. Such work shall be aligned with the curriculum used at the school from which the student was suspended or expelled.

H. - J. ...

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

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

Chapter 23. Curriculum and Instruction

§2313. Elementary Program of Studies

A. - D.3.b. ...

E. Each public elementary school that includes any of the grades kindergarten through eight shall provide at least 30 minutes of quality, moderate to vigorous, organized physical activity each day for all students.

1. No later than September 1 of each year, each elementary school shall report to its school board on compliance with this requirement.

2. The LEA shall report to BESE on compliance no later than October 1.

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

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

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

Jeanette Vosburg
Executive Director

1006#039

RULE

**Department of Culture, Recreation and Tourism
Office of State Parks**

State Parks (LAC 25:IX.Chapters 1-9)

In accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., and R.S. 56:1681-1690, R.S. 56:1801-1809 and R.S. 36:201-209, the Department of Culture, Recreation and Tourism, Office of State Parks amended its regulations to perform general editing, update provisions pertaining to various facilities and programs, increase fees, and to remove outdated references pertaining to federal programs.

Title 25

CULTURAL RESOURCES

Part IX. Office of State Parks

Chapter 1. General Provisions

§101. Definitions

A. As used by the Office of State Parks (OSP) in association with the operation of its holdings and public facilities.

Assistant Secretary—the Assistant Secretary of the Office of State Parks, who is the executive head of the office and is appointed by the lieutenant governor with consent of the Senate. This officer is subject to the overall direction and control of the Secretary of the Department of Culture, Recreation and Tourism (DCRT) while having direct responsibility for the policies of the OSP, and for the administration, control and operation of the functions, programs and affairs of the office.

* * *

Site—any holding of the OSP including, but not limited to state historic sites, state parks, state preservation areas, and special holdings.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690, R.S. 56:1801-1809 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 12:90 (February 1986), amended LR 19:308 (March 1993), LR 31:1979 (August 2005), LR 36:1225 (June 2010).

Chapter 3. Rules and Regulations

§301. General Authority and Purpose

A. The following rules and regulations, procedures and fees replace, supersede and cancel all rules and regulations, procedures and fees adopted by the OSP prior to the effective date of these rules.

B. These rules and regulations are enacted by the OSP. Unless otherwise stated, the rules govern any and all sites under OSP jurisdiction pursuant to the authority given in Title 56, Chapter 6 of the Revised Statutes of 1950.

C. ...

D. The programs and activities of the OSP are open to all qualified persons regardless of race, color, national origin, age or handicap. If anyone believes he or she has been discriminated against in any OSP program, activity or facility, he or she may file a complaint alleging discrimination with either the OSP or the Office for Equal Opportunity, U.S. Department of the Interior, Washington, D.C. 20240.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 16:1051 (December 1990), LR 31:1980 (August 2005), LR 36:1225 (June 2010).

§303. Park Property and Environment

A. ...

B. No person shall intentionally remove, damage, disturb, or destroy any OSP property or the property of another person, without the consent of the owner. "Property" shall include but is not limited to structures, watercraft, movables, signs, markers, natural features, cultural features wildlife, and plants.

C. - E. ...

F. Food and beverages are prohibited in structures or areas containing historical furnishings or displays except in designated meeting rooms and assembly locations, or in conjunction with park programs. Smoking is prohibited in all enclosed structures.

G. No person shall excavate, remove, damage, or otherwise alter or deface any cultural or archaeological resource located on any site.

H. The display, possession, and/or use of metal detectors or similar devices is prohibited. It is strictly forbidden to dig for or otherwise remove any historical feature, relic or artifact. Persons wishing to excavate and remove historical features by professional archaeological means for research purposes must request a permit from the Louisiana Archaeological Survey and Antiquities Commission. Applications for such permits must be made through the assistant secretary.

I. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:634 (December 1982), amended LR 12:89 (February 1986), LR 16:1052 (December 1990), LR 19:308 (March 1993), LR 26:25 (January 2000), LR 27:1673 (October 2001), LR 31:1980 (August 2005), LR 36:1226 (June 2010).

§307. Water Craft

A. - E. ...

F. Boats left docked and unattended must be properly secured in designated areas only. The OSP will not be responsible for any loss, theft or damage to boats, equipment, personal property or supplies left unattended.

G. - H. ...

I. Water bodies or portions thereof adjacent to boat ramps, docks, swimming areas, boathouses, cabins, picnic pavilions, or other facilities shall be designated "No Wake Areas". Signs and/or buoys will mark the areas so designated.

J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:634 (December 1982), amended LR 12:89 (February 1986), LR 16:1052 (December 1990), LR 26:26 (January 2000), LR 31:1981 (August 2005), LR 36:1226 (June 2010).

§308. Poverty Point Reservoir State Park

A. - C.3. ...

4. operating a vessel without a current day use receipt or "Resident Boat Permit."

D. - E. ...

F. Skiing and/or towing of persons behind a vessel is prohibited in all areas between sunset and sunrise.

G. Use of the Marina Complex. All visitors to the marina, whether boat owners or their invitees, are prohibited from:

1. ...

2. performing or allowing to be performed any major repairs or maintenance to a boat moored in the marina. Major repairs or maintenance include any activities that pose a safety hazard or nuisance or infringe on the enjoyment of the marina by others;

3. using any cooking appliances including, but not limited to, BBQ pits, fish fryers, meat smokers, seafood boilers, etc., in the marina;

4. creating an open flame within the marina;

5. painting or removing paint in the marina;

6. - 8. ...

9. bringing pets into the marina;

10. ...

H. All boat owners must complete and submit a signed "Marina Slip Rental Agreement" along with any required payments and/or deposits due prior to using a rental slip.

I. Boat owners and their invitees shall be responsible for maintaining the marina facilities available for their use. To that end, every boat owner and invitee shall:

1. - 6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 31:1981 (August 2005), amended LR 36:1226 (June 2010).

§309. Horseback Riding, Livestock, Animals and Pets

A. ...

B. Any pet brought on OSP property must be leashed, caged or crated. Leashes shall not exceed 6 feet in length. With the exception of service dogs, pets are not permitted within buildings or other enclosed structures on site, nor are they allowed near designated swimming areas and in overnight facilities. Owners of pets shall be fully responsible for any injury and/or damage caused by their pet.

C. No person shall allow livestock to run or graze on any site, except in specially designated areas and/or as part of special programs or events approved in advance by the assistant secretary.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks in LR 8:635 (December 1982), amended LR 12:89 (February 1986), LR 14:773 (November 1988), LR 26:26 (January 2000), LR 31:1982 (August 2005), LR 36:1226 (June 2010).

§310. Litter, Sanitation and Health

A. All litter disposed of on site, shall be placed into a proper litter receptacle in such a manner that the litter is prevented from being carried away or deposited by the elements upon OSP property or water bodies. Disposal means to throw, discard, place, deposit, discharge, burn, dump, drop, eject, or allow the escape of a substance.

B. No person shall drain or dump refuse waste including grey water from any trailer or other vehicle except in places or receptacles provided for such uses.

C. - F. ...

G. No person shall bury or burn garbage, litter or dead animals on OSP property.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:635 (December 1982), amended LR 12:89 (February 1986), LR 14:774 (November 1988), LR 26:26 (January 2000), LR 31:1982 (August 2005), LR 36:1227 (June 2010).

§312. Fires

A. Fires shall be built only in places specifically designated for that purpose by site managers.

B. Burn bans declared by a local governing authority shall be observed at the parks within the jurisdiction of the local governing authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 26:27 (January 2000), repromulgated LR 31:1982 (August 2005), amended LR 36:1227 (June 2010).

§313. Fishing, Hunting, Trapping, and the Use of Firearms or Fireworks

A. All wildlife in OSP sites is under strict protection and must not be hunted, molested, disturbed, destroyed, fed or removed, except for scientific or management purposes when approved by the assistant secretary.

B. Bringing or keeping any hunting dogs on OSP property for the purpose of hunting inside or adjacent to a site is prohibited.

C. The possession and/or use of any weapon, including but not limited to shotguns, rifles, pistols, and bow and arrows within a site is prohibited. This prohibition shall not apply to:

1. any law enforcement officer in the performance of his official duties;

2. historic weapons or reproduction historic weapons when used in accordance with department policies and procedures;

3. weapons kept unloaded in a case within a locked vehicle;

4. instances where the assistant secretary has granted special permission because the use of weapons will be used in a manner that furthers the purposes and objectives of the OSP.

D. No person shall possess, shoot, discharge or explode nor cause to be shot, discharged, or exploded any fireworks or other explosives on any OSP property without prior written consent of the assistant secretary or his designee.

E. The taking and hunting of frogs on any OSP property is prohibited.

F. Anyone fishing on OSP property must adhere to all state and federal laws and criteria regarding fresh and/or salt water fishing. The taking of fish by nets (except cast nets), traps or any means other than hook or line is prohibited at any and all sites, except for management purposes as authorized by special permit. Notwithstanding the previous provision to the contrary, the taking of flounder by gigs is permitted as well as the taking of fish by means of a yo-yo or trigger device (as defined in R.S. 56:8) in Chicot Lake at Chicot State Park subject to the following restrictions:

1. fishing with the use of yo-yos or trigger devices shall be permitted on Chicot Lake only from Nov. 1 through March 1 of each year;

2. not more than 24 yo-yos or trigger devices shall be allowed per boat;

3. each yo-yo must be tagged with the name of the responsible party, the registration number of the boat, and the date and time the yo-yo was set;

4. all yo-yos must be attended and re-tagged at least every 48 hours.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 14:773 (November 1988), LR 16:1052 (December 1990), LR 19:308 (March 1993), LR 31:1982 (August 2005), LR 36:1227 (June 2010).

§314. Swimming

A. - C. ...

D. Glass containers of any kind are prohibited within any perimeter boundaries of pools, enclosed swimming areas, enclosed beach areas, water playgrounds and beach parks.

E. ...

F. Only Coast Guard approved Type I or Type II Personal Flotation Devices are allowed in swimming areas with the exception of flotation devices provided by the OSP at the Bayou Segnette State Park wave pool. Site managers or their designees may make site specific exceptions.

G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:635 (December 1982), amended LR 12:89 (February 1986), LR 16:1052 (December 1990), LR 26:27 (January 2000), amended LR 31:1983 (August 2005), LR 36:1227 (June 2010).

§321. Fines and Enforcement of the Rules and Regulations

A. - C.2.NOTE. ...

D. Site visitors may be required to furnish specific information upon registration, including but not limited to, vehicle license plate number and a driver's license number.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:636 (December 1982), amended LR 12:89 (February 1986), LR 26:27 (January 2000), LR 27:1673 (October 2001), LR 31:1983 (August 2005), LR 36:1227 (June 2010).

§331. Overnight Use

A. General Provisions

1. Any overnight use of a site requires a written permit or payment receipt. Overnight facilities are reserved

for the exclusive use of persons properly permitted for the use of overnight facilities and their guests. An exception to this rule will be made for volunteers camping at a state historic site as part of an approved overnight encampment program.

A.2. - A.12. ...

B. Camping

1. With the exception of a campground host and long term stay campsites, overnight camping and group camp, lodge and cabin use are limited to 15 consecutive days. After 15 consecutive days of occupancy at a site, the visitor must vacate the site for seven consecutive days before occupancy may be resumed. No person shall occupy a campsite for more than 23 days in any 30 day period. However, at the site manager's discretion, and subject to availability, overnight camping may be extended on a weekly basis. No campsite may be vacated for longer than a 24-hour continuous period under any permit agreement.

2. Long term stays will be permitted at campsites in accordance with the following regulation:

- a. during the winter season, October 1 through March 31;
- b. at South Toledo Bend S.P, Jimmie Davis S.P. Poverty Point Reservoir S.P., Fontainebleau S.P. and other parks designated by the assistant secretary;
- c. reservations must be made through the reservation center;
- d. a deposit of one half the total cost of the entire stay is due within ten days of the date of the reservation;
- e. the nightly rate is \$20.

3. OSP campgrounds are intended for tents and recreational vehicles only.

4. Campsite occupancy is limited to six persons. At designated group camping areas occupancy limits are set by the site manager or his designee.

5. Campsite configurations within the system vary in size, length, and surfacing materials. Camping spurs are designed to accommodate one camper/pop-up trailer with tow vehicle or one motorized camper and additional vehicle. Additionally, many sites will have designated tent pads adjacent to the spur. The site manager or his designee will have the authority to evaluate additional possible combinations for on site approval. Due to the numerous possible potential combinations, the following are to be used as general guidelines to define a camping unit by the site manager or his designee:

- a. one camper trailer with tow vehicle (may include pickup camper), one large tent or two small tents;
- b. one motorized camper with additional vehicle (may include pickup camper), one large tent or two small tents;
- c. one pop-up camper with two vehicles (may include pickup camper), one large tent or two small tents;
- d. one pickup camper with additional vehicle, one large tent or two small tents;
- e. two vehicles and tent combinations not to exceed three tents.

C. Cabins, Lodges, Other Overnight Facilities

1. A written inventory of movable equipment and furnishings is posted in each overnight structure or will be furnished to the visitor. It is the visitor's responsibility to check the inventory immediately upon occupancy. The

visitor must report to the site manager or his designee any discrepancy between the actual inventory and the printed inventory. The visitor may be assessed the cost of items which, if not reported as missing or damaged upon occupancy, are missing or damaged when the structure is vacated. Failure to reimburse the OSP for any missing property or damage to property may result in denial of future use of OSP facilities.

C.2. - C.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:634 (December 1982), amended LR 12:89 (February 1986), LR 14:772 (November 1988), LR 16:1053 (December 1990), LR 19:308 (March 1993), LR 26:28 (January 2000), LR 27:1673 (October 2001), LR 31:1984 (August 2005), LR 36:1227 (June 2010).

Chapter 5. Procedures and Fees

§500. Fees and Exemptions; Day-Use Fees

A. State Parks General Admission Day-Use Entrance Fees

1. Except as otherwise provided in this Chapter, a day-use fee is charged at all State Parks (except St. Bernard State Park).

- a. Persons in noncommercial vehicles, walk-in visitors and visitors on bicycles are charged one dollar per person per day.
- b. Children age 3 and under are free. Seniors age 62 and older are free.
- c. The day-use fee at Hodges Gardens S.P. is \$5 per day. Seniors 62 and older are \$4 per day. Children age 3 and under are free.
- d. ...
- e. All prices include state and local taxes.

2. Swimming Pools

a. Bayou Segnette SP wave pool fee (in addition to the park entrance fee and all other user fees) is: adults (over 48 inches) \$10 per day, children (under 48 inches) \$8 per day. The price includes one flotation device per person. Discount coupons are available when purchased in quantity lots.

b. OSP may charge a fee of up to \$2 per person, per day to enter any other OSP swimming pool complex.

3. - 4. ...

B. State Historic Sites General Admission Fees

1. Except as otherwise provided in this Section, an admission fee of \$4 per adult is charged for all state historic sites. Admission entitles visitors to all facilities and regular programs that may be offered at the historic site. Special programs and events may include special admission rates.

- a. Locust Grove and Los Adaes have no admission fee.
- b. Children age 12 and under are free.
- c. Seniors age 62 and older are free.
- d. Rosedown Plantation admission fees are set forth in this Section.

2. Admission entitles visitors to all facilities and regular programs that may be offered at the historic site. Special programs and events may include special admission rates.

3. Rosedown Plantation State Historic Site

a. Charges for admission to the plantation house and the gardens surrounding the house at the following rates:

- i. \$10 per adult (ages 18 to 61);
- ii. \$8 per senior citizen (ages 62 and over);
- iii. \$4 per student (ages 6 to 17);
- iv. free for children (ages 5 and under).

b. Charges for admission to the gardens only at the following rates:

- i. \$5 per adult (ages 18 to 61);
- ii. \$5 per senior citizen (ages 62 and over);
- iii. \$4 per student (ages 6 to 17);
- iv. FREE for children (ages 5 and under).

4. Organized groups of 10 or more are requested to notify the site manager in advance of their arrival. There is no additional fee for SHS visitors arriving by bus.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:636 (December 1982), amended LR 12:89 (February 1986), LR 14:774 (November 1988), LR 16:1053 (December 1990), LR 19:309 (March 1993), LR 26:29 (January 2000), LR 27:1673 (October 2001), LR 31:1986 (August 2005), LR 36:1228 (June 2010).

§501. Fees and Exemptions; Miscellaneous Services and Facilities Fees

A. - A.2. ...

3. Canoes, kayaks and paddle boats may be rented for \$5 per hour or \$20 per vessel, per day. A canoe float trip is charged \$25 per canoe, per trip. All fees include paddles and life jackets.

4. ...

B. Bicycles. Bicycles may be rented for \$5 per hour or \$20 per day.

C. - D.6.c. ...

E. Meeting Rooms. Meeting rooms used to accommodate meetings and functions of private groups, clubs and other organizations are available during normal park operating hours. Kitchen facilities may be used, if available. Meeting room rates are as follows.

\$100	Type I e.g., Bayou Segnette, North Toledo Bend, Lake D'Arbonne, Arboretum, Fontainebleau, Poverty Point Reservoir, Lake Claiborne
\$150	Type II e.g., Chemin-à-Haut, Chicot
\$200	Type III e.g., Lake Fausse Pointe

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:637 (December 1982), amended LR 12:89 (February 1986), LR 14:774 (November 1988), LR 16:1052 (December 1990), LR 26:29 (January 2000), LR 27:1673 (October 2001), LR 31:1986 (August 2005), LR 36:1229 (June 2010).

§502. Fees and Exemptions; Exemptions/Discounts

A. - B. ...

C. National Parks and Federal Recreation Lands Passes. Any citizen of the United States who possesses a National Parks and Federal Recreation Lands Senior Pass (formerly the Golden Age Passport) or Access Pass (formerly the Golden Access Passport) issued by any agency of the United States, pursuant to 16 U.S.C. Section 460 L-65, upon

presentation of the pass and proper identification to any OSP authorities, shall be exempt from the day-use entrance fee to any OSP site.

D. ...

1. Certification of the eligible organization or "provider" must be made in writing to the assistant secretary, and the assistant secretary shall in turn recognize such certification prior to eligibility for this exemption.

D.2. - E.2. ...

F. Discounts and Fee Waivers. The assistant secretary or his designee may grant written approval for a waiver or discount of entrance fees and facility use fees in accordance with guidelines adopted by the Louisiana State Parks and Recreation Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:637 (December 1982), amended LR 12:89 (February 1986), LR 14:774 (November 1988), LR 16:1053 (December 1990), LR 19:309 (March 1993), LR 26:29 (January 2000), LR 27:1673 (October 2001), LR 31:1987 (August 2005), LR 36:1229 (June 2010).

§504. Fees and Exemptions; Overnight Use

A. Camping

1. An improved campsite rents for \$16 per night during the winter season (October 1-March 31) and \$20 per night during the summer season (April 1-September 30). An unimproved campsite rents for \$12 per night. A premium campsite rents for \$18 per night during the winter season and \$26 per night during the summer season. For information regarding campsite reservation fees, see Reservation Policy, §505.

2. Each campsite is restricted to use by one camping unit as defined in §331.B.5.

3. Designated primitive areas accommodating organized groups (Boy Scouts, Girl Scouts, etc.) are available for camping \$25 to \$50, per night based on capacity. Capacity will be set by the site manager.

B. - B.1.a. ...

b. The day-use fee for a rally campground is \$50 per day for the group, and in addition, the standard day-use entrance fee is charged.

2. ...

C. Backpacking

1. ...

2. A permit is required for all overnight backcountry camping or backpacking use and may be obtained at the park entrance station.

C.3. - D.1. ...

E. Cabins and Lodges

1. Cabins

Classification	Standard Rate	Summer Season Weekend Rate	Bedding Accommodations	Maximum Capacity
Deluxe	\$120	\$150	6-8	8
Standard	\$85	\$85	4-6	6-8

2. Park Lodges. These are large overnight structures equipped with kitchen, bath and sleeping facilities and can accommodate a large family or several family groups.

Classification	Standard Rate	Summer Season Weekend Rate	Bedding Accommodations	Maximum Capacity
Standard	\$140	\$175	varies	varies
Deluxe	\$160	\$180	14	16

F. Group Camps. Group camps are available at certain parks for organized group use. The capacity, type of facility, and rates are as follows.

Classification	Overnight Rate	Maximum Capacity
Class III	\$500	100+
Class II	\$250	99
Class I	\$200	49

1. Group camps may be reserved for day or overnight use at a basic rate.

G. - G.3. ...

4. Facility Use Agreement

a. All parties granted permission to use the dormitory must execute a "Facility Use Agreement".

G.4.b. - G.8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:638 (December 1982), amended LR 12:89 (February 1986), LR 12:828 (December 1986), LR 26:30 (January 2000), LR 27:1674 (October 2001), LR 31:1988 (August 2005), LR 36:1229 (June 2010).

§505. Reservation Policy

A. General Provisions

1. Reservations may be made for all OSP facilities that are subject to reservation, by calling the State Parks Reservation Call Center. Overnight and day-use facilities, including cabins, lodges, group camps, camping sites, rally shelters, meeting rooms and pavilions may be reserved 11 months in advance. For example, if a park user wants to use a facility on July 2, he may make the reservation no earlier than August 2, or the first business day after August 2, of the prior year. Reservations may also be made on line 24 hours a day by accessing the OSP web site: www.lastateparks.com. A non-refundable service fee is charged for all reservations.

2. The call center will operate 7 a.m. to 7 p.m., Monday through Friday. The call center will close for state holidays. Based upon demand, the center's hours may be extended by the assistant secretary or his designee.

3. ...

4. Deposit in full must be received within 10 days of the date the reservation is made otherwise the reservation is canceled. Payment may be made by credit card, in-state personal check or money order. If the reservation is made within 14 days or fewer of the usage date, payment shall be by credit card only.

5. ...

6. Reservations made 10 months or more in advance for cabins, lodges and group camps are subject to the following cancellation policy.

a. No change can be made to the reservation until the deposit is paid and 18 days have elapsed from the date the reservation was made.

b. A deposit of one-night stay is due 10 days after the reservation is made and the balance must be paid in full

within 30 days after the reservation is made or the reservation will be cancelled.

c. A change fee of one day's rental per facility will be charged for changes to reservations (e.g., dropped days).

d. A cancellation fee of one day's rental per facility will be charged.

7. In the event reservations must be canceled by OSP staff (e.g., for maintenance or emergency reasons) the rental fee will be refunded in full.

8. For cabins, lodges, group camps, rally shelters and campsites a two-day minimum reservation is required for weekends. The minimum may be met by reserving the facility on Friday and Saturday nights, on Saturday and Sunday nights or for all three nights. If facilities are not reserved in advance, they may be rented on weekends for one night to walk-up users using the facilities that day. Exceptions may be granted by the assistant secretary or his designee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1693 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:640 (December 1982), amended LR 12:89 (February 1986), LR 14:777 (November 1988), LR 16:1051 (December 1990), LR 26:32 (January 2000), LR 27:1674 (October 2001), LR 31:1989 (August 2005), LR 36:1230 (June 2010).

§506. Refunds

A. ...

B. Facility rental fees paid on-site may be refunded on-site upon approval of the site manager or his designee for the following reasons:

B.1. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 12:828 (December 1986), LR 26:32 (January 2000), LR 31:1989 (August 2005), LR 36:1230 (June 2010).

§507. Special Uses and Restrictions

A. - B.2. ...

3. The atmosphere created on the historic site is as important as the artifactual evidence. In order that the greater interest and primary function of the area be served, it is necessary to restrict certain incompatible activities from the sites. Any sport or recreational activity that does not contribute to a greater understanding of the theme of the area is prohibited within all historical zones of any state historic site. Recreation zones appropriate for such use may be designated by the site manager if space permits.

B. 4. - C.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 14:779 (November 1988), LR 19:313 (March 1993), LR 26:32 (January 2000), LR 27:1674 (October 2001), LR 31:1989 (August 2005), LR 36:1230 (June 2010).

Chapter 9. Division of Outdoor Recreation Administration

§900. Definitions

A. As used by the Division of Outdoor Recreation:

* * *

Division of Outdoor Recreation (DOR)—the functional subunit of the Office of State Parks responsible for development, promotion and implementation of the Land and Water Conservation Fund and Recreational Trails Program.

* * *

Louisiana Recreational Trails Advisory Committee—the committee whose purpose is to advise the Office of State Parks in matters pertaining to the Recreational Trails Program. The committee meets a minimum of once every fiscal year and represents varied interest related to recreational trails management and development.

Office of State Parks (OSP)—that office in the Department of Culture, Recreation and Tourism which administers the U.S. Department of the Interior's Land and Water Conservation Fund Act of 1965 and Recreational Trails Program (23 U.S.C. §206).

Outdoor Recreation-A Project Handbook—Repealed.

* * *

Recreational Trails Program (RTP)—matching fund grants made by the Federal Highway Administration for the development of and/or maintenance of outdoor recreational trails in accordance with and pursuant to Title 23 U.S.C. §206.

State Application—the information and documents that must be provided by the applicant in sufficient detail to allow the DOR staff to prepare the federal application forms for a LandWCF grant or Recreational Trails Program grant.

State Liaison Officer (SLO)—the assistant secretary of the Office of State Parks who represents the state in matters dealing with the U.S. Department of the Interior's Land and Water Conservation Fund.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690, R.S. 56:1801-1809 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 12:90 (February 1986), amended LR 19:308 (March 1993), LR 31:1990 (August 2005), LR 36:1230 (June 2010).

§901. Land and Water Conservation Fund Program Summarized¹

A. Purpose. The Land and Water Conservation Fund (LandWCF) Act of 1965 (Public Law 88-576, 78 Stat 897) was enacted "... to assist in preserving, developing and assuring accessibility to all citizens of the United States of America of present and future generations ... such quality and quantity of outdoor recreation resources as may be available and are necessary and desirable for individual active participation ...". The LandWCF program provides matching grants to states, and through the states to local governments, for the acquisition and development of public outdoor recreation areas and facilities. Planning grants are also available to the states to help develop Statewide Comprehensive Outdoor Recreation Plans (SCORP).

B. Delegation of Authority. The LandWCF Act authorizes the secretary of the interior to provide financial assistance to states for outdoor recreation purposes. Except for the apportionment of funds among states and the approval of contingency reserve projects, this authority has been delegated to the director of the National Park Service (NPS). The regional directors are authorized to exercise the full program and administrative authority of the director within the geographic area comprising the region for which

they have responsibility. Limitations to this delegation include the director's authority to act on all recommendations to the secretary involving the apportionment of LandWCF monies and the allocation of Contingency Reserve Fund assistance; and to approve or disapprove formal arrangements whereby the state agrees to assume certain responsibilities in the administration of the LandWCF program.

C. Appointment of State Liaison Officer. To be eligible for assistance under the LandWCF Act, the governor of each state shall designate, in writing, an official who has authority to represent and act for the state as the state liaison officer in dealing with the director of NPS for purposes of the LandWCF program. The state liaison officer (SLO) shall have the authority and responsibility to accept and to administer funds paid for approved projects. Upon taking office, a new governor shall officially, in writing, redesignate the present state liaison officer or appoint a new individual to represent and act for the state in dealing with the LandWCF program.

D. Selection Requirements. DOR establishes application requirements, annual application submission dates and develops an Open Project Selection Process in accordance with the LandWCF Grants Manual to provide an objective standard for selection of projects explicitly based on Louisiana's priority needs for acquisition and development of outdoor recreation resources as identified in the SCORP.

¹Department of the Interior, LandWCF Grants Manual, 69, effective October 1, 2008.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 12:89 (February 1986), amended LR 12:829 (December 1986), repromulgated LR 31:1991 (August 2005), amended LR 36:1231 (June 2010).

§903. Land and Water Conservation Fund (LandWCF) Grants Manual²

A. The Land and Water Conservation Fund (LandWCF) Grants Manual sets forth the administrative policies, procedures and guidelines for LandWCF grants awarded to the states by the Department of Interior, National Park Service. It is intended to serve as a basic reference for those who are engaged in the administrative, financial management and stewardship responsibilities of the LandWCF State Assistance Program.

B. Participation in the LandWCF State Assistance Program is deemed to constitute a public trust. As such, participants are responsible for the efficient and effective management of funds in accordance with the approved budgets, for promptly completing reporting performance. The procedures and requirements contained in the LandWCF Grants Manual are subject to applicable federal laws and regulations, and any changes made to these laws and regulations subsequent to the publication of the LandWCF Manual. In the event procedures and requirements conflict with applicable federal laws, regulations, and policies, the following order of precedence will prevail:

1. federal law;
2. government-wide administrative regulations;
3. terms and conditions of grant award;
4. Land and Water Conservation Fund Manual.

²Department of the Interior, LandWCF Grants Manual, Volume 69, effective October 1, 2008.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 12:89 (February 1986), repromulgated LR 31:1992 (August 2005), amended LR 36:1231 (June 2010).

§905. Who is Eligible for Assistance

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 12:89 (February 1986), repromulgated LR 31:1992 (August 2005), repealed LR 36:1232 (June 2010).

§907. Projects Eligible for Assistance

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 12:89 (February 1986), repromulgated LR 31:1992 (August 2005), repealed LR 36:1232 (June 2010).

§909. Not Eligible for Assistance

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 12:89 (February 1986), repromulgated LR 31:1993 (August 2005), repealed LR 36:1232 (June 2010).

§911. Schools

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 12:89 (February 1986), repromulgated LR 31:1993 (August 2005), repealed LR 36:1232 (June 2010).

§913. Application Preparation, Review and Selection Process

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 12:89 (February 1986), repromulgated LR 31:1994 (August 2005), repealed LR 36:1232 (June 2010).

§915. Application Preparation, Documents to be Submitted

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 12:89 (February 1986), amended LR 12:829 (December 1986), repromulgated LR 31:1995 (August 2005), repealed LR 36:1232 (June 2010).

§917. State Parks and Recreation Commission (SPARC)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 12:89

(February 1986), repromulgated LR 31:1996 (August 2005), repealed LR 36:1232 (June 2010).

§919. Legal Requirements

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1801-1809.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 12:89 (February 1986), amended LR 12:829 (December 1986), repromulgated LR 31:1996 (August 2005), repealed LR 36:1232 (June 2010).

§921. LandWCF Application Preparation, Review and Selection Process

A. Applications for LandWCF funds must be submitted to the DOR through an online application available on the Louisiana State Parks Web site. Applications must be submitted by April first (annually). Receipt of an application initiates an extensive and highly competitive process involving DOR preparation of the federal application package, securing clearinghouse approval, evaluation and rating, and presentation to the Louisiana State Parks and Recreation Commission (SPARC) for review and recommendations to the SLO of those projects to be forwarded to the National Park Service for federal approval. Assistance is available from the DOR staff for completion of the online application at any time throughout the year.

1. Initial Evaluation. DOR staff initially review all application submittals on the first business day following April first annually. Identification of all required documents is completed. Applications with substantial missing required documentation are not be eligible for further consideration. All project sponsors of applications deemed ineligible are notified in writing in regards to the eligibility to participate. Proposed project sites are visited for initial inspection and evaluation by DOR staff.

2. Review and Preparation of Application. Eligible applicants with complete documentation are evaluated through the Open Project Screening Process (OPSP) and ranked in priority order. The OPSP is developed in accordance with the most recent publication of the Statewide Comprehensive Outdoor Recreation Plan and approved by the National Park Service (NPS). This determination of suitability results in a priority order of projects for consideration. Projects are presented to the State Parks and Recreation Commission (SPARC) for review. Upon determination of eligible federal LandWCF monies, all eligible projects are forwarded to the NPS Regional Office within the limits of funding.

3. Projects may be prepared for funding as a single action or may be phased. If phased, only one phase at a time may be recommended for funding, although the entire project may be "qualified" for funding. Further, funding of a phase does not imply automatic funding of succeeding phases. To activate a succeeding phase, the "qualified applicant" must formally request subsequent funds by letter as the ongoing phase nears substantial completion. Substantial completion has been established by DOR as a minimum of 80 percent of the total project funds expended prior to awarding further funds. Another form of acceptable "phasing" is to add additional elements and funds upon reaching a state of substantial completion.

4. Successive phases are not reprioritized (ranked). At the final SPARC meeting prior to receipt of the annual

LandWCF apportionment, a list of requests for successive phases is presented. SPARC reviews and recommends to the SLO that:

- a. only new projects will be funded; or
- b. only subsequent phases of active projects will be funded; or
- c. a combination of new projects and subsequent phases of active projects will be funded.

5. Submission. The approved application is placed in final form and officially submitted as an application of the state of Louisiana to the NPS Southeast Regional Office. At this point, the application is dependent on federal action for its further progress.

6. Recommendation. As funds become available, priority projects are recommended in their established order through the SPARC to the SLO. If all LandWCF monies have been obligated at the time, the project will be held in a standby basis pending release of additional monies. As funds do become available, the application (already qualified) is then recommended in its turn to NPS for obligation of funds. Applications will be recommended for obligation only in an appropriate number to utilize efficiently those funds available at that specific time.

7. Once the desired amount of funds is "obligated" to the subject project by NPS, a project agreement will be executed for this purpose between the NPS and the state, and a state agreement will be executed between the state and the local government sponsor. If found not acceptable for some reason, the application will be rejected by NPS and returned to the applicant, via the state, with reasons for such rejection.

8. Termination. The qualified application, with funds obligated to its subject project, is ready for funding and implementation. This is the final step in the preprocessing procedure, and the application will then be terminated in one of two ways: by successful completion of the project or by deactivating, if for some reason the project cannot be successfully completed. Post processing of applications for successfully completed projects will include progress reports and billings for work performed and accounting for funds expended. The process is concluded with formal notification by NPS of final settlement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1704, R.S. 56:1801-1809 and R.S. 36:201-209.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 36:1232 (June 2010).

§923. Recreational Trail Program Summarized³

A. Purpose. The Recreational Trail Program (RTP) provides funds to the states to develop and maintain recreational trails and trail-related facilities for both non-motorized and motorized recreational trail uses. The RTP is an assistance program of the Department of Transportation's Federal Highway Administration (FHWA). Federal transportation funds benefit recreation including hiking, bicycling, in-line skating, equestrian use, cross-country skiing, snowmobiling, off-road motorcycling, all-terrain vehicle riding, four-wheel driving, or using other off-road motorized vehicles.

B. Delegation of Authority. The RTP is an assistance program of the U.S. Department of Transportation's Federal Highway Administration (FHWA). Each state administers its own program. By virtue of Governor Bobby Jindal's Executive Order 2008-5, the Recreational Trails Program

now resides in the Department of Culture, Recreation and Tourism.

C. Program Funding. The RTP funds come from the Federal Highway Trust Fund, and represent a portion of the motor fuel excise tax collected from non-highway recreational fuel use: fuel used for off-highway recreation by snowmobiles, all-terrain vehicles, off-highway motorcycles, and off-highway light trucks. The RTP funds are distributed to the states by legislative formula: half of the funds are distributed equally among all states, and half are distributed in proportion to the estimated amount of nonhighway recreational fuel use in each state.

³Title 23 United States Code §206, Recreational Trails Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1704, R.S. 56:1801-1809 and R.S. 36:201-209.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 36:1233 (June 2010).

§925. RTP Project Eligibility

A. RTP funds may be used for:

1. maintenance and restoration of existing trails;
2. development and rehabilitation of trailside and trailhead facilities and trail linkages;
3. purchase and lease of trail construction and maintenance equipment;
4. construction of new trails (with restrictions for new trails on federal lands);
5. acquisition of easements or property for trails;
6. assessment of trail conditions for accessibility and maintenance;
7. development and dissemination of publications and operation of educational programs to promote safety and environmental protection related to trails (including supporting non-law enforcement trail safety and trail use monitoring patrol programs, and providing trail-related training) (limited to five percent of a state's funds);
8. state administrative costs related to this program (limited to seven percent of a state's funds).

B. States must use 30 percent of their funds for motorized trail uses, 30 percent for non-motorized trail uses, and 40 percent for diverse trail uses. Diverse motorized projects (such as snowmobile and motorcycle) or diverse non-motorized projects (such as pedestrian and equestrian) may satisfy two of these categories at the same time.

C. RTP funds may not be used for:

1. property condemnation (eminent domain);
2. constructing new trails for motorized use on National Forest or Bureau of Land Management lands unless the project is consistent with resource management plans; or
3. facilitating motorized access on otherwise non-motorized trails.

D. Fund Intention. RTP funds are intended for recreational trails. RTP funds may not be used to improve roads for general passenger vehicle use. RTP funds should not be used to provide shoulders or sidewalks along roads unless the shoulders or sidewalks are necessary to complete a trail link. A project proposal solely for trail planning would not be eligible (except a state may use its administrative funds for statewide trail planning). However, some project development costs may be allowable if they are a relatively small part of a particular trail maintenance, facility development, or construction project. States may allow some

project development costs to be credited toward the non-federal share.

E. Eligible Sponsorship. RTP grants may be made to private organizations, or to municipal, county, State, Tribal, Federal government agencies or private organizations. Projects may be on public or private land, but projects on private land must provide written assurances of public access.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1704, R.S. 56:1801-1809 and R.S. 36:201-209.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 36:1233 (June 2010).

§927. RTP Project Funding

A. The maximum federal share for each project from RTP funds is 80 percent.

B. The non-federal match must come from project sponsors or other fund sources. Funds from any other federal program may be used for the non-federal match if the project also is eligible under the other program. RTP funds also may be used toward the non-federal share for some other federal programs.

C. Project payments takes place on a reimbursement basis. The project sponsor must incur costs for work actually completed, and then submit vouchers and supporting documentation to the state for payment. Reimbursement is not permitted for work that takes place prior to project approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1704, R.S. 56:1801-1809 and R.S. 36:201-209.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 36:1234 (June 2010).

§929. RTP Application Preparation, Review and Selection Process

A. RTP applications are due not less than once every fiscal year. Due dates for application submittal are published not less than 60 days prior to deadline.

B. Current applications are available online through the Louisiana Office of State Parks web site.

C. Technical assistance for completion of the application is available at any time from the Division of Outdoor Recreation staff.

D. Within one business day of the application deadline, Division of Outdoor Recreation staff will begin an initial review of all applications for completeness. Applications lacking all necessary documentation will be considered ineligible and will be returned to the project sponsor. Applications providing satisfactory documentation will be evaluated in accordance with Federal Highway Administration standards and ranked in priority order. The Louisiana Recreational Trails Advisory Committee will give projects gaining initial approval and ranked. This committee will advise the Division of Outdoor Recreation staff on project priority. Applications will be forwarded for environmental clearance by the Department of Transportation and Development. With environmental clearance, projects will be forwarded to the Federal Highway Administration for federal approval.

E. Upon receipt of federal approval, a state agreement must be signed by the Division of Outdoor Recreation and the project sponsor before the project can begin. This state

agreement details the project goals and timelines for completion.

F. Division of Outdoor Recreation staff will complete periodic inspections through the development of the facility until completion. Project sites are subject to periodic inspection after completion by Division of Outdoor Recreation staff and federal partners.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1704, R.S. 56:1801-1809 and R.S. 36:201-209.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 36:1234 (June 2010).

§931. Louisiana Recreational Trails Advisory Committee

A. The Louisiana Recreational Trails Advisory Committee is composed of selected individuals to represent a cross section of trail users and trail providers. The committee meets at a minimum of once per fiscal year.

B. The Louisiana Recreational Trails Advisory Committee, in an advisory capacity, may recommend rules to the Division of Outdoor Recreation in regards to the RTP and may provide input on pending RTP applications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1704, R.S. 56:1801-1809 and R.S. 36:201-209.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 36:1234 (June 2010).

Stuart Johnson
Assistant Secretary

1006#021

RULE

Department of Environmental Quality Office of the Secretary

HW Tanks—Secondary Containment Requirements
and 90 Day Turnover of Hazardous Waste
(LAC 33:V.109, 1109, 1901, 1907, 1909 and 4437)(HW106)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Hazardous Waste regulations, LAC 33:V.109, 1109, 1901, 1907, 1909.D and E, and 4437.D (Log #HW106).

This Rule sets standards for the use of concrete as an external secondary containment system for hazardous waste tanks. It provides an approval process for using unlined/uncoated concrete as an external liner system under specific circumstances. The Rule also clarifies and adds an additional subsection to compliment the requirement of LAC 33:V.1909.D relating to the subject "accumulation time" exemption from hazardous waste permitting requirements by using a flow-through calculation in certain situations to provide clear standards in the regulation that will provide protection for the state's environment. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33
ENVIRONMENTAL QUALITY
Part V. Hazardous Waste and Hazardous Materials
Subpart 1. Department of Environmental Quality—
Hazardous Waste

Chapter 1. General Provisions and Definitions

§109. Definitions

For all purposes of these rules and regulations, the terms defined in this Chapter shall have the following meanings, unless the context of use clearly indicates otherwise.

* * *

Batch Tank—a device meeting the definition of *tank* in this Section that receives a batch (or batches) of hazardous waste on a one-time or intermittent basis.

* * *

Continuous-Flow Tank—a device meeting the definition of *tank* in this Section that receives hazardous waste on an ongoing, continuous basis.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790, 791 (November 1988), LR 15:378 (May 1989), LR 15:737 (September 1989), LR 16:218, 220 (March 1990), LR 16:399 (May 1990), LR 16:614 (July 1990), LR 16:683 (August 1990), LR 17:362 (April 1991), LR 17:478 (May 1991), LR 18:723 (July 1992), LR 18:1375 (December 1992), repromulgated by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 19:626 (May 1993), amended LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:814 (September 1996), LR 23:564 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:655 (April 1998), LR 24:1101 (June 1998), LR 24:1688 (September 1998), LR 25:433 (March 1999), repromulgated LR 25:853 (May 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:269 (February 2000), LR 26:2465 (November 2000), LR 27:291 (March 2001), LR 27:708 (May 2001), LR 28:999 (May 2002), LR 28:1191 (June 2002), LR 29:318 (March 2003); amended by the Office of the Secretary, Legal Affairs Division, LR 31:2452 (October 2005), LR 31:3116 (December 2005), LR 32:606 (April 2006), LR 32:822 (May 2006), LR 33:1625 (August 2007), LR 33:2098 (October 2007), LR 34:71 (January 2008), LR 34:615 (April 2008), LR 34:1009 (June 2008), LR 34:1894 (September 2008), LR 34:2396 (November 2008), LR 36:1235 (June 2010).

Chapter 11. Generators

Subchapter A. General

§1109. Pre-Transport Requirements

A. - D. ...

E. Accumulation Time

1. - 1.a.i. ...

ii. in tanks and the generator complies with the applicable requirements of LAC 33:V. 1901.D; and/or

E.1.a.iii. - F.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 13:433 (August 1987), LR 16:47 (January 1990), LR 16:220 (March 1990), LR 16:1057 (December 1990),

LR 17:658 (July 1991), LR 18:1256 (November 1992), LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1693 (September 1998), LR 25:437 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1466 (August 1999), LR 26:277 (February 2000), LR 26:2470 (November 2000), LR 27:293 (March 2001), LR 27:709, 716 (May 2001), LR 27:1014 (July 2001), LR 30:1673 (August 2004), amended by the Office of Environmental Assessment, LR 31:1571 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:823 (May 2006), LR 33:2102 (October 2007), LR 34:622 (April 2008), LR 36:1235 (June 2010).

Chapter 19. Tanks

§1901. Applicability

A. - C. ...

D. Tanks meeting the requirements for the accumulation time exclusion of LAC 33:V.305.C and 1109.E.1 are subject to the requirements of LAC 33:V.1903.A, 1905.B-H, 1907.A, 1907.B-K, 1909, 1911, 1913, 1915.D, 1917, 1919, and 1921.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:651 (November 1987), LR 16:614 (July 1990), LR 18:1375 (December 1992), LR 22:819 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1107 (June 1998), amended by the Office of the Secretary, Legal Affairs Division, LR 34:1013 (June 2008), LR 36:1235 (June 2010).

§1907. Containment and Detection of Releases

A. - D. ...

E. In addition to the requirements of Subsections B-D of this Section, secondary containment systems must satisfy the following requirements.

1. External liner systems must be:

a. - b. ...

c. free of cracks or gaps;

d. designed and installed to surround the tank completely and to cover all surrounding earth likely to come into contact with the waste if the waste is released from the tank(s);

e. impermeable to the extent that it will prevent lateral as well as vertical migration of waste into the environment (this is not intended to address releases to the air); and

f. if concrete is used as an external liner system:

i. the liner system must be:

(a). provided with a coating or lining that is compatible with the stored waste and meets the requirements of Subparagraph E.1.d and e of this Section except as specified in Clause E.1.f.ii and Subsection J of this Section;

(b). constructed with chemical-resistant water stops in place at all joints (if any), in liner systems installed after June 20, 2010 and in liner systems undergoing significant modification after June 20, 2010; and

(c). constructed with chemical-resistant joint sealants at all joints and cracks (if any).

ii. the owner or operator of a tank equipped with an uncoated/unlined concrete external liner system may demonstrate compliance with Subclause E.1.f.i.(a) of this Section by submitting the information described in

Subsection J of this Section for review and obtaining written approval by the Office of Environmental Services.

2. Vault systems must be:

- a. - c. ...
- d. constructed with chemical-resistant joint sealants at all joints and cracks (if any), in vault systems installed after [date of promulgation] and in vault systems undergoing significant modification after June 20, 2010;
- e. provided with an impermeable interior coating or lining that is compatible with the stored waste and that will prevent migration of waste into the concrete;
- f. provided with a means to protect against the formation of and ignition of vapors within the vault, if the waste being stored or treated:
- i. meets any of the definitions of ignitable waste under LAC 33:V.4903.B; or
- ii. meets the definition of reactive waste under LAC 33:V.4903.D, and may form an ignitable or explosive vapor; and
- g. provided with an exterior moisture barrier or be otherwise designed or operated to prevent migration of moisture into the vault if the vault is subject to hydraulic pressure.

E.3. - I.5. ...

J. Unlined/Uncoated Concrete Liner Systems—Demonstration of Sufficiency Process

1. Submittals to the Office of Environmental Services intended to secure its approval of uncoated/unlined concrete liner systems, as provided for in Clause E.1.f.ii of this Section, must contain documentation regarding the information described below.

a. The owner or operator must provide detailed information on the uncoated/unlined external liner, including, but not limited to:

- i. the design and installation specifications for any concrete joints, including water stops;
- ii. the characteristics of any joint sealant used, including its compatibility with the waste stored in the tank system; and
- iii. the characteristics of the concrete mix used, the design and construction specifications of the concrete liner and secondary containment system, and any American Concrete Institute or other applicable standards used.

b. The owner or operator must also provide the following information:

- i. the physical and chemical characteristics of the waste in the tank system, including its potential for migration and its compatibility with the unlined/uncoated concrete external liner system;
- ii. the persistence and permanence of the potential adverse effects from a release of the waste constituents to the environment;
- iii. the risk to human health and the environment posed by a potential release of the waste constituents contained in the tank to the soil or groundwater;
- iv. any factor that specifically influences the potential mobility of the waste contained in the tank and its potential to migrate through the unlined/uncoated concrete external liner system to the environment;
- v. any additional protections afforded by the design and construction of the tank system, such as tank liners, lined piping, welded flanges, double bottoms, and/or

elevation of the tank above the unlined/uncoated concrete external liner; and

vi. any other information requested by the administrative authority.

2. Submittals may also contain other documentation demonstrating that an unlined/uncoated concrete external liner system is appropriate, such as documentation regarding the following:

a. any natural or man-made hydrogeological characteristic of the facility and surrounding land that affords a barrier to the migration of waste into the environment;

b. any applicable regulation or permit requirement, or standard, such as, for example:

i. any schedule of more frequent than normal internal inspection of the tank pursuant to appropriate standards (e.g. American Petroleum Institute (API), American Society of Mechanical Engineers (ASME), etc.);

ii. any schedule of more frequent than normal external inspection of the tank pursuant to appropriate standards (e.g. API, ASME, etc.);

iii. any certification by a registered professional engineer regarding the permeability of the concrete that comprises the concrete liner system; and

c. the cost of installing and maintaining an impermeable coating or lining versus the potential benefits to be derived therefrom.

3. In deciding whether to approve the use of an unlined/uncoated concrete external liner system in lieu of the requirements of Subclause E.1.f.i.(a) of this Section:

a. the administrative authority shall consider each submittal on its own merits;

b. the stringency of the administrative authority's requirements may vary depending on the tank's contents (e.g., the concentration or type of material involved); and

c. the administrative authority shall approve the use of an unlined/uncoated concrete external liner system if it reasonably determines that the unlined/uncoated concrete external liner system:

i. will prevent lateral and vertical migration of waste into the environment; or

ii. is otherwise appropriate based on the potential risk to human health and the environment.

4. Within 30 days after receipt of an administratively complete submittal pursuant to this Subsection, the department shall provide written acknowledgment to the owner or operator that the submittal is under consideration. Subclause E.1.f.i.(a) of this Section shall not apply to the concrete external liner system while the administrative authority considers the owner's or operator's submittal. The administrative authority shall notify the owner or operator in writing of the administrative authority's approval or disapproval of the proposed use of an unlined/uncoated concrete external liner system. If the administrative authority does not approve the use of an unlined/uncoated concrete external liner system, it shall give the owner or operator a reasonable period of time to provide an appropriate coating or lining for the concrete external liner system, or another acceptable means of secondary containment.

5. If the use of an unlined/uncoated concrete external liner system is approved:

- a. the owner or operator shall maintain on-site:

i. the written approval received from the administrative authority, or a legible copy thereof; and

ii. documentation sufficient to establish that any conditions upon which that approval was based are being fulfilled; and

b. the owner or operator shall provide written notification to the Office of Environmental Services of any change in the tank system, the service of the tank system, the concrete external liner system, the waste stored in the tank(s), or the information submitted by the owner or operator pursuant to Paragraph 1 or 2 of this Subsection that could result in a significant increase in the risk to human health or the environment posed by a potential release of waste constituents contained in the tank(s). Such notice shall be provided within fifteen days of the owner's or operator's discovery of any such change. The department thereafter may require the submittal of additional information by the owner or operator, and/or revoke the approval for the owner's or operator's continued use of the unlined/uncoated concrete external liner system.

K. Effective Date/Due Date

1. Subparagraph E.1.f of this Section shall be effective:

a. one year from June 20, 2010, for tanks meeting the requirements for the accumulation time exclusion of LAC 33:V.305.C.2 and 1109.E.1; and

b. 180 days from June 20, 2010, for tanks subject to permitting.

2. Submittals under Subsection J of this Section shall be due:

a. within one year from June 20, 2010, for tanks existing prior to this date and that meet the requirements for the accumulation time exclusion of LAC 33:V.305.C.2 and 1109.E.1;

b. within 180 days from June 20, 2010, for tanks existing prior to this date and that are subject to permitting;

c. prior to tank installation, for tanks and/or tank systems installed after June 20, 2010 that meet the requirements for the accumulation time exclusion of LAC 33:V.305.C.2 and 1109.E.1;

d. contemporaneously with the submittal of the permit application, for new tanks and/or tank systems that are installed after June 20, 2010 and are subject to permitting; and

e. within such reasonable period of time as shall be established by the administrative authority upon request by the owner or operator, for any tank that is installed or undergoes a change in service within one year of June 20, 2010.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:651 (November 1987), LR 14:790 (November 1988), LR 16:614 (July 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2475 (November 2000), amended by the Office of Environmental Assessment, LR 31:1572 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2107 (October 2007), LR 34:624 (April 2008), LR 34:995 (June 2008), LR 34:1896 (September 2008), LR 36:1235 (June 2010).

§1909. General Operating Requirements

A. - C. ...

D. Owners or operators must provide documentation, maintained on-site, that batch tanks subject to the accumulation time exclusion of LAC 33:V.1109.E have been emptied and cleaned of all residues and/or sludges at least once in each 90-day period.

1. A batch tank is deemed emptied and cleaned for the purposes of this Subsection if it has been emptied to the maximum extent practicable and:

a. - b. ...

2. Notwithstanding the provisions of Paragraph D.1 of this Section, except to the extent otherwise approved by the administrative authority, batch tanks subject to the exclusion of LAC 33:V.1109.E must be completely emptied and cleaned once per year to a level sufficient to allow visual inspection of all tank interior surfaces.

E. Owners or operators must provide documentation, maintained on-site, that continuous-flow tanks subject to the accumulation time exclusion of LAC 33:V.1109.E have been emptied at least once in each 90-day period.

1. A continuous-flow tank is deemed emptied if the owner or operator can demonstrate, via a mass balance approach and appropriate documentation or methodology, that hazardous waste has not been stored therein for more than 90 days. The key parameters in the mass balance approach are the volume of the tank (e.g., 6,000 gallons), the daily throughput of the hazardous waste (e.g., 300 gallons per day), and the time period the hazardous waste "resides" in the tank. In this example, the hazardous waste would have a residence time of 20 days ((6,000 gallons/300 gallons per day) = 20 days) and would meet the requirements of LAC 33:V.1109.E since the hazardous waste has been in the tank for less than 90 days.

2. The documentation or methodology that is used by the owner or operator to confirm a continuous-flow tank's compliance with Paragraph E.1 of this Section must be reasonable and easily discernible to the department.

3. A continuous-flow tank in which a significant amount of residue or sludge is accumulated may not qualify for the exclusion of LAC 33:V.1109.E. Therefore, the owner or operator of a continuous-flow tank for which that exclusion is claimed must ensure that significant accumulation of residue or sludge does not occur in the tank by satisfying the requirements either of Subsection D of this Section (in which case the words "continuous-flow tank" shall be substituted for the words "batch tank" in each instance where "batch tank" appears in that Subsection), or of Paragraph E.4 of this Section.

4. The owner or operator must provide documentation, maintained on-site, establishing that significant accumulations of residue or sludge do not occur within the tank; i.e., almost all residues or sludges in the tank at the beginning of the 90-day period have been removed (or displaced by incoming waste or newly-formed residues or sludges) by the end of the ninetieth day. The determination of what constitutes "significant accumulation of residue or sludge" shall be made on a case-by-case basis. However, no significant accumulation of residues or sludges shall be deemed to have occurred if the residues or sludges that accumulate in the tank constitute less than 5 percent by volume of the total tank capacity. To the extent that there is

no significant accumulation of residue or sludge in the tank, the one-year storage prohibition under LAC 33:V.2205 shall not apply to any residue or sludge contained therein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:651 (November 1987), LR 16:614 (July 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1804 (October 1999), amended by the Office of the Secretary, Legal Affairs Division, LR 36:1237 (June 2010).

Chapter 43. Interim Status

Subchapter I. Tanks

§4437. Containment and Detection of Releases

A. - D. ...

E. In addition to the requirements of Subsections B-D of this Section, secondary containment systems must satisfy the following requirements.

1. External liner systems must be:

a. - b. ...

c. free of cracks or gaps;

d. designed and installed to completely surround the tank and cover all surrounding earth likely to come into contact with the waste if released from the tank(s);

e. impermeable to the extent that it will prevent lateral as well as vertical migration of waste into the environment (this is not intended to address releases to the air); and

f. if concrete is used as an external liner system:

i. the liner system must be:

(a). provided with a coating or lining that is compatible with the stored waste and meets the requirements of Subparagraph E.1.d and e of this Section, except as specified in Clause E.1.f.ii and Subsection J of this Section;

(b). constructed with chemical-resistant water stops in place at all joints (if any), in liner systems installed after June 20, 2010 and in liner systems undergoing significant upgrade after June 20, 2010; and

(c). constructed with chemical-resistant joint sealants at all joints and cracks (if any);

ii. the owner or operator of a tank equipped with an uncoated/unlined concrete external liner system may demonstrate compliance with Subclause E.1.f.i.(a) of this Section by submitting the information described in Subsection J of this Section for review and obtaining written approval by the Office of Environmental Services.

2. Vault systems must be:

a. - c. ...

d. constructed with chemical-resistant joint sealants at all joints and cracks (if any), in vault systems installed after June 20, 2010 and in vault systems undergoing significant upgrade after June 20, 2010;

e. provided with an impermeable interior coating or lining that is compatible with the stored waste and that will prevent migration of waste into the concrete;

f. provided with a means to protect against the formation of and ignition of vapors within the vault, if the waste being stored or treated:

i. meets any of the definitions of ignitable waste under LAC 33:V.4903.B; or

ii. meets the definition of reactive waste under LAC 33:V.4903.D, and may form an ignitable or explosive vapor; and

g. provided with an exterior moisture barrier or be otherwise designed or operated to prevent migration of moisture into the vault if the vault is subject to hydraulic pressure.

E.3. - I.4. ...

J. Unlined/Uncoated Concrete Liner Systems—
Demonstration of Sufficiency Process.

1. Submittals to the Office of Environmental Services intended to secure its approval of uncoated/ unlined concrete liner systems, as provided for in Clause E.1.f.ii of this Section, must contain documentation regarding the information described below.

a. The owner or operator must provide detailed information on the uncoated/unlined external liner, including, but not limited to:

i. the design and installation specifications for any concrete joints, including water stops;

ii. the characteristics of any joint sealant used, including its compatibility with the waste stored in the tank system; and

iii. the characteristics of the concrete mix used, the design and construction specifications of the concrete liner and secondary containment system, and any American Concrete Institute or other applicable standards used.

b. The owner or operator must also provide the following information:

i. the physical and chemical characteristics of the waste in the tank system, including its potential for migration and its compatibility with the unlined/uncoated concrete external liner system;

ii. the persistence and permanence of the potential adverse effects from a release of the waste constituents to the environment;

iii. the risk to human health and the environment posed by a potential release of the waste constituents contained in the tank to the soil or groundwater;

iv. any factors that specifically influence the potential mobility of the waste contained in the tank and its potential to migrate through the unlined/uncoated concrete external liner system to the environment;

v. any additional protections afforded by the design and construction of the tank system; such as tank liners, lined piping, welded flanges, double bottoms, and/or elevation of the tank above the unlined/uncoated concrete external liner; and

vi. any other information requested by the administrative authority.

2. The submittal may also contain other documentation demonstrating that an unlined/uncoated concrete external liner system is appropriate, such as documentation regarding the following:

a. any natural or man-made hydrogeological characteristic of the facility and surrounding land that affords a barrier to the migration of waste into the environment;

b. any applicable regulation or permit requirement, or standard, such as, for example:

i. any schedule of more frequent than normal internal inspection of the tank pursuant to appropriate standards (e.g. American Petroleum Institute (API), American Society of Mechanical Engineers (ASME), etc.);

ii. any schedule of more frequent than normal external inspection of the tank pursuant to appropriate standards (e.g. API, ASME, etc.);

iii. any certification by a registered professional engineer regarding the permeability of the concrete that comprises the concrete liner system; and

c. the cost of installing and maintaining an impermeable coating or lining versus the potential benefits to be derived therefrom.

3. In deciding whether to approve the use of an unlined/uncoated concrete external liner system in lieu of the requirements of Subclause E.1.f.i.(a) of this Section:

a. the administrative authority shall consider each submittal on its own merits;

b. the stringency of the administrative authority's requirements may vary depending on the tank's contents (e.g., the concentration or type of material involved); and

c. the administrative authority shall approve the use of an unlined/uncoated concrete external liner system if it reasonably determines that the unlined/uncoated concrete external liner system:

i. will prevent lateral and vertical migration of waste into the environment; or

ii. is otherwise appropriate based on the potential risk to human health and the environment.

4. Within 30 days after receipt of an administratively complete submittal pursuant to this Subsection, the department shall provide written acknowledgment to the owner or operator that the submittal is under consideration. Subclause E.1.f.i.(a) of this Section shall not apply to the concrete external liner system while the administrative authority considers the owner's or operator's submittal. The administrative authority shall notify the owner or operator in writing of the administrative authority's approval or disapproval of the proposed use of an unlined/uncoated concrete external liner system. If the administrative authority does not approve the use of an unlined/uncoated concrete external liner system, it shall give the owner or operator a reasonable period of time to provide an appropriate coating or lining for the concrete external liner system, or another acceptable means of secondary containment.

5. If the use of an unlined/uncoated concrete external liner system is approved:

a. the owner or operator shall maintain on-site:

i. the written approval received from the administrative authority, or a legible copy thereof; and

ii. documentation sufficient to establish that any conditions upon which that approval was based are being fulfilled; and

b. the owner or operator shall provide written notification to the Office of Environmental Services of any change in the tank system, the service of the tank system, the concrete external liner system, the waste stored in the tank(s), or the information submitted by the owner or operator pursuant to Paragraph 1 or 2 of this Subsection that could result in a significant increase in the risk to human health or the environment posed by a potential release of the waste constituents contained in the tank(s). Such notice shall

be provided within 15 days of the owner's or operator's discovery of any such change. The department thereafter may require the submittal of additional information by the owner or operator, and/or revoke the approval for the owner's or operator's continued use of the unlined/uncoated concrete external liner system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:651 (November 1987), LR 14:790 (November 1988), LR 16:614 (July 1990), LR 18:723 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2507 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2482 (October 2005), LR 33:2134 (October 2007), LR 34:1004 (June 2008), LR 34:1899 (September 2008), LR 36:1238 (June 2010).

Herman Robinson, CPM
Executive Counsel

1006#080

RULE

Department of Environmental Quality Office of the Secretary Legal Affairs Division

DEQ Notifications to State Police
(LAC 33:I.3913, 3915, 3917, 3923, 3925;
VII.315, 713; and XI.713)(MM012)

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 Environmental Quality regulations, LAC 33:I.3913, 3915, 3917, 3923, 3925; VII.315, 713; and XI.713 (Log #MM012).

This Rule adjusts the reporting requirements to the one-call system for unauthorized releases in excess of an applicable reportable quantity. Proper notification to the Department of Public Safety and Corrections through the one-call system for a release in excess of applicable reportable quantities, as well as those that cause an emergency, will now satisfy the reporting obligations for these events, except for releases of radionuclides in excess of reportable quantities. This Rule implements Act 81 of the 2008 Regular Session of the legislature. The basis and rationale for this Rule are to update the Environmental Quality regulations for the one-call state notification system for release notifications. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33

ENVIRONMENTAL QUALITY

Part I. Office of the Secretary

Subpart 2. Notification

Chapter 39. Notification Regulations and Procedures for Unauthorized Discharges

Subchapter A. General

§3913. Effective Date

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025(J), 2060(H), 2076(D), 2183(I), 2194(C), and 2204(A).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), amended LR 19:1022 (August 1993), repealed by the Office of the Secretary, Legal Affairs Division, LR 36:1239 (June 2010).

Subchapter B. Requirements for Emergency Notification
§3915. Notification Requirements for Unauthorized Discharges That Cause Emergency Conditions

A. - A.3. ...

4. Compliance with this Section does not relieve dischargers of the necessity of following any applicable written notification procedure in LAC 33:I.3925 or any terms and conditions of any applicable permit or license issued under the Louisiana Environmental Quality Act.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025(J), 2060(H), 2076(D), 2183(I), 2204(A), 2194(C), and 2373(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), amended LR 19:1022 (August 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2442 (November 2000), LR 30:1668 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 36:1240 (June 2010).

Subchapter C. Requirements for Non-Emergency Notification

§3917. Notification Requirements for Unauthorized Discharges That Do Not Cause Emergency Conditions

A. In the event of an unauthorized discharge that exceeds a reportable quantity specified in Subchapter E of this Chapter but that does not cause an emergency condition, the discharger shall promptly notify DPS by telephone at (225) 925-6595 (collect calls accepted 24 hours a day) within 24 hours after learning of the discharge.

B. Compliance with this Section does not relieve dischargers of the necessity of following any applicable written notification procedure in LAC 33:I.3925 or any terms and conditions of any applicable permit or license issued under the Louisiana Environmental Quality Act.

C. Notification to the Department of Environmental Quality. In the event of an unauthorized discharge that requires notification under Subsection A of this Section, the DPS 24-hour Louisiana Emergency Hazardous Materials Hotline will notify the Department of Environmental Quality.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025(J), 2060(H), 2076(D), 2183(I), 2194(C), and 2204(A).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), amended LR 19:1022 (August 1993), repromulgated LR 20:182 (February 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2443 (November 2000), repromulgated LR 27:38 (January 2001), amended LR 30:1668 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2434 (October 2005), LR 33:2080 (October 2007), LR 36:1240 (June 2010).

Subchapter D. Procedures for Notifying the Department
§3923. Notification Procedures for Other Regulatorily Required Reporting

A. Notifications not required by LAC 33:I.3915 or 3917 shall be provided to the department within a time frame not to exceed 24 hours, or as specified by the specific regulation

or permit provision requiring the notification, and shall be given to SPOC, as follows:

1. by the online incident reporting screens found at <http://www.deq.louisiana.gov/apps/forms/irf/forms/>;

2. by e-mail utilizing the information for reporting releases found at <http://www.deq.louisiana.gov/portal/tabid/279/Default.aspx>;

A.3. - B. ...

C. Content of Notifications. The following guidelines will be utilized as appropriate, based on the conditions and circumstances surrounding any unauthorized discharge, to provide relevant information regarding the nature of the discharge:

1. - 7.d. ...

D. Compliance with this Section does not relieve dischargers of the necessity of following any applicable written notification procedure in LAC 33:I.3925 or any terms and conditions of any applicable permit or license issued under the Louisiana Environmental Quality Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025(J), 2060(H), 2076(D), 2183(I), 2194(C), and 2204(A).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), amended LR 19:1022 (August 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 30:1668 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2434 (October 2005), LR 33:2080 (October 2007), LR 36:1240 (June 2010).

§3925. Written Notification Procedures

A. Written reports for any unauthorized discharge that requires notification under LAC 33:I.3915.A, 3917, 3919, or 3923 shall be submitted by the discharger to SPOC in accordance with this Section within seven calendar days after the notification required by LAC 33:I.3915.A, 3917, 3919, or 3923, unless otherwise provided for in a valid permit or other department regulation.

A.1. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025(J), 2060(H), 2076(D), 2183(I), 2194(C), and 2204(A).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), amended LR 19:1022 (August 1993), LR 20:182 (February 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2443 (November 2000), LR 30:1669 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2434 (October 2005), LR 33:2080 (October 2007), LR 33:2628 (December 2007), LR 36:1240 (June 2010).

Part VII. Solid Waste

Subpart 1. Solid Waste Regulations

Chapter 3. Scope and Mandatory Provisions of the Program

§315. Mandatory Provisions

A. - G. ...

H. Notice of Fire or Damage to Structures in a Solid Waste Facility. Notification shall be made in accordance with LAC 33:I.3915 in the case of an *emergency condition* as defined in LAC 33:I.3905, or as provided in LAC 33:I.3923 in all other cases, when damage to or degradation of any structure of a solid waste facility occurs that would impair the ability of the facility to meet the conditions of its permit, or when any fire occurs in the waste management area at a solid waste facility.

I. - O. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 19:1143 (September 1993), LR 19:1315 (October 1993), repromulgated LR 19:1421 (November 1993), amended LR 22:279 (April 1996), amended by the Office of Waste Services, Solid Waste Division, LR 23:954 (August 1997), LR 23:1145 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2516 (November 2000), LR 30:1675 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2487 (October 2005), LR 33:1030 (June 2007), LR 34:1400 (July 2008), LR 36:1240 (June 2010).

Chapter 7. Solid Waste Standards

Subchapter A. Landfills, Surface Impoundments, Landfarms

§713. Standards Governing Surface Impoundments (Type I and II)

A. - D.3.c. ...

d. If a leak in an impoundment is found, notification shall be made in accordance with LAC 33:I.3915 in the case of an *emergency condition* as defined in LAC 33:I.3905, or in accordance with LAC 33:I.3923 in all other cases.

D.3.e. - F.2.b.iv. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), repromulgated LR 19:1316 (October 1993), amended by the Office of the Secretary, LR 24:2251 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2524 (November 2000), repromulgated LR 27:704 (May 2001), amended LR 30:1676 (August 2004), amended by the Office of Environmental Assessment, LR 30:2025 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2493 (October 2005), LR 33:1053 (June 2007), LR 33:2146 (October 2007), LR 36:1241 (June 2010).

Part XI. Underground Storage Tanks

Chapter 7. Methods of Release Detection and Release Reporting, Investigation, Confirmation, and Response

§713. Reporting and Cleanup of Spills and Overfills

A. Owners and operators of UST systems must contain and immediately clean up all spills and overfills. Owners and operators of UST systems shall report and begin corrective action in accordance with LAC 33:XI.715 in the following cases.

1. Any spill or overfill of petroleum that has resulted in a release to the environment that exceeds 25 gallons, that causes a sheen on nearby surface water, or results in an *emergency condition* as defined in LAC 33:I.3905, must be reported in accordance with LAC 33:I.Chapter 39 immediately, but in no case later than one hour, regardless of the amount released.

2. Any spill or overfill of a hazardous substance that has resulted in a release to the environment that equals or exceeds the reportable quantity for that substance in LAC 33:I.3931 or results in an *emergency condition* as defined in LAC 33:I.3905, must be reported in accordance with LAC 33:I.Chapter 39 immediately, but in no case later than one hour, regardless of the amount released. A release of a hazardous substance equal to or in excess of its reportable

quantity must also be reported immediately (rather than within 24 hours) to the National Response Center, under Sections 102 and 103 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and to appropriate authorities under Title III of the Superfund Amendments and Reauthorization Act of 1986 (40 CFR 355.40).

B. ...

C. Owners and operators of UST systems must contain and immediately clean up a spill or overfill of petroleum that is less than 25 gallons and a spill or overfill of a hazardous substance that is less than the reportable quantity. If cleanup cannot be accomplished within 24 hours, owners and operators must immediately notify the Office of Environmental Compliance in the manner provided in LAC 33:I.3923.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended LR 18:728 (July 1992), amended by the Office of the Secretary, LR 19:1022 (August 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2559 (November 2000), LR 30:1677 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 36:1241 (June 2010).

Herman Robinson, CPM
Executive Counsel

1006#078

RULE

Department of Environmental Quality Office of the Secretary

Reportable Quantity for Brine from Solution Mining (LAC33:I.3905 and 3931)(OS085)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Office of the Secretary regulations, LAC 33:I.3905 and 3931.B (Log #OS085).

This Rule will provide a new definition for brine from solution mining of salt from underground deposits, which was previously a subset of the definition of produced water. New standards will then be able to be set for reporting spillage of such brine. The environmental hazards associated with brine from solution mining are much lower than those associated with produced water from oilfield operations or underground storage of hydrocarbons. The reportable quantity for brine from solution mining will be 5000 pounds for unauthorized discharges to make the reportable quantity consistent with EPA guidance and the reportable quantities for other similar substances. The basis and rationale for this rule is the proportionate regulation of the affected industries while maintaining the appropriate protection to human health and the environment. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33
ENVIRONMENTAL QUALITY
Part I. Office of the Secretary
Subpart 2. Notification

Chapter 39. Notification Regulations and Procedures for
Unauthorized Discharges

Subchapter A. General

§3905. Definitions

A. The following terms as used in these regulations, unless the context otherwise requires or unless redefined by a particular part hereof, shall have the following meanings.

* * *

Brine from Solution Mining—liquids and suspended particulate matter that are obtained by processing fluids brought to the surface in conjunction with the solution mining of brine.

* * *

Produced Water—includes liquids and suspended particulate matter that are obtained by processing fluids brought to the surface in conjunction with the recovery of oil and gas from underground geologic formations or with underground storage of hydrocarbons.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025(J), 30:2060(H), 30:2076(D), 30:2183(I), 30:2204(A) and 30:2373(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), amended LR 19:1022 (August 1993), LR 20:182 (February 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2442 (November 2000), amended by the Office of Secretary, Legal Affairs Division, LR 33:2080 (October 2007), LR 33:2627 (December 2007), LR 36:1242 (June 2010).

Subchapter E. Reportable Quantities for Notification of
Unauthorized Discharges

§3931. Reportable Quantity List for Pollutants

A. - A.2.b. ...

B. Modifications or Additions. The following table contains modifications to the federal reportable quantity lists incorporated by reference in Subsection A of this Section, as well as reportable quantities for additional pollutants. If a pollutant is listed with more than one reportable quantity, the lower value reportable quantity shall be used.

Pollutant	Synonym	CAS No. ¹	RCRA ² Waste Number	Pounds
* * *				
[See Prior Text in Acetaldehyde through Barium compounds]				
Brine from Solution Mining				5000
* * *				
[See Prior Text in n-Butyl alcohol through Methyl ethyl ketone]				

[See Prior Text in Footnotes *No reporting of releases through #RQ for the state]

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025(J), 2060(H), 2076(D), 2183(I), 2194(C), 2204(A), and 2373(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August

1985), amended LR 19:1022 (August 1993), LR 20:183 (February 1994), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:944 (September 1995), LR 22:341 (May 1996), amended by the Office of the Secretary, LR 24:1288 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 29:698 (May 2003), LR 30:751 (April 2004), LR 30:1669 (August 2004), amended by the Office of Environmental Assessment, LR 31:919 (April 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:603 (April 2006), LR 32:2248 (December 2006), LR 33:640 (April 2007), LR 33:2628 (December 2007), LR 34:69 (January 2008), LR 34:866 (May 2008), repromulgated LR 34:981 (June 2008), amended LR 35:1106 (June 2009), LR 36:1242 (June 2010).

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1006#079

RULE
Office of the Governor
Boxing and Wrestling Commission

Boxing and Wrestling Standards (LAC 46:XI.Chapter 1)

Editor's Note: This Rule is being repromulgated to correct a citation error. The original Rule may be viewed in it's entirety on page 992 of the May 20, 2010 edition of the *Louisiana Register*.

The Louisiana State Boxing and Wrestling Commission, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(b) and R.S. 49:967(D), has adopted the following Rule. This Rule is necessary to further promote the safety of contestants, other participants and spectators in that it supplements the existing §108, "Medical Requirements," to require participants in all sports under the jurisdiction of the Louisiana State Boxing and Wrestling Commission to provide copies of negative HIV, Hepatitis B and C test results directly to the Louisiana State Boxing and Wrestling Commission or an approved representative of the commission at least five days prior to any sanctioned event.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS

Part XI. Boxing and Wrestling

Chapter 1. General Rules

§108. Medical Requirements

A. Each contestant participating in any sport under this commission's jurisdiction must furnish to the commission physician a certified medical certificate evidencing that the contestant has been tested for HIV, Hepatitis B and Hepatitis C and said test results are negative. Said tests and certificates shall be dated not more than six months prior to the scheduled event and said certificate is to be presented at least five business days prior to any event to the event coordinator or other approved commission official with the only exception to be those allowed specifically by the coordinator on a case by case basis until such time that a national clearinghouse/database has been contracted by this commission for verification of these medical tests.

B. - C.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61.D, R.S. 4:64, and R.S. 4:67.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Boxing and Wrestling Commission, LR 32:242 (February 2006), amended by the Department of Economic Development, Boxing and Wrestling Commission, LR 34:1601 (August 2008), LR 35:53 (January 2009), LR 36:992 (May 2010), repromulgated LR 36:1242 (June 2010).

Patrick C. McGinity
Attorney

1006#013

RULE

Office of the Governor Office of Financial Institutions

Non-Depository Records Retention (LAC 10:XVII.901)

Under the authority of the Administrative Procedure Act, R.S. 49:950 et seq., and in accordance with R.S. 6:121, 6:414, 6:1014, 6:1085, 9:3554, 9:3556.1, 9:3572.7, 9:3574.10, 9:3578.8, and 37:1807, the Commissioner of the Office of Financial Institutions has amended LAC10:XI.901, regarding records retention schedules, providing for a record retention schedule for all non-depository persons subject to the supervision of the commissioner. This Rule significantly streamlines the existing record retention rule by deleting references therein to certain persons that are no longer under the commissioner's jurisdiction and clarifying coverage by the said schedule for persons regulated by him pursuant to the Louisiana S.A.F.E. Residential Mortgage Lending Act, R.S. 6:1081 et seq. The amendment and Rule will have no known effect on family formation, stability, and autonomy as set forth in R.S. 49:972.

Title 10

FINANCIAL INSTITUTIONS, CONSUMER CREDIT, INVESTMENT SECURITIES AND UCC

Part XVII. Miscellaneous Provisions

Chapter 9. Records Retention

§901. Non-Depository Records Retention

A. ...

B. For purposes of this rule, non-depository persons refers to any individual, corporation, limited liability company, partnership or other entity, other than those considered by the commissioner to be depository institutions, such as banks, savings associations, credit unions and savings banks, or those persons under his jurisdiction pursuant to the Louisiana Securities Law. Non-depository includes, but is not limited to, residential mortgage lenders, brokers, and originators, bond for deed escrow agents, check cashers, licensed lenders, loan brokers, and pawnbrokers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121, 6:414, 6:1014, 6:1085, 9:3554, 9:3556.1, 9:3572.7, 9:3574.10, 9:3578.8, and 37:1807.

HISTORICAL NOTE: Promulgated by the Office of Financial Institutions, LR 27:1512 (September 2001), repromulgated LR 27:1690 (October 2001), amended LR 36:1243 (June 2010).

John Ducrest
Commissioner

1006#058

RULE

Department of Health and Hospitals Board of Medical Examiners

Licensure and Certification; Practice; Administrative Provisions (LAC 46:XLV.402, 449, 6504, 8301-8311)

In accordance with the provisions of the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority of the Louisiana Medical Practice Act, R.S. 37:1261-1292, the Louisiana State Board of Medical Examiners has amended §§402 and 449 of its rules governing Licensure and Certification of Physicians, adopted §6504 governing Physician Practice, and repealed Chapter 83, relative to Administrative Provisions. The amendments are set forth below.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLV. Medical Professions

Subpart 2. License and Certification

Chapter 3. Physicians

Subchapter H. Restricted Licensure, Permits

§402. Provisional Temporary Permit Pending Results of Criminal History Record Information

A. - B.2 ...

C. The board may, in its discretion:

1. extend or renew for one or more additional 90-day periods, a provisional temporary permit issued hereunder which has expired pursuant to §402.B.1, in favor of an applicant who holds a provisional temporary permit issued under this Section who has submitted or attempted to submit fingerprints and all other required information and paid all applicable fees and costs attendant thereto but whose criminal history record information has not been received from the bureau or the FBI within 90 days from issuance of such provisional temporary permit; or

2. issue the license or permit applied for to an individual holding a temporary permit under this Section whose fingerprints are rejected by the bureau or the FBI provided, however, that such individual shall submit such additional sets of fingerprints as may be required for the board to receive criminal history record information or as otherwise deemed appropriate by the board.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1275 and R.S. 37:1277, R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 27:843 (June 2001), amended LR 33:1344 (July 2007), amended LR 36:1243 (June 2010).

Subchapter K. Continuing Medical Education

§449. CME Requirement for Initial Renewal of License

A. - D. ...

E. A physician who at the time of the initial renewal of medical licensure resides and practices medicine exclusively outside of Louisiana or who has held an unrestricted license to practice medicine in any state for at least 10 years may, in lieu of personal attendance, satisfy the mandatory requirements of Subsection A of this Section by successfully

completing the board's orientation program on-line in a manner specified by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1270(A)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 26:697 (April 2000), amended LR 27:850 (June 2001), amended LR 36:1243 (June 2010).

Subpart 3. Practice

Chapter 65. Dispensation of Medications

Subchapter A. General Provisions

§6504. Clinical Trials

A. *Clinical Trial Research*—for purposes of this Chapter, means a clinical study conducted by a physician in accordance with United States Food and Drug Administration protocols involving an investigational drug, which is not a controlled substance, and is supplied to participants at no cost.

B. A dispensing registration shall not be required for a physician engaged in clinical trial research.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, 37:1201.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 36:1244 (June 2010).

Subpart 4. Administrative Provisions

Chapter 83. Investigation of Information and Records Relating to Physician Impairment

§8301. Scope of Chapter

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(1), (6) and 37:1278(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 15:269 (April 1989), repealed LR 36:1244 (June 2010).

§8303. Definitions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(1), (6) and 37:1278(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 15:269 (April 1989), repealed LR 36:1244 (June 2010).

§8305. Statement of Policy and Intent

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(1), (6) and 37:1278(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 15:269 (April 1989), repealed LR 36:1244 (June 2010).

§8307. Basis for Obtaining Medical Information and Records

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(1), (6) and 37:1278(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 15:269 (April 1989), repealed LR 36:1244 (June 2010).

§8309. Procedure for Obtaining Medical Information and Records

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(1), (6) and 37:1278(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 15:269 (April 1989), repealed LR 36:1244 (June 2010).

§8311. Confidentiality of Medical Information and Records

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(1), (6) and 37:1278(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 15:270 (April 1989), repealed LR 36:1244 (June 2010).

Robert L. Marier, M.D.
Executive Director

1006#068

RULE

Department of Health and Hospitals Board of Nursing

Alternative to Disciplinary Proceedings Revisions (LAC 46:XLVII.3419)

The Louisiana State Board of Nursing has amended LAC 46:XLVII.3419, Disciplinary Proceedings: Alternative to Disciplinary Proceedings in accordance with R.S. 37:918, R.S. 37:919 and R.S. 37:920 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The amendment to LAC 46:XLVII.3419 clarifies the criteria for admission to the Recovery Nurse Program (RNP). This revision was recommended due to the increasing number of applicants applying for admission to (RNP). This change provides a consistent bar from nursing practice of anyone convicted of or pending any crime of violence or other crimes referenced in LAC 46:XLVII.3331.A, any crime that involves the distribution of drugs, and/or any crime that demonstrated a lack of fitness to practice nursing.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLVII. Nurses: Practical Nurses and Registered Nurses

Subpart 2. Registered Nurses

Chapter 34. Disciplinary Proceedings; Alternative to Disciplinary Proceedings

§3419. Alternative to Disciplinary Proceedings

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

e. has no criminal convictions or pending criminal charge pertaining to any crime or violence or other crime referenced in LAC 46:XLVII.3331.A, any crime that involves the distribution of drugs, and/or any crime that demonstrates a lack of fitness to practice nursing.

D.3.f. - F.1.b. ...

c. complete and submit to the board a comprehensive inpatient evaluation and treatment as recommended from a board recognized treatment facility. Admission shall be within 10 days unless approved by RNP or board's professional staff;

1.d. - 2.a. ...

b. complete a relapse evaluation as directed by RNP staff. Must follow all treatment recommendations. Admission shall be within 10 days unless prior approval by RNP;

- c. sign RNP agreement for four years;
- d. submit to the board a Fitness for Employment Release Form completed by a board approved addictionologist prior to approval by RNP to return to work.

3. - 3.b. ...

i. complete and submit to the board a comprehensive inpatient re-evaluation and treatment as recommended by a board approved addictionologist;

ii. sign and adhere to a disciplinary RNP agreement with documented evidence of continuous sobriety for a minimum of six months;

iii. submit to the board a release form completed by a board approved addictionologist at the time reinstatement is requested;

iv. if relapse/non-compliance is reported while under suspension of license, shall be non-compliantly released by RNP and shall not be eligible to re-enter RNP for a minimum of two years;

v. board hearing or consent order will be required prior to reinstatement;

vi. submit fine/costs as imposed.

F.4. - H.2. ...

3. The board may cause to be made non-confidential the records, files and information related to successful completion of an RNP program in the event that a former participant subsequently violates the NPA or rules of the board

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 24:1293 (July 1998), amended LR 27:728 (May 2001), LR 31:1586 (July 2005), LR 36:1244 (June 2010)

Barbara L. Morvant, MN, RN
Executive Director

1006#087

RULE

Department of Health and Hospitals Board of Nursing

Faculty and Faculty Organization (LAC 46:XLVII.3515)

The Louisiana State Board of Nursing has amended LAC 46:XLVII.3515, Faculty and Faculty Organization in accordance with R.S. 37:918, 37:919 and 37:920 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The amendment to LAC 46:XLVII.3515 clarifies the qualifying criteria for hiring nurse faculty. This revision was recommended due to the increasing number of academic options that have evolved leading to an advanced degree in nursing. For example, an individual can graduate from an ASN to a Masters Program or BSN to Doctorate. These rule revisions provide for individuals who earn a graduate degree in a non-traditional option to qualify for faculty appointment without having to ask for an exception.

Title 46 PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLVII. Nurses: Practical Nurses and Registered Nurses

Subpart 2. Registered Nurses

Chapter 35. Nursing Education Programs

§3515. Faculty and Faculty Organization

A - B.1. ...

2. The program head of a baccalaureate program shall hold a minimum of a graduate degree in nursing, or its equivalent, and an earned doctorate, and shall have a minimum of three years experience in the areas of nursing education and three years in clinical practice.

3. The program head of an associate degree or diploma program shall hold a minimum of a graduate degree in nursing and shall have a minimum of three years experience in the areas of nursing education and three years in clinical practice.

4. The nurse faculty shall hold a graduate degree in nursing.

5. - 6. ...

7. Exceptions to the academic qualifications for nurse faculty shall be justified and approved under board established guidelines. Such exceptions, if granted by the board shall be:

a. baccalaureate in nursing prepared individuals who are not enrolled in a graduate program in nursing are limited to a maximum two calendar years in any consecutive five year period;

b. baccalaureate in nursing prepared individuals who are enrolled in a graduate program in nursing shall be approved annually on an individual basis in accordance with current board guidelines. Exceptions may be granted to each individual for a maximum of four calendar years.

B.8. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 3:186 (April 1977), amended LR 10:1025 (December 1984), LR 12:678 (October 1986), amended by the Department of Health and Hospitals, Board of Nursing, LR 19:1147 (September 1993), repromulgated LR 24:1293 (July 1998), amended LR 26:2789 (December 2000), repromulgated LR 27:851 (June 2001), amended LR 33:1123 (June 2007), LR 36:1245 (June 2010).

Barbara L. Morvant, MN, RN
Executive Director

1006#085

RULE

Department of Health and Hospitals Board of Nursing

Fees for Fingerprint Imprint (LAC 46:XLVII.3341)

The Louisiana State Board of Nursing has amended LAC 46:XLVII.3341, Fees for Registration and Licensure in accordance with R.S. 37:918, R.S. 37:919 and R.S. 37:920

and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The amendment to LAC 46:XLVII.3341 implements a fee to cover the processing fee for fingerprinting imprints that are completed at the Louisiana State Board of Nursing. This service is being provided by the Louisiana State Board of Nursing as an effort to streamline the volume of applicants needing fingerprinting services.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

**Part XLVII. Nurses: Practical Nurses and Registered
Nurses**

Subpart 2. Registered Nurses

Chapter 33. General

**Subchapter C. Registration and Registered Nurse
Licensure**

§3341. Fees for Registration and Licensure

A. - B.2. ...

C. Fees for Fingerprint Imprint \$10.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918 and R.S. 37:927.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 8:417 (August 1982), amended by the Department of Health and Hospitals, Board of Nursing, LR 14:533 (August 1988), LR 22:981 (October 1996), repromulgated LR 24:1293 (July 1998), amended LR 26:84 (January 2000), LR 30:2829 (December 2004), LR:31:2027 (August 2005), LR 36:1246 (June 2010).

Barbara L. Morvant, MN, RN
Executive Director

1006#086

RULE

**Department of Health and Hospitals
Board of Examiners of Psychologists**

Supervision of Assistants Psychologists
(LAC 46:LXIII.1101)

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Board of Examiners of Psychologists has amended LAC 46:LXIII.1101.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXIII. Psychologists

Chapter 11. Supervision of Assistants to Psychologists

§1101. Conditions for Utilization of Assistants

A. An assistant providing psychological services must be under the general and continuing professional supervision of a licensed psychologist. General supervision means the procedure is furnished under the psychologist's overall direction and control, but the psychologist's presence is not required during the performance of the procedure. Under general supervision, the training of the nonpsychologist personnel who actually performs the diagnostic procedure and the maintenance of the necessary equipment and supplies are the continuing responsibility of the psychologist.

B. In order to maintain ultimate legal and professional responsibility for the welfare of every client, a licensed psychologist must be vested with functional authority over the psychological services provided by assistants.

C. - E. ...

F. Public announcement of fees and services and contact with lay or professional public shall not be offered in the name of the assistant.

G. Billing for psychological services shall not be in the name of an assistant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 5:250 (August 1979), amended LR 36:1246 (June 2010).

Jaime T. Monic
Executive Director

1006#049

RULE

**Department of Health and Hospitals
Board of Wholesale Drug Distributors**

Required Information (LAC 46:XCI.303)

The Louisiana Board of Wholesale Drug Distributors has amended LAC 46:XCI.303 in accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., and R.S. 37:3467 et seq. of the Louisiana Board of Wholesale Drug Distributors Practice Act. These Rule amendments will support the board's ability to license entities and regulate the wholesale distribution of legend drugs and devices into and within the state of Louisiana in its effort to safeguard the life and health of its citizens and promote the public welfare. The amendments to the Rule are set forth below.

Title 46

PROFESSIONAL AND OCCUPATION STANDARDS

Part XCI. Wholesale Drug Distributors

Chapter 3. Wholesale Drug or Device Distributors

§303. Required Information

A. - A.9. ...

B. Changes in any information with regard to, but not limited to, contact persons for the facility or physical location, the owners of the licensee including the percentage of interest owned, the person designated as the responsible party, the directors and officers of the licensee, or the regulatory contact person shall be submitted in writing to the board within 60 days after such changes become effective. Failure to do so may result in disciplinary action being taken against the licensee.

1. Any licensee changing their physical location is required to submit an application for location change at least 30 days prior to such change of location. Failure to do so may result in disciplinary action being taken against the licensee.

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR

18:382 (April 1992), amended LR 29:1480 (August 2003), LR 30:1481 (July 2004), LR 32:397 (March 2006), LR 35:1539 (August 2009), LR 36:1246 (June 2010).

John Liggio
Executive Director

0106#070

RULE

**Department of Health and Hospitals
Bureau of Health Services Financing
and
Office for Citizens with Developmental Disabilities**

Home and Community-Based Services Waivers
New Opportunities Waiver Reimbursement Rate Reduction
(LAC 50:XXI.14301)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities has amended LAC 50:XXI.14301 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:950 et seq.

Title 50

**PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXI. Home and Community Based Services
Waivers**

Subpart 11. New Opportunities Waiver

Chapter 143. Reimbursement

§14301. Reimbursement Methodology

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

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

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

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1209 (June 2004), amended by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 34:252 (February 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 35:1851 (September 2009), LR 36:1247 (June 2010).

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of

Health and Human Services, Centers for Medicare and Medicaid Services (CMS) if it is determined that submission to CMS for review and approval is required.

Alan Levine
Secretary

1006#113

RULE

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

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

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 50:XIII.10301 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:950, et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XIII. Home Health Program

Subpart 3. Medical Equipment, Supplies and Appliances

Chapter 103. Reimbursement Methodology

§10301. General Provisions

A. - C.4. ...

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

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

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1894 (September 2009), amended LR 36:1247 (June 2010).

Alan Levine
Secretary

1006#116

RULE

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

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

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 50:XIX.4329 and §§4334-4337 in the Medical Assistance Program as authorized by R.S. 36:254, pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:950 et seq.

Title 50

PUBLIC HEALTH-MEDICAL ASSISTANCE

Part XIX. Other Services

Subpart 3. Laboratory and Radiology

Chapter 43. Billing and Reimbursement

Subchapter B. Reimbursement

§4329. Laboratory Services (Physicians and Independent Laboratories)

A. - F. ...

G. Effective for dates of service on or after August 4, 2009, the reimbursement rates for laboratory services shall be reduced by 4.7 percent of the fee amounts on file as of August 3, 2009.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1025 (May 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1897 (September 2009), LR 36:1248 (June 2010).

§4334. Radiology Services

A. - E. ...

F. Effective for dates of service on or after August 4, 2009, the reimbursement rates for radiology services shall be reduced by 4.7 percent of the fee amounts on file as of August 3, 2009.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1897 (September 2009), amended LR 36:1248 (June 2010).

§4335. Portable Radiology Services

A. - C. ...

D. Effective for dates of service on or after August 4, 2009, the reimbursement rates for portable radiology services shall be reduced by 4.7 percent of the fee amounts on file as of August 3, 2009.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 30:1026 (May 2004), amended LR 35:1898 (September 2009), LR 36:1248 (June 2010).

§4337. Radiation Therapy Centers

A. - C. ...

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

provided by radiation therapy centers shall be reduced by 4.7 percent of the fee amounts on file as of August 3, 2009.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1898 (September 2009), amended LR 36:1248 (June 2010).

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

Alan Levine
Secretary

1006#117

RULE

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

Medical Transportation Program
Emergency Ambulance Services Reimbursement
Rate Reduction (LAC 50:XXVII.325)

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 50:XXVII.325 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. 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 XXVII. Medical Transportation Program

Chapter 3. Emergency Medical Transportation

Subchapter B. Ground Transportation

§325. Reimbursement

A. - E. ...

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

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

2. advanced life support routine disposable supplies.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:878 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1248 (June 2010).

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

Alan Levine
Secretary

1006#118

RULE

Department of Health and Hospitals Bureau of Health Services Financing

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

The Department of Health and Hospitals, Bureau of Health Services Financing has adopted LAC 50:XV.401-405 and amended §901 in the Medical Assistance Program as authorized by R.S. 36:254, pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 1. Mental Health Rehabilitation

Chapter 3. Covered Services and Staffing

Requirements

Subchapter D. Service Limitations

§401. Individual Daily Service Limits

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

1. Individual, Family or Group Counseling (any modifier). The maximum number of units provided on any given date of service shall not exceed eight units (2 hours).

2. Psychosocial Skills Training. The maximum number of units provided on any given date of service shall not exceed 12 units (3 hours).

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

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

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

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

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1249 (June 2010).

§403. Combined Daily Service Limits

A. Daily service limits shall be placed on the combination of counseling, psychosocial skills training and community support services. The maximum units of service for a combination of these services shall not exceed a total of 16 units (4 hours) on any given date of service.

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

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

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

C. Service limitations shall not apply to EPSDT recipients when supported by medical necessity.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1249 (June 2010).

§405. Combined Weekly Service Limits

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

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

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

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

C. Service limitations shall not apply to EPSDT recipients when supported by medical necessity.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1249 (June 2010).

Chapter 9. Reimbursement

§901. Reimbursement Methodology

A. - C. ...

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

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1091 (May 2005), amended by the Department of Health and Hospitals, Bureau of Health Services

Alan Levine
Secretary

1006#119

RULE

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

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

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 50:XV.25701 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:950, et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 17. Multi-Systemic Therapy

Chapter 257. Reimbursement

§25701. Reimbursement Methodology

A. – A.2. ...

B. Effective for dates of service on or after August 4, 2009, the reimbursement rates for multi-systemic therapy services will be reduced by 5.17 percent of the rates on file as of August 3, 2009.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:245 (February 2009), amended LR 36:1250 (June 2010).

Alan Levine
Secretary

1006#120

RULE

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

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

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 50:V.5313, §5513, §5713, §5913, and §6115 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. 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. Hospitals

Subpart 5. Outpatient Hospitals

Chapter 53. Outpatient Surgery

Subchapter B. Reimbursement Methodology

§5313. Non-Rural, Non-State Hospitals

A. ...

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

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

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

Chapter 55. Clinic Services

Subchapter B. Reimbursement Methodology

§5513. Non-Rural, Non-State Hospitals

A. ...

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

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

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

Chapter 57. Laboratory Services

Subchapter B. Reimbursement Methodology

§5713. Non-Rural, Non-State Hospitals

A. ...

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

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

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

Chapter 59. Rehabilitation Services

Subchapter B. Reimbursement Methodology

§5913. Non-Rural, Non-State Hospitals

A. ...

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

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

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

Chapter 61. Other Outpatient Hospital Services

Subchapter B. Reimbursement Methodology

§6115. Non-Rural, Non-State Hospitals

A. ...

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

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

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

Alan Levine
Secretary

1006#121

RULE

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

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

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services has amended LAC 50:XV.12917 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 9. Personal Care Services

Chapter 129. Long-Term Care

§12917. Reimbursement Methodology

A. - D. ...

E. Effective for dates of service on or after August 4, 2009, the reimbursement rate for long-term personal care services shall be reduced by 4.8 percent of the rate on file as of August 3, 2009.

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

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

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and

Medicaid Services (CMS) if it is determined that submission to CMS for review and approval is required.

Alan Levine
Secretary

1006#122

RULE

Department of Health and Hospitals Bureau of Health Services Financing

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

The Department of Health and Hospitals, Bureau of Health Services Financing has repealed LAC 50:IX.15111 and adopted §§15131-15135 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 IX. Professional Services Program

Subpart 15. Reimbursement

Chapter 151. Reimbursement Methodology

Subchapter D. Anesthesia Services

§15111. Anesthesia Services

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1902 (September 2009), repealed LR 36:1251 (June 2010).

§15131. General Provisions

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1251 (June 2010).

§15133. Formula-Based Reimbursement

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1251 (June 2010).

§15135. Flat Fee Reimbursement

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

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

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

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1251 (June 2010).

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

Alan Levine
Secretary

1006#123

RULE

Department of Health and Hospitals Bureau of Health Services Financing

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

The Department of Health and Hospitals, Bureau of Health Services Financing has repealed LAC 50:IX.15103 and adopted §§15111-15113 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 IX. Professional Services Program

Subpart 15. Reimbursement

Chapter 151. Reimbursement Methodology

Subchapter B. Physician Services

§15103. Physician Services

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1629 (August 2008), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1252 (June 2010).

§15111. General Provisions (Reserved)

§15113. Reimbursement

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

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

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

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

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

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

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

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

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

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

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

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

- a. prenatal evaluation and management; and
- b. delivery services.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1252 (June 2010).

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

Alan Levine
Secretary

1006#124

RULE

Department of Health and Hospitals Bureau of Health Services Financing

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

The Department of Health and Hospitals, Bureau of Health Services Financing has amend LAC 50:XVII.501 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XVII. Prosthetics and Orthotics

Subpart 1. General Provisions

Chapter 5. Reimbursement

§501. Reimbursement Methodology

A. - D.1. ...

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1597 (July 2005), amended LR 34:881 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1903 (September 2009), LR 36:1253 (June 2010).

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

Alan Levine
Secretary

1006#125

RULE

Department of Health and Hospitals Office of Public Health

Disease Reporting Instructions;
Perinatal HIV Exposure Reporting
(LAC 51:II.105)

Editor's Note: Section 105 of this Rule is being repromulgated to correct a citation error. The original Rule may be viewed in its entirety on pages 1014-1016 of the May 20, 2010 edition of the *Louisiana Register*.

Pursuant to the authority granted under R.S. 40:5, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health has amended Part II, Chapter 1 of the Public Health Sanitary Code (LAC 51:II.Chapter 1), providing for the control of diseases and disease reporting requirements.

The Rule change serves to update the disease reporting instructions in line with current practice; to add two conditions to the list of reportable diseases/conditions (HIV infection in pregnancy and perinatal exposure to HIV) in order to support efforts to monitor and prevent mother-to-child transmission of HIV; to clarify the responsibility for disease reporting by facilities in the absence of a health care professional as listed in the current Rule; and to further specify the purposes for which the state health officer may need to obtain laboratory specimens when investigating cases of communicable disease.

Title 51

PUBLIC HEALTH—SANITARY CODE

Part II. The Control of Diseases

Chapter 1. Disease Reporting Requirements

§105. Reportable Diseases and Conditions

[formerly paragraph 2:003]

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

2. Class B Diseases or Conditions which Shall Require Reporting within One Business Day

a. This class includes diseases of public health concern needing timely response because of potential for epidemic spread. The following Class B diseases shall be reported to the Office of Public Health by the end of the next business day after the existence of a case, a suspected case, or a positive laboratory result is known:

i. Arthropod-Borne Neuroinvasive Disease and other infections (including West Nile, St. Louis, California, Eastern Equine, Western Equine and others);

ii. Aseptic meningitis;

iii. Chancroid¹;

iv. *Escherichia coli*, Shiga-toxin producing (STEC), including *E. coli* O157:H7;

v. Hantavirus Pulmonary Syndrome;

vi. Hemolytic-Uremic Syndrome;

vii. Hepatitis A (acute illness);

viii. Hepatitis B (acute illness and carriage in pregnancy);

ix. Hepatitis B (perinatal infection);

- x. Hepatitis E;
- xi. Herpes (neonatal);
- xii. Human Immunodeficiency Virus [(HIV), infection in pregnancy]²;
- xiii. Human Immunodeficiency Virus [(HIV), perinatal exposure]²;
- xiv. Legionellosis;
- xv. Malaria;
- xvi. Mumps;
- xvii. Pertussis;
- xviii. Salmonellosis;
- xix. Shigellosis;
- xx. Syphilis¹;
- xxi. Tetanus;
- xxii. Tuberculosis³;
- xxiii. Typhoid Fever.

3. Class C Diseases or Conditions which Shall Require Reporting within Five Business Days

a. This class shall include the diseases of significant public health concern. The following diseases shall be reported to the Office of Public Health by the end of the workweek after the existence of a case, suspected case, or a positive laboratory result is known:

- i. Acquired Immune Deficiency Syndrome (AIDS)²;
- ii. Blastomycosis;
- iii. Campylobacteriosis;
- iv. Chlamydial infection¹;
- v. Coccidioidomycosis;
- vi. Cryptococcosis;
- vii. Cryptosporidiosis;
- viii. Cyclosporiasis;
- ix. Dengue;
- x. Ehrlichiosis;
- xi. Enterococcus, Vancomycin Resistant [(VRE), invasive disease];
- xii. Giardia;
- xiii. Gonorrhea¹;
- xiv. Hansen Disease (leprosy);
- xv. Hepatitis B (carriage, other than in pregnancy);
- xvi. Hepatitis C (acute illness);
- xvii. Hepatitis C (past or present infection);
- xviii. Human Immunodeficiency Virus [(HIV) infection, other than as in Class B]²;
- xix. Listeria;
- xx. Lyme Disease;
- xxi. Lymphogranuloma venereum¹;
- xxii. Psittacosis;
- xxiii. Rocky Mountain Spotted Fever (RMSF);
- xxiv. Staphylococcal Toxic Shock Syndrome;
- xxv. Staphylococcus aureus, Methicillin/Oxacillin Resistant [(MRSA), invasive infection];
- xxvi. Streptococcal disease, Group A (invasive disease);
- xxvii. Streptococcal disease, Group B (invasive disease);
- xxviii. Streptococcal Toxic Shock Syndrome;
- xxix. Streptococcus pneumoniae, Penicillin Resistant [(DRSP), invasive infection];

- xxx. Streptococcus pneumoniae (invasive infection in children <5 years of age);
- xxxi. Transmissible Spongiform Encephalopathies;
- xxxii. Trichinosis;
- xxxiii. Varicella (chickenpox);
- xxxiv. Vibrio infections (other than cholera).

4. Class D Special Reportable Diseases or Conditions Shall Require Reporting within Five Business Days

a. This class shall include the diseases of significant public health concern. The following diseases/conditions shall be reported to the Office of Public Health by the end of the workweek after the existence of a case, suspected case, or a positive laboratory result is known:

- i. Cancer;
- ii. Monoxide exposure and / or poisoning;
- iii. Complications of abortion;
- iv. Congenital hypothyroidism⁴;
- v. Galactosemia⁴;
- vi. Heavy metal (arsenic, cadmium, mercury) exposure and/or poisoning (All Ages)⁵;
- vii. Hemophilia⁴;
- viii. Lead exposure and/or poisoning (children)⁴; (adults)⁵;
- viii. Pesticide-related illness or injury (all ages)⁵;
- ix. Phenylketonuria⁴;
- x. Reye's Syndrome;
- xi. Severe traumatic head injury;
- xii. Severe under nutrition (severe anemia, failure to thrive);
- xiii. Sickle cell disease (newborns)⁴;
- xiv. Spinal cord injury;
- xv. Sudden infant death syndrome (SIDS).

B. Case reports not requiring special reporting instructions (see below) can be reported by mail or facsimile on Confidential Disease Report forms, or by phone. (ssCall 800-256-2748 for forms and instructions.)

1. ¹Report on STD-43 form. Report cases of syphilis with active lesions by telephone, within one business day, to 504-219-4429.

2. ²Report to the Louisiana HIV/AIDS Program: Visit www.hiv.dhh.louisiana.gov or call 504-568-7474 for regional contact information.

3. ³Report on CDC72.5 (f.5.2431) card.

4. ⁴Report to the Louisiana Genetic Diseases Program and Louisiana Childhood Lead Poisoning Prevention Programs: www.genetics.dhh.louisiana.gov or call 504-219-4413 or 800-242-3112.

5. ⁵Report to the Section of Environmental Epidemiology and Toxicology: www.seet.dhh.louisiana.gov or call 888-293-7020.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(2) and R.S. 40:5(10).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1212 (June 2002), amended LR 32:1050 (June 2006), LR 34:2173 (October 2008), LR 36:1014 (May 2010), repromulgated LR 36:1253 (June 2010).

Alan Levine
Secretary

1006#018

RULE

Department of Justice Office of the Attorney General

Certificates of Public Advantage
(LAC 48:XXV.Chapter 5)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, and as authorized by R.S. 40:2254.1 et seq., the Office of the Attorney General has adopted the following Chapter to govern the issuance of certificates of public advantage. The purpose of this Rule is to set forth procedures for the review and authorization of the issuance of certificates of public advantage pursuant to R.S. 40:2254.1 through 2254.12.

Title 48

PUBLIC HEALTH—GENERAL

Part XXV. Mergers, Acquisitions, and Re-Organization Chapter 5. Certificates of Public Advantage

§501. Purpose

A. These rules are adopted in accordance with the public interest of controlling health care costs and improving the quality of and access to health care. In that regard, the state has a responsibility to protect the public interest through direct supervision and control over the implementation of cooperative agreements, mergers, joint ventures, and consolidations among health care facilities for which certificates of public advantage are granted pursuant to the provisions of R.S. 40:2254.1 through 2254.12.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2254.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 36:1255 (June 2010).

§503. Definitions

A. As used within the rules:

Affiliate—any or all of the following: corporation; partnership; sole proprietorship; joint venture; trust; natural person; or any other entity, whether existing for commercial or noncommercial purposes, however organized, in which any person or entity owning, directly or indirectly or beneficially, 3 percent of the health care facility owns directly, or indirectly, or beneficially, 50 percent or more of the affiliates.

Attachment—each document or object sent or provided with any document or object, and includes each document or object sent with it, whether it be a letter, memorandum, contract, document or other writing or object.

Certificate of Public Advantage or “*Certificate*”—a written certificate issued by the department as evidence of the department's intention that the implementation of a cooperative agreement, when actively supervised by the department, receives state action immunity from prosecution by the state or by any district attorney in the state as a violation of state or federal antitrust laws.

Certified Mail—uninsured first class mail whose delivery is recorded by having the addressee sign for it.

Comment—a written document offering explanation, illustration, criticism, or personal opinion.

Cooperative Agreement or “*Agreement*”—a written agreement between two or more health care facilities for the sharing, allocation, or referral of any one or more of the following:

- a. patients;
- b. personnel;
- c. instructional programs;
- d. emergency medical services;
- e. support services and facilities;
- f. medical, diagnostic, or laboratory facilities or procedures; or
- g. other services customarily offered by health care facilities.

Days—consecutive calendar days.

Department—the Louisiana Department of Justice, Office of the Attorney General.

Director—the Director of the Civil Division.

Documents or *Document*—all writings or any other record of any kind, including originals and each and every nonidentical copy (if different from the original for any reason). Document(s) includes, but is not limited to:

- a. correspondence, memoranda, notes, diaries, calendars, statistics, letters, telegrams, minutes, contracts, reports, studies, checks, statements, receipts, returns, summaries, pamphlets, books, and interoffice and intra office communications;
- b. notations (of any sort) of conversations, telephone calls, meetings, and other communications;
- c. bulletins, printed matter, computer printouts, computer generated output, teletypes, telefax, facsimiles, invoices, worksheets, drafts, alterations, modifications, changes, and amendments of any kind;
- d. photographs, charts, maps, graphs, sketches, microfiche, microfilm, videotapes, video recordings, and motion pictures; and
- e. any electronic or mechanical records or tapes, cassette, diskettes, audio recordings, computer hard drives and other means of storing information.

Expert—one who is knowledgeable in a specialized field, that knowledge being obtained from either education or personal experience. For example, any economist, accountant, financial advisor, investment banker, broker, valuation specialist, or other person who is consulted, relied upon, retained, or used by the health care facility.

Financial Statement—

- a. any compilation or statement (audited, unaudited, or draft) of the health care facility's financial position. Financial statements (regardless of precise terminology) include, but are not limited to:
 - i. tax returns;
 - ii. balance sheets;
 - iii. statements of income and expenses;
 - iv. statements of profit and loss;
 - v. statements of stockholders' equity; and
 - vi. statements of changes in financial position.
- b. each and every financial statement should include each and every related footnote of the respective financial statement.

Foundation—a permanent fund established and maintained by contributions for charitable, educational, religious, or benevolent purposes.

Health Care Facility—any facility or institution, whether public or private, that offers diagnosis, treatment, and inpatient or ambulatory care to two or more unrelated persons.

Objection—a written document offered in opposition to the approval of an application which states the reason, grounds, or cause for expressing opposition.

Person—any natural person, public or private corporation (whether or not organized for profit), governmental entity, partnership, association, cooperative, joint venture, sole proprietorship, or other legal entity. With respect to the health care facility, the term person also includes any natural person acting formally or informally as an employee, officer, director, agent, attorney, or other representative of the health care facility.

Persons on Record—persons submitting written documentation to the director, by certified mail, stating objections, comments, or requests for notification of actions by the department involving a particular application. Persons on record status must be renewed by written request, sent by certified mail to the director, prior to December 31 of each calendar year.

Transaction or Proposed Transaction or Agreement—the proposed or executed cooperative, merger, joint venture, or consolidation agreement which resulted in the submission of the notice to the attorney general pursuant to R.S. 40:2254.1 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2254.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 36:1255 (June 2010).

§505. Notice

A. Health care facilities that are parties to a transaction shall give the attorney general at least 30 days written notice prior to the anticipated closing of the intended transaction. Depending on the parties or the transaction, the Attorney General, at his sole discretion, may allow a shorter notice period.

B. The written notice shall include all of the following information:

1. the names, addresses and telephone numbers of the parties to the intended transaction;
2. the names, addresses and telephone numbers of the attorneys or other persons who represent the parties in connection with the intended transaction;
3. a general description of the intended transaction and a description of the scope of the cooperation, merger, joint venture, or consolidation contemplated by the agreement;
4. a general description of the assets involved in the intended transaction and the intended use of the assets after the closing of the intended transaction, including any change in the ownership of tangible or intangible assets;
5. a general summary of all collateral transactions that relate to the intended transaction, including the names, addresses and telephone numbers of the parties involved in the collateral transactions; and
6. the anticipated completion date of the intended transaction.

C. Giving notice shall comply with the following format.

1. The notice shall be in writing on numbered pages and printed on paper measuring 8 ½ inches by 11 inches. The margins shall not be less than 1 inch on all sides. Unless otherwise required, the notice shall be printed on white paper.

2. Notice shall be sent to the director by certified mail. The director shall receive notice at least 30 days prior to the proposed transaction.

3. Notice shall not be given by facsimile machine.

4. Any notice that does not comply with these rules shall not be accepted and will be returned.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2254.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 36:1256 (June 2010).

§507. Filing of Applications and Additional Documents

A. Filing of Applications

1. Applications shall be filed by delivering an original and three copies to the director.

2. The filing date of a conforming application shall be the date the department determines the application to be a completed application.

3. No application shall be filed by facsimile machine.

4. Applications filed with the department become property of the state.

5. Applications shall be accompanied with the filing fee as determined by §309 in accordance with R.S. 40:2254.12.

6. The application must include the contents of application.

7. The application shall be submitted to the attorney general on the forms provided and include the information requested therein.

8. The department may at any time request any other supplemental or additional documentation, disclosures, information, etc., as it deems necessary to the evaluation. The applicant shall provide the information not later than 10 days after the date of the request.

9. The application must be in the following format.

a. Applications shall be submitted to the attorney general on the forms provided and in accordance with the instructions therein.

b. Trade secret information should be printed on goldenrod colored paper to assist in identifying material that may be considered exempt from the Louisiana Public Records Act.

c. Applications that do not comply with these rules shall not be accepted and will be returned to the applicant.

B. Filing of Additional Documents

1. The format required for filing of additional documents shall be in accord with §307.A.9.

2. Documents relating to an application shall be filed by delivering an original and three copies to the director.

3. Additional documents to an application may be accepted by facsimile machine provided that the original and three copies thereof are received by the director no later than seven days after transmission of the facsimile.

C. Forms

**LOUISIANA ATTORNEY GENERAL'S
Request for Information Form for Certain
Cooperative Endeavor Agreements, Joint Ventures, Mergers
and Consolidations among Health Care Facilities**

INSTRUCTIONS AND DEFINITIONS

1. All responses to the Request for Information Form must be typed or clearly printed in black ink. You must use only the official forms.

2. All documents and appendices must be provided in compliance with the following:

(a) One set of original documents and three (3) separate sets of legible and collated copies of all documents must be submitted.

(b) With respect to the submission of appendices, each appendix shall be submitted in a separate legal size folder clearly marked with the appendix number along with the name of the entity or entities submitting the information and the date of the Attorney General's Request for Information, set forth in Instruction #9. *For example, Company X, Appendix A, July 1, 1996 or Company X and Company Y, Appendix A, July 1, 1996;* and

(c) Each document must be consecutively numbered and labeled along with an abbreviation for the entity or entities. *For example, the first document of a submission by Company X, would be labeled CX0001 and the first document of a joint submission of Company X and Company Y would be labeled CXY0001.* These initials and numbers should appear in the lower right-hand corner of each document.

3. All amendments or late-filed documents or responses must be clearly labeled to indicate which Request or appendix folder the document should be placed in upon receipt by the State. Such documents must be submitted in compliance with all other instructions herein.

4. Unless otherwise indicated, documents to be produced pursuant to this Request for Information Form include each and every document prepared, sent, dated, received, in effect, or which otherwise came into existence during the last three (3) years through the date of the production of documents pursuant to this Request. Responses to the Request must be supplemented, corrected, and updated until the close of the transaction. The Attorney General, at his discretion, may require the production of additional documents.

5. Unless otherwise approved by the Department, for each Request calling for the production of documents, produce each and every responsive document in each entity's care, possession, custody, or control, without regard to the physical location of those documents.

6. If an entity possesses no documents responsive to a paragraph of this Request, that entity must state this fact, specifying the paragraph(s) or subparagraph(s) concerned, in the response. If an entity must submit documents at a later date than that set forth in Instruction #9, the following procedure is required: the entity must state this fact, specify the paragraph(s) or subparagraph(s) concerned, identify the document(s) to be produced, and state the expected date of production.

7. If an entity asserts a privilege in response to a Request, that entity must state the privilege, the basis of the privilege, and identify the documents and Request to which the privilege attaches.

8. Responses to Requests not requiring the production of documents should be typed or clearly printed in black on the Request for Information Form. If additional space is required, you should attach additional 8 1/2" x 11" size pages, clearly noting at the top of the page to which Request the additional information is responsive and the identity of the entity providing the information. *For example: Company X, Continuation to Request #3.*

9. All responses to this Request for Information shall be sent by United States Mail, hand delivered, or a nationally recognized express delivery service to the following individual.

Director, Civil Division
State of Louisiana
Department of Justice
Civil Division
1885 North Third Street, 6th Floor
Baton Rouge, Louisiana 70802
Post Office Box 94005
Baton Rouge, Louisiana 70804-9005

10. The Request for Information Form is not complete or valid without completed Certification and Verification Affidavits for each entity executed under oath in the presence of a notary and attached to the Request for Information Form.

11. Copies may be submitted in lieu of originals as long as the entity indicate(s) that the documents are copies, the location of the originals, and the reason for the substitution of copies. All originals must be returned as set forth in the Certification and Verification Affidavits. Additionally, the entity must sign the Certification of Verification Affidavit(s), agreeing that the documents are authentic for the purposes of Louisiana law.

12. All questions regarding these forms, the scope of any Request, and instruction, or any definitions shall be directed to the Assistant Attorney General listed in Instruction #9.

13. This Request for Information Packet should include all of the following forms:

- Form Instructions and Definitions
- Form Request for Information Form
- Form Certification and Verification Affidavit

If your packet is missing any of the above listed forms, please contact the Assistant Attorney General listed in Instruction #9 immediately. Your response to the Request for Information Form is not complete until the Attorney General's Office has received all of the above listed forms, fully completed.

14. Each entity that is a party to the Agreement must complete the entire Request for Information Packet.

LOUISIANA ATTORNEY GENERAL'S APPLICATION

REQUEST FOR INFORMATION FORM

For Certain

COOPERATIVE ENDEAVOR AGREEMENTS, JOINT VENTURES, MERGERS AND CONSOLIDATIONS AMONG HEALTH CARE FACILITIES

PLEASE CAREFULLY REVIEW THE INSTRUCTIONS AND DEFINITIONS PRIOR TO COMPLETING THIS FORM

Note: If the information is not supplied under any of the following items, provide an explanation of why the item is not applicable to the transaction or the parties.

1. **Name of each Party:** Identify each entity which is a party to the cooperative endeavor agreement, joint venture, merger, or consolidation (hereinafter referred to collectively as "Agreement") in accordance with 40:2254.1, et seq., including the address of the principal business office of each party. Include in your response the identity of any (a) parent, (b) subsidiary, and/or (c) affiliate of each entity.

2. **Contact Person for each Party:** Provide the full legal name, title, address, telephone and facsimile number for the persons authorized to receive notices and communications with respect to the application.

3. **Directors and Officers:** Identify by full legal name and title each and every director and officer of each entity.

4. **Corporate Documents:** Attach as Appendix A, all corporate documents relating to each entity filing this Request. Include corporate documents of all parents, subsidiaries, or affiliates. For the purpose of this Request, "corporate documents" means the charter or articles of incorporation, bylaws, and any and all amendments to each corporate document.

5. **Description of Proposed Agreement:** Attach as Appendix B a detailed description of the proposed agreement, including:

- (a) A list of any services or products that are the subject of the proposed agreement or transaction;
- (b) A description of any consideration passing to any person under the agreement or transaction, including the amount, nature, source, and recipient;
- (c) A description of each party's contribution of capital, equipment, labor, services, or other value to the transaction, if any;
- (d) Identification of any other services or products that are reasonably likely to be affected by the proposed agreement or transaction;
- (e) A description of the geographic territory involved in the proposed agreement or transaction;
- (f) If the geographic territory described in item (e) is different from the territory in which the applicants have engaged in the type of business at issue over the last five years, a description of how and why the geographic territory differs;
- (g) Identification of all products or services that a substantial share of consumers would consider substitutes for any service or product that is the subject of the proposed agreement or transaction;
- (h) Identification of whether any services or products of the proposed agreement or transaction are currently being offered, capable of being offered, utilized, or capable of being utilized by other providers or purchasers in the geographic territory described in item (e);
- (i) Identification of the steps necessary, under current market and regulatory conditions, for other parties to enter the territory described in item (e) and compete with the applicants;
- (j) A detailed explanation of the projected effects, including expected volume, change in price, and increased revenue, of the agreement or transaction on each party's current businesses, both generally as well as the aspects of the business directly involved in the proposed agreement or transaction;
- (k) Each entity's estimate of their respective present market shares and that of others affected by the proposed agreement or transaction, and projected market shares after implementation of the proposed agreement or transaction;
- (l) Identification of business plans, reports, studies, or other documents that discuss each entity's projected performance in the market, business strategies, competitive analyses and financial projections, including any documents prepared in anticipation of the cooperative agreement, merger or consolidation, as well as those prepared prior to contemplation of the transaction;
- (m) A description of each entity's performance goals, including quantitative standards for achieving the objectives of:
 - (1) lower health care costs; or
 - (2) higher quality health care or greater access to health care in Louisiana without any undue increase in health care costs.
- (n) A description of how the anticipated efficiencies, cost savings and other benefits from the transaction will be passed on to the consumers of health care services;
- (o) A description of the net efficiencies likely to result from the transaction, including an analysis of anticipated cost savings resulting from the transaction and the increased costs associated with the transaction;
- (p) A statement of whether competition among health care providers or health care facilities will be reduced as a result of the proposed agreement or transaction; whether there will be adverse impact on quality, availability, or cost of health care; whether the projected levels of cost, access to health care, or quality of health care could be achieved in the existing market without the proposed agreement or transaction; and, for each of the above, an explanation of why or why not;

(q) A description of why the anticipated cost savings, efficiencies and other benefits from the transaction are not likely to result from existing competitive forces in the market; and

(r) If information is not supplied under any of the above items, an explanation of why the item is not applicable to the transaction or to the parties.

6. **Description of Negotiations of the Agreement:** Attach as Appendix C a detailed description of all discussions and negotiations between each entity resulting in the proposed Agreement. To the extent practicable, this response should include, but not be limited to, a summary outline in date sequence of any and all meetings held with the following parties with respect to the proposed transaction:

- (a) With each entity's financial advisors or investment bankers related to the proposed Agreement (including, but not limited to, management, committees of the board of directors or meetings of the full board);
- (b) With prospective networkers, merging partners of each entity, together with a brief summary of the results of such meetings; and
- (c) With other parties deemed significant to the transaction (including, but not limited to, outside experts or other consultants).

7. **Closing Date:** What is the expected date of closing of the proposed Agreement? Attach as Appendix D a copy of any proposed Agreement.

8. **Governmental Filings:** Attach as Appendix E all filings with respect to the proposed Agreement, including all amendments, appendices, and attachments, and each report or document provided to each federal, state, or local governmental entity regarding the proposed Agreement. Include copies of forms to be provided to each such entity, the answer to information or questions on such forms, and each attachment submitted in connection therewith.

9. **Meetings with Governmental Officials:** Attach as Appendix F summaries of all meetings with federal, state, or local authorities regarding any filings or documents referenced in Request #8. Also, include each and every document which memorializes or discusses any and all meetings or other communications with the United States Department of Justice, Federal Trade Commission, or any other state, federal or local governmental entity in connection with the proposed transaction.

10. **Prior Agreements:** Identify all prior Agreements between the parties within the last three (3) years, including the following information for each:

- (a) Date of Agreement;
- (b) City/State;
- (c) Brief Description.

11. **Letters of Intent:** Attach as Appendix G any and all drafts and final versions of any and all letters of intent, confidentiality agreements, or other documents initiating negotiations, contact, or discussion between the parties to the Agreement.

12. **Contracts or Purchase Agreements:** If any assets are passed to any Party under the Agreement, Attach as Appendix H any and all drafts and final versions of asset purchase agreements, contracts or agreements to transfer assets. Your response must also include any attachments, amendments, schedules, or appendices to such agreements.

13. **Fairness Opinions:** If any assets are passed to any Party under the Agreement, Attach as Appendix I any and all fairness opinions analyzing the proposed Agreement along with any supplemental analysis prepared by any entity or its experts. Include in your response the name of the company and the person(s) who prepared the opinion, their business telephone numbers and addresses, the agreement or engagement letter with such company or person, and background information regarding the company or person's qualifications.

14. **Meeting Minutes and Other Information:** Attach as Appendix J the following documents with respect each meeting during which the proposed Agreement was discussed, whether regular, special, or otherwise, of the board of directors or board of trustees for each entity.

- (a) Announcements and the persons to whom the announcements were sent;

- (b) Agenda;
- (c) Minutes and/or resolutions of the board of directors or board of trustees for each entity which reflect or discuss the proposed Agreement, including those regarding the final vote;
- (d) Each written report or document provided to the board or board members, including, but not limited to, each committee report and each expert's report;
- (e) Each proposal or document referencing or regarding possible or actual Agreement;
- (f) Each presentation to the board or any committee to the board; and
- (g) Each attachment to (a) through (f).

15. **Valuation Information:** Attach as Appendix K each appraisal (with each attachment), evaluation (with each attachment), and similar document (with each attachment) concerning the financial performance of each party to the transaction for the preceding five years, their assets, their properties, their worth as a going concern, or their market value. This Request shall include, but not be limited to, any appraisals of the common stock of any entity, any appraisals involving property held by any entity.

16. **Information Regarding Other Offers:** Attach as Appendix L each appraisal (with each attachment), evaluation (with each attachment), and similar document (with each attachment) concerning any negotiation, or proposal either initiated or received by any entity regarding the proposed Agreement, and the dollar value of such proposed Agreement.

17. **Mission Statement:** Attach as Appendix M any and all mission statements of each entity.

18. **Press Releases and Related Information:** Attach as Appendix N any and all press releases, newspaper articles, radio transcripts, audiotapes and videotapes of any television commercials or reports regarding the proposed transaction and any other offers identified in Request # 16.

19. **Financial Records:** Attach as Appendix O all of the following for the last six (6) fiscal years for each entity, unless otherwise indicated:

- (a) Audited and unaudited financial statements. Audits are sometimes presented in abbreviated form or in fuller form, with detailed supplements. Provide the most detailed form of your audit that is available.
- (b) Consolidating statements (balance sheets and income statements for each fiscal year);
- (c) Year-to-date internal financial statements for the most recent month-end available during the current year. Be sure that the statements are comparative (with the same period of the previous fiscal year), otherwise provide last year's internal financial statements for the corresponding period as well;
- (d) If separate audited financial statements are prepared for any of your affiliates, or any parent or, please provide those audits, together with comparative year-to-date financial statements for each such member, affiliate, parent or subsidiary;
- (e) Projected capital expenditure requirements for the next three (3) years;
- (f) Each balance sheet, profit and loss statement, statement of change in financial position of each entity or company it controls, operates, manages, or is affiliated with and also the same information for the acquirer and any entity which you reasonably believe it owns, operates, manages, or controls;
- (g) A detailed schedule of operating expenses, unless already provided with the audits;
- (h) An analysis (aging) of accounts receivable by major category, of receivables as of the most recent month-end available, indicating the amounts ultimately considered collectable;
- (i) Management compensation (salary, bonus, other benefits) for the five (5) officers receiving the greatest amount of compensation;

(j) Identify any material off-balance sheet assets or liabilities (i.e., any assets or liabilities not reflected on the most recent audited financial statements) and provide documentation concerning such assets or liabilities. Examples of such items would include a significant under-or over-funding in the pension plan or a current litigation judgment not reflected in the most recent audit;

(k) Identify any material contingent assets or liabilities, and the conditions that must occur for any such contingent assets to be realized or for any such contingent liabilities to be incurred; and

(l) Identify all accounting firms, including the name, address, and telephone number of the accountant(s) primarily responsible for accounting and auditing of the entities for the last six (6) years.

(m) If information is not supplied under any of the above items, explain why the information is not applicable to the transaction or parties.

20. **Conflict of Interest, Self-Interest, and Self-Dealing Issues:**

(a) Attach as Appendix P an affidavit for each officer and director of each entity.

(b) Attach as Appendix Q any and all documents reflecting any possible conflict of interest, self-interest, or self-dealing of any board member, officer, or director in connection with the proposed Agreement. Such documents shall include evidence of any disclosures or other curative measures taken by the board and any documents suggesting or referencing financial or employment incentives or inducements offered to any board member, director or officer.

21. **Persons Involved in Decision Making of Planning:** Attach as Appendix R a list of the full legal names, titles, addresses, and telephone numbers of each and every officer, director, representative, manager, executive, expert or other persons having substantial input, at any phase of decision making or planning, into the decision or plan for the proposed Agreement.

22. **Market Studies:** Attach as Appendix S each market study (and attachments) done for or by each entity, or otherwise received by each entity. Include an analysis of an entity's market share from the perspectives which are normally tracked by the entity's board.

23. **Registered Agents for Service or Process:** Identify the registered agent for service of process, including his or her complete address, for each entity.

CERTIFICATION AND VERIFICATION AFFIDAVIT

To be completed by President or Chief Executive Officer

This Request for Information Form, together with any and all appendices and attachments thereto, was prepared and assembled under my supervision in accordance with the instructions and definitions issued by the Attorney General. Subject to the recognition that, where so indicated, reasonable estimates have been made because books and records do not provide the required data, the information is, to the best of my knowledge, true, correct, and complete. If copies were submitted in lieu of originals, the documents submitted are true and exact copies. I understand that my obligation to provide information pursuant to this Request shall be continuing in nature and shall forthwith notify the Attorney General, in writing, of any representations that have been made or that might have been made in accordance with this Request which need to be updated, corrected or modified. The copies also are authentic for the purposes of Louisiana law. If copies were submitted, I also agree to retain the originals under my care, custody, and control, and I will not destroy or alter the originals without express written consent of the Attorney General or his appointed designee.

I certify, upon personal knowledge, that the attached form has been completed with true and accurate information, **under penalty or perjury.**

STATE of _____

To be completed by Affiant:

Parish/County _____

Name _____

Affiant's Signature: _____

Title _____

Date: _____

Address: _____

Sworn and subscribed before me this _____ day of 20 _____

Telephone No. _____

Facsimile No. _____

Notary Public _____

My Commission expires: _____

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2254.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 36:1256 (June 2010).

§509. Fees

A. Remittance of Fees

1. In accordance with R.S. 40:2254.12, fees shall be remitted with the application and reports as required by R.S. 40:2254.11. Fees shall be reasonably related to the costs incurred by the department in considering the application, evaluating reports, and performing other necessary administrative duties.

2. Fees shall be remitted only by certified check, cashier's check, or bank money order, and made payable to the department.

3. The application fee shall be \$50,000 and shall be due with the application. If the actual cost incurred by the department is greater, the applicant shall pay any additional amounts due as instructed by the department.

4. The fee due with the filing of the report as required by R.S. 40:2254.11 shall be \$15,000. If the actual cost incurred by the department is greater, the parties involved shall pay any additional amounts due as instructed by the department.

B. If it becomes necessary for the department to file suit to enforce any provision of applicable law, these rules, or any of the terms of an approved application, then applicants/parties shall be responsible for all costs associated with any such litigation, including, but not limited to all court costs and attorneys fees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2254.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 36:1263 (June 2010).

§511. Notification of Pending Application and Public Hearing

A. In accordance with R.S. 40:2254.4:

1. within five working days of receipt of a completed application, the department shall notify all persons of record by first class United States mail of the filing of such application, and publish in the official journal of the parish where the health care facilities are located notice of the filing. The notice shall state the following:

- a. that an application has been received;
- b. the names of the parties to the agreement;
- c. a description of the contents of the agreement;

and
d. the date by which a person may submit comments about the application to the attorney general.

B. In accordance with R.S. 40:2254.4:

1. the attorney general shall during the course of review of the application hold a public hearing in which any person may file written comments and exhibits, or may appear and make a statement;

2. the hearing shall be held no later than 30 days after receipt of a completed application. At least 10 working days prior to the scheduled public hearing, the department shall publish in the official journal of the parish where the hospital is located the location, date and time of the public hearing to be held in Baton Rouge, Louisiana;

3. at the public hearing, all interested persons shall be allowed to present testimony, facts, or evidence related to the

application and shall be permitted to ask questions. The department shall also receive comments regarding the transaction from any interested person; and

4. if requested by the department, persons required to appear and testify under oath, shall include, but not be limited to:

a. any expert or consultant retained by the applicant who was directly or indirectly involved in the preparation of any analysis of the proposed transaction;

b. any independent expert or consultant retained by the department to review the proposed transaction regarding his or her finding and analysis; and

c. parties to the agreement, officers, and members of the governing boards of the facilities involved;

5. the department may require additional information or testimony from other persons, including but not limited to, members of the medical staff, nursing staff, contract employees, architects, engineers, other employees, or contractors of the facilities involved.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2254.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 36:1263 (June 2010).

§513. Application Review

A. In accordance with R.S. 40:2254.4:

1. the attorney general shall, within 15 days after the date an application is received, determine if the application is complete for the purposes of review. If the department determines that an application is unclear, incomplete, or contains an insufficient basis upon which to provide a decision, the application shall be returned to the applicant;

2. if the attorney general determines that an application is incomplete, he shall notify the applicant within 15 days after the date the application was received, stating the reasons for his determination of incompleteness with reference to the particular questions for which a deficiency is noted;

3. if an application is returned to the applicant and the applicant will be resubmitting the application for further review, the filing fee shall remain deposited; and

4. if an application is returned and the applicant elects not to resubmit an amended application, the department shall return the filing fee submitted with the application less costs associated with the review process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2254.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 36:1263 (June 2010).

§515. Action by Department

A. The attorney general shall review the completed application. Within 90 days after receipt of a completed application or within one 90 day extension, the attorney general shall either:

1. approve the application, with or without specific modifications and issue a certificate; or

2. disapprove the application for a certificate.

B. Any approval shall be conditioned upon the periodic submission of specific data relating to cost, access, and quality, and to the extent feasible, identify objective standards of cost, access, and quality by which the success of the arrangement will be measured.

1. The department's decision shall be in writing and be based upon findings of fact and conclusions of law supporting the decision.

2. The department may condition approval on a modification of all or part of the proposed arrangement.

3. A copy of the department's decision shall be sent, by certified mail, to the applicant. All persons on record shall be provided notice of the decision.

4. If the department does not issue a decision within 90 days after the receipt of a completed application or within one 90 day extension, the application shall be considered denied.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2254.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 36:1263 (June 2010).

§516. Reconsideration

A. If the department denies an application and refuses to issue a certificate, a party to the agreement may request that the department reconsider its decision. The department shall then reconsider its decision in accordance with the provisions of R.S. 40:2254.5.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2254.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 36:1264 (June 2010).

§517. Reports and Ongoing Supervision of Certificates

A. In accordance with R.S. 40:2254.11, the parties to the agreement shall submit information and supporting data on an annual basis regarding the current status of the agreement, including information relative to the continued benefits, any disadvantages of the agreement, and sufficient information to evaluate whether any terms and conditions imposed by the department have been met or otherwise satisfied. Reports shall be due on or before the annual anniversary date of the approval. Parties are under a continuing obligation to provide the department with any change to the information contained in the application subsequent to the issuance of a certificate of public advantage. Such information shall be provided to the department in a timely fashion or within a reasonable time that such information is known to the parties. The attorney general may subpoena information and documents reasonably necessary to assure compliance.

B. The information and supporting data that must be submitted to the department shall include, but not be limited to, the following:

1. an update of all the information required in the application;

2. any change in the geographic territory that is served by the health care equipment, facilities, personnel, or services which are subject of the agreement;

3. a detailed explanation of the actual effects of the agreement on each party, including any change in volume, market share, prices, and revenues;

4. a detailed explanation of how the agreement has affected the cost, access, and quality of services provided by each party; and

5. any additional information requested by the department.

C. Requested data shall be in the following format.

1. The page shall be numbered and printed on paper measuring 8 1/2 by 11 inches. The margins shall not be less

than 1 inch on all sides. Unless otherwise required, all data shall be printed on white paper.

2. Trade secret information shall be designated and printed on goldenrod colored paper to assist in identifying material that may be considered exempt under the Louisiana Public Records Act.

D. The department may, at any time, require the submission of additional data or alter the time schedule for submission of information. The parties shall be notified by certified mail of any requirement for the submission of additional information or alteration of the time for submission of materials.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2254.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 36:1264 (June 2010).

§519. Revocation

A. If at any time, the attorney general receives information indicating that agreement is not resulting in lower health care costs or greater access to or quality of health care than would occur in absence of the agreement as provided for in R.S. 40:2254.6, the attorney general shall hold a hearing upon 120 days notice to the affected parties. Any action for certificate revocation shall be conducted in accordance with the provisions of RS. 40:2254.6.

B. Notwithstanding any other provision of this Part, any amendment or alteration to an approved cooperative, merger, or consolidation agreement and any material change in the operations or conduct of any party to a cooperative, merger, joint venture, or consolidation shall be considered a new agreement and shall not take effect or occur until the attorney general has approved the amendment, alteration, or change.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2254.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 36:1264 (June 2010).

James D. Caldwell
Attorney General

1006#075

RULE

Department of Natural Resources Office of Conservation

Pit Closure Techniques and Onsite Disposal of E&P Waste (LAC 43:XIX.313)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and Title 30 of the Louisiana Revised Statutes of 1950 (R.S. 30:4 et seq.), the Louisiana Office of Conservation hereby amends LAC 43:XIX Subpart 1 (Statewide Order No. 29-B) Chapter 3 (Pollution Control—Onsite Storage, Treatment and Disposal of Exploration and Production Waste (E&P Waste) Generated from the Drilling and Production of Oil and Gas Wells (Oilfield Pit Regulations)).

The recent development of the Haynesville Shale in North Louisiana is made possible through the use of multi-stage hydraulic fracture stimulation technology. This technology requires the use of large quantities of fluids which are primarily composed of freshwater taken from either surface

water reservoirs or groundwater aquifers. The intense development of the Haynesville Shale has placed additional strain on the already limited freshwater aquifer resources of the region.

The intent of the amendment is to conserve these freshwater aquifer resources by expanding the limited use of Exploration and Production Waste as a substitute for the fluids required to perform fracture stimulation operations on the Haynesville Shale. The amendment uses sound waste minimization principles along with conservative waste management requirements to promote groundwater resource management and conservation while protecting public health and the environment.

Specifically, the Rule has been amended to eliminate the one-time usage limitation on E&P Waste and change the landowner affidavit requirement to an operator affidavit requirement.

**Title 43
NATURAL RESOURCES**

Part XIX. Office of Conservation—General Operations

Subpart 1. Statewide Order No. 29-B

**Chapter 3. Pollution Control—Onsite Storage,
Treatment and Disposal of Exploration
and Production Waste (E&P Waste)
Generated from the Drilling and
Production of Oil and Gas Wells (Oilfield
Pit Regulations)**

**§313. Pit Closure Techniques and Onsite Disposal of
E&P Waste**

A. - J.1.b.ii. ...

c. The types and volumes of E&P Waste generated for temporary use along with the well name and well serial number of the receiving wellsite must be reported on Form ENG-16 (Oilfield Waste Disposition) for the originating well and/or Form UIC-28 (Exploration and Production Waste Shipping Control Ticket) and/or other appropriate forms specified by the commissioner depending on the waste types involved.

d. An affidavit must be provided by the operator which attests that the operator has authority to store and use E&P waste from an offsite location at the receiving wellsite. The affidavit must be in a format acceptable to the Commissioner and attached to Form ENG-16 (Oilfield Waste Disposition) for the originating well and/or Form UIC-28 (Exploration and Production Waste Shipping Control Ticket) and/or other appropriate forms specified by the commissioner depending on the waste types involved.

e. E&P Waste intended for temporary use must be stored at the receiving wellsite in an above ground storage tank or a lined production pit which conforms to the liner requirements and operational provisions of LAC 43:XIX.307.A.

2. The Commissioner of Conservation, the Secretary of the Department of Natural Resources, and the State of Louisiana shall be held harmless from and indemnified for any and all liabilities arising from temporary use of E&P Waste pursuant to this Subsection, and the operator of record and the surface owner shall execute agreements as the commissioner requires for this purpose.

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

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2804 (December

2000), amended LR 33:1659 (August 2007), 35:2464 (November 2009), LR 36:1265 (June 2010).

James H. Welsh
Commissioner

1006#077

RULE

**Department of Public Safety and Corrections
Corrections Services**

**Public Information Program and Media Access
(LAC 22:I.339)**

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950), the Department of Public Safety and Corrections, Corrections Services, hereby amends the contents of Section 339 Public Information Program and Media Access.

Title 22

**CORRECTIONS, CRIMINAL JUSTICE AND LAW
ENFORCEMENT**

Part I. Corrections

Chapter 3. Adult Services

§339. Public Information Program and Media Access

A. Purpose—to state the general guidelines regarding department policies aimed at maintaining informative relationships with the public, the media and other agencies.

B. Applicability—deputy secretary, undersecretary, chief of operations, regional wardens, wardens, Director of Probation and Parole, Director of Prison Enterprises and communications director. Each unit head shall develop procedures to facilitate interaction with the public, the media, and other agencies and is responsible for ensuring that appropriate unit written policy and procedures are in place to comply with the provisions of this regulation and to inform employees and offenders of its contents.

C. Policy. It is the secretary's policy to maintain a cooperative and responsible relationship with and to inform the public, media and other agencies concerning department operations, accomplishments, challenges and critical incidents. News media inquiries shall be responded to in an accurate and timely manner, consistent with the security and privacy interests of the department, its staff and offenders. All legitimate news media organizations shall be allowed reasonable access to the state's correctional facilities unless security considerations dictate otherwise.

D. Definitions

Commercial Production—freelance photographers, writers and film makers who intend to sell their work product (including uncommitted documentaries) for profit to other companies.

Credentials—for purposes of identification, both photo identification, such as a valid driver's license, and identification (ID) card issued by the reporter's place of employment shall be required. In the absence of employee ID cards, the department reserves the right to verify all identification and to refuse admittance when such identification is found to be suspect.

Designated Spokesperson—an individual employee that has been given permission to speak to the media on behalf of the department, institution, or Probation and Parole Office.

These persons are granted permission to speak to the media by the unit head.

News Media—any accredited agency that gathers and reports news for a general circulation newspaper, news magazine, national or international news service or radio/television news program. This includes newspapers, publications, television/radio stations and internet news services. Authors or freelance journalists who are researching and/or writing articles about corrections or criminal justice topics must provide credentials to verify their association with a legitimate news/media organization.

News Release—a written statement concerning an issue, event or situation for which the department wishes to make a permanent record-for widespread dissemination.

E. Release of Information

1. The secretary shall have discretion to grant or deny an interview request.

2. Information regarding non-restrictive departmental operations, policies, procedures, etc. shall be released through the communications director.

3. The unit head or designee shall be responsible for releasing information pertaining to their respective unit. Designated spokespersons shall be knowledgeable of issues and departmental policy and shall ensure the accuracy of information prior to release.

a. The communications director shall advise and assist the unit head in matters relating to national and international news media requests. Any contact from a national or international news representative shall be reported to the communications director prior to the release of any information.

b. Additionally, if a local reporter's inquiry involves an issue that is currently newsworthy and receiving media attention or affects the entire department, the communications director shall be contacted prior to the release of any information.

4. The reporting of unusual occurrences shall be made in accordance with established policy and procedures. In addition, the secretary, chief of operations and communications director shall be made aware as soon as possible of any incidents involving offenders under the supervision of the Division of Probation and Parole.

5. Unless specifically assigned to do so by the unit head, other departmental employees shall not make statements on behalf of the unit or the department. Staff shall refer all media inquiries to the unit head or designee.

F. Release of Data

1. In conjunction with the secretary and communications director, and pursuant to Paragraph G.4 regarding critical incidents, units will proactively communicate with the news media regarding escapes, incidents of serious violence, riots, or other disturbances which result in fatalities, major injuries, major property damage or any other serious disruption of prison operations.

2. Upon request from a news media representative, information regarding an offender shall be released in accordance with established policy and procedures.

3. Information regarding psychiatric, medical or juvenile criminal histories of offenders cannot be released. Additionally, pursuant to R.S. 46:1844(W)(1)(a), the name, address or identity of crime victims who, at the time of the commission of the offense were minors under 18 years of

age, or who were victims of sex offenses, regardless of the date of commission of the offense, cannot be disclosed.

G. General Procedures

1. Unit procedures shall address emergency and non-emergency responses to the news media and include, at a minimum, the following:

a. identification of areas in the unit that are accessible to news media representatives;

b. contact person for routine requests for information;

c. identification of data and information protected by federal or state privacy laws, or federal and state freedom of information laws;

d. special events coverage;

e. news release policy; and

f. designated staff authorized to speak with the news media (which shall be submitted to the communications director each time the staff list is updated).

2. All staff shall be responsive to inquiries from the public and local, state and federal agencies by providing prompt, complete responses to all correspondence and other requests.

3. Inquiries from legislative and executive bodies shall be referred to authorized staff as designated by the secretary or unit head.

4. Routine news releases shall be sent to local media outlets. In the case of critical incidents, news releases shall be approved by the secretary and distributed by the communications director as soon as possible to known news organizations throughout the state via fax, e-mail, etc. Each unit shall maintain a file of information released to the media within the past year.

H. General Population and Offender Interviews

1. The unit head or designee shall facilitate interview requests. News media wishing to interview an offender shall submit a request to the unit head indicating whom they want to interview and the nature of the story. The request shall be submitted on official letterhead. Such requests must be made within a reasonable time frame, considering the scope of the story and the unit's ability to adequately prepare for the visit.

2. In general, interviews pertaining to an offender's involvement in facility programming (education, vocational, faith-based, treatment, etc.) shall be granted. Interview requests that would focus on the details of the offender's crime shall not be granted, as the department must be cognizant of the effect of such an interview on crime victims and their families.

3. Offenders may be eligible to be interviewed by the media under the following conditions:

a. assigned to general population (not to include initial reception unless a pressing need request is approved by the secretary);

b. required to sign an offender media release form. Because interviews are voluntary, the offender has the right to refuse to be interviewed, photographed or recorded by the media. The written release or decision not to be interviewed shall be filed in the offender's master prison record;

c. receive no compensation or anything of value (monetary or through enhanced status) in exchange for, or as a result of, the interview.

4. In general, interviews with offenders housed in maximum custody areas for behavior problems and/or poor

conduct records and offenders convicted of sexual offenses are strongly discouraged.

5. The communications director shall be notified of any media request for an offender interview on the day the request is made and prior to the commencement of the interview. The unit head shall give timely notice to the secretary, chief of operations and communications director of any significant or potentially controversial event.

6. The warden may deny any offender interview request based on security, medical or other administrative reason including the following:

a. the news media representative or news organization which is represented does not agree to the conditions established by the department and the warden;

b. the news media representative or news organization has, in the past 12 months, failed to abide by any required conditions;

c. the offender is physically or mentally unable to participate;

d. the interview, in the opinion of the warden, would endanger the health or safety of the interviewer, media crew, facility, offender, or could cause serious unrest or disrupt the operation of the facility;

e. the offender is involved in a pending court action.

7. Telephone interviews with an offender are prohibited.

NOTE: Exceptions may be authorized by the warden or designee.

I. Rules for Media in Prisons

1. All media representative must have prior approval to visit an institution.

2. Live broadcasts by television or radio (other than KLSP) are prohibited within correctional facilities, unless specifically authorized by the secretary.

3. Interviews shall take place on prison grounds in an area outside of offender living areas.

4. Interviews shall take place in view of a departmental employee for the safety of the media representative. The warden or designee reserves the right to terminate any interview or coverage within the facility should a disturbance or disruption occur.

5. All media visitors shall be provided with an escorting staff member for the duration of the visit.

6. Interviews may be recorded by video, audio, notes or other methods with prior approval of the warden and the offender to be interviewed.

7. Only one media organization may be allowed to interview an offender at any given time. News conferences are not permitted for offenders.

8. A media representative shall give written approval to allow the department the opportunity to respond to any allegations which might be published or broadcast prior to distribution.

9. The warden may suspend all media visits during an institutional crisis or critical incident. The warden or designee shall periodically brief all media on the situation. A media briefing center may be established at a remote location.

10. Failure by a news media representative to comply with the rules of this regulation constitutes grounds for denying the representative and/or the representative's agency permission to conduct the interview or any other interviews for a 12-month period.

J. Death Row and Executions

1. Death Row offenders must have their attorney's written approval prior to an interview, photograph and/or audio or video recording.

2. Media access preceding and following an execution shall be in accordance with established policy and procedures.

K. Procedures for Commercial Productions or Non-News Media

1. Unit access by independent filmmakers, writers for non-news magazines and others may be permitted by special advance arrangement and with the approval of the secretary and unit head.

2. All commercial production staff are required to make a written request to the unit head for access. Written requests shall include, at a minimum, the following information, as applicable:

a. name, job title and employer of person requesting visit (if freelance, the organization represented);

b. topic of story, where it will be used and for what purpose;

c. name of individual(s) to be interviewed;

d. date and time of arrival and anticipated duration;

e. name of all persons accompanying requestor;

f. if applicable, a hold harmless clause: "I recognize a visit to a correctional facility may present certain risks/hazards. I agree to assume all ordinary and/or usual risks to my personal safety inherent in a visit to an institution of this type."

3. Written requests shall be forwarded to the secretary for final review prior to project commencement.

4. All commercial productions are required to read, understand and sign a commercial production location agreement form upon their arrival at the unit. The unit head or designee may require review of the material prior to distribution solely to insure that it comports with the agreement.

L. Exceptions

1. The secretary or designee may make exceptions to specific sections of this regulation. Requests for exceptions, and the reasons therefore, shall be directed to the secretary for consideration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:950 and American Correctional Association (ACA) Standards 2-CO-1A-25 through 27-1 (Administration of Correctional Agencies) 4-4019 through 4-4021 (Adult Correctional Institutions).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 25:1260 (July 1999), amended LR 31:1100 (May 2005), repromulgated LR 31:1343 (June 2005), amended LR 36:1265 (June 2010).

Thomas E. Bickham, III
Undersecretary

1006#126

RULE

Department of Public Safety and Corrections Gaming Control Board

Licensees, Permittees; Loans and Restrictions
(LAC 42:III.2521, 2522, 2523, 2524, 2525, and 2526;
VII.2521, 2523, and 2524; IX.2521, 2522, 2523,
and 2524; and XIII.2521, 2523, and 2524)

Title 42

LOUISIANA GAMING

Part III. Gaming Control Board

Chapters 4-24. Reserved

Chapter 25. Transfers of Interest in the Casino Operator, Licensees, and Permittees; Loans and Restrictions

§2521. Financial Transaction; Incurring Debt

A. No licensee, casino operator, casino manager or an affiliate shall enter into a debt transaction except in accordance with these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 36:1268 (June 2010).

§2522. Definitions

Affiliate—a person that directly or indirectly through one or more intermediary or holding company, controls, or is controlled by, or is under common control with the licensee, casino operator or casino manager and is involved in gaming activities in this state or involved in the ownership of property in this state upon which gaming activities are conducted.

Debt Transaction—a transaction in which the licensee, casino operator, casino manager or an affiliate incurs debt, including, but not limited to the following:

1. loans, lines of credit or similar financing;
2. public and private debt offerings; or
3. any transaction that provides guarantees, grants a form of security or encumbers assets of the licensee, casino operator or casino manager or an affiliate.

Publicly Traded Company—any person, other than an individual, that:

1. has one or more voting securities registered under Section 12 of the Securities and Exchange Act of 1934, as amended;
2. is an issuer of securities subject to Section 15(d) of the Securities and Exchange Act of 1934, as amended; or
3. has one or more classes of securities exempted from the registration requirements of section 5 of the Securities Act of 1933, as amended, solely by reason of an exemption contained in section 3(a)(10), 3(a)(11), or 3(c) of the Securities Act of 1933, as amended.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 36:1268 (June 2010).

§2523. Notice of Debt Transaction; Board

A. Except as provided in §2525, whenever a licensee, casino operator, casino manager or an affiliate proposes to enter into a debt transaction, written notice shall be provided to the board no less than 20 calendar days prior to the

proposed transaction. The notice shall be signed under oath by an authorized representative and shall include:

1. names and addresses of all parties to the transaction;
2. amount and source of funds;
3. nature and amount of security and collateral provided;
4. specific nature and purpose of the transaction; and
5. term sheet or executive summary of the transaction.

B. All debt transactions shall require prior written approval of the board unless one of the following apply.

1. The amount of the transaction does not exceed \$2,500,000 and the lender(s) is a qualified institutional lender(s) as defined by applicable gaming statute.

2. The amount of the transaction does not exceed \$1,000,000 and the lender(s) has previously been found suitable.

3. The amount of the transaction does not exceed \$500,000.

4. The transaction is exempted from the prior written approval requirement pursuant to §2524 of this Chapter.

5. The transaction does not provide for guarantees, pledges or other security from the licensee, casino operator, casino manager or an affiliate .

6. The transaction qualifies under a shelf approval pursuant to §2525 of this Chapter.

7. The transaction modifies the terms of an existing debt transaction which was previously approved and the modification does not substantially alter such terms. Factors to be considered include, but are not limited to:

- a. increases or decreases previously approved borrowing capability;
- b. adds security or collateral;
- c. loosens restrictions on financial covenants; or
- d. provides more favorable terms considering current market conditions.

C. Except as otherwise provided in §2525 of this Chapter, the board shall determine whether the debt transaction is exempt from the prior approval requirement and shall notify the borrower of the determination.

D. In the event a determination is made that the debt transaction is not exempt pursuant to Subsection B the board shall issue a ruling approving or disapproving the transaction. If disapproved, the ruling shall be in writing and shall set forth reasons for the disapproval.

E. The board may require the debt transaction be subject to conditions which must be accepted by the parties prior to approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 36:1268 (June 2010).

§2524. Registered Securities/Private Placement

A. Board approval is not required for the following transactions:

1. sales of securities to be registered with the Securities and Exchange Commission and sold pursuant to an underwriters' agreement;
2. private placement offerings with registration rights under Rule 144A and Regulation S promulgated by the Securities and Exchange Commission and sold pursuant to a purchase agreement with initial purchasers.

B. For transactions made pursuant to this Subsection, the initial notice required by §2523 shall be provided no less than 10 calendar days prior to the proposed offering. Additionally, the following documents shall be provided, if applicable:

1. copy of the final registration statement approved by the Securities Exchange Commission;
2. copy of the underwriters' agreement or purchase agreement;
3. copy of the indenture;
4. copy of the offering memorandum;
5. copy of the registration rights agreement;
6. a report 45 days after completion of sale providing amounts of securities sold and identities of underwriters or initial purchasers; and
7. any other documents which may be requested by the board or division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 36:1268 (June 2010).

§2525. Shelf Application

A. An affiliate which is a publicly traded company may apply to the board for shelf approval of debt transactions if it has:

1. a class of securities listed on either the New York Stock Exchange (NYSE), the American Stock Exchange (ASE) or the National Association of Securities Dealers Automatic Quotation System (NASDAQ), or has stockholders' equity in the amount of \$15 million or more as reported in its most recent report on Form 10-K or Form 10-Q filed with the Securities Exchange Commission (SEC) immediately preceding application; and

2. filed all reports required to be filed by section 13, or section 15(d) of the Securities and Exchange Act of 1934 during the preceding 12 months, or for such a shorter period that the affiliate has been required to file such reports.

B. The application shall be signed under oath by an authorized representative of the affiliate and shall include:

1. proof of qualification to make the application in accordance with the criteria of this Section;
2. a statement of the amount of debt sought to be approved and the intended use of potential proceeds;
3. duration sought for the shelf approval; and
4. other supplemental documentation requested by the board or division following initial submission.

C. The board may grant an approval of the shelf application for a period not to exceed three years under such terms, conditions and limitations as determined by the board in its discretion including a limitation on the maximum amount of total debt permitted to be borrowed under the shelf approval. The approval shall be in writing and shall contain all terms, conditions and limitations set by the board.

D. If an application is granted, the affiliate shall notify the board of all debt transactions within 10 days of consummation, including subsequent amendments and modifications of debt transactions, and provide executed copies of the documents evidencing the transactions as may be required by the board or division.

E. The board may rescind a shelf approval without prior written notice. The rescission shall be in writing and set forth the reasons for the rescission and shall remain in effect

until lifted by the board upon the satisfaction of any such terms, conditions, and limitations as required by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 36:1269 (June 2010).

§2526. Limitation on Financing; Incurring Debt; Casino Operator

A. In accordance with section 13.6 of the casino operating contract and except as provided in §2523, §2524 and §2525 of these regulations, the casino operator or its financing affiliate may obtain debt only from a lender found suitable by the board and only after obtaining approval of the financing by the board. Board approval shall not be required for financing obtained from a lender previously found suitable by the board or from a lender who is a suitable lender as defined in the casino operating contract if:

1. principal amount of the debt incurred in the financing does not exceed the sum of:

- a. debt retired with the proceeds of financing;
- b. projected cost of capital improvements to be funded with the proceeds of the financing; and
- c. customary transaction costs relating to the financing; or

2. pre-tax cash flow of the casino operator for the 12-month period ending on the last day of the calendar quarter preceding the calendar month in which the financing occurs is not less than 125 percent of the amount of annual interest payable with respect to secured debt incurred in the financing.

B. The casino operator, any holding company or intermediary company thereof, or the casino manager shall apply for prior approval of any proposed public offering of any ownership interest therein, and shall comply with all conditions imposed by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 36:1269 (June 2010).

Part VII. Pari-Mutuel Live Racing Facility Slot Machine Gaming

Chapter 25. Transfers of Interest in Licensees and Permittees; Loans and Restrictions

§2521. Loans and Lines of Credit

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:743 (April 2000), repealed LR 36:1269 (June 2010).

§2523. Board Actions Concerning Loans and Lines of Credit

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:744 (April 2000), repealed LR 36:1269 (June 2010).

§2524. Publicly Registered Debt and Securities

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:744 (April 2000), amended LR 34:2646 (December 2008), LR 36:1269 (June 2010).

Part IX. Landbased Casino Gaming

Subpart 1. Economic Development and Gaming Corporation

Chapter 25. Transfers of Interest in the Casino Operator and Permittees; Loans and Restrictions

§2521. Loans and Lines of Credit

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1922 (October 1999), repealed LR 36:1270 (June 2010).

§2522. Limitation on Financing; Incurring Debt

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1922 (October 1999), repealed LR 36:1270 (June 2010).

§2523. Board Actions Concerning Loans and Lines of Credit

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1922 (October 1999), repealed LR 36:1270 (June 2010).

§2524. Publicly Registered Debt and Securities

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1923 (October 1999), amended LR 34:2654 (December 2008), repealed LR 36:1270 (June 2010).

Part XIII. Riverboat Gaming

Subpart 2. State Police Riverboat Gaming Division

Chapter 25. Transfers of Interest in Licensees and Permittees; Loans and Restrictions

§2521. Loans and Lines of Credit

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), repealed by the Gaming Control Board, LR 36:1270 (June 2010).

§2523. Board Actions Concerning Loans and Lines of Credit

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 23:746 (June 1997), repealed LR 36:1270 (June 2010).

§2524. Publicly Registered Debt and Securities

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 23:746 (June 1997), amended LR 34:2664 (December 2008), repealed LR 36:1270 (June 2010).

Dane K. Morgan
Chairman

1006#036

RULE

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

Towing, Recovery and Storage
(LAC 55:I.1913)

The Department of Public Safety and Corrections, Office of State Police, in accordance with R.S. 49:950 et seq., and R.S. 32:1711 et seq., hereby promulgates an amendment to the regulatory requirements regarding the Gross Vehicle Weight Rating (GVWR) for tow trucks. Through this amendment, tow trucks manufactured prior to 2007 with a GVWR of 10,000 pounds will be eligible for a tow truck license plate. These specific trucks had been inadvertently disqualified by a previous rule.

Title 55

PUBLIC SAFETY

Part I. State Police

**Chapter 19. Towing, Recovery and Storage
Subchapter B. Tow Truck License Plate; Required Insurance**

§1913. Tow Truck License Plate

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

3. Denial of Applications

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

i. ...

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

B.3.a.iii. - D.1.h. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1714

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Police, LR 32:856 (May 2006), amended LR 36:1270 (June 2010).

Jill P. Boudreaux
Undersecretary

1006#037

RULE

**Department of Public Safety and Correction
Uniform Construction Code Council**

**Certification Requirements—Grandfathering
(LAC 55:VI.905)**

In accordance with the provisions of Act 12 of the 2005 First Extraordinary Session, R.S. 40:1730.22(C) and (D) and R.S. 40:1730.34(B) relative to the authority of the Louisiana State Uniform Construction Code Council to promulgate and enforce rules, the Louisiana State Uniform Construction Council hereby amends Chapter 9 by adding §905 which will provide that code enforcement officers who have been employed in building code enforcement for at least 10 years on January 1, 2007 will not be required to obtain certification by a recognized code organization or testing agency as a prerequisite to registration by the Construction Code Council.

Title 55

PUBLIC SAFETY

Part VI. Uniform Construction Code

Chapter 9. Temporary Exemption to Certification Requirement

§905. Grandfathering for Employment of at Least 10 Years on January 1, 2007

A. Certificates of Registration may be issued without certification by a recognized code organization or testing agency to building code enforcement officers who have been employed in building code enforcement for at least 10 years on January 1, 2007, only for the position and locality held at the time of registration. Building code enforcement officers who are registered pursuant to this paragraph shall provide notarized verification of employment from the payroll agent of their employing authority having jurisdiction, and must comply with all continuing education requirements established by the council.

1. Building code enforcement officers currently provisionally registered with the Louisiana State Uniform Construction Code Council and meeting the 10-year employment requirement in Subsection A above shall have until December 31, 2010 to renew registration under the provisions of R.S. 40:1730.35 C(2) and this Section.

2. Building code enforcement officers not currently registered with the Louisiana State Uniform Construction Code Council and referenced in Subsection A above shall have until April 15, 2010 to satisfy the registration requirements set forth in §701 of this Part and this Section, and have until December 31, 2010 to meet the continuing education requirements of their provisional registration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Uniform Construction Code Council, LR 36:1271 (June 2010).

Jill Boudreaux
Undersecretary

1006#038

RULE

**Department of Revenue
Policy Services Division**

**Electronic Filing Requirements for Oil
or Gas Severance Tax
(LAC 61:III.1525)**

Under the authority of R.S. 47:1511 and 47:1520 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, adopts LAC 61:III.1525 to mandate electronic filing to persons severing oil or gas from the soil or water of the state.

Title 61

REVENUE AND TAXATION

**Part III. Administrative Provisions and Miscellaneous
Chapter 15. Mandatory Electronic Filing of Tax**

Returns and Payment

§1525. Severance Tax—Oil or Gas

A. R.S. 47:635(A)(2) requires every person severing oil or gas from the soil or water of the state to submit, on or before the twenty-fifth day of the second month following the month to which the tax is applicable, a statement of the business conducted by the severer during the month on forms approved by the department.

B. Effective with the July 2010 filing period, reporting severers of oil or gas, from the soil or water, shall be required to file tax returns electronically with the Department of Revenue using the electronic format prescribed by the department.

C. Failure to comply with this electronic filing requirement will result in the assessment of a penalty of \$100 or 5 percent of the tax, whichever is greater, as provided by R.S. 47:1520(B).

1. If it is determined that the failure to comply is attributable, not to the negligence of the taxpayer, but to other cause set forth in written form and considered reasonable by the secretary, the secretary may remit or waive payment of the whole or any part of the penalty.

2. If the penalty exceeds \$25,000, it may be waived by the secretary only after approval by the Board of Tax Appeals.

3. If electronic filing of a tax return or report would create an undue hardship, proven by the taxpayer, the secretary may exempt the taxpayer from filing the return or report electronically.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511, 47:1520, and 47:635(A)(2).

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 36:1271 (June 2010)

Cynthia Bridges
Secretary

1006#064

RULE

**Department of Social Services
Office of Family Support
and
Office of Community Services**

**Residential Licensing—Disqualification
(LAC 67:III.Chapter 73, and V.Chapters 61-19)**

Editor’s Note: Sections 7303 and 7359 of Part III, Sections 6103, 6507, 6703, 6905 and 6955 of Part V are being repromulgated to correct a citation error. The original Rule may be viewed in the April 20, 2010 *Louisiana Register* on pages 831-838.

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Department of Social Services (DSS), Office of Family Support (OFS) and Office of Community Services (OCS), promulgated rules in the *Louisiana Administrative Code* (LAC) Title 48, Part I, Subpart 3, Chapter 88, Adult Residential Care Licensing, Title 67, Part III, Subpart 21, Chapter 73, Child Day Care Licensing, and LAC Title 67, Part V, Subpart 8, Chapters 61-69, Residential Licensing pursuant to the general rule-making authority of the department under 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, R.S. 46:1401-1426, and the specific authority to create rules for transitional living granted by the Transitional Youth Residence Act, R.S. 46:1451-1455.

State licensing regulations for child care facilities provided no 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 and elderly or infirmed adults. This lack of specific disqualification periods had allowed substandard facilities to take temporary remedial action and reapply for a new license immediately following revocation of the previous one.

**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. - F.7. ...

G. Disqualification From Application

1. Definitions, as used in this Section:

Affiliate—

- i. with respect to a partnership, each partner thereof;
- ii. with respect to a corporation, each officer, director and stockholder thereof;
- iii. 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 an officer, director or stockholder, or holds, directly or indirectly, a controlling interest;
- iv. 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

v. director of any such day care center.

*Department—*the Department of Social Services.

*Disqualification Period—*the prescriptive period during which the department shall not accept an application from a provider. Any unlicensed operation during the disqualification period shall interrupt running of prescription until the department has verified that the unlicensed operation has ceased.

*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.

*Facility—*any place, program, facility or agency operated or required by law to operate under a license, including facilities owned or operated by any governmental, profit, nonprofit, private, or church agency.

License—

i. any license issued by the department to operate any child care facility or child-placing agency as defined in R.S. 46:1403;

ii. any license issued by the department to operate any adult residential care facility as defined in R.S. 40:2153; or

iii. any license issued by the department to operate any transitional youth residence as defined in R.S. 46:1453.

*Provider—*all owners or operators of a facility, including the director of such facility. If the owner is a corporate entity, the owners are the officers, directors, and shareholders of the facility.

*Unlicensed Operation—*operation of any child care facility or child-placing agency, adult residential care facility, or transitional youth residence, at any location, without a valid, current license issued by the department.

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 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. Any voluntary surrender of a license by a facility facing the possibility of adverse action against its license (revocation or non-renewal) shall be deemed to be a revocation for purposes of this rule, and shall trigger the same disqualification period as if the license had actually been revoked.

c. In addition, if the applicant has had a substantial 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, the department may refuse to accept a subsequent application from that applicant for a minimum period of two years after the effective date of denial.

d. The disqualification period provided in this Section shall include any affiliate of the provider.

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

§7359. Procedures

A. - H. ...

I. Disqualification from Application

1. Definitions, as used in this Section:

Affiliate—

- i. with respect to a partnership, each partner thereof;
- ii. with respect to a corporation, each officer, director and stockholder thereof;
- iii. 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 an officer, director or stockholder, or holds, directly or indirectly, a controlling interest;
 - iv. 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
 - v. director of any such day care center.

Department—the Department of Social Services.

Disqualification Period—the prescriptive period during which the department shall not accept an application from a provider. Any unlicensed operation during the disqualification period shall interrupt running of prescription until the department has verified that the unlicensed operation has ceased.

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.

Facility—any place, program, facility or agency operated or required by law to operate under a license, including facilities owned or operated by any governmental, profit, nonprofit, private, or church agency.

License—

- i. any license issued by the department to operate any child care facility or child-placing agency as defined in R.S. 46:1403;
- ii. any license issued by the department to operate any adult residential care facility as defined in R.S. 40:2153; or
- iii. any license issued by the department to operate any transitional youth residence as defined in R.S. 46:1453.

Provider—all owners or operators of a facility, including the director of such facility. If the owner is a corporate entity, the owners are the officers, directors, and shareholders of the facility.

Unlicensed Operation—operation of any child care facility or child-placing agency, adult residential care facility, or transitional youth residence, at any location, without a valid, current license issued by the department.

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 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. Any voluntary surrender of a license by a facility facing the possibility of adverse action against its license (revocation or non-renewal) shall be deemed to be a revocation for purposes of this rule, and shall trigger the same disqualification period as if the license had actually been revoked.

c. In addition, if the applicant has had a substantial 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, the department may refuse to accept a subsequent application from that applicant for a minimum period of two years after the effective date of denial.

d. The disqualification period provided in this Section shall include any affiliate of the provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401et 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 Office of Family Support, LR 33:2771 (December 2007), amended LR 36:3333 (February 2010), LR 36:833 (April 2010), repromulgated LR 36:1273 (June 2010).

Part V. Community Services

Subpart 8. Residential Living

Chapter 61. Emergency Shelter

§6103. Organization and Administration

A. - C. 3.a. ...

D. Disqualification from Application

1. Definitions, as used in this Section:

Affiliate—

- i. with respect to a partnership, each partner thereof;
- ii. with respect to a corporation, each officer, director and stockholder thereof;
- iii. 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 an officer, director or stockholder, or holds, directly or indirectly, a controlling interest;

iv. 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

v. director of any such emergency shelter.

Department—the Department of Social Services.

Disqualification Period—the prescriptive period during which the department shall not accept an application from a provider. Any unlicensed operation during the disqualification period shall interrupt running of prescription until the department has verified that the unlicensed operation has ceased.

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.

Facility—any place, program, facility or agency operated or required by law to operate under a license, including facilities owned or operated by any governmental, profit, nonprofit, private, or church agency.

License—

i. any license issued by the department to operate any child care facility or child-placing agency as defined in R.S. 46:1403;

ii. any license issued by the department to operate any adult residential care facility as defined in R.S. 40:2153; or

iii. any license issued by the department to operate any transitional youth residence as defined in R.S. 46:1453.

Provider—all owners or operators of a facility, including the director of such facility. If the owner is a corporate entity, the owners are the officers, directors, and shareholders of the facility.

Unlicensed Operation—operation of any child care facility or child-placing agency, adult residential care facility, or transitional youth residence, at any location, without a valid, current license issued by the department.

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 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. Any voluntary surrender of a license by a facility facing the possibility of adverse action against its license (revocation or non-renewal) shall be deemed to be a revocation for purposes of this rule, and shall trigger the same disqualification period as if the license had actually been revoked.

c. In addition, if the applicant has had a substantial 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, the department may refuse to accept a subsequent application from that applicant for a minimum period of two years after the effective date of denial.

d. The disqualification period provided in this Section shall include any affiliate of the provider.

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), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2669 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1544 (August 2009), amended LR 36:834 (April 2010), repromulgated LR 36:1273 (June 2010).

Chapter 65. Transitional Living §6507. Application for Licensure

A. - E. ...

F. Disqualification from Application

1. Definitions, as used in this Section:

Affiliate—

i. with respect to a partnership, each partner thereof;

ii. with respect to a corporation, each officer, director and stockholder thereof;

iii. 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 an officer, director or stockholder, or holds, directly or indirectly, a controlling interest;

iv. 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

v. director of any such transitional living facility.

Department—the Department of Social Services.

Disqualification Period—the prescriptive period during which the department shall not accept an application from a provider. Any unlicensed operation during the disqualification period shall interrupt running of prescription until the department has verified that the unlicensed operation has ceased.

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.

Facility—any place, program, facility or agency operated or required by law to operate under a license, including facilities owned or operated by any governmental, profit, nonprofit, private, or church agency.

License—

i. any license issued by the department to operate any child care facility or child-placing agency as defined in R.S. 46:1403;

ii. any license issued by the department to operate any adult residential care facility as defined in R.S. 40:2153; or

iii. any license issued by the department to operate any transitional youth residence as defined in R.S. 46:1453.

Provider—all owners or operators of a facility, including the director of such facility. If the owner is a corporate entity, the owners are the officers, directors, and shareholders of the facility.

Unlicensed Operation—operation of any child care facility or child-placing agency, adult residential care facility, or transitional youth residence, at any location, without a valid, current license issued by the department.

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 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. Any voluntary surrender of a license by a facility facing the possibility of adverse action against its license (revocation or non-renewal) shall be deemed to be a revocation for purposes of this rule, and shall trigger the same disqualification period as if the license had actually been revoked.

c. In addition, if the applicant has had a substantial 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, the department may refuse to accept a subsequent application from that applicant for a minimum period of two years after the effective date of denial.

d. The disqualification period provided in this Section shall include any affiliate of the provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451-1455

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Bureau of Licensing, LR 30:93 (January 2004), repromulgated by the Department of Social Services, Office of Community Services, Bureau of Residential Licensing, LR 33:2686 (December 2007), repromulgated by the LR 35:1544 (August 2009), amended by the Department of Social Services, Office of Community Services, LR 35:1561 (August 2009), amended LR 36:835 (April 2010), repromulgated LR 36:1274 (June 2010).

Chapter 67. Maternity Homes

§6703. Definitions

A. ...

B. Disqualification from Application

1. Definitions, as used in this Section:

Affiliate—

i. with respect to a partnership, each partner thereof;

ii. with respect to a corporation, each officer, director and stockholder thereof;

iii. 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 an officer, director or stockholder, or holds, directly or indirectly, a controlling interest;

iv. 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

v. director of any such maternity home.

Department—the Department of Social Services.

Disqualification Period—the prescriptive period during which the department shall not accept an application from a provider. Any unlicensed operation during the disqualification period shall interrupt running of prescription until the department has verified that the unlicensed operation has ceased.

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.

Facility—any place, program, facility or agency operated or required by law to operate under a license, including facilities owned or operated by any governmental, profit, nonprofit, private, or church agency.

License—

i. any license issued by the department to operate any child care facility or child-placing agency as defined in R.S. 46:1403;

ii. any license issued by the department to operate any adult residential care facility as defined in R.S. 40:2153; or

iii. any license issued by the department to operate any transitional youth residence as defined in R.S. 46:1453.

Provider—all owners or operators of a facility, including the director of such facility. If the owner is a corporate entity, the owners are the officers, directors, and shareholders of the facility.

Unlicensed Operation—operation of any child care facility or child-placing agency, adult residential care facility, or transitional youth residence, at any location, without a valid, current license issued by the department.

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 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. Any voluntary surrender of a license by a facility facing the possibility of adverse action against its license (revocation or non-renewal) shall be deemed to be a

revocation for purposes of this rule, and shall trigger the same disqualification period as if the license had actually been revoked.

c. In addition, if the applicant has had a substantial 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, the department may refuse to accept a subsequent application from that applicant for a minimum period of two years after the effective date of denial.

d. The disqualification period provided in this Section shall include any affiliate of the provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1427

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2694 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1570 (August 2009), amended LR 36:835 (April 2010), repromulgated LR 36:1275 (June 2010).

Chapter 69. Child Residential Care

§6905. Procedures

A. - E.5.

F. Disqualification from Application

1. Definitions, as used in this Section:

Affiliate—

i. with respect to a partnership, each partner thereof;

ii. with respect to a corporation, each officer, director and stockholder thereof;

iii. 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 an officer, director or stockholder, or holds, directly or indirectly, a controlling interest;

iv. 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

v. director of any such child residential care home.

Department—the Department of Social Services.

Disqualification Period—the prescriptive period during which the department shall not accept an application from a provider. Any unlicensed operation during the disqualification period shall interrupt running of prescription until the department has verified that the unlicensed operation has ceased.

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.

Facility—any place, program, facility or agency operated or required by law to operate under a license,

including facilities owned or operated by any governmental, profit, nonprofit, private, or church agency.

License—

i. any license issued by the department to operate any child care facility or child-placing agency as defined in R.S. 46:1403;

ii. any license issued by the department to operate any adult residential care facility as defined in R.S. 40:2153; or

iii. any license issued by the department to operate any transitional youth residence as defined in R.S. 46:1453.

Provider—all owners or operators of a facility, including the director of such facility. If the owner is a corporate entity, the owners are the officers, directors, and shareholders of the facility.

Unlicensed Operation—operation of any child care facility or child-placing agency, adult residential care facility, or transitional youth residence, at any location, without a valid, current license issued by the department.

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 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. Any voluntary surrender of a license by a facility facing the possibility of adverse action against its license (revocation or non-renewal) shall be deemed to be a revocation for purposes of this rule, and shall trigger the same disqualification period as if the license had actually been revoked.

c. In addition, if the applicant has had a substantial 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, the department may refuse to accept a subsequent application from that applicant for a minimum period of two years after the effective date of denial.

d. The disqualification period provided in this Section shall include any affiliate of the provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1426.

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 24:2130 (November 1998), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2699 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1575 (August 2009), amended LR

36:330 (February 2010), LR 36:836 (April 2010), repromulgated LR 36:1276 (June 2010).

§6955. Procedures

A. - E. 5.

F. Disqualification from Application

1. Definitions, as used in this Section:

Affiliate—

- i. with respect to a partnership, each partner thereof;
- ii. with respect to a corporation, each officer, director and stockholder thereof;
- iii. 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 an officer, director or stockholder, or holds, directly or indirectly, a controlling interest;
 - iv. 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
 - v. director of any such child residential care home.

Department—the Department of Social Services.

Disqualification Period—the prescriptive period during which the department shall not accept an application from a provider. Any unlicensed operation during the disqualification period shall interrupt running of prescription until the department has verified that the unlicensed operation has ceased.

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.

Facility—any place, program, facility or agency operated or required by law to operate under a license, including facilities owned or operated by any governmental, profit, nonprofit, private, or church agency.

License—

- i. any license issued by the department to operate any child care facility or child-placing agency as defined in R.S. 46:1403;
- ii. any license issued by the department to operate any adult residential care facility as defined in R.S. 40:2153; or
- iii. any license issued by the department to operate any transitional youth residence as defined in R.S. 46:1453.

Provider—all owners or operators of a facility, including the director of such facility. If the owner is a corporate entity, the owners are the officers, directors, and shareholders of the facility.

Unlicensed Operation—operation of any child care facility or child-placing agency, adult residential care facility, or transitional youth residence, at any location, without a valid, current license issued by the department.

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 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. Any voluntary surrender of a license by a facility facing the possibility of adverse action against its license (revocation or non-renewal) shall be deemed to be a revocation for purposes of this rule, and shall trigger the same disqualification period as if the license had actually been revoked.

c. In addition, if the applicant has had a substantial 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, the department may refuse to accept a subsequent application from that applicant for a minimum period of two years after the effective date of denial.

d. The disqualification period provided in this Section shall include any affiliate of the provider.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:1565 (September 2001), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2740 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1617 (August 2009), amended LR 36:331 (February 2010), LR 36:837 (April 2010), repromulgated LR 36:1277 (June 2010).

Kristy H. Nichols
Secretary

1006#045

RULE

Department of Social Services Office of Family Support

Child Care Assistance Program
Discontinuation of Job Search
(LAC 67:III.5102, 5103, 5104, and 5109)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Social Services, (DSS) Office of Family Support (OFS), amended LAC 67:III.5102, 5103, 5104, and 5109.

Section 5102 has been amended to expand the definition of a *Household Designee* to include that this person may be responsible for checking a child or children on or off of an approved child care vehicle.

Section 5103 has been amended to remove the reference to the specific verification required for determining eligibility.

Sections 5103, 5104, and 5109 have been amended to discontinue Job Search as a countable Employment and Training (E&T) activity in CCAP. Due to budget constraints, this will align with the department's requirement to ensure core services are provided to assist needy families during

difficult economic times. This Rule should result in a reduction of CCAP cases and will allow the department to address the child care needs of participants who are currently employed or in an approved job training or educational activity.

This Rule was effective by Emergency Rule effective January 1, 2010.

Title 67

Social Services

Part III. Office of Family Support

Subpart 12. Child Care Assistance

Chapter 51. Child Care Assistance Program

Subchapter A. Administration, Conditions of Eligibility, and Funding

§5102. Definitions

* * *

Household Designee (HD)—An adult who is designated (in writing) by the CCAP Head of Household to drop off and/or pick up the child or children from an authorized CCAP provider or check the child or children on or off of an approved child care vehicle. In the case of an In-Home provider, this is the person to whom the provider may release the child or children when the provider leaves the home. Each household designee may be finger imaged for identity purposes.

* * *

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99 and P.L. 104-193, ACF Guidance: ACYF-IM-CC-05-03.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:2826 (December 2000), LR 27:1932 (November 2001), LR 28:1490 (June 2002), LR 29:43 (January 2003), LR 29:189 (February 2003), LR 30:1484 (July 2004), LR 31:2262 (September 2005), LR 32:1464 (August 2006), LR 36:1278 (June 2010).

§5103. Conditions of Eligibility

A. - B.3. ...

4. Effective September 1, 2002, unless disabled as established by receipt of Social Security Administration Disability benefits, Supplemental Security Income, Veterans' Administration Disability benefits for a disability of at least 70 percent, or unless disabled and unable to care for his/her child(ren) as verified by a doctor's statement or by worker determination, the TEMP must be:

a. employed for a minimum average of 25 hours per week and all countable employment hours must be paid at least at the Federal minimum hourly wage; or

b. attending a job training or educational program for a minimum average of, effective April 1, 2003, 25 hours per week (attendance at a job training or educational program must be verified, including the expected date of completion); or

c. engaged in some combination of employment which is paid at least at the Federal minimum hourly wage, or job training, or education as defined in Subparagraph B.4.b of this section that averages, effective April 1, 2003, at least 25 hours per week.

d. Exception: a household in which all of the members described in Paragraph B.4 of this section meet the disability criteria is not eligible for child care assistance unless one of those members meets, effective April 1, 2003, the required minimum average of 25 activity hours per week.

5. - 6. ...

7. Effective November 1, 2005, the household must be current on payment of co-payments to any current or previous provider(s). Verification will be required that co-payments are not owed when:

a. - c. ...

C. The family requesting child care services must provide the information and verification necessary for determining eligibility and benefit amount, and meet appropriate eligibility requirements established by the State.

D. Cases eligible for payment may be assigned a certification period of up to twelve months.

E. Effective October 1, 2004, all children receiving services must be age-appropriately immunized according to the schedule of immunizations as promulgated by the Louisiana Office of Public Health, or be in the process of receiving all age-appropriate immunizations. No person is required to comply with this provision if that person or his/her parent or guardian submits a written statement from a physician stating that the immunization procedure is contraindicated for medical reasons, or if the person or his/her parent or guardian objects to the procedure on religious grounds.

F. CCAP households must participate in the system designated by the agency for capturing time and attendance. This process may include finger imaging for the *Head of Household* and their *Household Designees*. The agency will determine the maximum number of *Household Designees* allowed on a CCAP case. Finger imaging is a requirement to participate in CCAP if the provider chosen by the client utilizes this as the mechanism for capturing time and attendance. Exceptions may be granted by the Executive Director of Family Assistance or his or her designee on a case by case basis.

G. If a client chooses care in an In-Home Provider setting, the client must possess a working landline telephone.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L. 104-193, Act 58 2003 Reg. Session, ACF Guidance: ACYF-IM-CC-05-03.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:356 (February 1998), amended LR 25:2444 (December 1999), LR 26:2827 (December 2000), LR 27:1932 (November 2001), LR 28:1490 (June 2002), LR 29:43 (January 2003), LR 29:1106 (July 2003), LR 29:1833 (September 2003), LR 30:496 (March 2004), LR 30:1487 (July 2004), LR 31:101 (January 2005), LR 31:2263 (September 2005), LR 32:1464 (August 2006), LR 33:506 (March 2007), LR 34:692 (April 2008), LR 36:1278 (June 2010).

§5104. Reporting Requirements Effective February 1, 2004

A. - B.1. ...

2. an interruption of at least three weeks or termination of any TEMP's employment or training, or

3. a child receiving CCAP services leaves the home.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L. 104-193, 7 CFR Part 273, ACF Guidance: ACYF-IM-CC-05-03.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:1487 (July 2004), amended LR 31:2263 (September 2005), LR 32:1464 (August 2006), LR 36:1278 (June 2010).

Subpart 12. Child Care Assistance
Chapter 51. Child Care Assistance Program
Subchapter B. Child Care Providers
§5109. Payment

A. - B.3.a. ...

b. the number of hours the *head of household*, the *head of household's* spouse or non-legal spouse, or the minor unmarried parent is working and/or attending a job training or educational program each week, plus one hour per day for travel to and from such activity; or

B.3.c. - F. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and P.L. 104-193, ACF Guidance: ACYF-IM-CC-05-03.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:357 (February 1998), amended LR 25:2445 (December 1999), LR 26:2828 (December 2000), LR 27:1933 (November 2001), LR 28:1491 (June 2002), LR 29:1834 (September 2003), LR 30:1485 (July 2004), repromulgated LR 30:2078 (September 2004), amended LR 31:2265 (September 2005), LR 32:1465 (August 2006), LR 32:2097 (November 2006), LR 33:507 (March 2007), LR 34:692 (April 2008), LR 36:1279 (June 2010).

Kristy H. Nichols
Secretary

1006#083

RULE

Department of Social Services
Office of Family Support

Child Care Licensing
Child Day Care Centers Posting Revocation Notice
(LAC 67:III.7303 and 7359)

In accordance with provisions of R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Social Services (DSS), Office of Family Support (OFS), amended LAC 67:III.7303 and 7359 in Child Care Licensing.

The Department of Social Services finds it necessary to adopt this Rule which shall require a notice of revocation action be prominently posted on the premises of any child care facility when the license to operate is revoked. In an effort to ensure the public health, safety and welfare of children who receive care in child care facilities; prominent posting of the notice of revocation action shall remain visible to the parents, guardians, and others throughout the pendency of any appeals of the revocation. This notice shall notify the parents and guardians of the children who receive child care that the child care facility is not in compliance with state laws.

Title 67
Social Services

Part III. Office of Family Support
Subpart 21. Child Care Licensing

Chapter 73. Day Care Centers
Subchapter A. Licensing Class "A" Regulations for
Child Care Centers

§7303. Procedures

A. - F.7. ...

G. - G.2.d. Reserved.

H. Posting of Notices of Revocation. The notice of revocation of the license shall be prominently posted.

1. The Department of Social Services shall prominently post a notice of revocation action at each public entrance of the child care facility within one business day of such action. This notice must remain visible to the parents and guardians of the children who attend the child care facility.

2. It shall be a violation of these rules for a provider to permit the obliteration or removal of a notice of revocation that has been posted by the department. The provider shall ensure that the notice continues to be visible to parents, guardians, and others throughout the pendency of any appeals of the revocation.

3. The provider shall notify child care licensing in writing immediately if the notice is removed.

4. Failure to maintain the posted notice of revocation required under these rules shall be grounds for denial, revocation or non-renewal of any future license.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:1108 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2756 (December 2007), amended LR 36:333 (February 2010), LR 36:1279 (2010).

Subpart 21. Child Care Licensing
Chapter 73. Day Care Centers

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

§7359. Procedures

A. - H. ...

I. - I.2.d. Reserved.

J. Posting of Notices of Revocation. The notice of revocation of the license shall be prominently posted.

1. The Department of Social Services shall prominently post a notice of revocation action at each public entrance of the child care facility within one business day of such action. This notice must remain visible to the parents and guardians of the children who attend the child care facility.

2. It shall be a violation of these rules for a provider to permit the obliteration or removal of a notice of revocation that has been posted by the department. The provider shall ensure that the notice continues to be visible to parents, guardians, and others throughout the pendency of any appeals of the revocation.

3. The provider shall notify child care licensing in writing immediately if the notice is removed.

4. Failure to maintain the posted notice of revocation required under these rules shall be grounds for denial, revocation or non-renewal of any future license.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:1636 (August 2000), repromulgated by the Department of Social Services, Office of

Family Support, LR 33:2771 (December 2007), amended LR 36:335 (February 2010), LR 36:1279 (June 2010).

Kristy H. Nichols
Secretary

1006#084

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

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

The Wildlife and Fisheries Commission does hereby promulgate rules and regulations governing visitor regulations on Elmer's Island Wildlife Refuge.

Title 76

WILDLIFE AND FISHERIES

Part III. State Game and Fish Preserves and Sanctuaries Chapter 3. Particular Game and Fish Preserves,

Wildlife Management Areas, Refuges and Conservation Areas

§337. Elmer's Island Wildlife Refuge

A. Visitor Regulations for Elmer's Island Wildlife Refuge

1. Use of the refuge will be permitted from thirty minutes before official sunrise to thirty minutes after official sunset. This includes any land access routes to the refuge. No person or vehicle shall remain on the Elmer's Island Wildlife Refuge or any land access routes during the period from 30 minutes after official sunset to 30 minutes before sunrise.

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

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

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

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

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

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 36:1280 (June 2010).

Robert J. Barham
Secretary

1006#057

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Recreational Harvest of Silver and Bighead Carp
(LAC 76:VII.199)

The Wildlife and Fisheries Commission does hereby amend a rule to allow recreational fishers to harvest specified exotic fish with specific gears.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 1. Freshwater Sports and Commercial Fishing

§199. Designation and Taking of Exotic Fish

A. For the purposes of this Section, the following species of nonindigenous fish are designated as exotic fish:

1. grass carp (*Ctenopharyngodon idella*);
2. silver carp (*Hypophthalmichthys molitrix*);
3. bighead carp (*Hypophthalmichthys nobilis*);
4. black carp (*Mylopharyngodon piceus*).

B. In order to promote the removal of the exotic species identified in this rule, it shall be lawful to retain as bycatch all such designated exotic species of fish which may be caught in all legal commercial fishing gear, which gear is being legally fished. While alive, such exotic fish shall not be maintained, sold, bartered, traded, or exchanged.

C. Recreational fishers, both residents and non-residents, possessing a current license allowing for the take of freshwater species of fish, and anglers exempted from the purchase of a basic fishing license, may take silver and bighead carp (*Hypophthalmichthys molitrix* and *H. nobilis*) by means of boats, dip nets, spears and by snagging.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:319.2.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 31:728 (March 2005), LR 36:1280 (June 2010).

Robert J. Barham
Secretary

1006#052

Notices of Intent

NOTICE OF INTENT

Department of Culture, Recreation and Tourism State Library of Louisiana

State Library (LAC 25:VII.Chapters 1-53)

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. 44:718 (D), that the State Library of Louisiana proposes to change the content of Chapters 1, 3, 5, 13, 23, 31, 43, 45, 51 and 53 to reflect agency and departmental name changes as well as changes in procedures within the agency.

Title 25

CULTURAL RESOURCES

Part VII. State Library

Subpart 1. Readers' Services

Chapter 1. Eligible Public

§101. Use of Library

A. Any citizen or any public, school, academic, special, or state institutional library is eligible to use without charge the library materials and services of the State Library of Louisiana, as provided in these rules.

AUTHORITY NOTE: Adopted in accordance with R.S. 25:9 and R.S. 25:16.

HISTORICAL NOTE: Filed by the Louisiana State Library at the Office of the State Register, December 11, 1974, amended by the Department of Culture, Recreation and Tourism, State Library, LR 36:

§103. Information and Loan

A. Any citizen may use library materials and receive information and reference service at the State Library.

B. Any citizen registered for library service with his local public library shall borrow State Library printed materials through his local library. Exceptions to this rule are:

1. if the State Library receives telephone or written authorization from a patron's parish library including facsimile or electronic mail, he may borrow direct with the materials being charged to the parish library.

C. Students and faculty in institutions of higher learning, and residents and staff of other state institutions may, within the library regulation of such institutions, borrow State Library printed materials through those libraries.

D. Elementary and secondary school libraries may borrow State Library materials through their local public libraries.

E. Information, reference, and loan services of the State Library are available direct to:

1. state elected and appointed officials and state employees including those who are retired;

2. accredited members of the Louisiana public information media;

3. officers and employees of agencies listed in the Louisiana State Government Directory;

4. students and faculty members of the Louisiana State University Graduate School of Library and Information Science;

5. all public, academic, special, and state institutional libraries whether in or outside of the state;

6. State Library of Louisiana Board of Commissioners.

AUTHORITY NOTE: Adopted in accordance with R.S. 25:9 and R.S. 25:16.

HISTORICAL NOTE: Filed by the Louisiana State Library at the Office of the State Register, December 11, 1974, amended by the Department of Culture, Recreation and Tourism, State Library, LR 36:

§107. Blind and Physically Handicapped

A. Any Louisiana resident who cannot use standard printed materials because of temporary or permanent visual impairment or physical handicap may use directly the special library materials and services of the State Library's Talking Books and Braille Library. Eligibility based on this qualification required by the federal government must be certified by a professional in the medical, social work, or educational field.

B. This service is also extended to schools, hospitals, nursing homes and other agencies having one or more eligible handicapped persons in their care.

C. Eligible Louisiana residents temporarily out of state (for not longer than three months) may continue to be served at their destination point. For longer periods, it is recommended that temporary service be applied for from the library for the blind and physically handicapped regularly serving the area of their temporary residence. United States citizens who move either temporarily or permanently overseas (including Puerto Rico, Guam and the Canal Zone) will be referred to the Library of Congress, Division for the Blind and Physically Handicapped, for service.

AUTHORITY NOTE: Adopted in accordance with R.S. 25:9 and R.S. 25:16.

HISTORICAL NOTE: Filed by the Louisiana State Library at the Office of the State Register, December 11, 1974, amended by the Department of Culture, Recreation and Tourism, State Library, LR 36:

Chapter 3. Library Materials

§301. Information and Loan of Materials

A. Library materials available for use in the State Library or on loan and the conditions for use are:

1. books, pamphlets, documents, audio-visual materials;

a. all may be used in the State Library;

b. all are available for loan except volumes of expensive reference sets, the current editions of heavily used reference books, certain other reference books when needed pages can be Xeroxed, genealogy books, rare books, and books in fragile condition;

c. the normal loan period for materials is 28 days. Materials with reserves are loaned for 21 days. Materials may be renewed twice for a total loan period of 84 days. Renewals will not be made on materials with reserves;

2. magazines:

a. all may be used in the State Library and all may circulate except the current issue and those in fragile condition in which case a photocopy of the desired article may be made;

b. loan periods and extensions are the same as for books above;

3. newspapers. Newspapers in print may be used in the library. Although newspapers do not circulate photo copies can be provided at \$0.10 per exposure;

4. microfilm. All microfilm which include among other items Louisiana newspapers, Louisiana census records, some parish records such as marriage, succession, and probate may be used in the State Library. Microfilm reader-printers are available for patrons' use. Rolls that are in duplicate circulate for two weeks only with a limitation of five rolls to patron per loan;

5. maps. All maps may be used in the State Library. Maps that are in duplicate circulate for 28 days;

6. photographs and art works. All photographic art works may be used in the State Library, but do not circulate;

7. slides. All slides may be used in the State Library.;

8. vertical file material. All vertical file materials (clipped and mounted newspapers and magazine articles, current and retrospective) may be used in the library;

B. Fines and fees for library materials are:

Fine for Overdue Materials	\$.10 per day per item up to a maximum of \$10.00 per item
Replacement Cost for Lost Materials	Replacement cost plus \$25.00 processing fee

1. The State Library offers a 3-day grace period on overdue items. On the fourth day, the fine is charged for every day the item is late, including the grace period, weekends and holidays. The State Library offers an after-hours deposit box for returning items when the library is closed. Items retrieved from this box will be assumed to have been returned on the last day the library was open.

2. If an item has been published in the past five years, the retail price of the item plus the processing fee will be considered replacement cost and invoiced to the user when it is three months overdue. If an item was published six or more years ago, then the current replacement cost will be charged. If an item is out-of-print, the average out-of-print cost will be charged.

3. If an item is returned within the same fiscal year in which it was lost and paid, then the user is entitled to a full refund of the charges. No refund is available after the end of the fiscal year.

C. Meeting Rooms. The primary purpose of the meeting rooms within the State Library is for library programs and training. When not in use, meeting rooms may be available to other entities. Fees are outlined below:

Room	Maximum Seating	CRT Use	Other Governmental Agency Use	Private Use
Seminar Center (1 st Floor)	100	\$0	\$200 per day \$125 per half day	\$500 per day \$300 per half day
Capitol View Room (5 th floor)	15 tables; 30 classroom style	\$0	\$200 per day \$125 per half day	\$500 per day \$300 per half day

Room	Maximum Seating	CRT Use	Other Governmental Agency Use	Private Use
Room 221 (2 nd Floor)	15	\$0	\$100 per day \$65 per half day	\$200 per day \$125 per half day
Rooms 128, 132 (1 st Floor)	8	\$0	\$75 per day \$40 per half day	\$125 per day \$75 per half day

1. Additional charges:

a. \$200 cleaning deposit for any event at which food is served (may be waived for governmental agency use) (refundable);

b. \$25 per instance for use of library laptop;

c. \$25 for use of library LCD projector and screen;

d. \$25 for use of flip chart (includes one pad of paper) and markers.

2. Users of the meeting room must abide by the State Library meeting room policy (i.e., user cannot charge admission, cannot sell anything, etc.). Meeting rooms are only available during the normal business hours of the State Library.

3. Priority for use of library meeting facilities is as follows:

a. State Library activities;

b. other library-related activities and organizations;

c. CRT agencies;

d. other governmental agencies;

e. non-governmental agencies or individuals (may only reserve it 30 days in advance).

AUTHORITY NOTE: Adopted in accordance with R.S. 25:9.

HISTORICAL NOTE: Filed by the Louisiana State Library at the Office of the State Register, December 11, 1974, amended by the Department of Culture, Recreation and Tourism, State Library of Louisiana, LR 36:

§305. Blind and Physically Handicapped Materials

A. Library materials available include books and magazines recorded on discs, open-reel magnetic tapes, and cassettes; and books and magazines printed in large type and embossed in Braille. Most of these materials are provided by the Library of Congress through its national books for the blind and handicapped program.

B. Library materials are delivered to borrowers' homes and agencies by parcel post, and must be returned to the State Library by parcel post. All postage service is free. Users may borrow direct from the State Library if they wish.

C. The loan period is one month for individuals, the school year for schools. Renewals are granted depending on the demand for specific titles.

D. The number of books per loan is determined by the patrons themselves, the speed with which they read and return books, their needs, and their storage facilities. Agencies may arrange for deposit collections.

E. Especially designed talking book machines cassette and digital players are provided on loan from the State Library or Talking Book and Braille Library. Patrons must provide their own open-reel tape playing equipment.

F. Repair and maintenance of equipment is arranged by the official equipment lending agency which is the Talking Books and Braille Library.

G. Application forms for use and information about the service are available from the State Library, any Louisiana public library, and the Talking Books and Braille Library, or any of its area offices. Applications may be filed with any of the above.

AUTHORITY NOTE: Adopted in accordance with R.S. 25:9.

HISTORICAL NOTE: Filed by the Louisiana State Library at the Office of the State Register, December 11, 1974, amended by the Department of Culture, Recreation and Tourism, State Library, LR 36:

Chapter 5. Services

§501. Information and Loan Services

A. Services include:

1. filling requests for information; for specific titles, by specific authors, and for material on a particular subject;
2. verifying and locating books and/or other materials not in the State Library collection for direct borrowing by the requesting library;
3. making referrals to other sources;
4. selecting books, periodicals, and other materials for purchase to meet demand, and to develop the collection;
5. making or ordering photo copies, or microform prints, for all authorized users and borrowers;
6. compiling bibliographies;
7. instructing patrons in the use of the State Library.

B. Limitations on services include:

1. not performing genealogical research;
2. assisting but not providing extensive research for students;
3. assisting, but not searching indexes where available to patrons;
4. not borrowing books on genealogy, juvenile books, popular fiction, best-selling nonfiction likely to be in current demand, medical or legal texts (except for a member of the medical or legal professions);
5. not borrowing from an academic institution for a student of that institution.

C. Charges for Service. Services are free except for photocopying and microform prints. The charge for this service is \$0.10 per exposure; a minimum of \$1 is charged for mail orders.

D. Use of Gumbo Digital Images are subject to fees as listed below:

Entity	Use	Price per Image
Individual	Personal/Educational	\$10
Non-profit	Editorial	\$20
	Film/video/advertising	\$50
Commercial	Editorial	\$50
	Film/video/advertising	\$100

NOTE: Rates and fees will be less than local commercial pricing and may be adjusted as needed to keep up with general business practices. In addition, the state librarian may make exceptions to fees as deemed necessary. The existing price structure as well as the Request for Permission to use is on our website.

AUTHORITY NOTE: Adopted in accordance with R.S. 25:9.

HISTORICAL NOTE: Filed by the Louisiana State Library at the Office of the State Register, December 11, 1974, amended by the Department of Culture, Recreation and Tourism, State Library, LR 36:

§505. Blind and Physically Handicapped Services

A. Services include:

1. lending library materials from the Talking Books and Braille Library collection;
2. making every effort to locate outside the state any title the patron may request;

3. making selections from lists of requests submitted by the patron. Catalogs of the collection are sent to the patron upon registration, and periodically thereafter;

4. making selections for patron on request based on his personal interests and on information provided in his online profile;

5. purchasing, or producing by volunteers, after evaluation of the request, materials for college or vocational use and titles of Louisiana or regional interest;

6. sending names of patrons to the American Foundation for the Blind to assure patrons' receipt of official publications;

7. sending on request for addition to mailing lists names of patrons to publishers of magazines available without charge.

AUTHORITY NOTE: Adopted in accordance with R.S. 25:9.

HISTORICAL NOTE: Filed by the Louisiana State Library at the Office of the State Register December 11, 1974, amended by the Department of Culture, Recreation and Tourism, State Library, LR 36:

§507. Patrons' Right to Privacy

A. State Library employees shall not divulge information regarding the materials used by any patron nor shall they identify the users of particular library materials without the consent of the individuals concerned. Such privileged client information will only be made available by the State Library on order from a court of competent jurisdiction.

AUTHORITY NOTE: Adopted in accordance with R.S. 25:9.

HISTORICAL NOTE: Filed by the Louisiana State Library at the Office of the State Register, December 11, 1974, repromulgated by Department of Culture, Recreation and Tourism, Office of the State Library, LR 28:1576 (July 2002), amended by the Department of Culture, Recreation and Tourism, State Library, LR 36:

Subpart 2. Library Technical Services

Chapter 13. Louisiana Union Catalog

§1301. Louisiana Union Catalog Program Functions

A. The Louisiana Union Catalog Program provides a continually updated electronic file listing and description of all library materials by publicly funded public and academic libraries.

AUTHORITY NOTE: Adopted in accordance with R.S. 25:451 and R.S. 25:453.

HISTORICAL NOTE: Filed by the Louisiana State Library at the Office of the State Register, December 11, 1974, amended by the Department of Culture, Recreation and Tourism, State Library, LR 36:

§1303. Incorporation of Titles Submitted by Libraries

A. Responsibility for the currency and accuracy of holdings information in the electronic databases is charged to each individual library.

AUTHORITY NOTE: Adopted in accordance with R.S. 25:451 and R.S. 25:453.

HISTORICAL NOTE: Filed by the Louisiana State Library at the Office of the State Register December 11, 1974, amended by the Department of Culture, Recreation and Tourism, State Library, LR 36:

§1305. Bibliographic and Location Information

A. Bibliographic and location information contained in the central electronic file is available to anyone on request.

AUTHORITY NOTE: Adopted in accordance with R.S. 25:451 and R.S. 25:453.

HISTORICAL NOTE: Filed by the Louisiana State Library at the Office of the State Register December 11, 1974, amended by the Department of Culture, Recreation and Tourism, State Library, LR 36:

Subpart 3. Library Development

Chapter 23. Regional Library Systems

§2305. Definitions of Conditions for Qualifying for a Library System Grant

Designated as a System—parishes grouped geographically in natural trade areas for library cooperation.

Director of the System—the chief administrative officer.

Expenditures for Service—expenditures for personnel, library materials, binding and supplies, purchase, repair or replacement of furnishings and equipment, and costs necessary for the maintenance of the plant. It does not include capital expenditures which result in the acquisition of or addition to fixed assets, e.g., building sites, new buildings and building additions, equipment (including initial book stock), furnishings for new or expanded buildings. It excludes income in kind (free rent and utilities, staff members paid by another agency, the value of volunteer staff time, gift books and gift subscriptions to periodicals). If funds are saved over a period of years for replacement of equipment (or for the purchase of new equipment), the amount saved during the year under consideration may be counted in the expenditures for service for that year; however, when the total amount is spent during one year (example: for purchase of a bookmobile) only the amount budgeted for that year may be counted in expenditures for service.

Library Center—the administrative unit to house the staff required to administer the system, to accommodate the services performed, and to provide an in-depth collection of library materials to permit ready access by the total citizenry of the system.

Library System—a group of libraries within a defined geographical area working together for the improvement of library service for all residents of the area.

Membership in the System—participation in the plan of service developed by the executive council which is made up of the administrative librarians of the member libraries of the system.

Resources—all types of library materials including books, periodicals, films, recordings, microfilm, etc.

AUTHORITY NOTE: Adopted in accordance with R.S. 25:9, R.S. 25:14 and R.S. 25:15.

HISTORICAL NOTE: Filed by the Louisiana State Library at the Office of the State Register, December 11, 1974, amended by the Department of Culture, Recreation and Tourism, State Library, LR 36:

Subpart 4. State Aid to Public Libraries Grant

Chapter 31. Disbursement of State Aid Grants

§3101. Definitions

A. The following terms have the respective meanings ascribed to them, except in those instances where the context clearly indicates a different meaning.

Audiovisual Materials—educational materials directed at both the senses of hearing and sight, and includes motion pictures, videocassette, audiocassettes, CDs, DVDs, sound and silent filmstrips, slide sets, recordings, microprint, and art works used in library collections.

Consolidated Library System—a library system, established by the governing bodies or authorities of two or more parishes as provided in R.S. 25:211, which crosses parish lines and is governed by a single board of trustees, administered by a single head librarian, and within which all of the service outlets are branches of a single institution.

District Library—a library established by state law, for a defined district within a parish, to serve residents of the district.

Free Basic Library Service—standard library service including the use of the principal circulating collection of the library standard reference/information services and electronic materials without charge.

Municipal Library—a library, established by one or more municipal governing authorities as provided by law to serve all residents of the municipality or municipalities and which may or may not serve additional persons.

Nonconsolidated Library System—a library system which is composed of two or more autonomous member libraries, each having its own board of trustees, controlled by representatives of member libraries, and operated from a designated library center under the supervision of a system director, and which receives special financial support from local, regional or state appropriations to provide more comprehensive library service in the geographical area served by the system.

Parish Library—a library, established by a parish governing authority, as provided by law to serve all residents of the parish.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:14.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 6:107 (March 1980), amended LR 13:392 (July 1987), LR 24:2232 (December 1998), amended by the Department of Culture, Recreation and Tourism, State Library, LR 36:

§3103. Submission of Applications

A. The state librarian shall establish a program of supplemental grants to libraries for the purchase of technology enhancement, technological information resources, books, audiovisual materials, newspapers, and periodicals in accordance with the provisions of this Part. The state librarian may establish rules and regulations for implementation of this program in accordance with the Administrative Procedure Act. Grants may be made from funds appropriated to the State Library for allocation to libraries as provided herein.

B. Any parish library which serves all residents of the parish, any municipal library which serves all residents of a parish which does not have a parish library, any consolidated library system, and any district library shall be entitled to apply annually to the state librarian to receive supplemental grants in accordance with the provisions of this Part.

C. Applications to receive supplemental grants shall be submitted with the written approval of the Library Board of Control.

D. Grants shall be made by the state librarian on the basis of annual applications for grants submitted to the state librarian. Applications for state fiscal year must be made by November 1 of the same state fiscal year. Exceptions for extending expenditures to the next fiscal year may be granted by the state librarian.

E. Applications shall contain such information as may be requested by the state librarian to establish the eligibility of the library under the provisions of this Part and rules and regulations promulgated by the state librarian. Applications shall also contain a proposal for expenditure of funds for which application is made.

F. Funds granted under the provisions of this Part shall be expended only for the purchase of technology enhancement, technological information resources, books, audiovisual materials, newspapers, and periodicals. Exceptions for expenditures on items other than those listed above may be granted by the state librarian.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:14.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 6:108 (March 1980), amended LR 24:2232 (December 1998), amended by the Department of Culture, Recreation and Tourism, State Library, LR 36:

§3105. Eligibility

A. Each library or consolidated library system represented by the applicant must be legally established according to Louisiana Revised Statutes Title 25, Section 211, except for the New Orleans Public Library which was established prior to the enactment of Title 25.

B. Each library or consolidated library system must agree to serve all patrons with free basic library service with no denial of service by reason of race, color, national origin, religion, sex, age, marital status, or political affiliation.

C. Each library or consolidated library system shall show evidence of working toward the standards for public library service in Louisiana as adopted by the Louisiana Library Association.

D. Each library or consolidated library system participating in the program of supplemental grants shall endorse and comply with the interlibrary loan code adopted by the Louisiana Library Association to assure the interlibrary availability of materials purchased from funds granted herein.

E. A parish library which serves all residents of the parish, a municipal library which serves all residents of a parish which does not have a parish library, and a consolidated library system shall be eligible to apply to receive supplemental grants if other conditions of eligibility are met.

F. If eligibility to receive state grants under the rules is lost for any reason, the following conditions must be met to re-establish eligibility.

1. The state librarian will be notified that the library or consolidated library system will be ineligible to participate in the program of supplemental grants by submission of the annual report which when filed by July 1 will indicate the inability to "maintain effort". Said library or consolidated library system shall not be declared ineligible until after the receipt of their annual report.

2. The library or consolidated library system which has been declared ineligible in writing by the state librarian shall not receive state aid funds for the succeeding state fiscal year (July 1-June 30).

3. The ineligible library or consolidated library system shall continue to make annual application to the State Library to be filed for the next succeeding year so when circumstances permit participation in the supplemental grants program the library or consolidated system will have an application on file and will be eligible.

4. When an ineligible library or consolidated library system submits evidence in the form of the annual report of a return to the required level of maintenance of effort for the expenditure on library materials and total income received

from local sources for the stipulated period of time, that library or consolidated library system will be declared eligible for participation in this program. Payments will begin with the state's next fiscal year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:14.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 6:108 (March 1980), amended LR 13:392 (July 1987), amended by the Department of Culture, Recreation and Tourism, State Library, LR 36:

§3113. Appeal Process

A. If a public library, consolidated library system, or district library is denied the grant for technology materials and/or library materials, the avenue to appeal this decision will be first the state librarian, next, to the secretary of the Department of Culture, Recreation and Tourism, and finally, to the lieutenant governor of the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:14.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 6:109 (March 1980), amended LR 13:392 (July 1987), LR 24:2232 (December 1998), amended by the Department of Culture, Recreation and Tourism, State Library, LR 36:

Subpart 5. Public Document Depository System Chapter 43. Deposit of Publications

§4303. Public Documents Required to be Deposited

A. The public documents required to be deposited are those defined in R.S. 25:121.1.

1. Electronic documents denotes any discrete public document published in a static electronic or digital format. Excluded from the definition of public documents are correspondence, interoffice or intra-office memoranda, records of an archival nature; interactive, non-discrete, constantly changing electronic items such as Web sites, databases, ASP (active server pages), or software programs.

2. Public document means informational matter, regardless of format, method of reproduction, source, or copyright, originating in or produced with the imprint of, by the authority of, or at the total or partial expense of, any state agency, including material published with federal funds or by sub-state planning districts. This definition incorporates publications released by private bodies such as research and consultant firms under a contract with and/or under the supervision of any state agency. Further, this definition specifically includes journals, laws or bills, statutes, codes, rules, regulations; newsletters, bulletins, state plans, brochures, periodicals or magazines; minutes of meetings of boards and commissions, transcripts of public hearings; reports, directories, statistical compendiums, bibliographies, pamphlets, lists, books; charts, maps, surveys; other printed matter; microfilm, microfiche, audiovisuals; electronic documents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:122(B).

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 8:187 (April 1982), amended LR 28:1577 (July 2002), amended by the Department of Culture, Recreation and Tourism, State Library, LR 36:

Chapter 45. Depository Library System

§4501. Statutory Depositories

A. The State Library of Louisiana and Louisiana State University Library at Baton Rouge are legally designated complete depository libraries. They shall be the historical depository libraries, shall receive two copies of all public documents received by the recorder for distribution, and shall retain permanently one copy of each. The State Library of Louisiana is responsible for archiving and providing permanent public access to documents it receives that are issued solely in electronic formats.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:122(B).

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 8:188 (April 1982), amended LR 28:1577 (July 2002), amended by the Department of Culture, Recreation and Tourism, State Library, LR 36:

§4507. Termination of Depository Contract

A. Termination of the contract between the State Library of Louisiana and the depository shall be by written notice six months in advance of the proposed date of termination. The state documents received shall be retained by the depository until the normal retention date, unless otherwise advised by the recorder of documents.

B. Failure of a depository to abide by the depository law, rules and regulations and guidelines shall result in termination of depository contract by the state librarian upon six months written notice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:122(B).

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 8:188 (April 1982), amended by the Department of Culture, Recreation and Tourism, State Library, LR 36:

Subpart 6. Board of Library Examiners

Chapter 51. Certification

§5103. Candidate Requirements

A. Requirements to be met by candidates for executive certificates are:

1. a baccalaureate degree;
2. professional education, culminating in a Masters Degree in Library and Information Science representing a minimum of five years of study beyond secondary school level. This degree must have been granted by a library school accredited by the American Library Association;
3. three years executive experience in a public library of recognized standing, after receiving the library science degree.

B. Candidates for temporary certificates must have all of the above qualifications except the years of executive experience. Such certificates are issued by the board only as emergency measures. It is expected that individuals holding temporary certificates will qualify for executive certificates within three years.

C. Candidates must attain a grade of at least 75 in the examination to be granted a certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:222-223.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 11:250 (March 1985), amended by the Department of Culture, Recreation and Tourism, State Library, LR 36:

Chapter 53. Examination

§5301. Examination Criteria

A. The examination covers the following aspects of public library service:

1. library organization and administration;
2. library budgets and financial operation;
3. standards for library service;
4. Louisiana laws pertaining to libraries and library administration;
5. current status of library development in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:222-223.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 11:250 (March 1985), amended by the Department of Culture, Recreation and Tourism, State Library, LR 36:

§5305. Application

A. Application blanks for permission to take the examination may be obtained from the State Board of Library Examiners, State Library of Louisiana, Box 131, Baton Rouge, LA 70821.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:222-223.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 11:250 (March 1985), amended by the Department of Culture, Recreation and Tourism, State Library, LR 36:

Family Impact Statement

The proposed Rules will not affect the stability of the family, nor will they affect the authority and rights of persons regarding the education and supervision of their children. These Rules will not affect the functioning of the family. They will not affect the family earnings or family budget. These Rules will not affect the behavior or personal responsibility of children. Finally, neither the family nor local government will be able to perform the function as contained in this proposed Rule because the action proposed is strictly a state enforcement function.

Public Comments Any person may submit data, views or positions, orally or in writing, to Rebecca Hamilton, state librarian, by writing to the State Library of Louisiana, P.O. Box 131, Baton Rouge, LA 70821-0131, or by telephoning at 225-342-4923 and facsimile 225-342-3547.

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: State Library

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

No implementation costs or savings to state or local governmental units are anticipated as a result of this rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is an anticipated increase in annual revenue collections of approximately \$8,000 for the State Library of Louisiana due to the implementation of fines and an increase in the fee structure for meeting room and digital image use. The State Library of Louisiana currently does not charge fines for overdue books. It is estimated that implementing a fine for overdue library materials by 10 cents per day will result in an increase of \$3,000. The current charge to make copies of historic photographs for commercial use is \$10 and the new policy to raise these charges and begin charging for personal use will result in a revenue increase of \$4,000. The State

Library will begin charging for meeting room use, which is estimated to increase revenue by \$1,000.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The estimated cost to the library patron will vary greatly. Persons with overdue library materials will have to pay a fine of 10 cents per day. Also, there are new fees for making digital copies of historical photographs and use of meeting rooms.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule is anticipated to have no impact on competition and employment in the public or private sectors.

Rebecca Hamilton
State Librarian
1006#071

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Economic Development
Office of the Secretary**

**Ports Of Louisiana Tax Credits: Investor Tax Credit
Program (LAC 13:I.Chapter 39)**

The Department of Economic Development, Office of the Secretary, 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. 36:104 hereby gives notice of its intent to adopt the following Rules of the Ports Of Louisiana Tax Credits: Investor Tax Credit Program as LAC 13:I.Chapter 39.

The purpose of this Chapter is to implement the Ports of Louisiana Tax Credits: Investor Tax Credit Program as established by R.S. 47:6036 et seq. as enacted by Act 474 of the 2009 Regular Session.

The purpose of this Chapter is to encourage private investment in and the use of state port facilities in Louisiana. Because public funding sources for ports and port infrastructure facilities have not kept pace with the need to expand our ports and port facilities, it is determined that private investment and public-private partnerships should be encouraged as a means to assist the state in financing improvements to our state ports and port infrastructure facilities. The Port Investor Tax Credit grants tax credits against income taxes equivalent to 5 percent per year of the total capital costs associated with qualifying port infrastructure projects, for a 20-year period (essentially reimbursing total costs over 20 years). Projects must be at least \$5 million in size and constitute industrial, warehousing, or port and harbor operations and cargo handling. The tax credit program is effective until January 1, 2015 and no tax credits shall be granted after that date.

Title 13

ECONOMIC DEVELOPMENT

Part I. Financial Incentive Programs

Chapter 39. Ports of Louisiana Tax Credits

Subchapter A. Investor Tax Credit

§3901. Purpose and Definitions

A. Purpose

1. The primary purpose of this Subchapter is to encourage private investment in public port facilities in Louisiana. The development, improvement, expansion, and

maintenance of the state's ports and port infrastructure facilities, is essential to Louisiana's economic health and the ability of business and industry associated with the maritime industry to compete cost effectively on a regional, national, and global scale.

B. Definitions

Applicant—investing company or proposing entity submitting application for certification of project/expenditures/tax credits

Application Date—the date an application for preliminary certification of a project is received by LED.

Capital Costs—

a. all costs and expenses incurred by an investing company.

i. in connection with acquisition, construction, installation, and equipping of a qualifying project;

ii. during the period commencing with the date on which the acquisition, construction, installation, and equipping commences and ending on the date on which the *qualifying project* is placed in service.

b. *Capital costs* shall include, but are not limited to:

i. costs of acquiring, constructing, installing, equipping, and financing a qualifying project, including all obligations incurred for labor and to contractors, subcontractors, builders, and materialmen;

ii. the costs of acquiring land or rights in land and any cost incidental thereto, including recording fees;

iii. the costs of contract bonds and of insurance of any kind that may be required or necessary during the acquisition, construction, or installation of a qualifying project;

iv. the costs of architectural and engineering services, including test borings, surveys, estimates, plans, and specifications, preliminary investigations, environmental mitigation, and supervision of construction, as well as for the performance of all the duties required by or consequent upon the acquisition, construction, and installation of a qualifying project;

v. the costs associated with installation of fixtures and equipment; surveys, including archaeological and environmental surveys; site tests and inspections; subsurface site work; excavation; removal of structures, roadways, cemeteries, and other surface obstructions; filling, grading, paving, and provisions for drainage, storm water retention, installation of utilities, including water, sewerage treatment, gas, electricity, communications, and similar facilities; off-site construction of utility extensions to the boundaries of the property;

vi. costs otherwise defined as capital costs incurred by the investing company where the investing company is the lessee under a lease that contains a term of not less than five years and is characterized as a capital lease for federal income tax purposes;

vii. all other costs of a nature comparable to those described, including but not limited to all project costs required to be capitalized for federal income tax purposes pursuant to the provisions of 26 U.S.C. §263(A).

c. *Capital costs* shall not include property owned or leased by the investing company or a related party before the commencement of the acquisition, construction, installation, or equipping of the qualified project unless such property was physically located outside the state for a period of at

least one year prior to the date on which the qualifying project was placed in service.

COA—the Commissioner of Administration of the State of Louisiana

DOTD—the Louisiana Department of Transportation and Development.

Estimated Start Date—the estimated date on which the acquisition, construction, installation, or equipping of the qualifying project was commenced or is expected to commence.

Investing Company—any corporation, partnership, limited liability company, proprietorship, trust, or other business entity, regardless of form, making a qualified investment.

Investors—shareholders, partners, members, owners, or beneficiaries of an investing company.

JLCB—the Joint Legislative Committee on the Budget.

LED—the Louisiana Department of Economic Development.

LDR—the Louisiana Department of Revenue.

Port Activity—any trade or business described in the 1997 North American Industry Classification System (NAICS) within Subsector 493 (Warehousing and Storage), Industry Number 488310 (Port and Harbor Operations), or Industry Number 488320 (Marine Cargo Handling), when the trade or business is conducted on premises in which a public port has an ownership, leasehold, or other possessory interest and such premises are used as part of the operations of a public port, including the above trades and businesses as they may hereafter be reclassified in any subsequent publication of the NAICS or similar classification system developed in conjunction with the United States Department of Commerce and Office of Management and Budget.

Project—any land, building, or other improvement, and all real and personal properties deemed necessary or useful in connection therewith, whether or not previously in existence, located or to be located in a public port of the state.

Proposing Entity—The public port, upon whose property, a qualifying project is to be undertaken.

Public Port—any deep-water port commission or port, harbor and terminal district as defined in Article VI, Section 44 of the Constitution of Louisiana, and any other port, harbor, and terminal district established under Title 34 of the Louisiana Revised Statutes of 1950.

Qualified Investment—the financial undertaking by an investing company of a qualifying project.

Qualifying Expenditures—Expenditures in the state, after the application date, for capital costs of a qualifying project.

Qualifying Project—a project sponsored or undertaken by a public port and an investing company.

a. with a capital cost of not less than five million dollars, and

b. at which the predominant trade or business activity conducted will constitute industrial, warehousing, or port and harbor operations and cargo handling, including any port or port and harbor activity.

State—the State of Louisiana.

SBC—the Louisiana State Bond Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6036.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 36:

§3903. Preliminary Certification

A. Preliminary certification of the project is the initial step in the tax credit process. An application for preliminary certification as a qualifying project must be submitted to LED prior to the start of the project.

B. The application for preliminary certification shall include the following information:

1. a detailed project description;
2. a preliminary budget including the following information
 - a. the estimated capital costs; and
 - b. the estimated Louisiana payroll;
3. the estimated start date and the estimated completion date;
4. an explanation of why the proposed project is a qualifying project;
5. the names of each investing company or the name or names of the investors to become entitled to the tax credit;
6. a copy of the cooperative endeavor agreement between the investing company and the public port in whose geographic jurisdiction the proposed qualifying project is to be located indicating cooperation and support among all of the parties;
7. any additional information required by LED;
8. project plans, specifications, contracts, purchase orders and other appropriate design and/or expenditure documentation; if the foregoing information is not made available to DOTD during preliminary certification, then the project owner/sponsor must provide these items to DOTD prior to project construction.

C. An application fee shall be submitted with the application based on the following:

1. 0.2 percent (.002) times the estimated total incentive rebates (see application fee worksheet to calculate);
2. the minimum application fee is \$200 and the maximum application fee is \$5,000 for a single project;

D. LED shall review the application and determine whether the project is a qualifying project, taking into consideration, the following factors:

1. the impact of the project on the immediate and long-term objectives of the tax credit provided for such investment;
2. the impact of the project on the employment of Louisiana residents;
3. the impact of the project on the overall economy of the State;
4. the availability of similar infrastructure or facilities within fifty miles of the proposed project;
5. the economic impact of the project on similar, existing private or public projects within 50 miles of the proposed qualifying project;
6. LED may require the investing company to conduct a public meeting, in the project location area to obtain additional information regarding the impact of the proposed project.

E. If LED determines that the project is a qualifying project, LED shall issue a preliminary certification of the qualifying project which shall include.

1. a unique identifying number for each project;
2. the estimated total amount of tax credits that will be issued;
3. the estimated amount of tax credits to be taken at five percent per year;

F. The preliminary certification shall be valid only for a period of thirty months, from the date of approval by the JLCB and SBC, during which time the qualifying project must be completed or the preliminary certification shall expire;

1. if a project is project to take longer than 30 months, the applicant may request an extension of the preliminary certification by providing sufficient justification;

2. an extension of the preliminary certification requested after approval by the JLCB and SBC will require a new certification of sufficient revenue as provided in §3905.

G. LED shall send the preliminary certification to the proposing entity, the investing company, the LDR and the COA. LED shall send the preliminary certification and a copy of the application to DOTD.

H. LED shall prepare, and send to the COA with the preliminary certification, an economic analysis of the qualifying project.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6036.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 36:

§3905. Certification of Sufficient Revenue

A. After receipt of the LED preliminary certification and economic impact analysis, the COA shall review the project and determine whether a certification of sufficient revenue may be issued.

1. COA may issue a certification if he finds that there will be sufficient revenue received by the state to offset the effect to the state of the tax credits as a result of either:

- a. increased port activity because of grant; or
- b. otherwise.

2. The COA's certification shall state the amount of tax credits for which sufficient revenues are determined.

3. The COA's certification shall be submitted to the JLCB and the SBC for approval.

4. If the COA's certification is approved by both the JLCB and the SBC, it shall be delivered to the Secretary of LED

5. The certification of the COA shall be valid for a period of 30 months after it is approved by the JLCB and SBC, unless an extension is requested as provided in §3903.F.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6036.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 36:

§3907. Certification of Qualifying Expenditures

A. After approval of the certification of sufficient revenue, the applicant may submit a request to LED for certification of qualifying expenditures as follows:

1. The applicant must submit a cost report to LED prepared by an independent certified public accountant and prepared in accordance with generally accepted accounting principles.

2. DOTD shall inspect the site and verify that the capital costs expenditures were made by verifying that the

project components identified in the detailed project description are complete and in place

3. LED may require an additional audit by an LED-selected CPA, the cost of which shall be reimbursed by applicant.

4. LED shall determine and certify qualifying expenditures.

5. Qualifying expenditures shall be certified by LED no more than twice for a project, unless the applicant reimburses LED for the cost of additional certifications.

B. A request for the certification of qualifying expenditures must be filed no later than six months after the project becomes operational.

C. Except as provided in paragraph §3907.C.1., LED shall not certify as qualifying expenditures any expenditures incurred prior to the application date.

1. LED may certify expenditures incurred prior to the application date if:

a. the expenditures are directly related to performance of due diligence for the qualifying project; and

b. the expenditures are capital costs as defined in §3901.

D. LED and DOTD shall have reasonable access to the project site (or location of the fabrication) during and upon completion of activities related to project construction or installation, for the purpose of conducting periodic inspections during project construction or a final inspection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6036.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 36:

§3909. Certification of tax credits

A. LED may issue a certification of tax credits to the Applicant only after all of the following have occurred:

1. LED has certified the project as a qualifying project.

2. COA has issued a certification of sufficient revenue, which has been approved by both JLCB and SBC.

3. LED has certified qualifying expenditures.

6. The applicant has reimbursed any audit and additional certification costs.

B. LED shall issue to the applicant a tax credit certification letter, stating:

1. the dollar amount of tax credits certified, which shall not exceed the qualifying expenditures or the amount of tax credits certified by the COA, whichever is less ; and

2. the amount of tax credit to be taken each year, which shall be five percent of the total tax credit per year.

C. tax credits shall not be carried back to any tax year prior to the year capital cost expenditures are incurred, but may be claimed beginning either the tax year the expenditures are incurred or the tax year in which the expenditures were certified, for a period of 20 years.

D. Tax credits are earned by investors when expenditures are made by investing company.

E. LED shall send the tax credit certification letter to the investing company and to LDR.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6036.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 36:

§3911. Claiming Tax Credits

A. All entities taxed as corporations for Louisiana income tax purposes shall claim any credit allowed under this Subsection on their corporation income tax return.

B. Individuals, estates, and trusts shall claim any credit allowed under this Subsection on their income tax return.

C. Entities not taxed as corporations shall claim any credit allowed under this Subsection on the returns of the partners or members as follows.

1. Corporate partners or members shall claim their share of the credit on their corporation income tax returns.

2. Individual partners or members shall claim their share of the credit on their individual income tax returns.

3. Partners or members that are estates or trusts shall claim their share of the credit on their fiduciary income tax returns.

D. If the tax credit allowed exceeds the amount of taxes due for the tax period, then any unused credit may be carried forward as a credit against subsequent tax liability for a period not to exceed 10 years.

E. The investing company shall attach the tax certification letter to their return when claiming the credits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6036.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 36:

§3913. Recapture and Recovery of Tax Credits

A. Recapture

1. If LED finds that funds for which an investing company received tax credits were not expended as qualifying expenditures, LED shall notify the investing company and reissue the tax certification letter to LDR within 15 days of the discovery. The investing company's state income tax liability for such taxable period shall be increased by an amount necessary for the recapture of the tax credits allowed. LED may delegate its audit authority to LDR.

B. Recovery

1. Credits previously granted to a taxpayer, but later disallowed, may be recovered by LDR through any collection remedy authorized by R.S. 47:1561 and initiated within three years from December 31 of the year in which the credits were earned

2. Interest may be assessed and collected, but only at a rate of three percentage points above the rate provided in R.S. 39:3500(B)(1), which shall be computed from the original due date of the return on which the credit was taken.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6036.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 36:

§3915. Termination of Program

A. No investor tax credits shall be granted after January 1, 2015. Audited cost reports must be submitted no later than October 1, 2014 to allow sufficient time for certification of the tax credits by December 31, 2014.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6036.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 36:

Subchapter B. Import Export Cargo Credit (Reserved) Family Impact Statement

This proposed Rule 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. There should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and responsibility of children; or
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Public Comments

Interested persons may submit written comments to Paul Sawyer, Louisiana Department of Economic Development, P.O. Box 94185, Baton Rouge, LA 70804-9185; or physically delivered to Capitol Annex Building, Second Floor, 1051 North Third Street, Baton Rouge, LA, 70802. Comments may also be sent by fax to (225) 342-9448, or by email to PSawyer@la.gov. All comments must be submitted (mailed and received) not later than 5 p.m., on July 26, 2010.

Public Hearing

A public hearing to receive comments on the Notice of Intent will be held on July 26, 2009 at 11 a.m. at the Department of Economic Development, 1051 North Third Street, Baton Rouge, LA 70802.

Kristy G. McKearn
Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Ports Of Louisiana Tax Credits: Investor Tax Credit Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The agency estimates that additional costs will be incurred to implement this program even though Act 474 of 2009 Regular Session expressly prohibits LED from hiring additional staff for that purpose. LED will likely contract out the economic impact analysis required by the program. However, the additional costs should be offset by fees paid by applicants, as shown in Section II below. Any expenditures related to the implementation of the program in excess of the fees will be absorbed in the existing budget.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The state's annual tax credit exposure resulting from this proposed rule can not be determined with a reasonable degree of confidence, but could be substantial. The program will commence with promulgation of these rules and will no longer accept applications after January 1, 2015. The transferable income and franchise tax credits are calculated as 5% per year for 20 years of capital costs associated with qualifying port infrastructure projects. When the bill was considered, the agency estimated that the credit could cost \$2-3 million per year beginning in FY 11 based on projects in the ports priority program. Advocates suggested a smaller annual impact of

\$500,000-750,000 per year in the early years. Either calculation leads to an annual general fund revenue decrease of several million dollars per year once the program has been operational beyond two years.

The application fee for this program is 0.2% of the estimated rebates up to a maximum of \$5,000. LED expects most applications will incur the maximum fee of \$5,000. If a total of four projects are certified per year, annual revenues in the amount of \$20,000 will be generated, which is expected to cover any increases in expenditures required for implementation of this program as shown in Section I above.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The estimated economic benefits to investors in port infrastructure will be a decrease in capital cost of investments of \$5,000,000 or greater made at Louisiana public port facilities. Taxpayer benefit is equal to 5 percent of the total capital cost per year taken over twenty years.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Though capital expenditures do not naturally translate into obvious and exact employment figures, job creation is inherently featured in the program. Any increase in cargo volume at Louisiana ports would result in increased work hours, including overtime, for existing port employees, and hopefully even create a need to hire additional workers.

Kristy G. McKearn
Undersecretary
1006#092

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 111—The Louisiana School, District,
and State Accountability System
(LAC 28:LXXXIII.Chapters 3 - 9, 33, and 37 - 45)

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*: Chapters 3, 4, 5, 7, 9, 33, 37, 39, 43, and 45.

Proposed changes in Chapter 3 provide clarification of the composition of School Performance Scores for schools that have not met accountability standards.

Proposed changes in Chapter 4 provide clarification for assessment, attendance, and dropout Index Calculations, particularly defining dropout.

Proposed changes in Chapter 5 provide clarification about grade levels at which students take state assessments, combination of regular and alternate assessment for LAA 2 students, deletion of School Performance Score sharing scenario, with clarification about School Performance Score pairing scenarios.

Proposed changes in Chapter 7 provide clarification of the terms and limitations for the combination of LAA 1 and LAA 2 proficiency.

Proposed changes in Chapter 9 provide clarification about School Performance Score improvement.

Proposed changes in Chapter 33 provide detail of how to outline procedures for the placement of new schools into

accountability and the reestablishment of accountability for reconfigured schools.

Proposed changes in Chapter 37 provide clarification about lab and charter school accountability.

Proposed changes in Chapter 39 provide clarification of assessment taken by students with disabilities.

Proposed changes in Chapter 43 provide clarification of LAA 1 proficiency limitations.

Proposed changes in Chapter 45 establish a prescribed time limit for accountability waivers for schools impacted by disasters and make reference to their re-entry into accountability as new or reconfigured schools after the expiration of the waiver.

Title 28

EDUCATION

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

Chapter 3. School Performance Score Component §301. Composition of School Performance Scores

A. ...
B. Each school shall receive its school performance scores under one site code regardless of its grade structure.

C. Preliminary accountability results shall include both preliminary school performance scores for all schools labeled academically unacceptable in the current and prior year and those schools on the academic watch list, and the subgroup component analysis for those schools in subgroup component failure in the current or prior year, or who failed the subgroup component the prior year. Final accountability results shall be issued during the fall semester of each year and all accountability reports will reflect the configuration of the school as it existed the prior spring semester.

1. Beginning in 2008, the preliminary accountability results shall include those schools identified as:

- a. failing the SPS component based on the current year Baseline SPS; or
- b. failing the SPS component based on the prior year Baseline SPS; or
- c. being academically unacceptable (any level) the prior academic year; or
- d. failing the subgroup component based on prior spring test results;
- e. exiting any level of Subgroup Component Failure in the current year.

2. - 3. Repealed

D. In the fall of 2007, schools will receive two SPS.

1. The Growth SPS will determine Growth Labels and rewards status for the SPS component.

2. The Growth SPS will consist of the indicators and weighting in the table above, with the test data collected in spring 2007, and attendance and dropout data collected in the academic year 2005-2006.

3. The Baseline SPS will determine performance labels, academic assistance levels and academically unacceptable schools.

4. For K-8 schools in 2007, the Baseline SPS will consist of the indicators and weighting in the table below, with the test data collected in spring 2006 and 2007, and attendance and dropout data collected in the academic years 2003-2004 and 2004-2005.

2007 (and beyond) Baseline SPS K-8 Indicators and Weighting	
LEAP, iLEAP, LAA-1 and 2 (90% K-8)	Grades 3-8
Attendance (10% K-6; 5% 7-8)	Grades K-8
Dropout Rate (5% 7-8)	Grades 7-8

5. For 9-12 schools in 2007, the Baseline SPS will determine Performance Labels and Academically Unacceptable schools.

a. 9-12 schools that were not labeled Academically Unacceptable in 2006 and whose 2007 baseline SPS are below 60, are labeled Academically Unacceptable in 2007, but if their 2007 Growth SPS are 60 or greater shall have SI requirements waived.

6. For 9-12 schools in 2007, the Baseline SPS will consist of the indicators and weighting in the table below, with the test data collected in spring 2006 and 2007, and graduation data collected in the academic year 2005-2006.

2007 (and beyond) Baseline SPS 9-12 Indicators and Weighting	
LEAP, iLEAP, LAA-1 and 2 (70%)	Grades 9-11
Cohort Graduation Index (30%)	Grade 12

E. In 2008 and beyond, schools will continue to receive two SPS.

1. A Growth SPS will be calculated using the indicators and weighting from the tables above (Paragraphs I.4 and I.6).

2. The Growth SPS will continue to determine growth labels and rewards status for the SPS component.

a. The Growth SPS will include test data from the most recent spring administration (in the prior academic year) and attendance/dropout or graduation data from two years prior.

3. A Baseline SPS will continue to determine Performance Labels and Academically Unacceptable schools.

4. The indicators and weighting for both SPS will consist of that used for the 2007 Baseline SPS.

a. The Baseline SPS will include test data from the two most recent spring administrations and attendance/dropout or graduation data from two and three years prior.

F. - L. Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2737 (December 2003), amended LR 31:1512 (July 2005), LR 32:1017 (June 2006), LR 32:2034, 2035 (November 2006), LR 33:424 (March 2007), LR 33:2349 (November 2007), LR 33:2593 (December 2007), LR 34:430 (March 2008), LR 35:639 (April 2009), LR 36:

§303. Calculating the SPS Component

A. ...

B. Beginning in 2006, the K-6 Baseline SPS will be calculated using the following formula. Beginning in 2007, both Baseline and Growth SPS will use this formula.

The SPS for a K-6 school is calculated by multiplying the index values for each indicator by the weight given to that indicator and adding the total scores. In the example: [(87.8 * 90%) + (110.9 * 10%)] = 90.1			
Indicator	Index Value	Weight	Indicator Score
Assessment Index (Grades 3-6)	87.8	90%	79.0
Attendance (K-6)	110.9	10%	11.1
			SPS = 90.1

1. Any K-6 school with at least one grade that is assessed (3-6) will receive an SPS based only on its own student data.

2. Any configuration that has no assessed grades will be paired/shared as described in §521.

C. Beginning in 2006, the K-8 Baseline SPS will be calculated using the following formula. Beginning in 2007, both Baseline and Growth SPS will use this formula.

The SPS for a K-8 school is calculated by multiplying the index values for each indicator by the weight given to that indicator and adding the total scores. In the example: [(87.8 * 90%) + (95.2 * 5%) + (102.7 * 5%)] = 88.9			
Indicator	Index Value	Weight	Indicator Score
Assessment Index (Grades 3-8)	87.8	90%	79.0
Attendance (K-8)	95.2	5%	4.8
Dropout (7-8)	102.7	5%	5.1
			SPS = 88.9

1. Any K-8 school with at least one grade that is assessed (3-8) will receive an SPS based only on its own student data.

D. In 2007 and future years, the 9-12 SPS will be calculated using the following formula.

The SPS for a 9-12 school is calculated by multiplying the index values for each indicator by the weight given to that indicator and adding the total scores. In the example: [(92.1 * 70%) + (83.3 * 30%)] = 89.5			
Indicator	Index Value	Weight	Indicator Score
Assessment Index (Grades 9-11)	92.1	70%	64.5
Graduation Index (Grade 12)	83.3	30%	25.0
			SPS = 89.5

E. Beginning with the 2007 baseline SPS, a combination school (a school with a grade configuration that includes a combination from both categories of schools, K-8 and 9-12,) will receive a score from a weighted average of the SPS from the K-8 grades and the SPS from the 9-12 grades.

1. The K-8 SPS will be weighted by the number of students eligible to test during the spring test administration.

2. The 9-12 SPS will be weighted by the sum of:

a. the students eligible to test during the spring test administration; and

b. the number of members of the cohort used as the denominator in the graduation index calculation.

F. - K. Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2738 (December 2003), amended LR 31:763 (April 2004), LR 32:1020 (June 2006), LR 32:2034 (November 2006), LR 36:

§307. Incentive Points

A. - C. ...

D. Students repeating the GEE ELA, math, science, and/or social studies tests shall not earn incentive points.

E. Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2739 (December 2003), amended LR 31:2422 (October 2005), LR 32:1021 (June 2006), LR 33:252 (February 2007), LR 36:

§313. Formula for Calculating a CRT Index for a Combination School

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2739 (December 2003), amended LR 36:

Chapter 4. Assessment, Attendance, and Dropout Index Calculations

§405. Calculating a K-8 Assessment Index

A. For all grades 3 - 8 use the values from the following table.

iLEAP, LEAP and GEE Index Points	
Label	Subject-Test Index Points
Advanced =	200
Mastery (Exceeding the Standard) =	150
Basic (Meeting the Standard) =	100
Approaching Basic (Approaching the Standard) =	50
Unsatisfactory =	0

1. Add any incentive points earned by repeating 4th or 8th graders to their subject-test index points (a student scoring Basic in 06 in ELA, who scored Unsatisfactory in 05 in ELA, is recorded as earning 150 points in 06 in ELA.

B. Weight each subject-test index score by the corresponding value from the table below.

Unit Weights for K-8 Assessment Index				
Grade	ELA	Math	Science	Social Studies
3rd	2	1	1/2	1/2
4th	2	2	1	1
5th	1	1	1	1
6th	1	1	1	1
7th	1	1	1	1
8th	2	2	1	1

C. Sum all weighted subject-test index scores.

D. Sum all weights applied to subject-test index scores from the table above (in Subsection B).

E. Weight the sum of all summer school incentive points (from the prior summer as described in §307) by 2.

F. Add the value from Step (Subsection) E to the value from Step (Subsection) C.

G. Divide the sum from Step (Subsection) F by the sum from Step (Subsection) D. This quotient is the K-8 Assessment Index.

H. Example of K-8 Assessment Index Calculation

Grade	Subject	Subject-Test Index Score	Incentive Points (Spring Retest)	Unit Weight	Weighted Subject-Test Index Score
3	ELA	100		2	200
3	MTH	50		1	50
3	SCI	50		0.5	25
3	SS	100		0.5	50
4	ELA	100	50	2	300
4	MTH	50		2	100
4	SCI	50	50	1	100
4	SS	50		1	50
5	ELA	150		1	150
5	MTH	150		1	150
5	SCI	100		1	100
5	SS	150		1	150
6	ELA	100		1	100
6	MTH	100		1	100
6	SCI	100		1	100
6	SS	50		1	50
7	ELA	0		1	0
7	MTH	50		1	50
7	SCI	0		1	0
7	SS	0		1	0
8	ELA	150		2	300
8	MTH	100		2	200
8	SCI	100		1	100
8	SS	150		1	150
Sums				28	2575
K-8 Assessment Index				2575 ÷ 28 = 92.0	

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1021 (June 2006), amended LR 36:

§409. Calculating a 9-12 Assessment Index

A. For all grades 9 - 11, use the values from the table in §405.A, above.

B. Adjust each subject-test index by the corresponding dropout adjustment factor.

1. The 9th grade dropout adjustment factor is the previous year's 9th grade non-dropout rate plus 4.0 percent (100.0% - 9th grade DO rate + 4.0%).

2. The 10th grade dropout adjustment factor is the product of the previous year's 9th grade non-dropout rate plus 4.0 percent and the 10th grade non-dropout rate plus 4.0 percent [(100.0% - 9th grade DO rate + 4.0%) x (100.0% - 10th grade DO rate + 4.0%)].

3. The 11th grade dropout adjustment factor is the product of the previous year's 9th grade non-dropout rate plus 4.0 percent and the 10th grade non-dropout rate plus 4.0 percent [(100.0% - 9th grade DO rate + 4.0%) x (100.0% - 10th grade DO rate + 4.0%) x (100.0% - 11th grade DO rate + 4.0%)].

C. Weight each adjusted subject-test index score by the corresponding value from the table below.

Unit Weights for 9-12 Assessment Index					
Grade	ELA	Math	Science	Social Studies	Total
9th Grade	1	1			2
10th Grade	1.25	1.25			2.5
11th Grade			1.25	1.25	2.5

D. Sum all weighted values from step C, above.

E. Divide the sum from step D, above, by the sum of all weights applied to subject-test index scores from the table above (in C). This quotient is the 9-12 Assessment Index.

F. Example of 9-12 Assessment Index Calculation

1. Non-dropout rates in this example are; 9th-95.0 percent, 10th-98.0 percent, and 11th-99.0 percent.

Grade	Subject	Subject-Test Index Score	Dropout Adjustment	Adjusted Subject-Test Index Score	Unit Weight	Weighted Adjusted Subject-Test Index Score
9	ELA	100	.990	99.0	1	99.0
9	MTH	50	.990	49.5	1	49.5
10	ELA	100	1.010	101.0	1.25	126.3
10	MTH	150	1.010	151.5	1.25	189.4
11	SCI	50	1.040	52.0	1.25	65.0
11	SS	50	1.040	52.0	1.25	65.0
Sums					7	594.2
9-12 Assessment Index				$594.2 \div 7 = 84.9$		

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1021 (June 2006), amended LR 33:252 (February 2007), LR 36:

§411. Attendance Index Calculations

A. An attendance index score shall be calculated for each school. The attendance index shall be calculated using the prior two years' average attendance rates as compared to the state's goal.

B. K-8 school attendance index formula= $(16.667 * ATT) - 1483.4$.

C. - D. Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2740 (December 2003), amended LR 36:

§413. Dropout Index Calculations

A. ...

B. The National Center for Educational Statistics "event rate" definition of *dropout* shall be adhered to, but in rare instances, with BESE approval, the Louisiana Department of Education shall calculate an "Adjusted Dropout Rate" for accountability purposes.

C. - D. ...

E. - F. Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2741 (December 2003), amended LR 36:

Chapter 5. Inclusion in Accountability

§511. Attendance Index Calculations

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2740 (December 2003), repealed LR 36:

§513. Dropout Index Calculations

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2741 (December 2003), repealed LR 36:

§514. Subgroup Performance Scores (GPS)

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1445 (July 2004), amended LR 30:1619 (August 2004), repromulgated LR 30:1996 (September 2004), LR 36:

§515. State Assessments and Accountability

A. Louisiana students in grades 3 through 11 will participate in only one of the following state assessments on an annual basis:

1. - 2. ...
3. iLEAP, or;
4. LEAP Alternate Assessment Level 1 (LAA 1), or;
5. LEAP Alternate Assessment Level 2 (LAA 2).

a. Some LAA 2 students will participate in a combination of regular assessment (LEAP, iLEAP, GEE) and LAA 2 if the IEP requires this.

b. These students can take only 1 test in each subject at any single test administration, e.g., LAA 2 in ELA and GEE in mathematics, science, and social studies.

B. All LEP students shall take the English Language Development Assessment (ELDA) annually as well as the appropriate state assessment for their enrolled grade.

C. GEE 21 scores for repeaters (in any subject) shall not be included in high school SPS calculations.

D. High school students who meet LEAP alternate assessment participation criteria shall take the LAA at the 9th, 10th, and 11th grade beginning in spring 2004.

E. Scores shall not be included in school performance score calculations for LEP students who have not been enrolled in a school in the United States for one full school year.

F. Scores earned by any student during an academic year who transferred into the LEA after October 1 of the same academic year shall not be included in the School Performance Score (SPS) or Subgroup Performance Score (GPS).

G. Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2741 (December 2003), amended LR 31:2422 (October 2005), LR 32:1022 (June 2006), LR 33:253 (February 2007), LR 36:

§519. Inclusion of Schools

A. Beginning in 2006 for the Baseline SPS, all K-8 schools shall have a minimum number of 80 testing units in any combination of LEAP, iLEAP, and LAA 1 or 2.

B. Beginning in 2007 for the Growth SPS, all K-8 schools shall have a minimum number of 40 testing units in any combination of LEAP, iLEAP, and LAA 1 or 2.

1. - 2. Repealed.

C. In 2007 for the Growth SPS, all 9-12 and combination schools shall have a minimum number of 40 testing units in any combination of LEAP, iLEAP, and LAA 1 or 2.

D. Beginning in 2007 for the Baseline SPS, all 9-12 and combination schools shall have a minimum number of 80 units in any combination of graduation cohort membership and LEAP, iLEAP, and LAA 1 or 2.

E. Each member of a cohort used to calculate a graduation index shall be counted as 4 units when determining the minimum number of units required calculating an SPS.

F. Beginning in 2007, any school that does not have a district feeder pattern must have at least 40 FAY students for 2 consecutive academic years to have an SPS (Baseline or Growth) calculated.

G. - J. Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2741 (December 2003), amended LR 31:1512 (July 2005), LR 32:1022 (June 2006), LR 34:431 (March 2008), LR 36:

§521. Pairing/Sharing of Schools with Insufficient Test Data

A. Beginning in 2006, any school with at least one testing grade (3-11) will receive its Baseline SPS based only on its own student data provided it meets the requirements of §519.

1. Repealed.

B. Beginning with the Baseline SPS in 2006, any K-2 school will share 3rd-grade test data from another school. The K-2 school will provide its own attendance data to its own SPS.

1. - 4. Repealed.

C. Beginning in 2007, any school enrolling only 12th grade students will share data with a school or schools containing grades 9-11 that send it the majority of its students. This sharing relationship is to define the cohort that will provide the starting roster on which its graduation index will be based. The 12th grade school will receive an SPS based solely on the graduation index.

D. Beginning in 2007, any K-2, 9-12 configuration shall receive an SPS based solely on the 9-12 data.

E. A district must identify the school where each of its non-standard schools shall be "paired". The "paired" school must be the one that receives by promotion the largest percentage of students from the non-standard school. In other words, the "paired" school must be the school into which the largest percentage of students "feed." If two schools receive an identical percentage of students from a non-standard school, the district shall select the "paired" school.

F. A school's paired status at the beginning of the school year for the baseline SPS shall be its status at the end of the school year for the growth SPS (unless a school closure occurs).

G. Requirements for the number of test/graduation index units shall be the sum of the units used to calculate the school's SPS (see §519).

H. If a school has too few test units to be a "stand-alone" school, it may request to be considered stand-alone.

1. It shall receive an SPS that is calculated solely on that school's data, despite the small number of test units.

2. The request shall be in writing to the LDE from the LEA superintendent.

3. The school forfeits any right to appeal its SPS and status based on minimum test unit counts.

I. Once the identification of "paired" schools has been made, this decision is binding for 10 years. An appeal to the BESE may be made to change this decision prior to the end of 10 years, when redistricting or other grade configuration and/or membership changes occur.

J. If 10 years has not elapsed, but a paired/shared school acquires a sufficient number of testing units, then the pair/share relationship will be broken, and the school will be treated as a stand-alone school.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2741 (December 2003), amended LR 30:1445 (July 2004), LR 32:1023 (June 2006), LR 36:

§525. Growth Targets for New or Reconfigured Schools and Reconstituted Schools

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2742 (December 2003), repealed LR 36:

Chapter 7. Subgroup Component

§703. Inclusion of Students in the Subgroup Component

A. - C.1.a.ii.

b. beginning in fall 2007, districts that exceed the 2 percent cap may do so without penalty if the sum of LAA 1 and LAA 2 students labeled proficient does not exceed 3 percent of all students tested within the district;

i. the district fails to request the waiver; or

ii. if the district requests the waiver but it is determined by LDE that ineligible students were administered LAA 2.

1.c. - 2. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2743 (December 2003), amended LR 30:1619 (August 2004), repromulgated LR 30:1996 (September 2004), amended LR 30:2256 (October 2004), amended LR 30:2445 (November 2004), LR 31:912 (April 2005), LR 31:2762 (November 2005), LR 33:253 (February 2007), LR 34:428 (March 2008), LR 34:867 (May 2008), LR 36:

Chapter 9. Evaluating Improvement

§903. Growth Targets and Labels

A. Exemplary Academic Growth—a school that makes its growth target, the Students with Disabilities (SWD) and Economically Disadvantaged (ED) subgroups improving their adjusted Subgroup Assessment Indices (SAI) at least two points, and the school is not AUS.

B. Recognized Academic Growth—a school that makes its growth target but either subgroup does not improve its adjusted Subgroup Assessment Index (SAI) at least two points and/or the school is AUS.

C. Minimal Academic Growth—a school improving (at least 0.1 points) but not meeting its growth target.

D. No Growth—a school with a change in SPS of 0 to –2.5 points.

E. School In Decline—a school with a declining SPS (more than –2.5 points).

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2744 (December 2003), amended LR 33:2595 (December 2007), LR 36:

Chapter 27. Supplemental Educational Services Replaced by Bulletin 124

§2701. Definition of Supplemental Services

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2750 (December 2003), amended LR 30:764 (April 2004), repealed LR 36

§2702. Supplemental Educational Service Models

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:1644 (August 2003), LR 30:764 (April 2004), repealed LR 36

§2703. Supplemental Service Providers

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2750 (December 2003), amended LR 30:764 (April 2004), repealed LR 36

§2705. State Educational Agency Role and Responsibilities

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2750 (December 2003), amended LR 30:764 (April 2004), repealed LR 36

§2707. Local Educational Agency Role and Responsibilities

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2751 (December 2003), amended LR 30:764 (April 2004), repealed LR 36

§2709. Optional LEA Responsibilities

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2751 (December 2003), repealed LR 36

§2711. SES Agreement between Provider and LEA

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2751 (December 2003), repealed LR 36

§2713. SES Provider Responsibilities

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:765 (April 2004), repealed LR 36

§2715. State Department of Education Approval and Monitoring of SES Providers

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:765 (April 2004), repealed LR 36

§2717. Appealing State Department of Education SES Decisions

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:766 (April 2004), repealed LR 36

§2719. Remaining an SES Provider

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:766 (April 2004), repealed LR 36

§2721. Review of Provider Performance

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:766 (April 2004), repealed LR 36:

Chapter 33. New Schools and/or Significantly Reconfigured Schools

§3301. Inclusion of New Schools

A. - B. ...

C. New K-8 schools (in existing LEAs) with one year of test data shall be included in accountability. For attendance and dropout data, the district average for elementary schools will be used.

D. The new high school in an existing LEA shall enter accountability using its first year of assessment data, adjusted by the district average dropout data.

1. This adjusted assessment index shall be used as a first year baseline SPS to assign performance labels.

2. The baseline in year two shall consist of the adjusted assessment data from year one and assessment data from year two adjusted by the schools own dropout data from year one.

3. The growth SPS in year two shall consist of one year adjusted assessment data.

4. The graduation index calculated from the school's second graduating class shall be included as a baseline SPS indicator (along with two years of adjusted assessment data in year three of the school's operation).

E. New schools in new districts and new charter schools unaffiliated with existing districts shall enter accountability after their second year of assessment.

1. Elementary schools shall receive their first baseline scores using two years of assessment data and one year of their own attendance and dropout data.

2. High schools shall receive their first baseline scores using two years of assessment data, the first year unadjusted

by dropout data, and the second year adjusted by dropout data.

3. High schools shall receive their first growth scores in their third year of operation.

4. The graduation index calculated from the school's second graduating class shall be included as a baseline SPS indicator (along with two years of adjusted assessment data) in year three of the school's operation.

F. Schools with the same first three digits of their six digit site codes are in the same district/LEA when district averages must be used for accountability purposes.

G. Schools that do not align with the patterns described in this section will be included in accountability as soon as the required data is available.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2753 (December 2003), amended LR 31:2765 (November 2005), LR 33:2599 (December 2007), LR 36:

§3303. Reconfigured Schools

A. Prior to any reconfiguration, the LDE will review the changes to school sites in the planned reconfiguration and will consult with the LEA on the effects that the reconfiguration will have on rewards and/or AUS or subgroup component failure status. After this consultation, the LDE shall make all decisions regarding the effects of these changes on rewards, AUS or subgroup component failure status, and sanctions for all schools effected by the changes and will notify the LEA of its decision.

B. All reconfigurations must be submitted to the Sponsor Site Database before October 1 of the first year of operation under the reconfiguration.

C. Schools that are reconfigured shall continue in accountability based on their new configurations with a change in SPS indicators driving the decisions.

1. K-6 schools have elementary assessment and attendance indicators.

2. K-8 schools have elementary assessment, attendance and dropout indicators.

3. 9-12 schools have secondary assessment and cohort graduation indicators.

4. Combination schools have at least elementary and secondary assessment and attendance indicators; and possibly dropout and graduation indicators.

D. Schools that reconfigure but keep the same indicators will continue in accountability with no special consideration (e.g. K-5 changes to K-6, K-6 changes to K-3, K-7 changes to K-8, 4-12 changes to 6-12. 9-12 changes to 10-12).

E. Schools that reconfigure and add an indicator/s in the process will:

1. receive a baseline SPS following the first year of operation with the new configurations using one year of assessment data; and, a district average for a dropout, attendance, or graduation indicators except in cases where the LDE can determine the district average will inflate scores to avoid accountability consequences;

2. the LDE may use data from a school with similar demographics and/or assessment results if circumvention of policy is indicated;

3. no growth score shall be calculated nor growth labels assigned.

F. Schools that reconfigure and lose an indicator will receive a score based on two years of data collected at the school that aligns with the new configuration.

G. A district with a K-8 school with a greater than 50 percent change in student enrollment, excluding expected grade progression, may request that the school receive a baseline SPS using the first year of assessment data under the new configuration and a district average for attendance and dropout data. A reconfigured high school will retain its graduation data from the prior year. Any AUS, SCF, or AA status and eligibility for participating in any specific programs shall be determined by the LDE. No growth score shall be calculated nor growth labels assigned.

H. The LDE will consult with the district concerning the SPS calculation when unusual circumstances or configurations exist.

I. Data collected at one site shall not be moved to another site and included in accountability results except when two or more schools with dissimilar configurations combine to create 1 school.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2753 (December 2003), amended LR 30:2446 (November 2004), LR 31:2765 (November 2005), LR 33:2600 (December 2007), LR 36:

Chapter 37. Inclusion of Lab Schools and Charter Schools

§3701. Special Consideration of Lab and Charter Schools

A. Such schools shall be included in the Louisiana Accountability System following the same rules that apply to traditional and/or alternative schools. The only exceptions are lab schools and Type 1, 2, 3 and 5 charter schools that are independent schools and frequently cannot be paired or shared with another school grade level, and/or if there is no home-based district school to which a given student's scores can be returned. Therefore, if they do not have the required data such schools cannot receive an SPS. However, if they meet the requirements for accountability under the subgroup component, these analyses will be conducted, subgroup component failure decisions will be based on these results. If neither the SPS or subgroup component can be fully applied, the state will include the results of these students in the aggregate state accountability report.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2754 (December 2003), amended LR 33:2600 (December 2007), LR 36:

Chapter 39. Inclusion of Students with Disabilities

§3901. Assessment of Students with Disabilities

A. All students, including those with disabilities, shall participate in Louisiana's testing program. The scores of all students who are eligible to take the LEAP, iLEAP, GEE, LAA 1, or LAA 2 shall be included in the calculation of the SPS. Most students with disabilities shall take the assessments with accommodations, if required by their Individualized Education Program (IEP).

1. - 3. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2754 (December 2003), amended LR 31:2763 (November 2005), LR 36:

Chapter 43. District Accountability

§4310. Subgroup Component AYP (Adequate Yearly Progress)

A. - A.1.f. ...

B. Inclusion of Students in the Subgroup Component

1. - 3. ...

a. the alternate academic achievement standards for students participating in LAA 1 will be used, provided that the percentage of proficient LAA 1 students does not exceed 1.0 percent of all students in the grades assessed. If the district exceeds the 1.0 percent proficient cap, the district shall request a waiver. The students exceeding the cap shall be assigned a zero on the assessment and be considered non-proficient if:

B.1.a.i. - E. b. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1447 (July 2004), amended LR 30:2446 (November 2004), LR 31:424 (February 2005), LR 31:633 (March 2005), LR 31:913 (April 2005), LR 32:1029 (June 2006), amended LR 33:635 (April 2007), LR 34:429 (March 2008), LR 34:868 (May 2008), LR 36:

Chapter 45. Disaster Considerations for School and District Accountability

§4503. One Year Waive for "Severe Impact" Schools and Districts

A. Schools that meet either of two conditions associated with disasters shall be labeled "severe impact" schools and shall receive a one year waiver of accountability decisions based on the schools' school performance scores. The one year waiver is limited to the year in which the disaster occurred. The conditions are:

A.1. - C. ...

D. The year following the waivers, the waived schools shall be considered new schools and shall enter accountability according to the policy in Chapter 33.

E. - M. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1412 (August 2006), amended LR 33:636 (April 2007), LR 36:

§4505. Severe Impact Schools Following a One Year Disaster Waiver

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1413 (August 2006), amended LR 36:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of the 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., July 9, 2010, to Nina A. Ford, State Board of Elementary and Secondary Education, P. O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Jeanette Vosburg

Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 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 33 provide detail of how to outline procedures for the placement of new schools into accountability and the reestablishment of accountability for reconfigured schools.

Proposed changes in Bulletin 111, Chapter 45 establish a prescribed time limit for accountability waivers for schools impacted by disasters and make reference to their re-entry into accountability as new or reconfigured schools after the expiration of the waiver.

Proposed changes in Bulletin 111, Chapter 3 provide clarification of the composition of School Performance Scores for schools that have not met accountability standards.

Proposed changes in Bulletin 111, Chapter 4 provide clarification for assessment, attendance, and dropout Index Calculations, particularly defining dropout.

Proposed changes in Bulletin 111, Chapter 5 provide clarification about grade levels at which students take state assessments, combination of regular and alternate assessment for LAA 2 students, deletion of School Performance Score sharing scenario, with clarification about School Performance Score pairing scenarios.

Proposed changes in Bulletin 111, Chapter 7 provide clarification of the terms and limitations for the combination of LAA 1 and LAA 2 proficiency.

Proposed changes in Bulletin 111, Chapter 9 provide clarification about School Performance Score improvement.

Proposed changes in Bulletin 111, Chapter 37 provide clarification about lab and charter school accountability.

Proposed changes in Bulletin 111, Chapter 39 provide clarification of assessment taken by students with disabilities.

Proposed changes in Bulletin 111, Chapter 43 provide clarification of LAA 1 proficiency limitations.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1005#016

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 111—The Louisiana School, District, and State Accountability System (LAC 28:LXXXIII.302, 603, 611, 613, 708, 4001, and 4003)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 111—The Louisiana School, District, and State Accountability System*: §302. 9-12 Transition from 2010 to 2012, §603. Determining a Cohort for a Graduation Index, §611. Documenting a Graduation Index, §613. Calculating a Graduation Index, §708. Calculating a Graduation Rate, §4001. Proficient in English, and §4003. Making Progress in Learning English. 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, Chapter 3, provide detail for transition of schools in grades 9-12.

Proposed changes in Bulletin 111, Chapter 6, provide detail of how the cohort is determined for the Graduation Index and how it is calculated.

Proposed changes in Bulletin 111, Chapter 7, provide detail of how the Graduation Rate is calculated.

Proposed changes in Bulletin 111, Chapter 40, provide clarification for how students will be proficient in English.

**Title 28
EDUCATION**

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

**Chapter 3. School Performance Score Component
§302. 9-12 Transition from 2010 to 2012**

A. At the 2011 accountability release for 9-12 and combination schools, growth shall be evaluated using a 2010 transition baseline SPS.

1. This baseline (9-12 and the 9-12 component of combination schools) shall be comprised of 70 percent assessment index calculated with GEE results from 2009 and 2010; and,

2. 30 percent graduation index from the 2008 and 2009 cohorts.

B. The 2011 growth SPS for 9-12 and the 9-12 component of combination schools shall be comprised of 70 percent assessment index calculated using 2011 GEE results and 30 percent graduation index from the 2010 cohort.

C. Schools with only ninth grade enrollment will not be evaluated for growth in 2011.

D. The 2011 baseline SPS for 9-12 and the 9-12 component of combination schools shall be comprised of 70 percent assessment index calculated using 2010 and 2011 GEE results and 30 percent graduation index from the 2009 and 2010 cohorts.

E. Districts may request a waiver from sanctions for a specific school/s if the school's 2011 baseline SPS is less than 65.0, if:

1. the district submits evidence to the LDE that the 2009 9th grade iLEAP results and the 2010 9th grade iLEAP results both produce adjusted assessment indices greater than 65.0; and

2. the 2010 and 2011 GEE results for the school each produce adjusted assessment indices that are less than 65.0 but greater than the adjusted assessment index calculated using the 2009 GEE results; and,

3. the school's adjusted graduation index based on the 2010 graduating cohort is at least 65.0 and greater than the adjusted graduation index based on the 2008 graduating cohort.

F. In 2011, schools with only ninth grade enrollment shall receive baseline SPSs that include adjusted assessment indices comprised of End of Course assessment data from the academic year 2010-11 test administrations.

G. Beginning in 2012, schools with only ninth grade enrollment shall receive growth SPSs that include adjusted assessment indices comprised of End of Course assessment data from the prior academic year test administrations.

H. In 2012, schools with grades 9-12 (excluding those with ninth grade only) shall receive 2011 transition baseline SPSs that include adjusted assessment indices comprised of End of Course assessment data from the 2011 academic year test administrations.

I. Beginning in 2012, schools with grades 9-12 shall receive baseline SPSs that include adjusted assessment indices comprised of End of Course assessment data from the prior 2 year academic year test administrations.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

Chapter 6. Graduation Index

§603. Determining a Cohort for a Graduation Index

A. A cohort of students is all students who entered 9th grade for the first time in the state of Louisiana in a given academic year.

B. Each cohort of students will be tracked for four years, from entry as first-time ninth graders through four academic years.

C. Students who exit Louisiana's Student Information System (SIS) system in less than four years for legitimate reasons shall not be included in the cohort's graduation index calculations.

1. For graduation cohort calculations, exit codes 07, 10, 14, 16, and 20 from §611 are legitimate, along with any special codes created to deal with natural disasters .

D. Students that LEAs exit from a school or the LEA using anything other than legitimate leaver codes or those codes indicating completion of a high school course of study must subsequently appear in the Student Information System

or they shall be considered dropouts from the state, LEA and school.

E. Students with no high school records in the Louisiana SIS who transfer from a home school, non-public school, or another state into a Louisiana school on or before October 1 of their-eleventh grade year will enter the “on-time” cohort at the students' assigned grade level. Students with existing Louisiana public high school records will re-enter their original cohort.

F. Students transferring within the public school system in Louisiana will remain in their same cohort.

1. Students transferring within an LEA on or before October 1 of their cohort's fourth year will be included in the calculation of the graduation index at the school into which they transfer and complete their fourth year of high school.

2. Students who exit their high school for more than 45 calendar days during their fourth year shall not be included in that high school's grad cohort calculation.

G. ...

H. Any student who exits K-12 education to enter a school or program that does not award a high school diploma shall be considered a dropout in graduation cohort calculations.

I. ...

J. Students who exit K-12 education and enroll in adult education shall earn points for their school and LEA only if a GED is awarded by October 1 of the following academic year. Otherwise, the student shall be considered a dropout.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1024 (June 2006), amended LR 33:424 (March 2007), LR 33:2031 (October 2007), LR 35:2312 (November 2009), LR 36:

§611. Documenting a Graduation Index

A. ...

Exit Code Documentation		
Code	Descriptions	Required Documentation
01	Expelled	Due process documentation supporting expulsion
03	Illness	Letter from a physician stating the student's date(s) of care written on the doctor office's letterhead with the doctor's original signature
04	Graduate with Diploma	Official transcript showing successful completion of requirements
05	GED only	LDE confirmation document
06	Certificate of Achievement (Special Education)	Official transcript showing successful completion of requirements
07	Death (of student) or permanent incapacitation	Death Certificate, obituary, or similar form. Signed statement by a physician indicating student's inability to return
08	Transferred to another public school within district	Request for records from the receiving school
09	Transferred to another public school within Louisiana	Request for records from the receiving school
10	Transferred out of state or country	Request for records from the receiving school (or similar form located in the student's cumulative records, signed and dated by the parent/guardian or adult student and an authorized representative of the school). Documentation proving a student was a foreign exchange student
12	Transferred to Correctional Institution	A signed statement from the sentencing judge, Office of Youth Development, or representative of the correctional facility.
14	Transferred to non-public school (must award high school diplomas)	Request for records from the receiving school
15	Exit from grade for reassignment to another grade	Test results, summer school grades or similar forms located in the student's cumulative records supporting the grade change
16	Transferred to home study/in-school Private Schooling	LDE Approval letter
17	Completed all Carnegie unit requirements but not the GEE	Official transcript showing successful completion of requirements
20	Transferred to Early College Admissions Program	School withdrawal form and request for records from the College or University and proof of full-time enrollment in an academic program
21	Transferred to State school	Request for records from the receiving school
22	Options Program Completer: GED & Industry Based Certificate	Official transcript showing successful completion of requirements
23	Options Program Completer: GED & Locally Designed Skills Certificate	Official transcript showing successful completion of requirements
24	Options Program Completer: Industry Based Certification	Official transcript showing successful completion of requirements
25	Options Program Completer: Local Skills Certificate Only	Official transcript showing successful completion of requirements
26	Options Program Completer: Certificate of Completion	Official transcript showing successful completion of requirements
27	Exit under SBESE Academic School Choice Policy	Request for records from the receiving school
28	Exit under SBESE Unsafe School Choice Policy	Request for records from the receiving school

B. - E. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1024 (June 2006), amended LR 35:639 (April 2009), LR 35:2312 (November 2009), LR 36:

§613. Calculating a Graduation Index

A. - D.1.c. ...

E. To insure the accuracy of data used to calculate the graduation index, the calculation shall lag one year behind the collection of the data (the index earned by the graduating class of 2006 will be used for 2007 accountability calculations).

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1025 (June 2006), amended LR 33:2031 (October 2007), LR 33:2594 (December 2007), LR 35:1472 (August 2009), LR 36:

Chapter 7. Subgroup Component

§708. Calculating a Graduation Rate

A. - B. ...

C. The percentage of students in a cohort who graduate within four years with a standard diploma shall be the graduation rate used for the subgroup component.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1026 (June 2006), amended LR 33:424 (March 2007), LR 36:

Chapter 40. Definitions Related to English Proficiency

§4001. Proficient in English

A. To be considered English proficient and exit limited English proficient (LEP) status, a LEP student must score as follows.

1. For grades K-2:

a. two years at composite level V on the English language development assessment (ELDA); or, in the same year;

b. at composite level V on ELDA and at grade-level/benchmark/low-risk on a standardized reading assessment, such as DRA or DIBELS.

2. For grades 3-12:

a. composite level V on ELDA; or, in the same year;

b. at composite level 4 on ELDA and at proficient on the English language arts portion of the iLEAP, LEAP, GEE, English II End of Course, LAA 1, or LAA 2.

B. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:767 (April 2004), amended LR 33:254 (February 2007), LR 34:2552 (December 2008), LR 36:

§4003. Making Progress in Learning English

A. Making progress in learning English will be demonstrated by a student who moves from the most recent Prior Year ELDA Composite Level to, in the current year, at least the next higher Progress Criterion as described below:

Prior Year ELDA Level	Progress Criterion
Beginning (Level I)	Lower Intermediate (Level II)
Lower Intermediate (Level II)	Upper Intermediate (Level III)
Upper Intermediate (Level III)	Advanced (Level IV)
Advanced (Level IV)	Full English Prof. (Level V) or English proficient (Sec.4001-Definition)
Full English Prof. (Level V)	English Proficient (Sec.4001-Definition)

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:767 (April 2004), amended LR 36:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office, which has adopted, amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., August 9, 2010, to: Nina A. Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Jeanette Vosburg
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 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 3 provide detail for transition of schools in grades 9-12.

Proposed changes in Bulletin 111, Chapter 6 provide detail of how the cohort is determined for the Graduation Index and how it is calculated.

Proposed changes in Bulletin 111, Chapter 7 provide detail of how the Graduation Rate is calculated.

Proposed changes in Bulletin 111, Chapter 40 provide clarification for how students will be proficient in English.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes will result in no cost or savings to state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1006#040

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 125—Standards for Educational Leaders in Louisiana
(LAC 28:CXXXVII.Chapters 1-2)

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 125—Standards for Educational Leaders in Louisiana*: LAC 28:CXXXVII.Chapters 1-2. The revised standards reflect the newly revised national standards for educational leaders. The expectations and indicators more clearly define the knowledge, skills, and dispositions educational leaders need to be effective and increase student achievement. The new Standards were updated to align with the National Leadership Standards.

Title 28 EDUCATION

Part CXXXVI. Bulletin 125—Standards for Educational Leaders in Louisiana

Chapter 1. Purpose

§101. Introduction

A. A critical component to ensuring that the goals of the state's School and District Accountability System are achieved is the placement of effective administrators at every school. In order for this to be attained, attention must be focused on building leadership capacity at both the school and district levels. Utilizing the standards for educational leaders, educational leaders are strongly encouraged to examine organizational structures, their enacted roles, and day-to-day operations to ensure they are leading the way for school success by keeping the focus on enhanced student achievement.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:1335 (July 2007), LR 36:

Chapter 2. Standards

§201. Performance Expectations and Indicators for Educational Leaders

A. In 2008, the Council of Chief State School Officers (CCSSO) State Consortium on Educational Leadership revised the Interstate School Leaders Licensure Consortium (ISLLC) standards for educational leaders and renamed them

Performance Expectations and Indicators for Educational Leaders. The *Performance Expectations and Indicators for Educational Leaders* represent consensus among state education agency policy leaders about the most important actions required of K-12 education leaders to improve teaching and learning. The main purpose of the *Performance Expectations and Indicators for Educational Leaders* is to provide a resource for policymakers and educators in states, districts, and programs to analyze and prioritize expectations of education leaders in various roles and strategic stages in their careers. *Performance Expectations and Indicators for Educational Leaders* is also intended to support national, state, and local dialogue about how to improve leadership.

B. The state has adopted the *Performance Expectations and Indicators for Educational Leaders* as the Louisiana state standards for educational leaders.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

§203. Performance Expectation 1

A. Vision, Mission, and Goals

1. Education leaders ensure the achievement of all students by guiding the development and implementation of a shared vision of learning, strong organizational mission, and high expectations for every student.

a. Dispositions Exemplified in Expectation 1. Education leaders believe in, value, and are committed to:

- i. every student learning;
- ii. collaboration with all stakeholders;
- iii. high expectations for all;
- iv. examining assumptions and beliefs;
- v. continuous improvement using evidence.

B. Narrative

1. Education leaders are accountable and have unique responsibilities for developing and implementing a vision of learning to guide organizational decisions and actions. Education leaders guide a process for developing and revising a shared vision, strong mission, and goals that are high and achievable for every student when provided with appropriate, effective learning opportunities.

2. The vision, mission, and goals represent what the community intends for students to achieve, informed by the broader social and policy environment and including policy requirements about specific outcomes and continuous improvement. The vision, mission, and goals become the touchstone for decisions, strategic planning, and change processes. They are regularly reviewed and adjusted, using varied sources of information and ongoing data analysis.

3. Leaders engage the community to reach consensus about vision, mission, and goals. To be effective, processes of establishing vision, mission, and goals should incorporate diverse perspectives in the broader school community and create consensus to which all can commit. While leaders engage others in developing and implementing the vision, mission, and goals, it is undeniably their responsibility to advocate for and act to increase equity and social justice.

C. Element A—High Expectations for All. The vision and goals establish high, measurable expectations for all students and educators.

1. Indicators. A leader:

a. uses varied sources of information and analyzes data about current practices and outcomes to shape a vision,

mission, and goals with high, measurable expectations for all students and educators;

b. aligns the vision, mission, and goals to school, district, state, and federal policies (such as content standards and achievement targets);

c. incorporates diverse perspectives and crafts consensus about vision, mission, and goals that are high and achievable for every student when provided with appropriate, effective learning opportunities;

d. advocates for a specific vision of learning in which every student has equitable, appropriate, and effective learning opportunities and achieves at high levels.

D. Element B—Shared Commitments to Implement the Vision, Mission, and Goals. The process of creating and sustaining the vision, mission, and goals is inclusive, building common understandings and genuine commitment among all stakeholders.

1. Indicators. A leader:

a. establishes, conducts, and evaluates processes used to engage staff and community in a shared vision, mission, and goals;

b. engages diverse stakeholders, including those with conflicting perspectives, in ways that build shared understanding and commitment to vision, mission, and goals;

c. develops shared commitments and responsibilities that are distributed among staff and the community for making decisions and evaluating actions and outcomes;

d. communicates and acts from shared vision, mission, and goals so educators and the community understand, support, and act on them consistently;

e. advocates for and acts on commitments in the vision, mission, and goals to provide equitable, appropriate, and effective learning opportunities for every student.

E. Element C—Continuous Improvement toward the Vision, Mission, and Goals. Education leaders ensure the achievement of all students by guiding the development and implementation of a shared vision of learning, strong organizational mission, and high expectations for every student.

1. Indicators. A leader:

a. uses or develops data systems and other sources of information (e.g., test scores, teacher reports, student work samples) to identify unique strengths and needs of students, gaps between current outcomes and goals, and areas for improvement;

b. makes decisions informed by data, research, and best practices to shape plans, programs, and activities and regularly review their effects;

c. uses data to determine effective change strategies, engaging staff and community stakeholders in planning and carrying out changes in programs and activities;

d. identifies and removes barriers to achieving the vision, mission, and goals;

e. incorporates the vision and goals into planning (e.g., strategic plan, school improvement plan), change strategies, and instructional programs;

f. obtains and aligns resources (such as learning technologies, staff, time, funding, materials, training, and so on) to achieve the vision, mission, and goals;

g. revises plans, programs, and activities based on systematic evidence and reviews of progress toward the vision, mission, and goals.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

§205. Performance Expectation 2

A. Teaching and Learning

1. Education Leaders ensure achievement and success of all students by monitoring and continuously improving teaching and learning.

a. Dispositions Exemplified in Expectation 2. Education leaders believe in, value, and are committed to:

i. learning as the fundamental purpose of school;

ii. diversity as an asset;

iii. continuous professional growth and development;

iv. lifelong learning;

v. collaboration with all stakeholders;

vi. high expectations for all;

vii. student learning.

B. Narrative

1. A strong, positive, professional culture fosters learning by all educators and students. In a strong professional culture, leaders share and distribute responsibilities to provide quality, effectiveness, and coherence across all components of the instructional system (such as curriculum, instructional materials, pedagogy, and student assessment). Leaders are responsible for a professional culture in which learning opportunities are targeted to the vision and goals and differentiated appropriately to meet the needs of every student. Leaders need knowledge, skills, and beliefs that provide equitable differentiation of instruction and curriculum materials to be effective with a range of student characteristics, needs, and achievement.

2. A strong professional culture includes reflection, timely and specific feedback that improves practice, and support for continuous improvement toward vision and goals for student learning. Educators plan their own professional learning strategically, building their own capacities on the job. Leaders engage in continuous inquiry about effectiveness of curricula and instructional practices and work collaboratively to make appropriate changes that improve results.

C. Element A—Strong Professional Culture. A strong professional culture supports teacher learning and shared commitments to the vision and goals.

1. Indicators. A leader:

a. develops shared understanding, capacities, and commitment to high expectations for all students and closing achievement gaps;

b. guides and supports job-embedded, standards-based professional development that improves teaching and learning and meets diverse learning needs of every student;

c. models openness to change and collaboration that improves practices and student outcomes;

d. develops time and resources to build a professional culture of openness and collaboration, engaging teachers in sharing information, analyzing outcomes, and planning improvement;

- e. provides support, time, and resources for leaders and staff to examine their own beliefs, values, and practices in relation to the vision and goals for teaching and learning;
- f. provides ongoing feedback using data, assessments, and evaluation methods that improve practice;
- g. guides and monitors individual professional development plans and progress for continuous improvement of teaching and learning.

D. Element B—Rigorous Curriculum and Instruction. Improving achievement of all student requires all educators to know and use rigorous curriculum and effective instructional practices, individualized for success of every student.

1. Indicators. A leader:

- a. develops shared understanding of rigorous curriculum and standards-based instructional programs, working with teams to analyze student work, monitor student progress, and redesign curricular and instructional programs to meet diverse needs;
- b. provides coherent, effective guidance of rigorous curriculum and instruction, aligning content standards, curriculum, teaching, assessments, professional development, assessments, and evaluation methods;
- c. provides and monitors effects of differentiated teaching strategies, curricular materials, educational technologies, and other resources appropriate to address diverse student populations, including students with disabilities, cultural and linguistic differences, gifted and talented, disadvantaged social economic backgrounds, or other factors affecting learning;
- d. identifies and uses high-quality research and data-based strategies and practices that are appropriate in the local context to increase learning for every student.

E. Element C—Assessment and Accountability. Improving achievement and closing achievement gaps require that leaders make appropriate, sound use of assessments, performance management, and accountability strategies to achieve vision, mission, and goals.

1. Indicators. A leader:

- a. develops and appropriately uses aligned, standards-based accountability data to improve the quality of teaching and learning;
- b. uses varied sources and kinds of information and assessments (such as test scores, work samples, and teacher judgment) to evaluate student learning, effective teaching, and program quality;
- c. guides regular analyses and disaggregation of data about all students to improve instructional programs;
- d. uses effective data-based technologies and performance management systems to monitor and analyze assessment results for accountability reporting and to guide continuous improvement;
- e. interprets data and communicates progress toward vision, mission, and goals for educators, the school community, and other stakeholders.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

§207. Performance Expectation 3

A. Managing Organizational Systems and Safety

1. Education leaders ensure the success of all students by managing organizational systems and resources for a safe, high-performing learning environment.

a. Dispositions Exemplified in Expectation 3. The education leader believes in, values, and is committed to:

- i. a safe and supportive learning environment;
- ii. collaboration with all stakeholders;
- iii. equitable distribution of resources;
- iv. operating efficiently and effectively;
- v. management in service of staff and student learning.

B. Narrative

1. Traditionally, school leaders focused on the management of a school or school district. A well-run school where buses run on time, the facility is clean, and the halls are orderly and quiet used to be the mark of an effective school leader. With the shift to leadership for learning, maintaining an orderly environment is necessary but not sufficient to meet the expectations and accountability requirements facing educators today.

2. Education leaders need a systems approach in complex organizations of schools and districts. In order to ensure the success of all students and provide a high-performing learning environment, education leaders manage daily operations and environments through efficiently and effectively aligning resources with vision and goals. Valuable resources include financial, human, time, materials, technology, physical plant, and other system components.

3. Leaders identify and allocate resources equitably to address the unique academic, physical, and mental health needs of all students. Leaders address any conditions that might impede student and staff learning, and they implement laws and policies that protect safety of students and staff. They promote and maintain a trustworthy, professional work environment by fulfilling their legal responsibilities, enacting appropriate policies, supporting due process, and protecting civil and human rights of all.

C. Element A—Effective Operational Systems. Leaders distribute leadership responsibilities and supervise daily, ongoing management structures and practices to enhance teaching and learning.

1. Indicators. A leader:

- a. uses effective tools such as problem-solving skills and knowledge of strategic, long-range, and operational planning to continuously improve the operational system;
- b. maintains the physical plant for safety, ADA requirements, and other access issues to support learning of every student;
- c. develops and facilitates communication and data systems that assure the timely flow of information;
- d. oversees acquisition and maintenance of equipment and effective technologies, particularly to support teaching and learning;
- e. distributes and oversees responsibilities for leadership of operational systems;

f. evaluates and revises processes to continuously improve the operational system.

D. Element B—Aligned Fiscal and Human Resources. Leaders establish an infrastructure for finance and personnel that operates in support of teaching and learning.

1. Indicators. A leader:

a. operates within budget and fiscal guidelines and directs them effectively toward teaching and learning;

b. allocates funds based on student needs within the framework of federal and state rules;

c. aligns resources (such as time, people, space, and money) to achieve the vision and goals;

d. implements practices to recruit and retain highly qualified personnel;

e. assigns personnel to address diverse student needs, legal requirements, and equity goals;

f. conducts personnel evaluation processes that enhance professional practice, in keeping with district and state policies;

g. seeks and secures additional resources needed to accomplish the vision and goals.

E. Element C—Protecting the Welfare and Safety of Students and Staff. Leaders ensure a safe environment by addressing real and potential challenges to the physical and emotional safety and security of students and staff that interfere with teaching and learning.

1. Indicators. A leader:

a. advocates for and creates collaborative systems and distributed leadership responsibilities that support student and staff learning and well-being;

b. involves parents, teachers, and students in developing, implementing, and monitoring guidelines and norms for accountable behavior;

c. develops and monitors a comprehensive safety and security plan.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

§209. Performance Expectation 4

A. Collaborating with Families and Stakeholders

1. Education leaders ensure the success of all students by collaborating with families and stakeholders who represent diverse community interests and needs and mobilizing community resources that improve teaching and learning.

a. Dispositions exemplified in Expectation 4. The education leader believes in, values, and is committed to:

i. high standards for all;

ii. including family and community as partners;

iii. respect for the diversity of family composition;

iv. continuous learning and improvement for all.

B. Narrative

1. In order to educate students effectively for participation in a diverse, democratic society, leaders incorporate participation and views of families and stakeholders for important decisions and activities of schools and districts. Key stakeholders include educators, students, community members, and organizations that serve families and children.

2. Leaders recognize that diversity enriches and strengthens the education system and a participatory democracy. Leaders regard diverse communities as a

resource and work to engage all members in collaboration and partnerships that support teaching and learning. Leaders help teachers communicate positively with families and make sure families understand how to support their children's learning. In communicating with parents and the community, leaders invite feedback and questions so that communities can be partners in providing the best education for every student.

C. Element A—Collaboration with Families and Community Members. Leaders extend educational relationships to families and community members to add programs, services, and staff outreach and provide what every student needs to succeed in school and life.

1. Indicators. A leader:

a. brings together the resources of schools, family members, and community to positively affect student and adult learning, including parents and others who provide care for children;

b. involves families in decision making about their children's education;

c. uses effective public information strategies to communicate with families and community members (such as email, night meetings, and written materials in multiple languages);

d. applies communication and collaboration strategies to develop family and local community partnerships;

e. develops comprehensive strategies for positive community and media relations.

D. Element B—Community Interests and Needs. Leaders respond and contribute to community interests and needs in providing the best possible education for their children.

1. Indicators. A leader:

a. identifies key stakeholders and is actively involved within the community, including working with community members and groups that have competing or conflicting perspectives about education;

b. uses appropriate assessment strategies and research methods to understand and accommodate diverse student and community conditions and dynamics;

c. seeks out and collaborates with community programs serving students with special needs;

d. capitalizes on diversity (such as cultural, ethnic, racial, economic, and special interest groups) as an asset of the school community to strengthen educational programs;

e. demonstrates cultural competence in sharing responsibilities with communities to improve teaching and learning.

E. Element C—Building on Community Resources. Leaders maximize shared resources among schools, districts, and communities that provide key social structures and gathering places, in conjunction with other organizations and agencies that provide critical resources for children and families.

1. Indicators. A leader:

a. links to and collaborates with community agencies for health, social, and other services to families and children;

b. develops mutually beneficial relationships with business, religious, political, and service organizations to share school and community resources (such as buildings, playing fields, parks, medical clinics, and so on);

c. uses public resources and funds appropriately and effectively;

d. secures community support to sustain existing resources and add new resources that address emerging student needs.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

§211. Performance Expectation 5

A. Ethics and Integrity

1. Education leaders ensure the success of all students by being ethical and acting with integrity.

a. Dispositions Exemplified in Expectation 5. The education leader believes in, values, and is committed to:

- i. the common good over personal interests;
- ii. taking responsibility for actions;
- iii. ethical principles in all relationships and decisions;
- iv. modeling high expectations;
- v. continuously improving knowledge and skills.

B. Narrative

1. Local and state education agencies and professional organizations hold educators to codes of ethics, with attention to personal conduct, fiscal responsibilities, and other types of ethical requirements. The Performance Expectations build on concepts of professional ethics and integrity and add an emphasis on responsibilities of leaders for educational equity and social justice in a democratic society. Education is the primary socializing institution, conferring unique benefits or deficits across diverse constituents.

2. Leaders recognize that there are existing inequities in current distribution of high-quality educational resources among students. Leaders remove barriers to high-quality education that derive from economic, social, cultural, linguistic, physical, gender, or other sources of discrimination and disadvantage. They hold high expectations of every student and assure that all students have what they need to learn what is expected. Further, leaders are responsible for distributing the unique benefits of education more equitably, expanding future opportunities of less-advantaged students and families and increasing social justice across a highly diverse population.

3. Current policy environments with high-stakes accountability in education require that leaders are responsible for positive and negative consequences of their interpretations and implementation of policies as they affect students, educators, communities, and their own positions. Politically skilled, well-informed leaders understand and negotiate complex policies (such as high-stakes accountability), avoiding potential harm to students, educators, or communities that result from ineffective or insufficient approaches.

4. Ethics and integrity mean leading from a position of caring, modeling care and belonging in educational settings, personally in their behavior and professionally in concern about students, their learning, and their lives. Leaders demonstrate and sustain a culture of trust, openness, and reflection about values and beliefs in education. They model openness about how to improve learning of every student. They engage others to share decisions and monitor

consequences of decisions and actions on students, educators, and communities.

C. Element A—Ethical and Legal Standards. Leaders demonstrate appropriate ethical and legal behavior expected by the profession.

1. Indicators. A leader:

a. models personal and professional ethics, integrity, justice, and fairness and expects the same of others;

b. protects the rights and appropriate confidentiality of students and staff;

c. behaves in a trustworthy manner, using professional influence and authority to enhance education and the common good.

D. Element B—Examining Personal Values and Beliefs. Leaders demonstrate their commitment to examine personal assumptions, values, beliefs, and practices in service of a shared vision and goals for student learning.

1. Indicators. A leader:

a. demonstrates respect for the inherent dignity and worth of each individual;

b. models respect for diverse community stakeholders and treats them equitably;

c. demonstrates respect for diversity by developing cultural competency skills and equitable practices;

d. assesses own personal assumptions, values, beliefs, and practices that guide improvement of student learning;

e. uses a variety of strategies to lead others in safely examining deeply held assumptions and beliefs that may conflict with vision and goals;

f. respectfully challenges and works to change assumptions and beliefs that negatively affect students, educational environments, and every student learning.

E. Element C—Maintaining High Standards for Self and Others. Leaders perform the work required for high levels of personal and organizational performance, including acquiring new capacities needed to fulfill responsibilities, particularly for high-stakes accountability.

1. Indicators. A leader:

a. reflects on own work, analyzes strengths and weaknesses, and establishes goals for professional growth;

b. models lifelong learning by continually deepening understanding and practice related to content, standards, assessment, data, teacher support, evaluation, and professional development strategies;

c. develops and uses understanding of educational policies such as accountability to avoid expedient, inequitable, or unproven approaches that meet short-term goals (such as raising test scores);

d. helps educators and the community understand and focus on vision and goals for students within political conflicts over educational purposes and methods;

e. sustains personal motivation, optimism, commitment, energy, and health by balancing professional and personal responsibilities and encouraging similar actions for others.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

§213. Performance Expectation 6: The Education System

A. Education leaders ensure the success of all students by influencing interrelated systems of political, social, economic, legal, and cultural contexts affecting education to advocate for their teachers' and students' needs.

1. Dispositions Exemplified in Expectation 6. The education leader believes in, values, and is committed to:

- a. advocate for children and education;
- b. influence policies;
- c. uphold and improve laws and regulations;
- d. eliminate barriers to achievement;
- e. build on diverse social and cultural assets.

B. Narrative

1. Leaders understand that public schools belong to the public and contribute to the public good. They see schools and districts as part of larger local, state, and federal systems that support success of every student, while increasing equity and social justice. Leaders see education as an open system in which policies, goals, resources, and ownership cross traditional ideas about organizational boundaries of schools or districts. Education leaders advocate for education and students in professional, social, political, economic, and other arenas. They recognize how principles and structures of governance affect federal, state, and local policies and work to influence and interpret changing norms and policies to benefit all students.

2. Professional relationships with a range of stakeholders and policymakers enable leaders to identify, respond to, and influence issues, public awareness, and policies. For example, local elections affect education boards and bond results, in turn affecting approaches and resources for student success. Educators who participate in the broader system strive to provide information and engage constituents with data to sustain progress and address needs. Education leaders in a variety of roles contribute special skills and insights to the legal, economic, political, and social well-being of educational organizations and environments.

C. Element A—Exerting Professional Influence. Leaders improve the broader political, social, economic, legal, and cultural context of education for all students and families through active participation and exerting professional influence in the local community and the larger educational policy environment.

1. Indicators. A leader:

- a. facilitates constructive discussions with the public about federal, state, and local laws, policies, regulations, and statutory requirements affecting continuous improvement of educational programs and outcomes;
- b. actively develops relationships with a range of stakeholders and policymakers to identify, respond to, and influence issues, trends, and potential changes that affect the context and conduct of education;
- c. advocates for equity and adequacy in providing for students' and families' educational, physical, emotional, social, cultural, legal, and economic needs, so every student can meet educational expectations and policy goals.

D. Element B—Contributing to the Educational Policy Environment. Leaders contribute to policies and political support for excellence and equity in education.

1. Indicators. A leader:

- a. operates consistently to uphold and influence federal, state, and local laws, policies, regulations, and statutory requirements in support of every student learning;
- b. collects and accurately communicates data about educational performance in a clear and timely way, relating specifics about the local context to improve policies and inform progressive political debates;
- c. communicates effectively with key decision makers in the community and in broader political contexts to improve public understanding of federal, state, and local laws, policies, regulations, and statutory requirements;
- d. advocates for increased support of excellence and equity in education.

E. Element C—Policy Engagement. Working with policymakers informs and improves education policymaking and effectiveness of the public's efforts to improve education.

1. Indicators. A leader:

- a. builds strong relationships with the school board, district and state education leaders, and policy actors to inform and influence policies and policymakers in the service of children and families;
- b. supports public policies that provide for present and future needs of children and families and improve equity and excellence in education;
- c. advocates for public policies that ensure appropriate and equitable human and fiscal resources and improve student learning;
- d. works with community leaders to collect and analyze data on economic, social, and other emerging issues that impact district and school planning, programs, and structures.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights 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., July 9, 2010, to Nina A. Ford,

State Board of Elementary and Secondary Education, P.O.
Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Jeanette Vosburg
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**
**RULE TITLE: Bulletin 125—Standards for Educational
Leaders in Louisiana**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The Louisiana Standards for Educational Leaders were approved by BESE in June 2006. Since that time, the National Standards have been updated to reflect changes in the skills educational leaders need to effectively lead schools and increase student achievement. The Department worked with the Chief Council of State School Officers (CCSSO) in 2007 to review and revise the Interstate School Leaders Licensure Consortium (ISLLC) standards for educational leaders. The result of the work was the Performance Expectations and Indicators for Educational Leaders. To determine how the revised standards aligned with the state standards the Department convened an Educational Leaders Task Force during the fall of 2009. It was determined that the new national Performance Expectations and Indicators be adopted as the state standards to ensure alignment and consistency with the national standards. The requirements are outlined in this policy. The cost associated with this rule change is approximately \$700 to prepare and print the document.

**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 1006#072	H. Gordon Monk Legislative Fiscal Officer Legislative Fiscal Office
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NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School
Administrators—Carnegie Credit for Middle School
Students (LAC 28: CXV.2321)

In accordance with R.S. 49:950, et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 741—Louisiana*

Handbook for School Administrators: §2321. Carnegie Credit for Middle School Students. This policy change adds Health Education and Journey to Careers to the list of courses that middle school students can take for high school credit. These are courses that students can take in the eighth grade and enable them to take more courses in high school.

**Title 28
EDUCATION**

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

Chapter 23. Curriculum and Instruction
§2321. Carnegie Credit for Middle School Students

A. Students in grades five through eight are eligible to receive Carnegie credit for courses in the high school program of studies in mathematics, science, social studies, English, foreign language, keyboarding/keyboarding applications, introduction to business computer applications, computer/technology literacy, health education, or Journey to Careers.

B. - F.1. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1293 (June 2005), amended LR 33:430 (March 2007), LR 33:2601 (December 2007), LR 34:609 (April 2008), LR 34:2031 (October 2008), LR 35:443 (March 2009), LR 35:2319 (November 2009), repromulgated LR 36:59 (January 2010), amended LR 36:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., August 9, 2010, to Nina A. Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Jeanette Vosburg
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 741—Louisiana Handbook for
School Administrators—Carnegie Credit
for Middle School Students**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

This policy change adds Health Education and Journey to Careers to the list of courses that middle school students can take for high school credit. There will be no costs or savings to state or local governmental units.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no effect on revenue collections of state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

There will be no costs or economic benefits to persons or non-governmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

There will be no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1006#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—Health Occupations (LAC 28:CXV.2381)

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*: §2381. Health Occupations. The proposed amendment reflects an additional one-hour credit for the Introduction to Emergency Medical Technology course. Introduction to Emergency Medical Technology is a basic level course for students prior to acceptance into Emergency Medical Technician-Basic (EMT-B). Since it requires a lower level of knowledge, some districts have asked that it be considered also as a one-credit course. The course content can be covered in this timeframe, thus leading to a two- or three-credit EMT-B course. Districts will be capable of offering their students a better opportunity to further their career path in the emergency health care area of concentration.

**Title 28
EDUCATION**

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

Chapter 23. Curriculum and Instruction

§2381. Health Occupations

A. Health Occupations course offerings shall be as follows.

Course Title(s)	Recommended Grade Level	Units
AHEC of a Summer Career Exploration	9-12	1/2
Allied Health Services I	10-12	1-2
Allied Health Services II	10-12	1-2
Cooperative Health Occupations	11-12	3
Dental Assistant I	10-12	1-2
Dental Assistant II	11-12	2-3
Emergency Medical Technician—Basic	12	2-3
First Responder	10-12	1/2-2
Health Occupations Elective I, II	9-12	1/2-3
Health Science I	11-12	1-2
Health Science II	12	1-2
Introduction to Emergency Medical Technology	10-12	1 - 2
Introduction to Health Occupations	9-12	1
Introduction to Pharmacy Assistant	10-12	1
Medical Assistant I	10-12	1-2
Medical Assistant II	11-12	1-2
Medical Assistant III	12	1-2
Medical Terminology	9-12	1
Nurse Assistant	10-12	2-3
Patient Care Technician	12	3
Pharmacy Technician	12	1-2
Sports Medicine I	10-12	1/2
Sports Medicine II	11-12	1/2
Sports Medicine III	11-12	1

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1300 (June 2005), amended LR 33:279 (February 2007), LR 33:1615 (August 2007), LR 33:2051 (October 2007), LR 35:1875 (September 2009), LR 35:2320 (November 2009), LR 35:2749 (December 2009), LR 36:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule effect the stability of the family? No.
2. Will the proposed Rule effect the authority and rights of parents regarding the education and supervision of their children? No.
3. Will the proposed Rule effect the functioning of the family? No.
4. Will the proposed Rule effect family earnings and family budget? No.
5. Will the proposed Rule effect 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., August 9, 2010, to Nina A. Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Jeanette Vosburg
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: **Bulletin 741—Louisiana Handbook for School Administrators—Health Occupations**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed revision will amend the Health Occupations course offerings to offer Introduction to Emergency Medical Technician-Basic as a one-credit course. It is estimated that there will be no additional implementation costs to state governmental units except for an estimated \$336 for printing the Bulletin 741 amendment in the *Louisiana Register* as a proposed rule and a final rule. It is anticipated that there will be no costs or savings to local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections by state/local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Secondary Career and Technical students will be the population affected by the rule change. This amendment will allow students to further their career path in the emergency health care career pathway.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will have no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1006#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—Alternative Path to Certification (LAC 28:CXXXI.233, 235, and 237)

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*: §233. The Practitioner Teacher Program Alternative Path to Certification (Minimum Requirements), §235. The Master's Degree Program Alternative Path to Certification (Minimum Requirements), and §237. Certification-Only Program Alternative Path to Certification. This revision in policy would allow the adoption of the Praxis: Teaching Reading (#0204) exam as a reading competency assessment for use by alternative certification candidates enrolled in a Practitioner Teacher Program, Certification-Only Alternate

Program and Master's Degree Alternate Program. According to current BESE policy, all alternate certification candidates must meet the reading competency requirements by either completing the same number of reading hours required for undergraduate candidates or by passing a reading competency assessment. Until now, a reading competency assessment aligned to the Louisiana Reading Competencies adopted by BESE has not been available.

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 §233. The Practitioner Teacher Program Alternative Path to Certification (Minimum Requirements)

A. - I.5.f.iii. ...

6. All candidates entering an alternate certification program after May 1, 2004, must demonstrate proficiency in the reading competencies as adopted by the BESE through either of the following:

a. successfully complete the same number of semester hours in reading as required for undergraduate teacher preparation programs:

i. early childhood PK-3, elementary 1-5 or general-special education mild/moderate 1-5 programs, nine hours;

ii. middle grades 4-8 programs or general-special education mild/moderate 4-8, six hours;

iii. secondary 6-12 all-level K-12 or general-special education mild/moderate 6-12 programs, three hours;

iv. special education areas (early interventionist, hearing impaired, significant disabilities, or visually impaired), nine hours; or

b. pass a reading competency assessment.

7. The reading competency assessment for early childhood PK-3, elementary 1-5, and special education candidates is the Praxis Teaching Reading exam (#0204). (middle grades 4-8 and secondary grades 6-12 will be required to take the required reading course credit hours or equivalent contact hours until an appropriate reading competency assessment is developed and adopted.)

J. - 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 36:

§235. The Master's Degree Program Alternative Path to Certification (Minimum Requirements)

A. - E.4.j. ...

5. prior to receiving a Level 1 or higher professional teaching certificate, a candidate who entered an alternate certification program after May 1, 2004, is required to demonstrate proficiency in the reading competencies as adopted by the BESE through either of the following:

a. successfully complete the same number of semester hours in reading as required for undergraduate teacher preparation programs:

i. early childhood PK-3 or elementary 1-5 programs, 9 hours;

- ii. middle grades 4-8 programs, 6 hours;
 - iii. secondary 6-12 or All-Level K-12 programs, 3 hours;
 - iv. special education areas (early interventionist, hearing impaired, significant disabilities, or visually impaired), 9 hours; or
- b. pass a reading competency assessment.

6. The reading competency assessment for early childhood PK-3, elementary 1-5, and special education candidates is the Praxis Teaching Reading exam (#0204). (middle grades 4-8 and secondary grades 6-12 will be required to take the required reading course credit hours or equivalent contact hours until an appropriate reading competency assessment is developed and adopted.)

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 36:

§237. Certification-Only Program Alternative Path to Certification

A. - D.3.e. ...

4. Reading Requirements. Candidates completing an alternate certification program after May 1, 2004, are required to demonstrate proficiency in the reading competencies as adopted by BESE through one of the following options:

- a. successfully complete same number of semester hours in reading as required for undergraduate teacher preparation programs:
 - i. early childhood PK-3 or elementary 1-5 programs, nine hours;
 - ii. middle grades 4-8 programs, six hours;
 - iii. secondary 6-12 or all-level K-12 programs, three hours;
 - iv. special education areas (early interventionist, hearing impaired, significant disabilities, or visually impaired), nine hours; or
- b. pass a reading competency assessment.

c. The reading competency assessment for early childhood PK-3, elementary 1-5, and special education candidates is the Praxis Teaching Reading exam (#0204). (middle grades 4-8 and secondary grades 6-12 will be required to take the required reading course credit hours or equivalent contact hours until an appropriate reading competency assessment is developed and adopted.)

D.5. - E.2.c. ...

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 36:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be

kept on file in the state board office which has adopted, amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records.

- 1. Will the proposed Rule affect the stability of the family? No.
- 2. Will the proposed Rule affect the authority and rights or parents regarding the education and supervision of their children? No.
- 3. Will the proposed Rule affect the functioning of the family? No.
- 4. Will the proposed Rule affect family earnings and family budget? No.
- 5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
- 6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., August 9, 2010, to Nina A. Ford, State Board of Elementary and Secondary Education, P. O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Jeanette Vosburg
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 746—Louisiana Standards for State Certification of School Personnel—Alternative Path to Certification

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This revision in policy would allow the adoption of the Praxis: Teaching Reading (#0204) exam as a reading competency assessment for use by alternative certification candidates enrolled in a Practitioner Teacher Program, Certification-Only Alternate Program and Master’s Degree Alternate Program. The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy will have no effect on revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1006#044

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—Alternate Teacher Preparation Programs
(LAC 28:CXXXI.233, 235, 237, 241, 243, 611, and 615)

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*: §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 would 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

§233. The Practitioner Teacher Program Alternative Path to Certification (Minimum Requirements)

A. - I.4.e. ..

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. foreign languages: World Languages Pedagogy (#0841);

g. general-special education mild/moderate: Education of Exceptional Students: Core Content Knowledge (#0353) and Education of Exceptional Students: Mild to Moderate Disabilities (#0542); 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 36:

§235. The Master's Degree Program Alternative Path to Certification (Minimum Requirements)

A. - E.3.f. ...

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. foreign languages : World Languages Pedagogy (#0841);
 - g. General-Special Education Mild/Moderate—Education of Exceptional Students: Core Content Knowledge (#0353) and Education of Exceptional Students: Mild to Moderate Disabilities (#0542); 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);
 - h. Special Education Early Interventionist Birth to Five Years—Education of Exceptional Students: Core Content Knowledge (#0353) and Principles of Learning and Teaching: Early Childhood (#0521)
 - i. Special Education Significant Disabilities 1-12—Education of Exceptional Students: Core Content Knowledge (#0353) and Education of Exceptional Students: Severe to Profound Disabilities (#0544);
 - j. Special Education Hearing Impaired K-12—Education of Exceptional Students: Core Content Knowledge (#0353) and Education of Exceptional Students: Hearing Impairment (#0271);
 - k. Special Education Visual Impairments/Blind K-12—Education of Exceptional Students: Core Content Knowledge (#0353);
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 36:

§237. Certification-Only Program Alternative Path to Certification

A. - E.1. ...

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 foreign languages : World Languages Pedagogy (#0841);

C. Certification Areas

1. Grades 6-12 Certification

vii. Special Education Early Interventionist Birth to Five Years—Education of Exceptional Students: Core Content Knowledge (#0353) and Principles of Learning and Teaching Early Childhood (#0521);

viii. Special Education Significant Disabilities 1-12—Education of Exceptional Students: Core Content Knowledge (#0353) and Education of Exceptional Students: Severe to Profound Disabilities (#0544);

ix. Special Education Hearing Impaired K-12—Education of Exceptional Students: Core Content Knowledge (#0353) and Education of Exceptional Students: Hearing Impairment (#0271);

x. Special Education Visual Impairments/Blind K-12—Education of Exceptional Students: Core Content Knowledge (#0353);

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 36:

§241. PRAXIS I SCORES

A. - B.Table. ...

Grades 6-12 Certification Areas			Score	PLT 7-12		
Agriculture	Agriculture (0700)	Effective 7/1/05	510	---	---	161
Business	Business Education (0100)	Prior to 5/31/04 Effective 6/1/04	540 570	---	---	161
	Business Education : Content Knowledge (0101)	Effective 9/18/10	154			
English	English Language, Literature, & Composition: Content Knowledge (0041) Pedagogy (0043)		160 130	---	---	161
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	PLT 7-12 (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	German (0180)	Prior to 6/30/06	500			
	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 Effective 6/1/07 Effective 6/1/10	125 130 135			
School Librarian	Library Media Specialist (0310)	Prior to 9/11/09	560	---	---	---
	Library Media Specialist (0311)	Effective 9/12/09	136			
Social Studies	Social Studies: Content Knowledge (0081)		149	---	---	161
	Interpretation of Materials (0083)		152			
Biology	Biology & General Science (0030)	Prior to 6/30/05	580	---	---	161
	Biology: Content Knowledge (0235)	Effective 7/1/05	150			
Chemistry	Chemistry/Physics/General Science (0070)	Prior to 6/30/06	530	161		
	Chemistry: Content Knowledge (0245)	Effective 7/1/06	151			
Earth Science	ble**					161
Environmental	None Available**					161
General Science	General Science: Content Knowledge (0435)	Effective 7/1/05	156	---	---	161
	Biology & General Science (0030) or	Prior to 6/30/05	580			

Grades 6-12 Certification Areas			Score	PLT 7-12		
Physics	Chemistry/Physics/General Science (0070)	Prior to 6/30/06	530			
	Chemistry/Physics/General Science (0070)	Prior to 6/30/06	530			161
Spanish	Physics: Content Knowledge (0265)	Effective 7/1/06	141			
	Spanish (0190)	Prior to 5/31/04	540	PLT 7-12 (Score 161) until 6/30/13; After 6/30/13 World Languages Pedagogy 0841 (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)	Education (0050)	Effective 7/1/05	600	---	---	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	161
Grades K-12 Dance	None Available**		---	161	or	154	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 Languages (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				
	Spanish (0190)	Prior to 5/31/04	540				
	Spanish: Content Knowledge (0191)	Effective 6/1/04	160				
	Spanish: World Language (0195)	Effective 10/15/10	157				
Grades K-12 Music	Music Education (0110)	Prior to 5/31/04	530	161	or	154	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	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.

D. - E. Table. ...

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 36:

§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			
Business	Business Education (0100)	Prior to 5/31/04	540	---	---	161
	Business Education: Content Knowledge (0101)	Effective 6/1/04	570			
		Effective 9/18/10	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			
	Pedagogy (0043)		130	---	---	161
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–		580	---	---	161
	Chemistry/Physics/General Science (0070)	Prior to 6/30/05	530			
	General Science: Content Knowledge (0435)	Effective 7/1/05	156			

Grades 6-12 Certification Areas						
				Score	PLT 7-12	
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	161	or	154	or	161
	French: Content Knowledge (0173)	Effective 6/1/04	156					
	German (0180)		500					
	German: Content Knowledge (0181)	Effective 7/1/06	151					
	Spanish (0190)	Prior to 5/31/04	540					
	Spanish: Content Knowledge (0191)	Effective 6/1/04	160					
Grades K-12 Music	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.

D. - E. Table. ...

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:

Chapter 6. Endorsements to Existing Certificates Subchapter A. Regular Education Level and Area Endorsements

§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)

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), or special education certificate must achieve the following:

1. passing score for Praxis secondary specialty area exam in the content area; or 30 credit hours in the specialty content area; and
2. passing Praxis score for Principles of Learning and Teaching 7-12 exam; or
3. passing Praxis score for World Languages Pedagogy (0841) if adding a foreign language after 6/30/13.

B. Individuals holding a valid secondary certificate (e.g., 6-12, 7-12, 9-12) or an All-Level K-12 certificate (art, dance, foreign language, health, physical education, health and physical education, and music), achieve one of the following:

1. passing score for Praxis secondary specialty area exam(s) required for the content area; or
2. 30 credit hours in the specialty content area.

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 32:1816 (October 2006), amended LR 36:

§615. Requirements to Add an All-Level (K-12) Area (Art, Dance, Foreign Language, Health and Physical Education, and Music)

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 one of the following:

1. passing score for Praxis specialty area exam in the area of endorsement; or
2. 30 semester hours in the specialty area; and
3. for any foreign language add-on after 6/30/13 a passing Praxis score for World Languages Pedagogy (0841) is required.

B. To Add a Second Music Area Endorsement: An individual already certified in either Instrumental Music or Vocal Music may add the second music area with coursework, as follows:

1. to add Instrumental Music, 12 semester hours to include brass, percussion, string, and woodwind instruments; or
2. to add Vocal Music, 12 semester hours to include piano and voice.

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 32:1816 (October 2006), amended LR 36:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights or parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., August 9, 2010, to Nina A. Ford,

State Board of Elementary and Secondary Education, P. O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Jeanette Vosburg
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 746—Louisiana Standards for State Certification of School Personnel—Alternate Teacher Preparation Programs

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This revision of the Praxis examination policy would 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 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
1006#043

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

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

Scholarship/Grant Programs—Rockefeller State Wildlife Scholarship
(LAC 28:IV. 1101, 1103, 1107, 1109, and 1111)

The Louisiana Student Financial Assistance Commission (LASFAC) announces its intention to amend its Scholarship/Grant rules (LSA-R.S. 17:3021-3025, LSA-R.S. 3041.10-3041.15, LSA-R.S. 17:3042.1, LSA-R.S. 17:3048.1, LSA-R.S. 17:3048.5 and LSA-R.S. 17:3048.6).

This rulemaking modifies the Rockefeller State Wildlife Scholarship Program beginning with awards made for the 2010-2011 academic year by changing the Program from a loan forgiveness program to a scholarship program, increasing the award amounts, and changing the eligibility requirements for receipt of the scholarship.

Title 28
EDUCATION

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

Chapter 11. Rockefeller State Wildlife Scholarship
§1101. General Provisions

A. - A.3. ...

B. Description, History and Purpose

1. The Rockefeller State Wildlife Scholarship Program was established in 1980 and is funded with dedicated monies. Through the 2009-2010 academic year, the program provided competitively awarded funds of \$1,000 per academic year to both undergraduate and graduate students majoring in forestry, wildlife, or marine science as it pertains to wildlife, with a requirement that the awardee repay the funds if the student did not earn a degree in one of these fields. Beginning with the 2010-2011 academic year, the program offers competitively awarded scholarships of \$2,000 per academic year for undergraduate students and \$3,000 per academic year for graduate students.

2.a. Through the 2009-2010 academic year, students accepting the Rockefeller State Wildlife Scholarship agreed:

i. to attain a degree in one of the required fields at a Louisiana public college or university offering such degrees; and

ii. if the student failed or fails to successfully complete an eligible course of study, to repay the funds with interest as per the agreement made between LASFAC and the student.

b. Beginning with the 2010-2011 academic year, the Rockefeller State Wildlife Scholarship Program is a pure scholarship for undergraduate students who have earned at least 60 credit hours and graduate students.

c. Students who received the award during the 2009-2010 academic year who have not yet earned 60 hours of academic credit may receive the award as a scholarship beginning with the 2010-2011 academic year if the requirements to maintain eligibility have been met.

C. Award Amounts

1. Through the 2009-2010 academic year:

a. the annual award is \$1,000;

b. the cumulative maximum award is \$7,000 for up to five years of undergraduate and two years of graduate study.

2. Beginning with the 2010-2011 academic year and thereafter:

a. the annual award is \$2,000 for undergraduate students;

b. the annual award is \$3,000 for graduate students;

c. the cumulative maximum award is \$12,000 for up to three years of undergraduate and two years of graduate study.

D. Award Disbursements

1. Through the 2009-2010 academic year, the award is disbursed:

a. at postsecondary institutions using semesters at the rate of \$500 each fall and spring semester; or

b. at postsecondary institutions using terms at the rate of \$333 for the fall and winter term and of \$334 for the spring term.

2. Beginning with the 2010-2011 academic year and thereafter, the award is disbursed:

a. at postsecondary institutions using semesters at the rate of:

i. \$1,000 each fall and spring semester for undergraduate students; and

ii. \$1,500 each fall and spring semester for graduate students; or

b. at postsecondary institutions using terms at the rate of:

i. \$667 for each fall and winter and of \$666 for the spring term for undergraduates; and

ii. \$1,000 for each fall, winter term and spring term for graduates.

3. In the event there are unawarded appropriated funds at the end of the spring semester or term, such funds may be disbursed pro-rata to students who received an award during the preceding academic year and are enrolled full-time during the summer.

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 24:639 (April 1998), amended LR 24:1908 (October 1998), repromulgated LR 27:1859 (November 2001), amended LR 34:235 (February 2008), LR 36:

§1103. Establishing Eligibility

A. - A.4.b. ...

5.a. beginning with the 2008-2009 academic year:

i through the 2009-2010 academic year, to be eligible for the award for both fall and spring semesters of the academic year (college), complete and submit the Rockefeller Wildlife Scholarship Application and a master promissory note so that they are received by LOSFA no later than July 1 preceding the fall semester for which the award is sought; or

ii to be eligible for the award, if funds are available for the spring semester of the academic year (college), complete and submit the Rockefeller Wildlife Scholarship Application and a master promissory note so that they are received by LOSFA no later than December 1 immediately preceding the spring semester for which the award is sought; and

b. beginning with the 2010-2011 academic year:

i. to be eligible for the scholarship for both fall and spring semesters of the academic year (college), complete and submit the Rockefeller Wildlife Scholarship Application so that it is received by LOSFA no later than July 1 preceding the fall semester for which the scholarship is sought; or

ii. to be eligible for the scholarship, if funds are available for the spring semester of the academic year (college), complete and submit the Rockefeller Wildlife Scholarship Application so that it is received by LOSFA no later than December 1 immediately preceding the spring semester for which the scholarship is sought; and

6. agree that award proceeds will be used exclusively for educational expenses; and

7. a. through the 2009-2010 academic year, be enrolled or accepted for enrollment as a full-time undergraduate or graduate student at a Louisiana public college or university majoring in forestry, wildlife or marine science as it pertains to wildlife, with the intent of obtaining a degree from a Louisiana public college or university offering a degree in one of the three specified fields; or

b. for the 2010-2011 academic year and thereafter, be an undergraduate recipient of the award during the 2009-2010 academic year and enrolled full-time or an undergraduate with at least 60 earned hours of college credit and enrolled full-time or graduate student and enrolled full-time at a Louisiana public college or university majoring in forestry, wildlife or marine science as it pertains to wildlife, with the intent of obtaining a degree from a Louisiana public college or university offering a degree in one of the three specified fields; and

8.a. through the 2009-2010 academic year, must have graduated from high school, and if at the time of application the student applicant has earned less than 24 hours of graded college credit since graduating from high school, have earned a minimum cumulative high school grade point average of at least 2.50 calculated on a 4.00 scale for all courses completed in grades 9 through 12, have taken the ACT or SAT and received test score results and, beginning with the 2006-2007 academic year (college), have an ACT Score of at least 20; or

b. beginning with the 2006-2007 academic year (college) and through the 2009-2010 academic year, must be a qualified home study completer and, if at the time of application the student applicant has earned less than 24 hours of graded college credit since graduating from high school, achieve an ACT Score of at least 22; or

c.i. through the 2009-2010 academic year, if, at the time of application, the student applicant has earned 24 or more hours of college credit, then the applicant must have at least a 2.50 cumulative college grade point average; or

ii. beginning with the 2010-2011 academic year, the student applicant has earned 60 or more hours of college credit with at least a 2.50 cumulative college grade point average; or

d. if, at the time of application, the student is in graduate school, then the applicant must have at least a 3.00 cumulative grade point average on all credits earned in graduate school.

9. Through the 2009-2010 academic year, to be a qualified home study completer for the purposes of this Section, the applicant must:

a. successfully complete at the twelfth grade level a home study program approved by BESE; or

b. if a Louisiana public high school, a Louisiana nonpublic high school, an approved non-Louisiana high school, or an out-of-state high school was previously attended, has provided LASFAC with certification by the previously attended high school that said student was in good standing at the time the student last attended such school.

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 24:639 (April 1998), amended LR 24:1908 (October 1998), LR 27:1220 (August 2001), repromulgated LR 27:1859 (November 2001), amended LR 28:774 (April 2002), LR 29:125 (February 2003), LR 30:2020 (September 2004), LR 33:87 (January 2007), LR 34:235 (February 2008), LR 36:

§1107. Maintaining Eligibility

A. To continue receiving the Rockefeller State Wildlife Scholarship, recipients must meet all of the following criteria:

1.a. for recipients first accepting the award through the 2009-2010 academic year, have received the scholarship for not more than seven academic years (five undergraduate and two graduate); or

b. for recipients first accepting the award for the 2010-2011 academic year and thereafter, have received the scholarship for not more than five academic years (three undergraduate and two graduate); and

A.2. - A.5. ...

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 24:640 (April 1998), amended LR 24:1909 (October 1998), repromulgated LR 27:1859 (November 2001), amended LR 31:2215 (September 2005), LR 34:235 (February 2008), LR 36:

§1109. Acceptance of Award

A.1. For recipients first accepting the award through the 2009-2010 academic year, prior to receiving an award, the recipient must agree to the terms and conditions contained in the Rockefeller State Wildlife Scholarship Program Promissory Note (LASFAC-Form RS02), by completing the form and returning it to LASFAC by the specified deadline. The promissory note obligates the recipient to obtain a Wildlife, Forestry or Marine Science degree or repay the scholarship funds received, plus accrued interest and any collection costs incurred;

2. For recipients accepting the award for the 2010-2011 academic year and thereafter, prior to receiving an award, the recipient must agree to the terms and conditions contained in the Rockefeller State Wildlife Scholarship Program Application, by completing the form and returning it to LASFAC by the specified deadline. The scholarship obligates the recipient to seek a Wildlife, Forestry or Marine Science degree or lose eligibility for future awards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:640 (April 1998), amended LR 24:1909 (October 1998), repromulgated LR 27:1860 (November 2001), amended LR 36:

§1111. Discharge of Obligation for Recipients First Accepting an Award through the 2009-2010 Academic Year

A. The loan obligation for awards received through the 2009-2010 academic year may be discharged by graduation in an eligible major, monetary repayment or cancellation.

B. - D.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:640 (April 1998), amended LR 24:1909 (October 1998), repromulgated LR 27:1860 (November 2001), amended LR 28:775 (April 2002), LR 30:780 (April 2004), LR 30:1168 (June 2004), LR 36:

Family Impact Statement

The proposed rule has no known impact on family formation, stability, or autonomy, as described in LSA-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. (SG10115NI)

Public Comments

Interested persons may submit written comments on the proposed changes (SG10115NI) until 4:30 p.m., July 12, 2010, 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—Rockefeller State Wildlife Scholarship**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no costs or savings to state or local governmental units due to this change. The proposed change restructures the Rockefeller State Wildlife Scholarship Program and modifies the eligibility requirements in a manner that will not result in an increase in expenditures.

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)

Rockefeller State Wildlife Scholarship recipients will receive a small benefit since they will now receive a higher scholarship amount. There are no estimated effects on economic benefits to non-governmental groups resulting from these measures.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no anticipated effects on competition and employment resulting from these measures.

George Badge Eldredge
General Counsel
1006#020

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

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

Scholarship/Grant Programs—Taylor Opportunity Program for Students (TOPS) (LAC 28:IV.703, 803)

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

This rulemaking identifies courses that have been determined to be equivalent to TOPS and TOPS-Tech core curriculum courses by the Board of Elementary and Secondary Education, the Board of Regents and this commission and adds these courses to the list of courses that may be completed to satisfy the TOPS and TOPS-Tech core curriculum requirements.

Title 28

EDUCATION

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

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

§703. Establishing Eligibility

A. - A.5.a.ii.(a). ...

(b). For students graduating in academic year (high school) 2006-2007 through the 2008-2009 academic year (high school), for purposes of satisfying the requirements of §703.A.5.a.i above, or §803.A.6.a, the following courses shall be considered equivalent to the identified core courses and may be substituted to satisfy corresponding core courses.

Core Curriculum Course	Equivalent (Substitute) Course
Physical Science	Integrated Science
Algebra I	Algebra I, Parts 1 and 2, Integrated Mathematics I
Applied Algebra IA and IB	Applied Mathematics I and II
Algebra I, Algebra II and Geometry	Integrated Mathematics I, II and III
Algebra II	Integrated Mathematics II
Geometry	Integrated Mathematics III
Geometry, Trigonometry, Calculus, or Comparable Advanced Mathematics	Pre-Calculus, Algebra III, Probability and Statistics, Discrete Mathematics, Applied Mathematics III*, Advanced Mathematics I[beginning with the 2008-2009 academic year (high school) this course is renamed Advanced Math – Pre-Calculus], Advanced Mathematics II [beginning with the 2008-2009 academic year (high school) this course is renamed Advanced Math –Functions and Statistics]
Chemistry	Chemistry Com
Fine Arts Survey	Speech III and Speech IV (both units)
Western Civilization	European History
Civics	AP American Government
*Applied Mathematics III was formerly referred to as Applied Geometry	

(c). For students graduating in academic year (high school) 2009-2010 and after, for purposes of satisfying the requirements of §703.A.5.a.i above, or §803.A.6.a, the following courses shall be considered equivalent to the identified core courses and may be substituted to satisfy corresponding core courses.

Core Curriculum Course	Equivalent (Substitute) Course
Physical Science	Integrated Science
Algebra I	Algebra I, Parts 1 and 2, Integrated Mathematics I, Applied Algebra I
Applied Algebra IA and IB	Applied Mathematics I and II
Algebra I, Algebra II and Geometry	Integrated Mathematics I, II and III
Algebra II	Integrated Mathematics II

Core Curriculum Course	Equivalent (Substitute) Course
Geometry	Integrated Mathematics III, Applied Geometry
Geometry, Trigonometry, Calculus, or Comparable Advanced Mathematics	Pre-Calculus, Algebra III, Probability and Statistics, Discrete Mathematics, Applied Mathematics III* Advanced Math – Pre-Calculus**, Advanced Math – Functions and Statistics***
Chemistry	Chemistry Com
Fine Arts Survey	Speech III and Speech IV (both units)
Western Civilization	European History
Civics	AP American Government
*Applied Mathematics III was formerly referred to as Applied Geometry	
**Advanced Math – Pre-Calculus was formerly referred to as Advanced Mathematics II.	
***Advanced Math – Functions and Statistics was formerly referred to as Advanced Mathematics II	

A.5.a.iii. – J.4.b.ii. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:636 (April 1998), amended LR 24:1902 (October 1998), LR 24:2237 (December 1998), LR 25:257 (February 1999), LR 25:655 (April 1999), LR 25:1794 (October 1999), LR 26:64, 67 (January 2000), LR 26:689 (April 2000), LR 26:1262 (June 2000), LR 26:1602 (August 2000), LR 26:1996, 1999, 2001 (September 2000), LR 26:2268 (October 2000), LR 26:2753 (December 2000), LR 27:36 (January 2001), LR 27:702 (May 2001), LR 27:1219, 1219 (August 2001), repromulgated LR 27:1850 (November 2001), amended LR 28:772 (April 2002), LR 28:2330, 2332 (November 2002), LR 29:125 (February 2003), LR 29:2372 (November 2003), LR 30:1162 (June 2004), LR 30:1471 (July 2004), LR 30:2019 (September 2004), LR 31:37 (January 2005), LR 31:2213 (September 2005), LR 31:3112 (December 2005), LR 32:2239 (December 2006), LR 33:435 (March 2007), LR 33:2357 (November 2007), LR 33:2612 (December 2007), LR 34:1389 (July 2008), LR 35:228 (February 2009), LR 36:312 (February 2010), LR 36:490 (March 2010), LR 36:

Chapter 8. TOPS-Tech Award

§803. Establishing Eligibility

A. - A.6.a.iii. ...

b. For students graduating in academic year (high school) 2008-2009 and after, for purposes of satisfying the requirements of §803.A.6.a above, the following courses shall be considered equivalent to the identified core courses and may be substituted to satisfy corresponding core courses.

Core Curriculum Course	Equivalent (Substitute) Course
Business English	Senior Applications in English
Geometry, Trigonometry, Calculus, or Comparable Advanced Mathematics	Math Essentials

c. for students in graduating classes prior to 2004, core units may be waived upon sworn affidavit by the principal or headmaster or authorized designee that the course was not available to the student at the school attended;

A.7. - B.4.b.ii. ...

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

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

Family Impact Statement

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972. The proposed Rule will have no adverse impact on small businesses as described in R.S. 49:965.2 et seq. (SG10116NI)

Public Comments

Interested persons may submit written comments on the proposed changes (SG10116NI) until 4:30 p.m., July 12, 2010, 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—Taylor Opportunity Program for Students (TOPS)

- 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)
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)
There are no estimated effects on economic benefits to directly affected persons or non-governmental groups resulting from these measures.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There are no anticipated effects on competition and employment resulting from these measures.

George Badge Eldredge
General Counsel
1006#019

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality Office of the Secretary Legal Affairs Division

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

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air regulations, LAC 33:III.1101 (AQ310).

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

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

LAC 33:1101.B currently references LAC 33:III.1503.D.2, Table 4 for the appropriate analytical method to verify compliance with the aforementioned opacity limitation. However, Table 4 lists both Method 9 and Method 22 of 40 CFR 60, Appendix A. Method 9 is appropriate for the determination of the opacity of emissions and for qualifying observers for visually determining opacity of emissions, whereas Method 22 requires only the determination of whether visible emissions occur and does not require the determination of opacity levels.

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

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

This Rule will provide consistency within state air regulations.

This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33 ENVIRONMENTAL QUALITY Part III. Air

Chapter 11. Control of Emissions of Smoke

§1101. Control of Air Pollution from Smoke

A. ...

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

C. During periods of *start-up* and *shutdown* as defined in LAC 33:III.111, emissions from any combustion unit subject to the opacity standard set forth in Subsection B of this Section may have an average opacity in excess of 20 percent for not more than one sixty-minute period in any twenty-four hour period.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:1081 (October 1995), amended by the Office of the Secretary, Legal Affairs Division, LR 36:

§1106. Test Methods and Procedures

A. Opacity shall be determined using the procedures found in Section 2 of Method 9 of 40 CFR Part 60, Appendix A. Opacity shall be read by any observer certified to perform Method 9 by a recognized smoke school or training program, following the requirements found in Section 3 of Method 9, except that the observer does not have to repeat training every 6 months as prescribed by Method 9 as long as the observer performs at least four readings in each calendar year. If an observer does not perform four readings in any calendar year, repeat training shall be required before that observer may resume opacity readings. In no case shall an observer go more than 2 years without repeat training.

B. As an alternative to the method set forth in Subsection A of this Section, an owner or operator may elect to use the analytical procedures of Method 22 of 40 CFR Part 60, Appendix A and assume that any smoke observed is greater than 20 percent opacity for purposes of demonstrating compliance with LAC 33:III.1101.B or C, or with LAC 33:III.1105.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 36:

§1107. Exemptions

A. ...

B. The opacity standards set forth in LAC 33:III.1101 do not apply to combustion units that combust only natural gas or other gaseous fuel.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2451 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2438 (October 2005), LR 33:2084 (October 2007), LR 36:

Family Impact Statement

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Public Hearing

A public hearing will be held on July 28, 2010, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Donald Trahan at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ310. Such comments must be received no later than August 4, 2010, at 4:30 p.m., and should be sent to Donald Trahan, Attorney Supervisor, Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3398 or by e-mail to donald.trahan@la.gov. Copies of these proposed regulations can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ310. 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: Control of Emissions of Smoke

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no costs or savings to state or local governmental units as a result of this rule.

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 and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition, so no effect on employment in the public or private sector will be realized.

Herman Robinson, CPM
Executive Counsel
1006#082

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Environmental Quality
Office of the Secretary
Legal Affairs Division**

Prevention of Significant Deterioration (Significance Level for Direct PM2.5 Emissions)(LAC 33:III.509)(AQ311ft)

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.509.B (Log #AQ311ft).

This Rule is identical to federal regulations found in 40 CFR 51.166(b)(23)(i), which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3985 or Box 4302, Baton Rouge, LA 70821-4302. No Fiscal or Economic Impact will result from the Rule. This Rule will be promulgated in accordance with the procedures in R.S. 49:953(F)(3) and (4).

This proposed Rule will amend LAC 33:III.509.B to establish a significance level for direct PM2.5 emissions equivalent to the federal rule. On May 16, 2008, the Environmental Protection Agency (EPA) promulgated a rule entitled "Implementation of the New Source Review (NSR) Program for Particulate Matter Less Than 2.5 Micrometers (PM2.5)" (73 FR 28321). The final rule established a significance level for direct PM2.5 emissions equal to 10 tons per year at 40 CFR 51.166(b)(23)(i).

The basis and rationale for this proposed rule is to maintain equivalency with the federal regulation 40 CFR 51.166(b)(23)(i). This rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

**Title 33
ENVIRONMENTAL QUALITY
Part III. Air**

Chapter 5. Permit Procedures

§509. Prevention of Significant Deterioration

A. - B. *Secondary Emissions* ...

Significant—

a. in reference to a net emissions increase or the potential of a source to emit any of the following pollutants,

a rate of emissions that would equal or exceed any of the following rates:

Pollutant	Emission Rate
Carbon monoxide	100 tons per year (tpy)
Nitrogen oxides	40 tpy
Sulfur dioxide	40 tpy
Particulate matter	25 tpy of particulate emissions
	15 tpy of PM ₁₀ emissions
	10 tpy of direct PM _{2.5} emissions
Ozone	40 tpy of volatile organic compounds or nitrogen oxides
Lead	0.6 tpy
Fluorides	3 tpy
Sulfuric acid mist	7 tpy
Hydrogen sulfide (H ₂ S)	10 tpy
Total reduced sulfur (including H ₂ S)	10 tpy
Reduced sulfur compounds (including H ₂ S)	10 tpy
Municipal waste combustor organics ¹	0.0000035 tpy
Municipal waste combustor metals ²	15 tpy
Municipal waste combustor acid gases ³	40 tpy
Municipal solid waste landfills emissions ⁴	50 tpy
¹ Measured as total tetra- through octa-chlorinated dibenzo-p-dioxins and dibenzofurans.	
² Measured as particulate matter.	
³ Measured as sulfur dioxide and hydrogen chloride.	
⁴ Measured as nonmethane organic compounds.	

b. - c. ...

B. Significant Emissions Increase – 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:

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 July 28, 2010, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Donald Trahan at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ311ft. Such comments must be received no later than July 28, 2010, at 4:30 p.m., and should be sent to Donald Trahan, Attorney Supervisor, Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or fax (225) 219-3398 or by e-mail to donald.trahan@la.gov. The comment period for this rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ311ft. 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

1006#081

NOTICE OF INTENT

Office of the Governor Division of Administration Racing Commission

Owners—Partnership, Limited Liability Company
(LAC 46:XLI.1107, 1109, 1115, 1119)

The Louisiana State Racing Commission hereby gives notice that it intends to amend the following Sections to clarify an existing Rule(s) which currently address corporations and partnerships. This Rule will permit the licensing of limited liability companies as owners.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLI. Horseracing Occupations

Chapter 11. Owners

§1107. Registration of Partnership and Limited Liability Company

A. ...

B. Each limited liability company must be registered with the commission, and its application must be signed by the member(s) or managing member(s) where designated. Every member having an interest of 5 percent or greater in the limited liability company shall be required to obtain an owner's license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, promulgated by the Department of Commerce, Racing Commission, LR 2:429 (December 1976), amended LR 3:25 (January 1977), LR 4:274 (August 1978), LR 36:

§1109. Partnership and Limited Liability Company Papers

A. - A.6. ...

B. Limited Liability Company shall, among other things, provide for the following:

1. the name and address of each and every member of the limited liability company;
2. the relative proportions of such interests;
3. whether management is reserved to the members or a manager
4. with whom the power of entry and declaration rests;
5. the terms of any contingency, lease or any other arrangement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, promulgated by the Department of Commerce, Racing Commission, LR 2:429 (December 1976), amended LR 3:25 (January 1977), LR 4:275 (August 1978), LR 36:

§1115. Alteration of Partnership or Limited Liability Company Registration

A. ...

B. Any alteration in a limited liability registration, to be effective, must be reported in writing to the racing secretary, signed by member(s) and/or managing member(s) possessing authority to bind the limited liability company, and approved by the stewards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, promulgated by the Department of Commerce, Racing Commission, LR 2:429 (December 1976), amended LR 3:25 (January 1977), LR 4:275 (August 1978), LR 36:

§1119. Percentage Interest

A. ...

B. Each member's percentage of interest in a limited liability company shall be declared in the application for license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, promulgated by the Department of Commerce, Racing Commission, LR 2:429 (December 1976), amended LR 3:25 (January 1977), LR 4:275 (August 1978), LR 9:546 (August 1983), LR 36:

Family Impact Statement

This proposed Rule has no known impact on family formation, stability, and/or autonomy as described in R.S. 49:972.

Public Comments

The domicile office of the Louisiana State Racing Commission is open from 8:00 a.m. to 4:30 p.m., and interested parties may contact Charles A. Gardiner III, executive director, or Larry Munster, assistant executive director, at (504) 483-4000 (holidays and weekends excluded), or by fax (504) 483-4898, for more information. All interested persons may submit written comments relative to this proposed Rule for a period up to 20 days exclusive of weekends and state holidays from the date of this publication

to 320 North Carrollton Avenue, Suite 2-B, New Orleans, LA 70119-5100.

Charles A. Gardiner III
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Owners—Partnership, Limited Liability Company**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The estimated implementation cost to the state will be minimal for printing a small number of new license forms.

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 are no estimated costs and/or economic benefits to directly affected persons or nongovernmental groups. This action clarifies existing rules by expressly permitting the licensing of limited liability companies as race horse owners.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed amended rules will have no effect on competition or employment.

Charles A. Gardiner III
Executive Director
1006#073

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Division of Administration
Racing Commission**

Stables—Registration, Corporations, Reports
(LAC 46:XLI.2103-2109)

The Louisiana State Racing Commission hereby gives notice that it intends to amend the following Rule to clarify an existing Rule(s) which currently address corporations and partnerships. This Rule will permit the licensing of limited liability companies as owners.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLI. Horseracing Occupations

Chapter 21. Stables

§2103. Stable Registration

A. Each stable name must be duly registered with the commission. In applying to race under a stable name, the applicant must disclose the identity or identities behind the stable names. If a partnership, limited liability company, or corporation is involved the rules covering such must be complied with.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, promulgated by the Department of Commerce, Racing

Commission, LR 2:429 (December 1976), amended LR 3:26 (January 1977), LR 4:275 (August 1978), LR 36:

§2105. Corporation

A. Any corporation or a lessee or lessees of a corporation shall be considered qualified to obtain a license as an owner or to obtain the right to race under a stable name if each member of the board of directors of the corporation owns at least five percent of the outstanding voting stock of the corporation and if each of the members of the board is also licensed as an owner and providing that the corporation and the lessee or lessees of the corporation are otherwise qualified for license. No other owner or officer of, or other person with an interest in such corporation shall be required to be licensed as an owner in order to race under a stable name. However, the name of such owner or other person with an interest in the corporation, together with his percentage ownership in such corporation or as an owner, shall be submitted to the commission before issuance of a license or right to race is granted by the commission to the corporation or its lessee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, promulgated by the Department of Commerce, Racing Commission, LR 2:430 (December 1976), amended LR 3:26 (January 1977), LR 4:275 (August 1978), LR 9:546 (August 1983), LR 36:

§2107. Reports

A. The stockholders or members of any corporation, limited liability company, or partnership, which owns or leases horses for racing purposes in the state of Louisiana and also any such corporation, limited liability company, or partnership, shall make and file with the commission as and when requested by it, a report or reports under oath containing such information as the commission may specify. Upon refusal or failure to file any such report or reports, the commission may refuse a license or may revoke any such license which it may have granted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, promulgated by the Department of Commerce, Racing Commission, LR 2:430 (December 1976), amended LR 3:26 (January 1977), LR 4:275 (August 1978), LR 9:546 (August 1983), LR 36:

§2109. Licensed Trainer Registering Stable

A. No licensed trainer of race horses shall register a stable name, except that a trainer may register the stable name of a limited liability company or partnership of which a trainer is a member or partner, provided that the use of such stable name has been authorized by the stewards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, promulgated by the Department of Commerce, Racing Commission, LR 2:430 (December 1976), amended LR 3:26 (January 1977), LR 4:275 (August 1978), LR 36:

Family Impact Statement

This proposed Rule has no known impact on family formation, stability, and/or autonomy as described in R.S. 49:972.

Public Comments

The domicile office of the Louisiana State Racing Commission is open from 8:00 a.m. to 4:30 p.m., and interested parties may contact Charles A. Gardiner III, executive director, or Larry Munster, assistant executive director, at (504) 483-4000 (holidays and weekends excluded), or by fax (504) 483-4898, for more information. All interested persons may submit written comments relative to this proposed rule for a period up to 20 days exclusive of weekends and state holidays from the date of this publication to 320 North Carrollton Avenue, Suite 2-B, New Orleans, LA 70119-5100.

Charles A. Gardiner III
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Stables—Registration,
Corporations, Reports**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The estimated implementation cost to the state will be minimal for printing a small number of new license forms.

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 are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups. This action clarifies existing rules by expressly permitting the licensing of limited liability companies as race horse owners.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed amended rules will have no effect on competition or employment.

Charles A. Gardiner III
Executive Director
1006#074

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Office of Elderly Affairs**

State Plan on Aging (LAC 4:VII.1301-1305)

In accordance with R.S. 49:950 et seq., the Administrative Procedures Act notice is hereby given that the Governor’s Office of Elderly Affairs (GOEA) intends to repeal and amend LAC 4:VII.1301-1305.

The purpose of this amended Rule is to acknowledge that the Office of Elderly Affairs will develop a State Plan that will be submitted to the U.S. Department of Health and Human Services, Administration on Aging to receive grants from its allotment under Title III of the Older Americans Act

of 1965 as amended (the Act). Title III authorizes formula grants to state agencies on aging to assist states and local communities to develop comprehensive and coordinated systems for the delivery of services to older persons.

Title 4

ADMINISTRATION

Part VII. Governor's Office

Chapter 13. State Plan on Aging

§1301. State Plan on Aging

A. To receive funding from the Older Americans Act the State Agency on Aging must have an approved State Plan on Aging. This plan must be on file with the Administration on Aging and be available for public review. At the minimum, the plan must include:

1. identification by the state of the sole state agency that has been designated to develop and administer the plan;

2. statewide program objectives to implement the requirements under Title III of the Act and any objectives established by the commissioner through the rulemaking process;

3. a resource allocation plan indicating the proposed use of all Title III funds administered by the state agency and the distribution of Title III funds to each planning and service area;

4. identification of the geographic boundaries of each planning and service area and of area agencies on aging;

5. prior federal fiscal year information related to low income minority and rural older individuals;

6. all assurances and provisions as outlined in the Older Americans Act and regulations, as well as the following assurances:

a. preference is given to older persons in greatest social or economic need in the provision of services under the plan;

b. procedures exist to ensure that all services under this part are provided without use of any means tests;

c. all services provided under Title III meet any existing state and local licensing, health and safety requirements for the provisions of those services;

d. older persons are provided opportunities to voluntarily contribute to the cost of services;

e. other such assurances as are needed for compliance with the Act, regulations, other applicable federal law, state statutes, and/or state policy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:932(8).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 11:342 (April 1985), amended LR 12:366 (June 1986), LR 12:511 (August 1986), LR 13:569 (October 1987), LR 17:1207 (December 1991), LR 19:1317 (October 1993), LR 23:1146 (September 1997), LR 26:1610 (August 2000), LR 30:1695 (August 2004), LR 36:

§1303. Development of the State Plan

A. The state agency will develop a state plan according to the following:

1. elect to utilize a one-, two-, three-, or four-year format for the state plan;

2. develop a data profile on the older Louisianans from available census data;

3. conduct statewide needs assessment activities including, but not limited to, public hearings;

4. assurances for state and area agencies on aging as set forth by the Older Americans Act;

5. goals and objectives;

6. publicize public hearing(s) giving dates, times, locations to public officials and other interested parties for their participation;

7. conduct public hearings and incorporate written and verbal comments into the revised plan, as appropriate;

8. submit final revised plan for approval by the governor;

9. submit approved plan from the governor to the Administration on Aging Regional Office for approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:932(8).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 11:342 (April 1985), amended LR 12:366 (June 1986), LR 12:511 (August 1986), LR 13:569 (October 1987), LR 15:263 (April 1989), LR 17:1207 (December 1991), LR 19:1317 (October 1993), LR 23:1146 (September 1997), LR 26:1611 (August 2000), LR 30:1696 (August 2004), LR 36:

§1305. Intrastate Funding Formula

A. Intrastate Funding Formula

1. The following is a descriptive summary of the current Intrastate Funding Formula's assumptions and goals, and the application of the definitions of greatest economic or social need and a demonstration of the allocation of funds, pursuant to the formula, to each PSA.

2. Descriptive Statement

a. The current intrastate funding formula for the distribution of Older Americans Act Title III funds in Louisiana provides for a base allocation by parish. The following factors are considered in the distribution of funds remaining after base allocations are made: population aged 60 and over; population aged 60 and over below the Bureau of the Census poverty threshold; population aged 75 and over; and land area in square miles. Each of these factors is derived by dividing the planning and service area total by the state total.

b. Population aged 60 and over, and land area in square miles is assigned weights of one each. Population aged 60 and over below the Bureau of the Census poverty threshold is assigned a weight of nine-tenths. Population aged 75 and over is assigned a weight of one-tenth. The sum of these four factors is three.

c. Those elderly in greatest economic need are defined as persons aged 60 and older whose incomes are at or below the poverty threshold established by the Bureau of the Census. Those elderly in greatest social need are defined as persons aged 60 and over who have needs based on noneconomic factors such as social isolation caused by living in remote areas, or who are especially vulnerable due to the heightened possibility of frailty among elderly aged 75 and older. Other social needs are those, which restrict an elderly individual's ability to perform normal daily tasks, or which restrict his or her ability to live independently; they can be caused by racial or ethnic status, or language barriers. The intrastate funding formula accounts for these individuals by not allocating funds solely on the basis of population. The land area in square miles factor is included to compensate area agencies serving predominantly rural areas for the special problems encountered by sparse populations who may be spread over large geographical areas. The four funding factors combine to meet the special needs of socially

and economically needy elderly, urban elderly and rural elderly.

d. The base funding allocation of \$12,000 per parish is established on the assumption that this amount represents a minimum allocation for the administration of Older Americans Act programs. There is an increasing need to provide a continuum of care for the very old (aged 75 and older) as this segment of the population gets larger each year. Funding limitations dictate that this group is given special emphasis.

3. Numerical Statement of the Intrastate Funding Formula

- a. Base Allocation per PSA: \$12,000 per parish.
- b. Formula Allocation per PSA:

Factors	Weight
PSA 60+ Population	1.0
State 60 + Population	
PSA 60+ Below Poverty Threshold	0.9
State 60+ Population Below Poverty Threshold	
PSA Land Mass in Square Miles	1.0
State Land Mass in Square Miles	
PSA 75+ Population	0.1
State 75+ Population	
Sum	3.0

4. PSA FORMULA = (i) X 1 + (ii) X 0.9 + (iii) X 1 + (iv) X 0.1

3

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:932(8).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 11:342 (April 1985), amended LR 12:366 (June 1986), LR 12:511 (August 1986), LR 13:569 (October 1987), LR 17:1207 (December 1991), LR 19:1317 (October 1993), LR 23:1146 (September 1997), LR 26:1611 (August 2000), LR 30:1696 (August 2004), LR36:

§1307. - §1323. Reserved.

Family Impact Statement

1. The effect of this Rule on the stability of the family. This rule does not affect 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 does not deal with the education or supervision of children and will not make an impact of families with children.

3. The effect of this Rule on the functioning of the family. This Rule does not affect the functioning of the family.

4. The effect of this Rule on the behavior and personal responsibly of children. This Rule does not deal with children and will not have any impact.

5. The effect of this Rule on the ability of the family or local government to perform the function as contained in the proposed rule. N/A

Public Comments

Interested person should submit written comments on the proposed Rule to Margaret McGarity, Office of Elderly Affairs through the close of business on June 29, 2010 at 525 Florida Street, 4th Floor, Baton Rouge, LA 70801.

Paul Colomb
Appointing Authority

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: State Plan on Aging

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The only cost of implementation is the minimal cost of printing the plan and publishing the rulemaking. No saving to the state is anticipated, and there are no anticipated costs or savings to local governmental units. The Older American’s Act requires that state units on aging submit a new State Plan at least every four years. This plan is approved by the Administration on Aging before funding is released to the state unit on aging.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will not affect revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule outlines the requirements of the state agency in fulfilling its mission as prescribed in the Older American’s Act. There will be no additional costs to the Governor’s Office of Elderly Affairs contractors and subcontractors, including area agencies on aging, parish councils on aging and other service providers, or the elderly residents of the state. This proposed rule will not make any changes in the economic benefits to the elderly.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule is not anticipated to have any effect on competition or employment in the public or private sectors.

Paul H. Colomb
Appointing Authority
1006#059

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

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

Adult Dentures Program
Denture Replacement and Reline Limits
(LAC 50:XXV.503)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:XXV.503 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 10 of the 2009 Regular Session of the Louisiana Legislature which states: “The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, and other measures as permitted under federal law.” This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:950 et seq..

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repealed the provisions governing adult denture services in LAC 50:XVII under the Durable Medical Equipment Program and repromulgated these provisions as LAC 50:XXV Chapters 1-7 (*Louisiana Register*, Volume 31, Number 7).

As a result of a budgetary shortfall in state fiscal year 2010, the bureau promulgated an Emergency Rule which amended the provisions of the July 20, 2005 Rule governing the Adult Denture Program to extend the time period allowed for denture replacements and relines (*Louisiana Register*, Volume 36, Number 2). This proposed Rule is being promulgated to continue the provisions of the January 22, 2010 Emergency Rule.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXV. Adult Dentures

Chapter 5. Covered Services

§503. Denture Replacement and Denture Reline

A. Effective for dates of service on or after January 22, 2010, only one complete or partial denture per arch is allowed in an eight-year period. The eight-year time period begins from the date that the previous complete or partial denture for the same arch was delivered. A combination of two complete or partial denture relines per arch or one complete or partial denture and one reline per arch is allowed in an eight-year period, as prior authorized by the bureau or its designee.

B. - C. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:81 (January 2005), repromulgated LR 31:1589 (July 2005), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

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

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule may have an adverse impact on family functioning, stability and autonomy as described in R.S. 49:972 due to recipients having to wait longer to get dentures replaced or relined

Public Comments

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

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, July 28, 2010 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally

or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Alan Levine
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Adult Dentures Program Denture Replacement and Reline Limits

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in estimated programmatic savings to the state of approximately \$15,212 for FY 09-10, \$68,161 for FY 10-11 and \$86,449 for FY 11-12. It is anticipated that \$328 (\$164 SGF and \$164 FED) will be expended in FY 09-10 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on the current Federal Medical Assistance Percentage (FMAP) as allowed in the American Recovery and Reinvestment Act of 2009 (81.48%). Additional federal funds are projected to be available in the current year through December 2010. To the extent that DHH utilizes federal match, up to the allowable match for the eligibility period (through December 2010), state general fund match could be reduced. In January of FY 10-11, the FMAP is anticipated to drop to 68.04%. In the event of this decrease, the state general funds will increase to the federally required match.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately \$67,485 for FY 09-10, \$201,889 for FY 10-11 and \$191,702 for FY 11-12. It is anticipated that \$164 will be expended in FY 09-10 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on the current Federal Medical Assistance Percentage (FMAP) as allowed in the American Recovery and Reinvestment Act of 2009 (81.48%). Additional federal funds are projected to be available in the current year through December 2010. To the extent that DHH utilizes federal match, up to the allowable match for the eligibility period (through December 2010), state general fund match could be reduced. In January of FY 10-11, the FMAP is anticipated to drop to 68.04%. In the event of this decrease, the state general funds will increase to the federally required match.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule is being promulgated to continue the provisions of the January 22, 2010 emergency rule which amended the provisions governing the Adult Denture Program to extend the time period allowed for denture replacements and relines (approximately 23 service types). It is anticipated that implementation of this proposed rule will reduce program expenditures in the Medicaid Program by approximately \$83,025 for FY 09-10, \$270,050 for FY 10-11 and \$278,151 for FY 11-12.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition and employment.

Don Gregory
Medicaid Director
1006#103

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

**Early and Periodic Screening, Diagnosis and Treatment
Dental Program Reimbursement Rate Reduction
(LAC 50:XV.6905)**

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:XV.6905 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 10 of the 2009 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management and other measures as permitted under federal law." This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:950 et seq.

As a result of the allocation of additional funds during the 2008 Regular Session of the Louisiana Legislature, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for dental services covered under the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program to include coverage of two additional dental procedures, increase the reimbursement fees for designated dental services, discontinue the lifetime service limits for certain endodontic procedures and provide clarification regarding covered services (*Louisiana Register*, Volume 35, Number 9).

As a result of a budgetary shortfall in state fiscal year 2010, the bureau determined that it was necessary to reduce the reimbursement fees for dental services in the EPSDT Dental Program (*Louisiana Register*, Volume 36, Number 2). This proposed Rule is being promulgated to continue the provisions of the January 22, 2010 Emergency Rule.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 5. Early and Periodic Screening, Diagnosis and Treatment

Chapter 69. Dental Services

§6905. Reimbursement

A. - C. ...

D. Effective for dates of service on or after January 22, 2010, the reimbursement fees for EPSDT dental services shall be reduced to the following percentages of the 2008 National Dental Advisory Service Comprehensive Fee Report 70th percentile, unless otherwise stated in this Chapter:

1. 73 percent for diagnostic oral evaluation services;
2. 70 percent for the following periodic diagnostic and preventive services:
 - a. radiographs—periapical, first film;
 - b. radiograph—periapical, each additional film;
 - c. radiograph—panoramic film;

- d. prophylaxis—adult and child;
- e. topical application of fluoride, 0-15 years of age (prophylaxis not included); and
- f. topical fluoride varnish, therapeutic application for moderate to high caries risk patients (under 6 years of age); and

3. 65 percent for the remainder of the dental services.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:1138 (June 2007), amended LR 34:1032 (June 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1890 (September 2009), amended LR 36:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule may have an adverse impact on family functioning, stability or autonomy as described in R.S. 49:972 in the event that provider participation in the Medicaid Program is diminished as a result of reduced reimbursement rates.

Public Comments

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

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, July 28, 2010 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Alan Levine
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Early and Periodic Screening, Diagnosis and Treatment Dental Program Reimbursement Rate Reduction

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in estimated programmatic savings to the state of approximately \$590,823 for FY 09-10, \$2,315,135 for FY 10-11 and \$2,936,332 for FY 11-12. It is anticipated that \$328 (\$164 SGF and \$164 FED) will be expended in FY 09-10 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on the current Federal Medical Assistance Percentage (FMAP) as allowed in the American Recovery and Reinvestment Act of 2009 (81.48%). Additional federal funds are projected to be available in the current year through December 2010. To the extent that DHH utilizes federal match, up to the allowable match for the eligibility period (through December 2010), state general fund match could be reduced. In January of FY 10-11, the FMAP is anticipated to drop to

68.04%. In the event of this decrease, the state general funds will increase to the federally required match.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately \$2,599,923 for FY 09-10, \$6,857,347 for FY 10-11 and \$6,511,325 for FY 11-12. It is anticipated that \$164 will be expended in FY 09-10 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on the current Federal Medical Assistance Percentage (FMAP) as allowed in the American Recovery and Reinvestment Act of 2009 (81.48%). Additional federal funds are projected to be available in the current year through December 2010. To the extent that DHH utilizes federal match, up to the allowable match for the eligibility period (through December 2010), state general fund match could be reduced. In January of FY 10-11, the FMAP is anticipated to drop to 68.04%. In the event of this decrease, the state general funds will increase to the federally required match.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule is being promulgated to continue the provisions of the January 22, 2010 emergency rule which reduced the reimbursement fees for dental services in the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Dental Program (approximately 1,168 providers). It is anticipated that implementation of this proposed rule will reduce program expenditures in the EPSDT Dental Program by approximately \$3,191,074 for FY 09-10, \$9,172,482 for FY 10-11 and \$9,447,657 for FY 11-12.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition. However, it is anticipated that implementation of this proposed rule may have a negative effect on employment as it will reduce the reimbursement fees paid for EPSDT dental services. The reduction in payments may adversely impact the financial standing of dentists and could possibly cause a reduction in employment opportunities.

Don Gregory
Medicaid Director
1006#104

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

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

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:XI.6901 and §6903 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 10 of the 2009 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior

authorization, service limitations, drug therapy management, disease management and other measures as permitted under federal law." This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:950 et seq.

As a result of a budgetary shortfall in state fiscal year 2009, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for end stage renal disease (ESRD) facilities to reduce the reimbursement rates (*Louisiana Register*; Volume 35, Number 9).

As a result of a budgetary shortfall in state fiscal year 2010, the bureau determined that it was necessary to further reduce the reimbursement rates for services rendered by end stage renal disease facilities (*Louisiana Register*; Volume 36, Number 2). This proposed Rule is being promulgated to continue the provisions of the January 22, 2010 Emergency Rule.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XI. Clinic Services

Subpart 9. End Stage Renal Disease Facilities

Chapter 69. Reimbursement

§6901. Non-Medicare Claims

A. - C. ...

D. Effective for dates of service on or after January 22, 2010, the reimbursement to ERSR facilities shall be reduced by 5 percent of the rates in effect on January 21, 2010.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1022 (May 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1891 (September 2009), amended LR 36:

§6903. Medicare Part B Claims

A. - C. ...

D. Effective for dates of service on or after January 22, 2010, the reimbursement to ERSR facilities for Medicare Part B claims shall be reduced by 5 percent of the rates in effect on January 21, 2010.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1891 (September 2009), amended LR 36:

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

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule may have an adverse impact on family functioning, stability or autonomy as described in R.S. 49:972 in the event that provider participation in the Medicaid Program is diminished as a result of reduced reimbursement rates.

Public Comments

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

91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, July 28, 2010 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Alan Levine
Secretary

approximately \$539,362 for FY 09-10, \$1,801,761 for FY 10-11 and \$1,855,813 for FY 11-12.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition. However, it is anticipated that implementation of this proposed rule may have a negative effect on employment as it will reduce the reimbursement rates made to end stage renal disease facilities. The reduction in payments may adversely impact the financial standing of providers and could possibly cause a reduction in employment opportunities.

Don Gregory
Medicaid Director
1006#105

Robert E. Hosse
Staff Director
Legislative Fiscal Office

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: End Stage Renal Disease Facilities—Reimbursement Rate Reduction

NOTICE OF INTENT

Department of Health and Hospitals Bureau of Health Services Financing

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in estimated programmatic savings to the state of approximately \$99,726 for FY 09-10, \$454,765 for FY 10-11 and \$576,787 for FY 11-12. It is anticipated that \$328 (\$164 SGF and \$164 FED) will be expended in FY 09-10 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on the current Federal Medical Assistance Percentage (FMAP) as allowed in the American Recovery and Reinvestment Act of 2009 (81.48%). Additional federal funds are projected to be available in the current year through December 2010. To the extent that DHH utilizes federal match, up to the allowable match for the eligibility period (through December 2010), state general fund match could be reduced. In January of FY 10-11, the FMAP is anticipated to drop to 68.04%. In the event of this decrease, the state general funds will increase to the federally required match.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately \$439,308 for FY 09-10, \$1,346,996 for FY 10-11 and \$1,279,026 for FY 11-12. It is anticipated that \$164 will be expended in FY 09-10 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on the current Federal Medical Assistance Percentage (FMAP) as allowed in the American Recovery and Reinvestment Act of 2009 (81.48%). Additional federal funds are projected to be available in the current year through December 2010. To the extent that DHH utilizes federal match, up to the allowable match for the eligibility period (through December 2010), state general fund match could be reduced. In January of FY 10-11, the FMAP is anticipated to drop to 68.04%. In the event of this decrease, the state general funds will increase to the federally required match.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule is being promulgated to continue the provisions of the January 22, 2010 emergency rule which reduced the reimbursement rates paid for services rendered by end stage renal disease (ESRD) facilities (approximately 148 facilities). It is anticipated that implementation of this proposed rule will reduce expenditures in the Medicaid Program by

Home and Community-Based Service Providers Minimum Licensing Standards (LAC 48:I.Chapter 50)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt LAC 48:I.Chapter 50 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 40:2120.1. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Act 839 of the 2008 Regular Session of the Louisiana Legislature directed the Department of Health and Hospitals to adopt provisions governing the minimum licensing standards for home and community-based services (HCBS) providers and gave the department the authority to issue a single license to all providers of home and community-based services rather than a separate license for each provider type. Providers of the following services will be licensed under the comprehensive licensing standards: Adult Day Care, Family Support, Personal Care Attendant (PCA), Respite Care, Substitute Family Care, Supervised Independent Living (SIL) and Supported Employment. In compliance with the directives of Act 839, the department proposes to revise and combine the existing licensing standards for providers of Adult Day Care services, Family Support services, Personal Care services, Respite Care services, and Supervised Independent Living services, and to adopt minimum licensing standards for providers of Substitute Family Care and Supported Employment services in order to establish comprehensive HCBS provider licensing standards and a single HCBS license.

Title 48

PUBLIC HEALTH—GENERAL

Part 1. General Administration

Subpart 3. Licensing and Certification

Chapter 50. Home and Community-Based Services Providers Licensing Standards

Subchapter A. General Provisions

§5001. Introduction

A. Pursuant to R.S. 40:2120.2, the Department of Health and Hospitals hereby establishes the minimum licensing

standards for home and community-based services (HCBS) providers. These licensing provisions contain the core requirements for HCBS providers as well as the module-specific requirements, depending upon the services rendered by the HCBS provider.

B. Any person or entity applying for an HCBS provider license or who is operating as a provider of home and community-based services shall meet all of the core licensing requirements contained in this Chapter, as well as the module-specific requirements, unless otherwise specifically noted within these provisions.

C. Providers of the following services shall be licensed under the HCBS license:

1. Adult Day Care (ADC);
2. Family Support;
3. Personal Care Attendant (PCA);
4. Respite;
5. Substitute Family Care (SFC);
6. Supervised Independent Living (SIL), including the Shared Living Conversion services in a waiver home; and
7. Supported Employment.

D. The following entities shall be exempt from the licensure requirements for HCBS providers:

1. any person, agency, institution, society, corporation, or group that solely:
 - a. prepares and delivers meals;
 - b. provides sitter services; or
 - c. provides housekeeping services;
2. any person, agency, institution, society, corporation, or group that provides gratuitous home and community-based services;
3. any individual licensed practical nurse (LPN) or registered nurse (RN) who has a current Louisiana license in good standing and who provides personal nursing services in the home to an individual, provided that the nurse has contracted with the individual or family for such services and payment of such services;
4. staffing agencies that supply contract workers to a health care provider licensed by the department; and
5. any person who is employed as part of a departmentally authorized self-direction program;
 - a. for purposes of these provisions, a self-direction program shall be defined as a service delivery option based upon the principle of self-determination. The program enables participants and/or their authorized representative(s) to become the employer of the people they choose to hire to provide supports to them.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

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

§5003. Definitions

Activities of Daily Living—the functions or tasks which are performed either independently or with supervision that assist an individual to live in a community setting, or that provide assistance for mobility (i.e., bathing, dressing, eating, grooming, walking, transferring and toileting).

Adult Day Care Services—structured and comprehensive services provided in a group setting that are designed to meet the individual needs of adults with functional impairments. This program provides a variety of health, social and related support services in a protective setting for a portion of a 24-hour day.

Client—an individual who is receiving services from a home and community-based service provider.

Department—the Louisiana Department of Health and Hospitals (DHH) or any of its sections, bureaus, offices or its contracted designee.

DHH Region—the geographical administrative regions designated by the Department of Health and Hospitals.

Developmental Disability—a severe, chronic condition as defined in the Developmental Disabilities Law of 2005, R.S. 28:451.1-455.2.

Family Support Services—advocacy services, family counseling, including genetic counseling, family subsidy programs, parent-to-parent outreach, legal assistance, income maintenance, parent training, homemaker services, minor home renovations, marriage and family education, and other related programs.

Health Standards Section—the licensing and certification section of the Department of Health and Hospitals.

Home and Community-Based Service Provider—an agency, institution, society, corporation, person(s) or any other group licensed by the department to provide one or more home and community-based services as defined in R.S. 40:2120.1 or these licensing provisions.

Incident—a death, serious illness, allegation of abuse, neglect or exploitation or an event involving law enforcement or behavioral event which causes serious injury to the client or others.

Individual Service Plan—a service plan developed for each client that is based on a comprehensive assessment which identifies the individual's strengths and needs in order to establish goals and objectives so that outcomes to service delivery can be measured.

Instrumental Activities of Daily Living—the functions or tasks that are not necessary for fundamental functioning but assist an individual to be able to live in a community setting. These are activities such as light house-keeping, food preparation and storage, grocery shopping, laundry, reminders to take medication, scheduling medical appointments, arranging transportation to medical appointments and accompanying the client to medical appointments.

Personal Care Attendant Services—services required for a person with a disability to become physically independent to maintain physical function or to remain in, or return to, the community.

Respite Care—an intermittent service designed to provide temporary relief to unpaid, informal caregivers of the elderly and/or people with disabilities.

Service Area—the DHH administrative region in which the provider's geographic business location is located and for which the license is issued.

Substitute Family Care Caregiver—a single or dual parent family living in a home setting which has been certified through a home study assessment as adequate and appropriate to provide care to the client by the SFC provider. At least one family member will be designated as a principal SFC caregiver.

Substitute Family Care Services—provide 24-hour personal care, supportive services and supervision to adults who meet the criteria for having a developmental disability.

Supervised Independent Living via a Shared Living Conversion Model—a home and community-based shared

living model for up to six persons, chosen by clients of the Residential Options Waiver (ROW), or any successor waiver, as their living option.

Supervised Independent Living Services—necessary training, social skills and medical services to enable a person who has mental illness or a developmental disability, and who is living in congregate or individual apartments, to live as independently as possible in the community.

Supported Employment—a system of supports for people with disabilities in regards to ongoing employment in integrated settings. Supported employment can provide assistance in a variety of areas including:

1. job development;
2. job coaches;
3. job retention;
4. transportation;
5. assistive technology;
6. specialized job training; and
7. individually tailored supervision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

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

§5005. Licensure Requirements

A. All HCBS providers shall be licensed by the Department of Health and Hospitals. It shall be unlawful to operate as a home and community-based service provider without a license issued by the department. DHH is the only licensing authority for HCBS providers in Louisiana.

B. An HCBS license shall:

1. be issued only to the person or entity named in the license application;
2. be valid only for the HCBS provider to which it is issued and only for the specific geographic address of that provider;
3. designate which home and community-based services the provider can provide;
4. enable the provider to render delineated home and community-based services within a DHH region;
5. be valid for one year from the date of issuance, unless revoked, suspended, modified or terminated prior to that date, or unless a provisional license is issued;
6. expire on the last day of the twelfth month after the date of issuance, unless timely renewed by the HCBS provider;
7. not be subject to sale, assignment, donation or other transfer, whether voluntary or involuntary; and
8. be posted in a conspicuous place on the licensed premises at all times.

C. An HCBS provider shall provide only those home and community-based services or modules specified on its license and only to clients residing in the provider's designated service area, DHH Region or at the provider's licensed location.

D. An HCBS provider may apply for a waiver from the Health Standards Section (HSS) to provide services to a client residing outside of the provider's designated service area or DHH Region only under the following condition.

1. A waiver may be granted by the department if there is no other HCBS provider in the client's service area or DHH Region that is licensed and that has the capacity to provide the required services to the client, or for other good cause shown by the HCBS provider and client.

2. The provider must submit a written waiver request to HSS prior to providing services to the client residing outside of the designated service area or DHH Region.

3. The written waiver request shall be specific to one client and shall include the reasons for which the waiver is requested.

4. The waiver is client specific.

E. In order for the HCBS provider to be considered operational and retain licensed status, the provider shall meet the following conditions.

1. Each HCBS provider shall have a business location which shall not be located in an occupied personal residence and shall conform to the provisions of §5027 of this Chapter.

a. The business location shall be part of the licensed location of the HCBS provider and shall be in the DHH Region for which the license is issued.

b. The business location shall have at least one employee on duty at the business location during stated hours of operation.

c. An HCBS provider which provides ADC services or out of home (center-based) respite care services may have the business location at the ADC building or center-based respite building.

2. Adult day care facilities shall provide services a minimum of five hours per day, five days per week. Center-based respite facilities shall provide services 24 hours per day, at least three consecutive days per week. All other HCBS providers shall render services at all times to clients receiving services in the home, according to the individual service plan (ISP).

3. There shall be adequate direct care staff and professional services staff employed and available to be assigned to provide services to persons in their homes at all times, and for persons receiving ADC services and center-based respite services, during the provider's or facility's hours of operation.

4. Each HCBS provider shall have a published telephone number which is available and accessible 24 hours a day, seven days a week, including holidays.

F. The licensed HCBS provider shall abide by and adhere to any state law, rule, policy, procedure, manual or memorandum pertaining to HCBS providers.

G. A separately licensed HCBS provider shall not use a name which is substantially the same as the name of another HCBS provider licensed by the department. An HCBS provider shall not use a name which is likely to mislead the client or family into believing it is owned, endorsed or operated by the State of Louisiana.

H. Upon promulgation of the final Rule governing these provisions, existing providers of the following home and community-based services shall be required to apply for an HCBS provider license at the time of renewal of their current license(s):

1. Adult Day Care;
2. Family Support;
3. Personal Care Attendant;
4. Respite;
5. Supervised Independent Living; and
6. Supported Employment.

I. If an existing provider currently has multiple licenses, such as PCA, Respite and SIL, the provider shall be required to apply for an HCBS provider license at the time the first

such license is due for renewal. The HCBS provider license shall include all modules for which the provider is currently licensed, and will replace all of the separate licenses.

J. If applicable, each HCBS provider shall obtain facility need review approval prior to licensing.

1. An existing licensed PCA, Respite or SIL provider who is applying for an HCBS provider license at the time of license renewal shall not be required to apply for facility need review approval. However, if an existing licensed provider, who is not currently providing PCA, Respite or SIL services wants to begin providing these services, the provider shall be required to apply for facility need review approval for each of the requested services.

Example: A currently licensed PCA provider with no Respite license is now applying for his HCBS provider license and wants to add the respite module. The PCA provider shall be required to apply for facility need review approval for the respite module.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

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

§5007. Initial Licensure Application Process

A. An initial application for licensing as an HCBS provider shall be obtained from the department. A completed initial license application packet for an HCBS provider shall be submitted to and approved by the department prior to an applicant providing HCBS services.

B. The initial licensing application packet shall include:

1. a completed HCBS licensure application and the non-refundable licensing fee as established by statute;

2. a copy of the approval letter of the architectural facility plans for the adult day care module and the center-based respite module from the Office of the State Fire Marshal and any other office/entity designated by the department to review and approve the facility's architectural plans;

3. a copy of the on-site inspection report with approval for occupancy by the Office of the State Fire Marshal, if applicable;

4. a copy of the health inspection report with approval of occupancy from the Office of Public Health for the adult day care module and the center-based respite module;

5. a copy of a statewide criminal background check, including sex offender registry status, on all owners and administrators;

6. proof of financial viability, comprised of the following:

a. a line of credit issued from a federally insured, licensed lending institution in the amount of at least \$50,000;

b. general and professional liability insurance of at least \$300,000; and

c. worker's compensation insurance;

7. a completed disclosure of ownership and control information form;

8. the days and hours of operation;

9. an organizational chart and names, including position titles, of key administrative personnel and governing body; and

10. any other documentation or information required by the department for licensure.

C. Any person convicted of one of the following felonies is prohibited from being the owner or the administrator of an

HCBS provider agency. For purposes of these provisions, the licensing application shall be rejected by the department for any felony conviction relating to:

1. the violence, abuse, or negligence of a person;

2. the misappropriation of property belonging to another person;

3. cruelty, exploitation or the sexual battery of the infirmed;

4. a drug offense;

5. crimes of a sexual nature;

6. a firearm or deadly weapon;

7. Medicare or Medicaid fraud; or

8. fraud or misappropriation of federal or state funds.

D. If the initial licensing packet is incomplete, the applicant shall be notified of the missing information and shall have 90 days from receipt of the notification to submit the additional requested information.

1. If the additional requested information is not submitted to the department within 90 days, the application shall be closed.

2. If an initial licensing application is closed, an applicant who is still interested in becoming an HCBS provider must submit a new initial licensing packet with a new initial licensing fee to start the initial licensing process, subject to any facility need review approval.

E. Applicants for HCBS licensure shall be required to attend a mandatory training class when a completed initial licensing application packet has been received by the department.

F. Upon completion of the mandatory training class and written notification of satisfactory class completion from the department, an HCBS applicant shall be required to admit one client and contact the HSS field office to schedule an initial licensing survey.

1. Prior to scheduling the initial survey, applicants must be:

a. fully operational;

b. in compliance with all licensing standards; and

c. providing care to only one client at the time of the initial survey.

2. If the applicant has not admitted one client or called the field office to schedule a survey within 30 days of receipt of the written notification from the department, the application will be closed. If an applicant is still interested in becoming an HCBS provider, a new initial licensing packet with a new initial licensing fee must be submitted to the department to start the initial licensing process, subject to any facility need review approval.

G. Applicants must be in compliance with all appropriate federal, state, departmental or local statutes, laws, ordinances, rules, regulations and fees before the HCBS provider will be issued an initial license to operate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

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

§5009. Initial Licensing Surveys

A. Prior to the initial license being issued, an initial on-site licensing survey shall be conducted to ensure compliance with the licensing laws and standards.

B. In the event that the initial licensing survey finds that the HCBS provider is compliant with all licensing laws, regulations and other required statutes, laws, ordinances,

rules, regulations, and fees, the department shall issue a full license to the provider. The license shall be valid until the expiration date shown on the license, unless the license is modified, revoked, suspended or terminated.

C. In the event that the initial licensing survey finds that the HCBS provider is noncompliant with any licensing laws or regulations, or any other required rules or regulations that present a potential threat to the health, safety, or welfare of the clients, the department shall deny the initial license.

D. In the event that the initial licensing survey finds that the HCBS provider is noncompliant with any licensing laws or regulations, or any other required rules or regulations, but the department in its sole discretion determines that the noncompliance does not present a threat to the health, safety or welfare of the clients, the department may issue a provisional initial license for a period not to exceed six months. The provider shall submit a plan of correction to the department for approval, and the provider shall be required to correct all such noncompliance or deficiencies prior to the expiration of the provisional license.

1. If all such noncompliance or deficiencies are corrected on the follow-up survey, a full license will be issued.

2. If all such noncompliance or deficiencies are not corrected on the follow-up survey, or new deficiencies affecting the health, safety or welfare of a client are cited, the provisional license will expire and the provider shall be required to begin the initial licensing process again by submitting a new initial license application packet and the appropriate licensing fee.

E. The initial licensing survey of an HCBS provider shall be an announced survey. Follow-up surveys to the initial licensing surveys are unannounced surveys.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

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

§5011. Types of Licenses and Expiration Dates

A. The department shall have the authority to issue the following types of licenses.

1. Full Initial License. The department shall issue a full license to the HCBS provider when the initial licensing survey finds that the provider is compliant with all licensing laws and regulations, and is compliant with all other required statutes, laws, ordinances, rules, regulations, and fees. The license shall be valid until the expiration date shown on the license, unless the license is modified, revoked, suspended, or terminated.

2. Provisional Initial License. The department may issue a provisional initial license to the HCBS provider when the initial licensing survey finds that the HCBS provider is noncompliant with any licensing laws or regulations or any other required statutes, laws, ordinances, rules, regulations or fees, but the department determines that the noncompliance does not present a threat to the health, safety or welfare of the clients.

3. Full Renewal License. The department may issue a full renewal license to an existing licensed HCBS provider who is in substantial compliance with all applicable federal, state, departmental, and local statutes, laws, ordinances, rules, regulations and fees. The license shall be valid until the expiration date shown on the license, unless the license is modified, revoked, suspended, or terminated.

B. The department, in its sole discretion, may issue a provisional license to an existing licensed HCBS provider for a period not to exceed six months, for any of the following reasons:

1. the existing HCBS provider has more than five deficient practices or deficiencies cited during any one survey;

2. the existing HCBS provider has more than three validated complaints in a 12 month period;

3. the existing HCBS provider has been issued a deficiency that involved placing a client at risk for serious harm or death;

4. the existing HCBS provider has failed to correct deficient practices within 60 days of being cited for such deficient practices or at the time of a follow-up survey; or

5. the existing HCBS provider is not in substantial compliance with all applicable federal, state, departmental and local statutes, laws, ordinances, rules regulations and fees at the time of renewal of the license.

C. When the department issues a provisional license to an existing licensed HCBS provider, the provider shall submit a plan of correction to DHH for approval, and the provider shall be required to correct all such noncompliance or deficiencies prior to the expiration of the provisional license. The department shall conduct a follow-up survey, either on-site or by desk review, of the HCBS provider prior to the expiration of the provisional license.

1. If the follow-up survey determines that the HCBS provider has corrected the deficient practices and has maintained compliance during the period of the provisional license, the department may issue a full license for the remainder of the year until the anniversary date of the HCBS license.

2. If the follow-up survey determines that all non-compliance or deficiencies have not been corrected, or if new deficiencies that are a threat to the health, safety or welfare of a client are cited on the follow-up survey, the provisional license shall expire and the provider shall be required to begin the initial licensing process again by submitting a new initial license application packet and fee, subject to any facility need review approval.

3. The department shall issue written notice to the provider of the results of the follow-up survey.

D. If an existing licensed HCBS provider has been issued a notice of license revocation, suspension or termination, and the provider's license is due for annual renewal, the department shall deny the license renewal application and shall not issue a renewal license.

1. If a timely administrative appeal has been filed by the provider regarding the license revocation, suspension, or termination, the administrative appeal shall be suspensive, and the provider shall be allowed to continue to operate and provide services until such time as the administrative tribunal or department issues a decision on the license revocation, suspension, or termination.

2. If the secretary of the department determines that the violations of the HCBS provider pose an imminent or immediate threat to the health, welfare, or safety of a client, the imposition of such action may be immediate and may be enforced during the pendency of the administrative appeal. If the secretary of the department makes such a determination, the HCBS provider will be notified in writing.

3. The denial of the license renewal application does not affect in any manner the license revocation, suspension, or termination.

E. The renewal of a license does not in any manner affect any sanction, civil monetary penalty or other action imposed by the department against the provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

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

§5013. Changes in Licensee Information or Personnel

A. An HCBS license shall be valid only for the person or entity named in the license application and only for the specific geographic address listed on the license application.

B. Any change regarding the HCBS provider's entity name, "doing business as" name, mailing address, telephone number or any combination thereof, shall be reported in writing to the department within two days of the change.

C. Any change regarding the HCBS provider's key administrative personnel shall be reported in writing to the department within 10 days of the change.

1. Key administrative personnel include the:

- a. administrator;
- b. director of nursing, if applicable; and
- c. medical director, if applicable.

2. The HCBS provider's notice to the department shall include the individual's:

- a. name;
- b. address;
- c. hire date; and
- d. qualifications.

D. A change of ownership (CHOW) of the HCBS provider shall be reported in writing to the department within five days of the change. The license of an HCBS provider is not transferable or assignable and cannot be sold. The new owner shall submit the legal CHOW document, all documents required for a new license and the applicable licensing fee. Once all application requirements are completed and approved by the department, a new license shall be issued to the new owner.

1. An HCBS provider that is under license revocation may not undergo a CHOW.

2. If the CHOW results in a change of geographic address, an on-site survey may be required prior to issuance of the new license.

E. If the HCBS provider changes its name without a change in ownership, the HCBS provider shall report such change to the department in writing five days prior to the change. The change in the HCBS provider name requires a change in the HCBS provider license. There is a \$25 fee for a name change and re-issuance of a license.

F. Any request for a duplicate license shall be accompanied by a \$25 fee.

G. If the HCBS provider changes the physical address of its geographic location without a change in ownership, the HCBS provider shall report such change to DHH in writing at least five days prior to the change. Because the license of an HCBS provider is valid only for the geographic location of that provider, and is not transferrable or assignable, the provider shall submit a new licensing application.

1. An on-site survey may be required prior to the issuance of the new license.

2. The change in the HCBS provider's physical address results in a new anniversary date and the full licensing fee must be paid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

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

§5015. Renewal of License

A. The HCBS provider shall submit a completed license renewal application packet to the department at least 30 days prior to the expiration of the current license. The license renewal application packet shall include:

1. the license renewal application;
2. the days and hours of operation;
3. a current State Fire Marshal report, if applicable;
4. a current Office of Public Health inspection report for the adult day care module and the center-based respite module;
5. the non-refundable license renewal fee;
6. any other documentation required by the department; and
7. proof of financial viability, comprised of the following:

a. a line of credit issued from a federally insured, licensed lending institution in the amount of at least \$50,000;

b. general and professional liability insurance of at least \$300,000; and

c. worker's compensation insurance.

B. The department may perform an on-site survey and inspection upon annual renewal of a license.

C. Failure to submit a completed license renewal application packet prior to the expiration of the current license will result in the voluntary non-renewal of the HCBS license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

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

§5017. Survey Activities

A. The department may conduct periodic licensing surveys and other surveys as deemed necessary to ensure compliance with all laws, rules and regulations governing HCBS providers and to ensure client health, safety and welfare. These surveys may be conducted on-site or by administrative review and shall be unannounced.

B. The department shall also conduct complaint surveys. The complaint surveys shall be conducted in accordance with R.S. 40:2009.13 et seq.

C. The department may require an acceptable plan of correction from a provider for any survey where deficiencies have been cited, regardless of whether the department takes other action against the facility for the deficiencies cited in the survey. The acceptable plan of correction shall be approved by the department.

D. A follow-up survey may be conducted for any survey where deficiencies have been cited to ensure correction of the deficient practices.

E. The department may issue appropriate sanctions for noncompliance, deficiencies and violations of law, rules and regulations. Sanctions include, but are not limited to:

1. civil monetary penalties;
2. directed plans of correction; and

3. license revocation.

F. DHH surveyors and staff shall be:

1. given access to all areas of the provider agency, as necessary, and all relevant files during any survey; and

2. allowed to interview any provider staff, client or other persons as necessary or required to conduct the survey.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

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

§5019. Statement of Deficiencies

A. The following statements of deficiencies issued by the department to the HCBS provider shall be posted in a conspicuous place on the licensed premises:

1. the most recent annual survey statement of deficiencies; and

2. any subsequent complaint survey statement of deficiencies.

B. Any statement of deficiencies issued by the department to an HCBS provider shall be available for disclosure to the public 30 days after the provider submits an acceptable plan of correction to the deficiencies or 90 days after the statement of deficiencies is issued to the provider, whichever occurs first.

C. Unless otherwise provided in statute or in these licensing provisions, a provider shall have the right to an informal reconsideration of any deficiencies cited as a result of a survey or investigation.

1. Correction of the violation, noncompliance or deficiency shall not be the basis for the reconsideration.

2. The informal reconsideration of the deficiencies shall be requested in writing within 10 days of receipt of the statement of deficiencies, unless otherwise provided in these standards.

3. The request for informal reconsideration of the deficiencies shall be made to the department's Health Standards Section and will be considered timely if received by HSS within 10 days of the provider's receipt of the statement deficiencies.

4. If a timely request for an informal reconsideration is received, the department shall schedule and conduct the informal reconsideration.

5. The provider shall be notified in writing of the results of the informal reconsideration.

6. Except as provided for complaint surveys pursuant to R.S. 40:2009.13 et seq., and as provided in these licensing provisions for license denials, revocations and non-renewals, the decision of the informal reconsideration team shall be the final administrative decision regarding the deficiencies.

a. There is no administrative appeal right of such deficiencies.

7. Pursuant to R.S. 40:2009.13 et seq., for complaint surveys in which the Health Standards Section determines that the complaint involves issues that have resulted in or are likely to result in serious harm or death, as defined in the statute, the determination of the informal reconsideration may be appealed administratively to the department's Bureau of Appeals. The hearing before the Bureau of Appeals is limited only to whether the investigation or complaint survey was conducted properly or improperly. The Bureau of Appeals shall not delete or remove deficiencies as a result of such hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

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

§5021. Denial of License, Revocation of License, Denial of License Renewal

A. The department may deny an application for an initial license or a license renewal, or may revoke a license in accordance with the provisions of the Administrative Procedure Act. These actions may be taken against the entire license or certain modules of the license.

B. Denial of an Initial License

1. The department shall deny an initial license in the event that the initial licensing survey finds that the HCBS provider is noncompliant with any licensing laws or regulations, or any other required statutes or regulations that present a potential threat to the health, safety or welfare of the clients.

2. The department shall deny an initial license for any of the reasons a license may be revoked or non-renewed pursuant to these licensing provisions.

3. If the department denies an initial license, the applicant for an HCBS provider license shall discharge the client receiving services.

C. Voluntary Non-Renewal of a License. If a provider fails to timely renew its license, the license expires on its face and is considered voluntarily surrendered. There are no appeal rights for such surrender or non-renewal of the license, as this is a voluntary action on the part of the provider.

D. Revocation of License or Denial of License Renewal. An HCBS provider license may be revoked or denied renewal for any of the following reasons, including but not limited to:

1. failure to be in substantial compliance with the HCBS licensing laws, rules and regulations;

2. failure to be in substantial compliance with other required statutes, laws, ordinances, rules or regulations;

3. failure to comply with the terms and provisions of a settlement agreement or education letter;

4. failure to uphold client rights whereby deficient practices result in harm, injury or death of a client;

5. failure to protect a client from a harmful act of an employee or other client including, but not limited to:

a. mental or physical abuse, neglect, exploitation or extortion;

b. any action posing a threat to a client's health and safety;

c. coercion;

d. threat or intimidation;

e. harassment; or

f. criminal activity;

6. failure to notify the proper authorities, as required by federal or state law or regulations, of all suspected cases of the acts outlined in §5017.D.5;

7. knowingly making a false statement in any of the following areas, including but not limited to:

a. application for initial license or renewal of license;

b. data forms;

c. clinical records, client records or provider records;

d. matters under investigation by the department or the Office of the Attorney General; or

e. information submitted for reimbursement from any payment source;

8. knowingly making a false statement or providing false, forged or altered information or documentation to DHH employees or to law enforcement agencies;

9. the use of false, fraudulent or misleading advertising; or

10. an owner, officer, member, manager, administrator, director or person designated to manage or supervise client care has pled guilty or nolo contendere to a felony, or has been convicted of a felony, as documented by a certified copy of the record of the court;

a. For purposes of these provisions, conviction of a felony involves any felony conviction relating to:

i. the violence, abuse, or negligence of a person;

ii. the misappropriation of property belonging to another person;

iii. cruelty, exploitation or the sexual battery of the infirmed;

iv. a drug offense;

v. crimes of a sexual nature;

vi. a firearm or deadly weapon;

vii. Medicare or Medicaid fraud; or

viii. fraud or misappropriation of federal or state funds;

11. failure to comply with all reporting requirements in a timely manner, as required by the department;

12. failure to allow or refusal to allow the department to conduct an investigation or survey or to interview provider staff or clients;

13. interference with the survey process, including but not limited to, harassment, intimidation, or threats against the survey staff;

14. failure to allow or refusal to allow access to provider, facility or client records by authorized departmental personnel;

15. bribery, harassment, intimidation or solicitation of any client designed to cause that client to use or retain the services of any particular HCBS provider;

16. cessation of business or non-operational status;

17. failure to repay an identified overpayment to the department or failure to enter into a payment agreement to repay such overpayment; or

18. failure to timely pay outstanding fees, fines, sanctions or other debts owed to the department.

E. In the event an HCBS provider license is revoked, renewal is denied (other than for cessation of business or non-operational status) or the license is surrendered in lieu of an adverse action, any owner, officer, member, manager, director or administrator of such HCBS provider is prohibited from owning, managing, directing or operating another HCBS provider for a period of two years from the date of the final disposition of the revocation, denial action or surrender.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

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

§5023. Notice and Appeal of License Denial, License Revocation and License Non-Renewal

A. Notice of a license denial, license revocation or license non-renewal (i.e. denial of license renewal) shall be given to the provider in writing.

B. The HCBS provider has a right to an informal reconsideration of the license denial, license revocation or license non-renewal. There is no right to an informal reconsideration of a voluntary non-renewal or surrender of a license by the provider.

1. The HCBS provider shall request the informal reconsideration within 15 days of the receipt of the notice of the license denial, license revocation or license non-renewal. The request for informal reconsideration shall be in writing and shall be forwarded to the department's Health Standards Section. The request for informal reconsideration shall be considered timely if received by the Health Standards Section within 15 days from the provider's receipt of the notice.

2. The request for informal reconsideration shall include any documentation that demonstrates that the determination was made in error.

3. If a timely request for an informal reconsideration is received by HSS, an informal reconsideration shall be scheduled and the provider will receive written notification of the date of the informal reconsideration.

4. The provider shall have the right to appear in person at the informal reconsideration and may be represented by counsel.

5. Correction of a violation or deficiency which is the basis for the license denial, revocation or non-renewal shall not be a basis for reconsideration.

6. The informal reconsideration process is not in lieu of the administrative appeals process.

7. The provider will be notified in writing of the results of the informal reconsideration.

C. The HCBS provider has a right to an administrative appeal of the license denial, license revocation or license non-renewal. There is no right to an administrative appeal of a voluntary non-renewal or surrender of a license by the provider.

1. The HCBS provider shall request the administrative appeal within 30 days of the receipt of the results of the informal reconsideration.

a. The HCBS provider may forego its rights to an informal reconsideration, and if so, shall request the administrative appeal within 30 days of the receipt of the notice of the license denial, revocation or non-renewal.

2. The request for administrative appeal shall be in writing and shall be submitted to the DHH Bureau of Appeals. The request shall include any documentation that demonstrates that the determination was made in error and shall include the basis and specific reasons for the appeal.

3. If a timely request for an administrative appeal is received by the Bureau of Appeals, the administrative appeal of the license revocation or license non-renewal shall be suspensive, and the provider shall be allowed to continue to operate and provide services until such time as the department issues a final administrative decision.

a. If the secretary of the department determines that the violations of the provider pose an imminent or immediate threat to the health, welfare or safety of a client,

the imposition of the license revocation or license non-renewal may be immediate and may be enforced during the pendency of the administrative appeal. If the secretary of the department makes such a determination, the provider will be notified in writing.

4. Correction of a violation or a deficiency which is the basis for the denial, revocation or non-renewal shall not be a basis for an administrative appeal.

D. If an existing licensed HCBS provider has been issued a notice of license revocation, and the provider's license is due for annual renewal, the department shall deny the license renewal application. The denial of the license renewal application does not affect, in any manner, the license revocation.

E. If a timely administrative appeal has been filed by the provider on a license denial, license non-renewal or license revocation, the Bureau of Appeals shall conduct the hearing within 90 days of the docketing of the administrative appeal. One extension, not to exceed 90 days, may be granted by the Bureau of Appeals if good cause is shown.

1. If the final agency decision is to reverse the license denial, license non-renewal or license revocation, the provider's license will be re-instated or granted upon the payment of any licensing fees, outstanding sanctions or other fees due to the department.

2. If the final agency decision is to affirm the license non-renewal or license revocation, the provider shall discharge any and all clients receiving services according to the provisions of this Chapter.

a. Within 10 days of the final agency decision, the provider must notify HSS, in writing, of the secure and confidential location where the client records will be stored.

F. There is no right to an informal reconsideration or an administrative appeal of the issuance of a provisional initial license to a new HCBS provider, or the issuance of a provisional license to an existing HCBS provider. A provider who has been issued a provisional license is licensed and operational for the term of the provisional license. The issuance of a provisional license is not considered to be a denial of license, renewal or revocation.

G. A provider with a provisional initial license or an existing provider with a provisional license that expires due to noncompliance or deficiencies cited at the follow-up survey, shall have the right to an informal reconsideration and the right to an administrative appeal, as to the deficiencies.

1. The correction of a violation, noncompliance or deficiency after the follow-up survey shall not be the basis for the informal reconsideration or for the administrative appeal.

2. The informal reconsideration and the administrative appeal are limited to whether the deficiencies were properly cited at the follow-up survey.

3. The provider shall request the informal reconsideration in writing, which shall be received by the Health Standards Section within five days of receipt of the notice of the results of the follow-up survey from the department.

4. The provider shall request the administrative appeal within 15 days of receipt of the notice of the results of the follow-up survey from the department. The request for

administrative appeal shall be in writing and shall be submitted to the DHH Bureau of Appeals.

5. A provider with a provisional initial license or an existing provider with a provisional license that expires under the provisions of this Chapter shall cease providing services and discharge clients unless the Bureau of Appeals issues a stay of the expiration.

a. The stay may be granted by the Bureau of Appeals upon application by the provider at the time the administrative appeal is filed and only after a contradictory hearing and only upon a showing that there is no potential harm to the clients being served by the provider.

6. If a timely administrative appeal has been filed by a provider with a provisional initial license that has expired, or by an existing provider whose provisional license has expired under the provisions of this Chapter, the Bureau of Appeals shall conduct the hearing within 90 days of the docketing of the administrative appeal. One extension, not to exceed 90 days, may be granted by the Bureau of Appeals if good cause is shown.

a. If the final agency decision is to remove all deficiencies, the provider's license will be re-instated upon the payment of any outstanding sanctions and licensing or other fees due to the department.

b. If the final agency decision is to uphold the deficiencies and affirm the expiration of the provisional license, the provider shall discharge any and all clients receiving services.

i. Within 10 days of the final agency decision, the provider must notify HSS in writing of the secure and confidential location where the client records will be stored.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

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

§5025. Inactivation of License due to a Declared Disaster or Emergency

A. An HCBS provider licensed in a parish which is the subject of an executive order or proclamation of emergency or disaster issued in accordance with R.S. 29:724 or R.S. 29:766, may seek to inactivate its license for a period not to exceed one year, provided that the following conditions are met:

1. the licensed provider shall submit written notification to the Health Standards Section within 60 days of the date of the executive order or proclamation of emergency or disaster that:

a. the HCBS provider has experienced an interruption in the provisions of services as a result of events that are the subject of such executive order or proclamation of emergency or disaster issued in accordance with R.S. 29:724 or R.S. 29:766;

b. the licensed HCBS provider intends to resume operation as an HCBS provider in the same service area;

c. includes an attestation that the emergency or disaster is the sole casual factor in the interruption of the provision of services;

d. includes an attestation that all clients have been properly discharged or transferred to another provider; and

e. provides a list of each client and where that client is discharged or transferred to;

2. the licensed HCBS provider resumes operating as a HCBS provider in the same service area within one year of the issuance of an executive order or proclamation of emergency or disaster in accordance with R.S. 29:724 or R.S. 29:766;

3. the licensed HCBS provider continues to pay all fees and cost due and owed to the department including, but not limited to, annual licensing fees and outstanding civil monetary penalties; and

4. the licensed HCBS provider continues to submit required documentation and information to the department.

B. Upon receiving a completed written request to inactivate a HCBS provider license, the department shall issue a notice of inactivation of license to the HCBS provider.

C. Upon completion of repairs, renovations, rebuilding or replacement, an HCBS provider which has received a notice of inactivation of its license from the department shall be allowed to reinstate its license upon the following conditions being met.

1. The HCBS provider shall submit a written license reinstatement request to the licensing agency of the department 60 days prior to the anticipated date of reopening.

a. The license reinstatement request shall inform the department of the anticipated date of opening, and shall request scheduling of a licensing survey.

b. The license reinstatement request shall include a completed licensing application with appropriate licensing fees.

2. The provider resumes operating as an HCBS provider in the same service area within one year.

D. Upon receiving a completed written request to reinstate an HCBS provider license, the department shall conduct a licensing survey. If the HCBS provider meets the requirements for licensure and the requirements under this Section, the department shall issue a notice of reinstatement of the HCBS provider license.

1. The licensed capacity of the reinstated license shall not exceed the licensed capacity of the HCBS provider at the time of the request to inactivate the license.

E. No change of ownership in the HCBS provider shall occur until such HCBS provider has completed repairs, renovations, rebuilding or replacement construction, and has resumed operations as an HCBS provider.

F. The provisions of this Section shall not apply to an HCBS provider which has voluntarily surrendered its license and ceased operation.

G. Failure to comply with any of the provisions of this Section shall be deemed a voluntary surrender of the HCBS provider license and any applicable facility need review approval for licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

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

Subchapter B. Administration and Organization

§5027. Governing Body

A. An HCBS provider shall have an identifiable governing body with responsibility for and authority over the policies and activities of the program/agency.

1. A provider shall have documents identifying all members of the governing body, their addresses, their terms

of membership, officers of the governing body and terms of office of any officers.

2. The governing body shall be comprised of three or more persons and shall hold formal meetings at least twice a year.

3. There shall be written minutes of all formal meetings of the governing body and by-laws specifying frequency of meetings and quorum requirements.

B. The governing body of an HCBS provider shall:

1. ensure the provider's continual compliance and conformity with all relevant federal, state, local and municipal laws and regulations;

2. ensure that the provider is adequately funded and fiscally sound;

3. review and approve the provider's annual budget;

4. ensure the review and approval of an annual external audit;

5. designate a person to act as administrator and delegate sufficient authority to this person to manage the provider agency;

6. formulate and annually review, in consultation with the administrator, written policies concerning the provider's philosophy, goals, current services, personnel practices, job descriptions and fiscal management;

7. annually evaluate the administrator's performance;

8. have the authority to dismiss the administrator;

9. meet with designated representatives of the department whenever required to do so;

10. inform the department, or its designee, prior to initiating any substantial changes in the services provided by the provider; and

11. ensure statewide criminal background checks on all unlicensed persons.

C. An HCBS provider shall maintain an administrative file that includes:

1. documents identifying the governing body;

2. a list of members and officers of the governing body, along with their addresses and terms of membership;

3. minutes of formal meetings and by-laws of the governing body, if applicable;

4. documentation of the provider's authority to operate under state law;

5. an organizational chart of the provider which clearly delineates the line of authority;

6. all leases, contracts and purchases-of-service agreements to which the provider is a party;

7. insurance policies;

8. annual budgets and audit reports; and

9. a master list of all the community resources used by the provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

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

§5029. Policy and Procedures

A. An HCBS provider shall provide supervision and services that:

1. conform to the department's rules and regulations;

2. meet the needs of the clients as identified and addressed in the ISP;

3. provide for the full protection of clients' rights; and

4. promote the social, physical and mental well-being of clients.

B. An HCBS provider shall make any required information or records, and any information reasonably related to assessment of compliance with these requirements, available to the department.

C. An HCBS provider shall allow designated representatives of the department, in performance of their mandated duties, to:

1. inspect all aspects of an HCBS provider's operations which directly or indirectly impact clients; and

2. conduct interviews with any staff member or client of the provider.

D. An HCBS provider shall, upon request by the department, make available the legal ownership documents.

E. The HCBS provider shall have written policies and procedures approved by the owner or governing body, which must be implemented and followed, that address at a minimum the following:

1. confidentiality and confidentiality agreements;
2. security of files;
3. publicity and marketing, including the prohibition of illegal or coercive inducement, solicitation and kickbacks;
4. personnel;
5. client rights;
6. grievance procedures;
7. client funds;
8. emergency preparedness;
9. abuse and neglect;
10. incidents and accidents, including medical emergencies;
11. universal precautions;
12. documentation; and
13. admission and discharge procedures.

F. An HCBS provider shall have written personnel policies, which must be implemented and followed, that include:

1. a plan for recruitment, screening, orientation, ongoing training, development, supervision and performance evaluation of staff members;
2. written job descriptions for each staff position, including volunteers;
3. policies which provide for staff, upon offer of employment, to have a health assessment as defined by the provider and in accordance with Office of Public Health guidelines;
4. an employee grievance procedure;
5. abuse reporting procedures that require all employees to report any incidents of abuse or mistreatment, whether that abuse or mistreatment is done by another staff member, a family member, a client or any other person; and
6. a written policy to prevent discrimination.

G. An HCBS provider shall maintain, in force at all times, the requirements for financial viability under this rule.

H. The provider shall have written policies and procedures for behavior management which:

1. prohibits:
 - a. corporeal punishment;
 - b. chemical restraints;
 - c. psychological and verbal abuse;
 - d. seclusion;
 - e. forced exercise;

f. physical and mechanical restraints;

g. any cruel, severe, unusual, degrading or unnecessary punishment; and

h. any procedure which denies:

- i. food;
- ii. drink;
- iii. visits with family; or
- iv. use of restroom facilities;

2. ensure that non-intrusive positive approaches to address the meaning/origins of behaviors are used prior to the development of a restrictive plan; and

3. cover any behavioral emergency and provide documentation of the event in an incident report format.

I. An HCBS provider shall comply with all federal and state laws, rules and regulations in the development and implementation of its policies and procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

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

§5031. Business Location

A. All HCBS providers shall have a business location in the DHH Region for which the license is issued. The business location shall be a part of the physical geographic licensed location and shall be where the provider:

1. maintains staff to perform administrative functions;
2. maintains the provider's personnel records;
3. maintains the provider's client service records; and
4. holds itself out to the public as being a location for receipt of client referrals.

B. The business location shall have a separate entrance and exit from any other entity, business or trade, and shall have appropriate signage indicating the legal or trade name and address of the health care provider. The HCBS provider shall operate independently from any other business or entity, and shall not operate office space with any other business or entity.

1. The HCBS provider may share common areas with another business or entity. Common areas include foyers, kitchens and conference rooms.

2. Records or other confidential information shall not be stored in areas deemed to be common areas.

C. The business location shall:

1. be commercial office space or, if located in a residential area, be zoned for appropriate commercial use and shall be used solely for the operation of the business;

a. the business location may not be located in an occupied personal residence;

2. have approval from the Louisiana Office of the State Fire Marshal;

3. have a published telephone number which is available and accessible 24 hours a day, seven days a week, including holidays;

4. have a business fax number that is operational 24 hours a day, seven days a week;

5. have internet access and a working e-mail address;

a. the e-mail address shall be provided to the department;

6. have hours of operation posted in a location outside of the business that is easily visible to persons receiving services and the general public; and

7. have space for storage of client records in an area that is secure and does not breach confidentiality of personal health information.

D. Branch Offices and Satellites of HCBS Providers

1. An HCBS provider who currently provides in-home services such as PCA, respite or SIL services may apply to the department for approval to operate a branch office to provide those same services. The branch office falls under the license of the parent agency and shall be located in the same DHH Region as the parent agency.

2. An HCBS provider who currently provides ADC services or provides center-based respite services may apply to the department for approval to operate a satellite location to provide additional ADC services or center-based respite services at that satellite location. The satellite location falls under the license of the parent agency and shall be located in the same DHH Region as the parent agency.

3. No branch office or satellite location may be opened without written approval from the department. In order for a branch office or satellite location to be approved, the parent agency must have full licensure for at least one year. Branch office approvals and satellite location approvals will be renewed at the time of renewal of the parent agency's license, if the parent agency meets the requirements for licensure.

4. A branch office or a satellite location shall not be approved if any of the following conditions exist:

a. the parent agency was cited with more than five deficiencies on its last annual survey or on a complaint survey within the last 12 months;

b. the parent agency was cited with a deficiency resulting in immediate jeopardy or actual harm to a client on its last annual survey or on a complaint survey within the last 12 months;

c. the parent agency has a provisional license;

d. the parent agency is under license revocation;

e. the parent agency is undergoing a change of ownership; or

f. adverse action, including license revocation, denial or suspension, has been taken against the license of other agencies operated by the owner of the parent agency.

5. The branch office or satellite location shall be held out to the public as a branch, division, or satellite of the parent agency so that the public will be aware of the identity of the agency operating the branch or satellite.

a. Reference to the name of the parent agency shall be contained in any written documents, signs or other promotional materials relating to the branch or satellite.

6. Original personnel files shall not be maintained at the branch office or satellite location.

7. A branch office or a satellite location is subject to survey, including complaint surveys, by the department at any time to determine compliance with minimum licensing standards.

8. A branch office or a satellite location shall:

a. serve as part of the geographic service area approved for the parent agency;

b. retain all original clinical records for its clients. Duplicate records need not be maintained at the parent agency, but shall be available within one hour upon the request of federal/state surveyors during any review;

c. maintain a statement of personnel policies on-site for staff usage;

d. post and maintain regular office hours; and

e. staff the branch office or satellite location during regular office hours.

9. Each branch office shall be assessed a fee of \$200, assessed at the time the license application is made for the branch and once a year thereafter for renewal of the branch license. This fee is non-refundable and is in addition to any other fees that may be assessed according to the laws, rules, regulations and standards.

10. Each satellite location shall be assessed a fee of \$250, assessed at the time the license application is made for the satellite location and once a year thereafter for renewal of the satellite location license. This fee is non-refundable and is in addition to any other fees that may be assessed according to the laws, rules, regulations and standards.

11. The department shall approve no more than one branch office per DHH Region for HCBS providers rendering in-home services.

12. The department shall approve no more than two satellite locations per DHH Region for HCBS providers rendering center-based respite or adult day care services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

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

Subchapter C. Admission, Transfer and Discharge Criteria

§5033. Admissions

A. An HCBS provider shall have written admissions policies and criteria which shall include the following:

1. intake policy and procedures;

2. admission criteria and procedures;

3. admission criteria and procedures for minors;

4. policy regarding the determination of legal status, according to appropriate state laws, before admission;

5. the age of the populations served;

6. the services provided by the provider's program(s); and

7. criteria for discharge.

B. The written description of admissions policies and criteria shall be provided to the department upon request, and made available to the client and his/her legal representative.

C. An HCBS provider shall ensure that the client, the legal representative, where appropriate, or other persons are provided an opportunity to participate in the admission process and decisions.

1. Proper consents shall be obtained before admission.

2. Where such involvement of the client is not possible or not desirable, the reasons for their exclusion shall be recorded.

D. An HCBS provider shall not refuse admission to any client on the grounds of race, national origin, ethnicity or disability.

E. An HCBS provider shall meet the needs of each client admitted to his/her program as identified and addressed in the client's ISP.

F. When refusing admission to a client, a provider shall provide a written statement as to the reason for the refusal. This shall be provided to designated representatives of the department upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

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

§5035. Voluntary Transfers and Discharges

A. A client has the right to choose a provider. This right includes the right to be discharged from his current provider, be transferred to another provider and to discontinue services altogether.

B. Upon notice by the client or authorized representative that the client has selected another provider or has decided to discontinue services, the HCBS provider shall have the responsibility of planning for a client's voluntary transfer or discharge.

C. The transfer or discharge responsibilities of the HCBS provider shall include:

1. holding a transfer or discharge planning conference with the client, family, support coordinator, legal representative and advocate, if such are known, in order to facilitate a smooth transfer or discharge, unless the client declines such a meeting;

2. preparing an updated individual service plan (ISP). Upon written request and authorization by the client or authorized representative, a copy of the updated ISP shall be disclosed to the client or receiving provider; and

3. preparing a written discharge summary. The discharge summary shall include, at a minimum, a summary on the health, developmental issues, behavioral issues, social issues, and nutritional status of the client. Upon written request and authorization by the client or authorized representative, a copy of the discharge summary shall be disclosed to the client or receiving provider.

D. The updated ISP and the written discharge summary shall be completed within five working days of the notice by the client or authorized representative that the client has selected another provider or has decided to discontinue services.

1. The provider's preparation of the ISP and discharge summary shall not impede or impair the client's right to be transferred or discharged immediately if the client so chooses.

E. The provider shall not coerce the client to stay with the provider agency or interfere in any way with the client's decision to transfer. Failure to cooperate with the client's decision to transfer to another provider will result in adverse action by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

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

§5037. Involuntary Transfers and Discharges

A. An HCBS provider shall not transfer or discharge the client from the provider except under the following circumstances. These situations will be considered involuntary transfers or discharges.

1. The client's health has improved sufficiently so that the client no longer needs the services rendered by the provider.

2. The safety or health of a client(s) or provider staff is endangered.

3. The client has failed to pay any outstanding amounts for services for which he is liable within 15 days after receipt of written notice from the provider.

4. The provider ceases to operate.

5. The client moves from the geographical region serviced by the HCBS provider.

6. The client or family refuses to cooperate or interferes with attaining the objectives of the HCBS provider.

7. The HCBS provider closes a particular module so that certain services are no longer provided.

B. When the provider proposes to involuntarily transfer or discharge a client, compliance with the provisions of this Section shall be fully documented in the client's records.

C. An HCBS provider shall provide a written notice of the involuntary transfer or discharge to the client, a family member of the client, if known, and to the authorized representative, if known, at least 30 days prior to the transfer or discharge.

1. The written notice may be hand delivered or sent via certified mail, return receipt requested.

2. When the safety or health of clients or provider staff is endangered, written notice shall be given as soon as practicable before the transfer or discharge.

3. When the client has failed to pay any outstanding amounts for services for which he is liable, written notice may be given immediately. Payment is due within 15 days of receipt of written notice from the provider that an amount is due and owing.

4. When a client moves outside the provider's geographic service area, written notice shall be given immediately.

a. If a client moves outside the provider's geographic service area, the provider shall cease providing services to that client.

b. The provider may apply to HSS for a temporary exception in order to provide services to the client during a transition period, not to exceed two weeks.

5. The notice of involuntary discharge or transfer shall be in writing and in a language and manner that the client understands.

6. A copy of the notice of involuntary discharge or transfer shall be placed in the client's clinical record.

D. The written notice of involuntary transfer or discharge shall include:

1. a reason for the transfer or discharge;

2. the effective date of the transfer or discharge;

3. an explanation of a client's right to personal and/or third party representation at all stages of the transfer or discharge process;

4. contact information for the Advocacy Center;

a. the contact information shall include the addresses and telephone numbers for the Advocacy Center locations in Shreveport, Lafayette, and New Orleans;

5. names of provider personnel available to assist the client and family in decision making and transfer arrangements;

6. the date, time and place for the discharge planning conference;

7. a statement regarding the client's appeal rights;

8. the name of the director, current address and telephone number of the DHH Bureau of Appeals; and

9. a statement regarding the client's right to remain with the provider and not be transferred or discharged pursuant to the provisions of this Section.

E. Appeal Rights for Involuntary Transfers or Discharges

1. If a timely appeal is filed by the client or authorized representative disputing the involuntary discharge, the provider shall not transfer or discharge the client pursuant to the provisions of this Section.

Note: The provider's failure to comply with these requirements may result in revocation of a provider's license.

2. If nonpayment is the basis of the involuntary transfer or discharge, the client shall have the right to pay the balance owed to the provider up to the date of the transfer or discharge and is then entitled to remain with the agency if outstanding balances are paid.

3. If a client files a timely appeal request, the Bureau of Appeals shall hold an appeal hearing at the agency or by telephone, if agreed upon by the appellant, within 30 days from the date the appeal is filed with the Bureau of Appeals.

a. If the basis of the involuntary discharge is due to endangerment of the health or safety of the staff or individuals, the provider may make a written request to the Bureau of Appeals to hold a pre-hearing conference.

i. If a pre-hearing conference request is received by the Bureau of Appeals, the pre-hearing conference shall be held within 10 days of receipt of the written request from the provider.

4. The Bureau of Appeals shall issue a decision within 30 days from the date of the appeal hearing.

5. The burden of proof is on the provider to show, by a preponderance of the evidence, that the transfer or discharge of the client is justified pursuant to the provisions of the minimum licensing standards.

F. Client's Right to Remain with the Provider Pending the Appeal Process

1. If a client is given 30 days written notice of the involuntary transfer or discharge and the client or authorized representative files a timely appeal, the client may remain with the provider and not be transferred or discharged until the Bureau of Appeals renders a decision on the appeal.

2. If a client is given less than 30 days written notice and files a timely appeal of an involuntary transfer/discharge based on the health and safety of individuals or provider staff being endangered, the client may remain with the provider and not be transferred or discharged until one of the following occurs:

a. the Bureau of Appeals holds a pre-hearing conference regarding the safety or health of the staff or individuals; or

b. the Bureau of Appeals renders a decision on the appeal.

3. If a client is given less than 30 days written notice and files a timely appeal of an involuntary transfer/discharge based on the client's failure to pay any outstanding amounts for services within the allotted time, the provider may discharge or transfer the client.

4. If a client is given less than 30 days written notice and files a timely appeal of an involuntary transfer/discharge based on the client moving outside of the provider's geographic service area, the client may remain with the provider and not be transferred or discharged until the Bureau of Appeals renders a decision on the appeal.

G. The transfer or discharge responsibilities of the HCBS provider shall include:

1. holding a transfer or discharge planning conference with the client, family, support coordinator, legal representative and advocate, if such are known, in order to facilitate a smooth transfer or discharge;

2. development of discharge options that will provide reasonable assurance that the client will be transferred or discharged to a setting that can be expected to meet his/her needs;

2. preparing an updated ISP; and

3. preparing a written discharge summary. The discharge summary shall include, at a minimum, a summary of the health, developmental issues, behavioral issues, social issues and nutritional status of the client. Upon written request and authorization by the client or authorized representative, a copy of the discharge summary and/or updated ISP shall be disclosed to the client or receiving provider.

H. The agency shall provide all services required prior to discharge that are contained in the final update of the individual service plan and in the transfer or discharge plan.

1. The provider shall not be required to provide services if the discharge is due to the client moving out of the provider's geographical region. An HCBS provider is prohibited from providing services outside of its geographical region.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

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

Subchapter D. Service Delivery

§5039. General Provisions

A. The HCBS provider shall ensure that the client receives the necessary care and services to attain or maintain the highest practicable physical, mental and psychosocial well-being of the client, in accordance with the comprehensive assessment and individual service plan.

B. All services provided to the client shall be provided in accordance with an individual service plan.

C. Assessment of Needs

1. Prior to any service being rendered, an HCBS provider shall conduct an assessment of the client's needs. The assessment shall include, at a minimum:

a. risk assessment, including:

i. life safety (i.e. the ability to access emergency services, basic safety practices and evaluation of the living unit);

ii. home environment;

iii. environmental risk; and

iv. medical risk;

b. medical assessments, including:

i. diagnosis;

ii. medications, including methods of administration; and

iii. current services and treatment regimen;

c. activities of daily living;

d. instrumental activities of daily living including money management, if applicable;

e. communication skills;

f. social skills; and

g. psychosocial skills including behavioral needs.

2. Each assessment shall be conducted by a licensed professional or a team of licensed professionals who are qualified and appropriate to conduct the assessment, and shall determine the necessary supports and services which shall be addressed in the ISP. If medical issues are identified in the assessment, a licensed registered nurse (RN) or licensed physician shall perform a medical assessment to determine necessary supports and services which shall be addressed in the ISP.

3. The assessment shall be conducted prior to admission and at least annually thereafter. The assessment may be conducted more often as the client's needs change.

4. An HCBS comprehensive assessment performed for a client in accordance with policies and procedures established by Medicaid or by a DHH program office for reimbursement purposes can substitute for the assessment required under these provisions.

D. Service Agreement

1. An HCBS provider shall ensure that a written service agreement is completed prior to admission of a client. A copy of the agreement, signed by all parties involved, shall be maintained in the client's record and shall be made available upon request by the department, the client and the legal representative, where appropriate.

2. The service agreement shall include:

a. a delineation of the respective roles and responsibilities of the provider;

b. specification of all of the services to be rendered by the provider;

c. the provider's expectations concerning the client; and

d. specification of the financial arrangements, including any fees to be paid by the client.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

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

§5041. Individual Service Plan

A. Upon admission, an individual service plan shall be developed for each client based upon a comprehensive assessment.

B. The client shall participate in the planning process. If the client is unable to participate in all or part of the planning, the provider shall document the parts or times and reasons why the client did not participate.

C. The agency shall document that the family member or legal representative has been invited to participate in the planning process.

D. The provider shall ensure that the ISP and any subsequent revisions are explained to the client receiving services and, where appropriate, the legal representative, in language that is understandable to them.

E. The ISP shall include the following components:

1. the findings of the comprehensive assessment;

2. a statement of goals to be achieved or worked towards for the person receiving services and their family or legal representative;

3. daily activities and specialized services that will be provided directly or arranged for;

4. target dates for completion or re-evaluation of the stated goals; and

5. identification of all persons responsible for implementing or coordinating implementation of the plan.

F. The provider shall ensure that all agency staff working directly with the person receiving services are appropriately informed of and trained on the ISP.

G. A comprehensive plan of care or ISP prepared in accordance with policies and procedures established by Medicaid or by a DHH program office for reimbursement purposes may be substituted for the individual service plan.

H. Each client's ISP shall be reviewed, revised, updated and amended annually, and more often as necessary, to reflect changes in the client's needs, services and personal outcomes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

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

§5043. Contract Services

A. A provider may contract with other companies or individuals to provide services to a client. The provider is still responsible for the management of the client's care and for all services provided by the contractor or its personnel.

B. When services are provided through contract, a written contract must be established. The contract shall include all of the following items:

1. designation of the services that are being arranged for by contract;

2. specification of the period of time that the contract is to be in effect;

3. a statement that the services provided to the client are in accordance with the individual service plan;

4. a statement that the services are being provided within the scope and limitations set forth in the individual service plan and may not be altered in type, scope or duration by the contractor;

5. assurance that the contractor meets the same requirements as those for the provider's staff, such as staff qualifications, functions, evaluations, orientation and in-service training;

a. the provider shall be responsible for assuring the contractor's compliance with all personnel and agency policies required for HCBS providers during the contractual period;

6. assurance that the contractor completes the clinical record in the same timely manner as required by the staff of the provider;

7. payment of fees and terms; and

8. assurance that reporting requirements are met.

C. The provider and contractor shall document review of their contract on an annual basis.

D. The provider shall coordinate services with contract personnel to assure continuity of client care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

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

§5045. Transportation

A. An HCBS provider shall arrange for or provide transportation necessary for implementing the client's service plan.

B. Any vehicle used to transport clients, whether such vehicle is operated by a staff member or any other person acting on behalf of the provider, shall be:

1. properly licensed and inspected in accordance with state law;

2. maintained in a safe condition;
3. operated at a temperature that does not compromise the health, safety or needs of the client; and
4. operated in conformity with all of the applicable motor vehicle laws.

C. The provider shall have documentation of liability insurance coverage for all owned and non-owned vehicles used to transport clients. The personal liability insurance of a provider's employee shall not be substituted for the required coverage.

D. Any staff member of the provider, or other person acting on behalf of the provider, who is operating a vehicle for the purpose of transporting clients shall be properly licensed to operate that class of vehicle in accordance with state law.

E. The provider shall have documentation of successful completion of a safe driving course for each employee who transports clients.

1. Employees shall successfully complete a safe driving course within 90 days of hiring, every three years thereafter, and within 90 days of any traffic violation.

F. Upon hire, the provider shall conduct a driving history record of each employee, and annually thereafter.

G. The provider shall not allow the number of persons in any vehicle used to transport clients to exceed the number of available seats with seatbelts in the vehicle.

H. The provider shall ascertain the nature of any need or problem of a client which might cause difficulties during transportation. This information shall be communicated to agency staff who will transport clients.

I. The following additional arrangements are required for providers serving clients who use wheelchairs.

1. A ramp device to permit entry and exit of a client from the vehicle shall be provided for vehicles normally used to transport persons with disabilities.

a. A mechanical lift may be utilized, provided that a ramp is also available in case of emergency, unless the mechanical lift has a manual override.

2. Wheelchairs used in transit shall be securely fastened inside the vehicle utilizing approved wheelchair fasteners.

3. The arrangement of the wheelchairs shall not impede access to the exit door of the vehicle.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

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

Subchapter E. Client Protections

§5049. Client Rights

A. Unless adjudicated by a court of competent jurisdiction, clients served by HCBS providers shall have the same rights, benefits and privileges guaranteed by the constitution and the laws of the United States and Louisiana.

B. There shall be written policies and procedures that protect the client's welfare, including the means by which the protections will be implemented and enforced.

C. Each HCBS provider's written policies and procedures, at a minimum, shall ensure the client's right to:

1. human dignity;
2. impartial access to treatment regardless of race, religion, sex, ethnicity, age or disability;
3. cultural access as evidenced by:
 - a. interpretive services;

- b. translated materials;
 - c. the use of native language when possible; and
 - d. staff trained in cultural awareness;
4. have sign language interpretation, service animal and/or mechanical aids and devices that assist those persons in achieving maximum service benefits when the person has special needs;
 5. privacy;
 6. confidentiality;
 7. access his/her records upon the client's written consent for release of information;
 8. a complete explanation of the nature of services and procedures to be received, including:
 - a. risks;
 - b. benefits; and
 - c. available alternative services;
 9. actively participate in services, including:
 - a. assessment/reassessment;
 - b. service plan development; and
 - c. discharge;
 10. refuse specific services or participate in any activity that is against their will and for which they have not given consent;
 11. obtain copies of the provider's complaint or grievance procedures;
 12. file a complaint or grievance without retribution, retaliation or discharge;
 13. be informed of the financial aspect of services;
 14. be informed of the need for parental or guardian consent for treatment of services, if appropriate;
 15. personally manage financial affairs, unless legally determined otherwise;
 16. give informed written consent prior to being involved in research projects;
 17. refuse to participate in any research project without compromising access to services;
 18. be free from mental, emotional and physical abuse and neglect;
 19. be free from chemical or physical restraints;
 20. receive services that are delivered in a professional manner and are respectful of the client's wishes concerning their home environment;
 21. receive services in the least intrusive manner appropriate to their needs;
 22. contact any advocacy resources as needed, especially during grievance procedures; and
 23. discontinue services with one provider and freely choose the services of another provider.
- D. An HCBS provider shall assist in obtaining an independent advocate:
1. if the client's rights or desires may be in jeopardy;
 2. if the client is in conflict with the provider; or
 3. upon any request of the client.
- E. The client has the right to select an independent advocate, which may be:
1. a legal assistance corporation;
 2. a state advocacy and protection agency;
 3. a trusted church or family member; or
 4. any other competent key person not affiliated in any way with the licensed provider.

F. The client, client's family and legal guardian, if one is known, shall be informed of their rights, both verbally and in writing in a language they are able to understand.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

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

§5051. Grievances

A. The agency shall establish and follow a written grievance procedure to be used to process complaints by clients, their family member(s) or a legal representative. The written grievance procedure shall be provided to the client.

1. The notice of grievance procedure shall include the names of organizations that provide free legal assistance.

B. The client, family member or legal representative shall be entitled to initiate a grievance at any time.

C. The agency shall annually explain the grievance procedure to the client, family member(s) or a legal representative, utilizing the most appropriate strategy for ensuring an understanding of what the grievance process entails.

1. The agency shall provide the grievance procedure in writing and grievance forms shall be made available.

D. The administrator of the agency, or his/her designee, shall investigate all grievances and shall make all reasonable attempts to address the grievance.

E. The administrator of the agency, or his/her designee, shall issue a written report and/or decision within five business days of receipt of the grievance to the:

1. client;
2. client's advocate;
3. authorized representative; and
4. the person making the grievance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

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

Subchapter F. Provider Responsibilities

§5053. General Provisions

A. HCBS providers shall have qualified staff sufficient in number to meet the needs of each client as specified in the ISP and to respond in emergency situations.

B. Additional staff shall be employed as necessary to ensure proper care of clients and adequate provision of services.

C. Staff shall have sufficient communication and language skills to enable them to perform their duties and interact effectively with clients and other staff persons.

D. All telephone calls from clients shall be returned within one hour. Each client shall be informed of the provider's published telephone number, in writing, as well as through any other method of communication most readily understood by the client according to the following schedule:

1. upon admission to the HCBS provider agency;
2. at least once per year after admission; and
3. when the provider's published telephone number changes.

E. HCBS providers shall establish policies and procedures relative to the reporting of abuse and neglect of clients, pursuant to the provisions of R.S. 15:1504-1505, R.S. 40:2009.20 and any subsequently enacted laws.

Providers shall ensure that staff complies with these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

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

§5055. Core Staffing Requirements

A. Administrative Staff. The following administrative staff is required for all HCBS providers:

1. a qualified administrator at each licensed geographic location who shall meet the qualifications as established in these provisions; and

2. other administrative staff as necessary to properly safeguard the health, safety and welfare of the clients receiving services.

B. Administrator Qualifications

1. The administrator shall be a resident of the state of Louisiana and shall have the following educational qualifications and experience:

a. a master's degree in a human services field including, but not limited to:

i. nursing, hospital or nursing facility administration;

ii. physical therapy;

iii. social work;

iv. psychology;

v. gerontology;

vi. rehabilitation counseling; or

vii. health care administration; plus

viii. a minimum of three years of verifiable work experience with persons with disabilities or the elderly, with one year of the three years being at the administrative level; or

b. a bachelor's degree in a human services field including, but not limited to:

i. nursing, hospital or nursing facility administration;

ii. physical therapy;

iii. social work;

iv. psychology

v. gerontology;

vi. rehabilitation counseling; or

vii. health care administration; plus

viii. a minimum of four years verifiable work experience with persons with disabilities or the elderly, with two years of the four years being at the administrative level; or

c. be a registered nurse with a minimum of seven years of verifiable work experience with persons with disabilities or the elderly, with three years of the seven years being at the administrative level.

2. Any person convicted of a felony as defined in these provisions is prohibited from serving as the administrator of an HCBS provider agency.

C. Administrator Responsibilities. The administrator shall:

1. be a full time employee of the HCBS provider and shall not be a contract employee;

2. be available in person or by telecommunication at all times for all aspects of agency operation;

3. be available to be on-site at the HCBS provider location within one hour;

4. designate in writing an individual who meets the qualifications for an administrator to assume the authority and control of the agency if the administrator is unavailable;
5. direct the operations of the agency;
6. be responsible for compliance with all regulations, laws, policies and procedures applicable to home and community-based service providers;
7. employ qualified individuals and ensure adequate staff education and evaluations;
8. ensure the accuracy of public information and materials;
9. act as liaison between staff, contract personnel and the governing body;
10. implement an ongoing, accurate and effective budgeting and accounting system;
11. ensure that all staff receive proper orientation and training on policies and procedures, client care and services and documentation, as required by law or as necessary to fulfill each staff person's responsibilities;
12. assure that services are delivered according to the client's individual service plan; and
13. not serve as administrator for more than one licensed HCBS provider.

D. Professional Services Staff

1. The provider shall employ, contract with or have access to all necessary professional staff to meet the needs of each client as identified and addressed in the client's ISP. The professional staff shall include, but not be limited to:

- a. licensed practical nurses;
- b. registered nurses;
- c. speech therapists;
- d. physical therapists;
- e. occupational therapists;
- f. social workers; and
- g. psychologists.

2. All professional staff shall hold a current, valid license issued by the appropriate licensing board and shall comply with continuing education requirements of the appropriate board.

3. The provider shall maintain proof of annual verification of current license of all professional staff.

4. All professional services furnished or provided shall be provided in accordance with acceptable professional practice standards, according to the scope of practice requirements for each licensed discipline.

E. Direct Care Staff

1. The provider shall be staffed with direct care staff to properly safeguard the health, safety and welfare of clients.

2. The provider shall employ direct care staff to ensure the provision of home and community-based services as required by the ISP.

3. The HCBS provider shall have back-up staff available on a 24-hour basis to ensure that services to the client are uninterrupted in the event that the primary direct care staff for the client is unable to report to work.

F. Direct Care Staff Qualifications

1. All providers who receive state or federal funds, and compensate their direct service workers with such funds, shall ensure that all non-licensed direct care staff meet the minimum mandatory qualifications and requirements for direct service workers as required by R.S. 40:2179-

40:2179.1 or a subsequently amended statute and any rules published pursuant to those statutes.

2. All direct care staff shall have the ability to read, write and carry out directions competently as assigned.

a. The training must address areas of weakness, as determined by the worker's performance reviews, and may address the special needs of clients.

3. All direct care staff shall be trained in recognizing and responding to the medical emergencies of clients.

G. Direct Care Staff Responsibilities. The direct care staff shall:

1. provide personal care services to the client, per the ISP;

2. provide the direct care services to the client at the time and place assigned;

3. report and communicate changes in a client's condition to a supervisor immediately upon discovery of the change;

4. report and communicate a client's request for services or change in services to a supervisor on the date of such request;

5. follow emergency medical training while attending the client;

6. subsequently report any medical emergencies to the supervisor, the provider or others, pursuant to the provider policies and procedures;

7. report any suspected abuse, neglect or exploitation of clients to a supervisor on the date of discovery, and as required by law;

8. be trained on daily documentation such as progress notes and progress reports; and

9. be responsible for daily documentation of services provided and status of clients to be reported on progress notes and/or progress reports.

H. Volunteers/Student Interns

1. A provider utilizing volunteers or student interns on a regular basis shall have a written plan for using such resources. This plan shall be given to all volunteers and interns. The plan shall indicate that all volunteers and interns shall:

- a. be directly supervised by a paid staff member;
- b. be oriented and trained in the philosophy, policy and procedures of the provider, confidentiality requirements and the needs of clients; and
- c. have documentation of three reference checks.

2. Volunteer/student interns shall be a supplement to staff employed by the provider but shall not provide direct care services to clients.

I. Direct Care Staff Supervisor. The HCBS provider shall designate and assign a direct care staff supervisor to monitor and supervise the direct care staff.

1. The supervisor shall be selected based upon the needs of the client outlined in the ISP.

2. A provider may have more than one direct care staff supervisor.

3. Staff in supervisor positions shall have annual training in supervisory and management techniques.

J. Direct Care Supervision

1. A direct care staff supervisor shall make an onsite supervisor visit of each direct care staff at least once a month. Supervisory visits should occur more frequently:

- a. if dictated by the ISP;

- b. as needed to address worker performance;
- c. to address a client's change in status; or
- d. to assure services are provided in accordance with the ISP.

2. The supervisory visit shall be unannounced and utilized to evaluate the direct care staff's ability to perform assigned duties, determine whether services are being provided in accordance with the ISP and whether goals are being met.

3. Documentation of supervision shall include:
- a. the worker/client relationship;
 - b. services provided;
 - c. observations of the worker performing assigned duties;
 - d. instructions and comments given to the worker during the onsite visit;
 - e. verification that the worker is actually reporting to the work site according to the frequency specified in the ISP; and
 - f. client satisfaction with service delivery.

4. An annual performance evaluation for each direct care staff person shall be documented in his/her personnel record.

K. Direct Care Staff Training

1. The provider shall ensure that each direct care staff satisfactorily completes a minimum of 16 hours of training upon hire and before providing direct care and services to clients. Such training shall include the following topics and shall be documented in each employee's personnel record:

- a. the provider's policies and procedures;
- b. emergency and safety procedures;
- c. recognizing and responding to medical emergencies of the client;
- d. client's rights;
- e. detecting and reporting suspected abuse and neglect, utilizing the department's approved training curriculum;
- f. reporting critical incidents;
- g. universal precautions;
- h. documentation;
- i. implementing service plans;
- j. confidentiality;
- k. detecting signs of illness or dysfunction that warrant medical or nursing intervention;
- l. basic skills required to meet the health needs and problems of the client;
- m. crisis de-escalation; and
- n. the management of aggressive behavior, including acceptable and prohibited responses.

2. The provider shall ensure that each direct care staff satisfactorily completes a basic cardiopulmonary resuscitation (CPR) and first aid course within 45 days of hire.

3. Annually thereafter, the provider shall ensure that each direct care staff person satisfactorily completes a minimum of 16 hours of continuing training in order to ensure continuing competence. Orientation and normal supervision shall not be considered for meeting this requirement. This training shall address the special needs of clients and may address areas of employee weakness as determined by the direct care staff's performance reviews.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

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

§5057. Client Records

A. Client records shall be maintained in the HCBS provider's office. Two weeks of progress notes shall be maintained at the home. The provider shall have a written record for each client which shall include:

1. other identifying data including:
 - a. name;
 - b. date of birth;
 - c. address;
 - d. telephone number;
 - e. social security number; and
 - f. legal status;
2. a copy of the client's ISP or Medicaid comprehensive plan of care, as well as any modifications or updates to the service plan;
3. the client's history including, where applicable:
 - a. family data;
 - b. next of kin;
 - c. educational background;
 - d. employment record;
 - e. prior medical history; and
 - f. prior service history;
4. the service agreement or comprehensive plan of care;
5. written authorization signed by the client or, where appropriate, the legally responsible person for emergency care;
6. written authorization signed by the client or, where appropriate, the legally responsible person for managing the client's money, if applicable;
7. a full and complete separate accounting of each client's personal funds which includes a written record of all of the financial transactions involving the personal funds of the client deposited with the provider;
 - a. the client (or his legal representative) shall be afforded reasonable access to such record;
 - b. the financial records shall be available through quarterly statements;
 - c. the provider shall safeguard and account for any such funds;
8. required assessment(s) and additional assessments that the provider may have received or is privy to;
9. the names, addresses and telephone numbers of the client's physician(s) and dentist;
10. written progress notes and reports of the services delivered for each client for each visit. The written progress notes shall include, at a minimum:
 - a. the date and time of the visit and services;
 - b. the services delivered;
 - c. who delivered or performed the services;
 - d. current medical condition(s) of the client; and
 - e. doctor appointments scheduled or attended that day;
11. health and medical records of the client, including:
 - a. a medical history, including allergies;
 - b. a description of any serious or life threatening medical condition(s);
 - c. a description of any medical treatment or medication necessary for the treatment of any medical condition; and

d. physician delegation form for the administration of medication or treatment, if applicable; and

12. a copy of any advance directive that has been provided to the HCBS provider, or any physician orders relating to end of life care and services.

B. HCBS providers shall maintain client records for a period of five years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

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

§5059. Client Funds and Assets

A. The HCBS provider shall develop and implement written policies and procedures to protect client funds.

B. If the provider manages a client's personal funds, the provider must furnish a written statement which includes the client's rights regarding personal funds, a list of the services offered and charges, if any, to the client and/or his/her legal or responsible representative.

C. If a client chooses to entrust funds with the provider, the provider shall obtain written authorization from the client and/or his/her legal or responsible representative for the safekeeping and management of the funds.

D. The provider shall:

1. provide each client with an account statement on a quarterly basis with a receipt listing the amount of money the provider is holding in trust for the client;

2. maintain a current balance sheet containing all financial transactions to include the signatures of staff and the client for each transaction;

3. provide a list or account statement regarding personal funds upon request of the client;

4. maintain a copy of each quarterly account statement in the client's record;

5. keep funds received from the client for management in a separate interest-bearing account; and

6. not commingle the clients' funds with the provider's operating account.

E. A client with a personal fund account managed by the HCBS provider may sign an account agreement acknowledging that any funds deposited into the personal account, by the client or on his/her behalf, are jointly owned by the client and his legal representative or next of kin. The account agreement must state that:

1. the funds in the account shall be jointly owned with the right of survivorship;

2. the funds in the account shall be used by the client or on behalf of the client;

3. the client or the joint owner may deposit funds into the account; and

4. the client or joint owner may endorse any check, draft or other instrument to the order of any joint owner, for deposit into the account.

F. If the provider is managing funds for a client and he/she is discharged, any remaining funds shall be refunded to the client or his/her legal or responsible representative within one business day.

G. Distribution of Funds upon the Death of a Client

1. Unless otherwise provided by state law, upon the death of a client, the provider shall provide the executor or administrator of the client's estate or the client's responsible representative with a complete account statement of the

client's funds and personal property being held by the provider.

2. If a valid account agreement has been executed by the client, the provider shall transfer the funds in the client's personal fund account to the joint owner within 30 days of the client's death. This provision only applies to personal fund accounts not in excess of \$2,000.

3. If a valid account agreement has not been executed, the provider shall comply with the federal and state laws and regulations regarding the disbursement of funds in the account and the properties of the deceased. The provider shall comply with R.S. 9:151–181, the Louisiana Uniform Unclaimed Property Act, and the procedures of the Louisiana Department of the Treasury regarding the handling of a deceased client's funds that remain unclaimed.

H. A termination date of the account and the reason for termination shall be recorded on the client's participation file. A notation shall read, "to close account." The endorsed cancelled check with check number noted on the ledger sheet shall serve as sufficient receipt and documentation.

I. Burial or Insurance Policies

1. Upon discharge of a client, the provider shall immediately remit any burial policies or insurance policies to the client or his/her legal or responsible representative.

2. Upon the death of a client, the provider shall act upon any burial or insurance policies of the client accordingly.

J. The provisions of this section shall have no effect on federal or state tax obligations or liabilities of the deceased client's estate. If there are other laws or regulations which conflict with these provisions, those laws or regulations will govern over and supersede the conflicting provisions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

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

§5061. Quality Enhancement Plan

A. An HCBS provider shall have a quality enhancement (QE) plan which puts systems in place to effectively identify issues for which quality monitoring, remediation and improvement activities are necessary. The QE plan includes plans of action to correct identified issues including monitoring the effect of implemented changes and making needed revisions to the action plan.

B. The QE plan shall include:

1. a process for obtaining input annually from the client/guardian/authorized representative and family members of those receiving services;

2. a sample review of client case records and/or site visits;

3. a process for identifying the risk factors that put clients at high risk;

4. a process for identifying the risk factors that affect or may affect the health, safety and/or welfare of individuals being supported which includes, but is not limited to:

a. complaints;

b. incidents; and

c. Office of Protective Services' investigations of abuse, neglect and exploitation;

4. strategies for remediation of individual issues; and

5. systems in place for:

a. data collection;

- b. source of data/information;
- c. the identification of QE changes or needs;
- d. the analysis of data; and
- e. the identification of trends and patterns in service delivery in order to develop and implement strategies for agency-wide or service specific improvements.

C. The QE program outcomes shall be reported to the administrator for action, as necessary, for any identified systemic problems.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

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

§5063. Emergency Preparedness

A. A disaster or emergency may be a local, community-wide, regional or statewide event. Disasters or emergencies may include, but are not limited to:

- 1. tornados;
- 2. fires;
- 3. floods;
- 4. hurricanes;
- 5. power outages;
- 6. chemical spills;
- 7. biohazards;
- 8. train wrecks; or
- 9. declared health crisis.

B. Providers shall ensure that each client has an individual plan for dealing with emergencies and disasters and shall assist clients in identifying the specific resources available through family, friends, the neighborhood and the community.

C. Continuity of Operations. The provider shall have an emergency preparedness plan to maintain continuity of the agency's operations in preparation for, during and after an emergency or disaster. The plan shall be designed to manage the consequences of all hazards, declared disasters or other emergencies that disrupt the provider's ability to render care and treatment, or threatens the lives or safety of the clients.

D. The provider shall follow and execute its emergency preparedness plan in the event of the occurrence of a declared disaster or other emergency. The plan shall include, at a minimum:

- 1. provisions for the delivery of essential services to each client as identified in the individualized emergency plan for each client, whether the client is in a shelter or other location;
- 2. provisions for the management of staff, including provisions for adequate, qualified staff as well as for distribution and assignment of responsibilities and functions;
- 3. provisions for back-up staff;
- 4. the method that the provider will utilize in notifying the client's family or caregiver if the client is evacuated to another location either by the provider or with the assistance or knowledge of the provider. This notification shall include:
 - a. the date and approximate time that the facility or client is evacuating;
 - b. the place or location to which the client(s) is evacuating which includes the name, address and telephone number; and
 - c. a telephone number that the family or responsible representative may call for information regarding the provider's evacuation;

5. provisions for ensuring that supplies, medications, clothing and a copy of the service plan are sent with the client, if the client is evacuated; and

6. the procedure or methods that will be used to attach identification to the client. The facility shall designate a staff person to be responsible for this identification procedure which shall remain attached to the client during all phases of an evacuation and shall include the following information, at a minimum:

- a. current and active diagnosis;
- b. medication, including dosage and times administered;
- c. allergies;
- d. special dietary needs or restrictions; and
- e. next of kin, including contact information.

E. If the state, parish or local Office of Homeland Security and Emergency Preparedness (OHSEP) orders a mandatory evacuation of the parish or the area in which the agency is serving, the agency shall ensure that all clients are evacuated according to the client's individual plan and the agency's emergency preparedness plan.

1. The provider shall not abandon a client during a disaster or emergency. The provider shall not evacuate a client to a shelter without ensuring staff and supplies remain with the client at the shelter, in accordance with the client's service plan.

F. Emergency Plan Review and Summary. The provider shall review and update its emergency preparedness plan, as well as each client's emergency plan at least annually.

G. The provider shall cooperate with the department and with the local or parish OHSEP in the event of an emergency or disaster and shall provide information as requested.

H. The provider shall monitor weather warnings and watches as well as evacuation order from local and state emergency preparedness officials.

I. All agency employees shall be trained in emergency or disaster preparedness. Training shall include orientation, ongoing training and participation in planned drills for all personnel.

J. Upon request by the department, the HCBSP shall submit a copy of its emergency preparedness plan and a written summary attesting how the plan was followed and executed. The summary shall contain, at a minimum:

- 1. pertinent plan provisions and how the plan was followed and executed;
- 2. plan provisions that were not followed;
- 3. reasons and mitigating circumstances for failure to follow and execute certain plan provisions;
- 4. contingency arrangements made for those plan provisions not followed; and
- 5. a list of all injuries and deaths of clients that occurred during execution of the plan, evacuation or temporary relocation including the date, time, causes and circumstances of the injuries and deaths.

K. Inactivation of License due to a Declared Disaster or Emergency

1. An HCBS provider licensed in a parish which is the subject of an executive order or proclamation of emergency or disaster, as issued in accordance with R.S. 29:724 or R.S. 29:766 may seek to inactivate its license for a period not to exceed one year, provided that the following conditions are met:

a. the licensed provider shall submit written notification to the Health Standards Section within 60 days of the date of the executive order or proclamation of emergency or disaster that:

i. the HCBS provider has experienced an interruption in the provisions of services as a result of events that are the subject of such executive order or proclamation of emergency or disaster issued in accordance with R.S. 29:724 or R.S. 29:766;

ii. the licensed HCBS provider intends to resume operation as an HCBS provider in the same service area;

iii. includes an attestation that the emergency or disaster is the sole casual factor in the interruption of the provision of services;

iv. includes an attestation that all clients have been properly discharged or transferred to another provider; and

v. provides a list of each client and where that client is discharged or transferred to;

b. the licensed HCBS provider resumes operating as a HCBS provider in the same service area within one year of the issuance of an executive order or proclamation of emergency or disaster in accordance with R.S. 29:724 or R.S. 29:766;

c. the licensed HCBS provider continues to pay all fees and cost due and owed to the department including, but not limited to, annual licensing fees and outstanding civil monetary penalties; and

d. the licensed HCBS provider continues to submit required documentation and information to the department.

2. Upon receiving a completed written request to inactivate a HCBS provider license, the department shall issue a notice of inactivation of license to the HCBS provider.

3. Upon completion of repairs, renovations, rebuilding or replacement, an HCBS provider which has received a notice of inactivation of its license from the department shall be allowed to reinstate its license upon the following conditions being met.

a. The HCBS provider shall submit a written license reinstatement request to the licensing agency of the department 60 days prior to the anticipated date of reopening.

b. The license reinstatement request shall inform the department of the anticipated date of opening, and shall request scheduling of a licensing survey.

c. The license reinstatement request shall include a completed licensing application with appropriate licensing fees.

d. The provider resumes operating as an HCBS provider in the same service area within one year.

4. Upon receiving a completed written request to reinstate an HCBS provider license, the department shall conduct a licensing survey. If the HCBS provider meets the requirements for licensure and the requirements under this Section, the department shall issue a notice of reinstatement of the HCBS provider license.

a. The licensed capacity of the reinstated license shall not exceed the licensed capacity of the HCBS provider at the time of the request to inactivate the license.

5. No change of ownership in the HCBS provider shall occur until such HCBS provider has completed repairs,

renovations, rebuilding or replacement construction, and has resumed operations as an HCBS provider.

6. The provisions of this Section shall not apply to an HCBS provider which has voluntarily surrendered its license and ceased operation.

7. Failure to comply with any of the provisions of this Section shall be deemed a voluntary surrender of the HCBS provider license and any applicable facility need review approval for licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

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

Subchapter G. Adult Day Care Module

§5071. General Provisions

A. Providers applying for the Adult Day Care module under the HCBS license shall meet the core licensing requirements as well as the module specific requirements of this Section.

B. Adult day care is designed to meet the individual needs of functionally impaired adults. This is a structured and comprehensive group program which provides a variety of health, social, and related support services in a protective setting for a portion of the 24-hour day.

C. An ADC program shall provide services for 10 or more functionally impaired adults who are not related to the owner or operator of the HCBS provider.

1. For the purposes of this Section, *functionally impaired adult* shall be defined as individuals 17 years of age or older who are physically, mentally or socially impaired to a degree that requires supervision.

D. The following two programs shall be provided under the ADC Module:

1. Day Habilitation Services

a. Day habilitation services include assistance with acquisition, retention or improvement in self-help, socialization, and adaptive skills that take place in a non-residential setting separate from the recipient's private residence or other residential living arrangement. Day habilitation services provide activities and environments designed to foster the acquisition of skills, appropriate behavior, greater independence and personal choice.

b. Services are furnished to a client who is 17 years of age or older and has a developmental disability, or who is a functionally impaired adult, on a regularly scheduled basis during normal daytime working hours for one or more days per week, or as specified in the recipient's service plan.

c. Day habilitation services focus on enabling the recipient to attain or maintain his or her maximum functional level, and shall be coordinated with any physical, occupational, or speech therapies in the service plan. These services may also serve to reinforce skills or lessons taught in other settings.

2. Prevocational/Employment-Related Services

a. Prevocational/employment-related services prepare a recipient for paid or unpaid employment. Services include teaching such concepts as compliance, attendance, task completion, problem solving and safety. Services are not job-task oriented, but are aimed at a generalized result. These services are reflected in the recipient's service plan and are directed to habilitative (e.g. attention span, motor skills) rather than explicit employment objectives.

b. Prevocational services are provided to clients who are not expected to join the general work force or participate in a transitional sheltered workshop within one year of service initiation.

c. This service is not available to clients eligible to receive services under a program funded under the Rehabilitation Act of 1973 or the IDEA.

E. When applying for the ADC module under the HCBS provider license, the provider shall indicate whether it is providing day habilitation, prevocational/employment-related services or both.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

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

§5073. Operational Requirements

A. The client/staff ratio in an ADC facility shall be one staff person per eight clients, unless additional staff coverage is needed to meet the needs of the client, as specified in the service plan.

B. Staff Training

1. ADC Staff in supervisory positions shall have annual training in supervisory and management techniques.

2. Each ADC facility shall have a training supervisor who shall receive at least 15 hours of annual vocational and/or community-based employment training.

3. Once the training supervisor receives all of the required training, he/she shall be responsible for ensuring that direct care staff receives training on vocational and/or community-based employment training.

C. Food and Nutrition

1. If meals are prepared by the facility or contracted from an outside source, the following conditions shall be met:

a. menus shall be written in advance and shall provide for a variety of nutritional foods;

b. records of menus, as served, shall be filed and maintained for at least 30 days;

c. modified diets shall be prescribed by a physician;

d. a registered dietician shall review all of the orders for special or modified diets and plan the diets;

e. only food and drink of safe quality shall be purchased;

f. storage, preparation, and serving techniques shall be provided to ensure nutrients are retained and spoilage is prevented;

g. food preparation areas and utensils shall be kept clean and sanitary;

h. there shall be an adequate area for eating; and

i. the facility shall designate one staff member who shall be responsible for meal preparation/serving if meals are prepared in the facility.

2. When meals are not prepared by the facility, the following conditions shall be met:

a. provisions shall be made for obtaining food for clients who do not bring their lunch; and

b. there shall be an adequate area for eating.

3. Drinking water shall be readily available. If a water fountain is not available, single-use disposable cups shall be used.

4. Dining areas shall be adequately equipped with tables, chairs, eating utensils and dishes designed to meet the functional needs of clients.

5. Adequate refrigeration of food shall be maintained.

D. General Safety Practices

1. A facility shall not maintain any firearms or chemical weapons at any time.

2. A facility shall ensure that all poisonous, toxic and flammable materials are safely stored in appropriate containers and labeled as to the contents. Such materials shall be maintained only as necessary and shall be used in such a manner as to ensure the safety of clients, staff and visitors.

3. Adequate supervision/training shall be provided where potentially harmful materials such as cleaning solvents and/or detergents are used.

4. A facility shall ensure that a first aid kit is available in the facility and in all vehicles used to transport clients.

5. Medication shall be locked in a secure storage area or cabinet.

6. Fire drills shall be performed at least once a month.

E. Physical Environment

1. The ADC building shall be constructed, equipped and maintained to ensure the safety of all individuals. The building shall be maintained in good repair and kept free from hazards such as those created by any damage or defective parts of the building.

2. The provider shall maintain all areas of the facility that are accessible to individuals, and ensure that all structures on the ground of the facility are in good repair and kept free from any reasonable foreseeable hazards to health or safety.

3. The facility shall be accessible to and functional for those cared for, the staff and the public. All necessary accommodations shall be made to meet the needs of clients. Training or supports shall be provided to help clients effectively negotiate their environments.

4. There shall be a minimum of 35 square feet of space per client. Kitchens, bathrooms and halls used as passageways, and other spaces not directly associated with program activities, shall not be considered as floor space available to clients.

5. There shall be storage space, as needed by the program, for training and vocational materials, office supplies, etc.

6. Rooms used for recipient activities shall be well ventilated and lighted.

7. There shall be separate space for storage of a client's personal belongings.

8. Chairs and tables shall be adequate in number to serve the clients.

9. Bathrooms and lavatories shall be accessible, operable and equipped with toilet paper, soap and paper towels or hand drying machines. Every bathroom shall be wheelchair accessible.

a. For existing, licensed ADCs, there shall be one bathroom per every 12 persons at the ADC facility.

b. For newly licensed, newly constructed, renovated or relocated ADCs, there shall be two bathrooms, one for male and one for female, each having a commode/toilet and lavatory for every 15 persons at the ADC facility.

c. Individuals shall be provided privacy when using bathroom facilities.

d. Every bathroom door shall be designed to permit opening of the locked door from the outside, in an

emergency, and the opening device shall be readily accessible to the staff.

10. Stairways shall be kept free of obstruction and fire exit doors shall be maintained in working order. All stairways shall be equipped with handrails.

11. There shall be a telephone available and accessible to all clients.

12. The ADC shall be equipped with a functional air conditioning and heating unit(s) which maintains an ambient temperature between 65 and 80 degrees Fahrenheit throughout the ADC.

13. The building in which the ADC is located shall meet the standards of the Americans with Disabilities Act.

F. Employment of Clients

1. The provider shall meet all of the state and federal wage and hour regulations regarding employment of clients who are admitted to the agency.

a. The provider must maintain full financial records of clients' earnings if the facility pays the client.

b. The provider shall have written assurance that the conditions and compensation of work are in compliance with applicable state and federal employment regulations.

c. The provider must have a U.S. Department of Labor Sub-Minimum Wage Certificate if the provider pays sub-minimum wage.

2. Clients shall not be required to perform any kind of work involving the operation or maintenance of the facility without compensation in accordance with the U.S. Department of Labor sub-minimum standard.

3. Clients shall be directly supervised when operating any type of power driven equipment such as lawn mowers or electrical saws, unless:

a. the ID team has determined that direct supervision is not necessary;

b. equipment has safety guards or devices; and

c. adequate training is given to the recipient and the training is documented.

4. Clients shall be provided with the necessary safety apparel and safety devices to perform the job.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

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

Subchapter H. Family Support Module

§5075. General Provisions

A. Providers applying for the Family Support module under the HCBS license shall meet the core licensing requirements as well as the module specific requirements of this Section.

B. The purpose of family support services is to:

1. keep the family of a person with a disability together by promoting unity, independence of the family in problem solving and maintenance of the family as the primary responsible caretaker;

2. determine if barriers to home placement for persons with a disability can be eliminated or relocated through financial assistance for purchases, special equipment and supplies;

3. allow a person with a disability to remain in or return to a family setting as an alternative to placement in a more restrictive setting; and

4. link families of a person with a disability to existing support services and to supplement those services where

necessary (i.e. transportation to reach services when not otherwise provided).

C. Services covered by the family support module may include:

1. special equipment;
2. limited adaptive housing;
3. medical expenses and medications;
4. nutritional consultation and regime;
5. related transportation;
6. special clothing;
7. special therapies;
8. respite care;
9. dental care; and
10. family training and therapy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

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

§5077. Operational Requirements

A. Providers shall ensure that each family receiving services is assigned a service coordinator.

B. The service coordinator shall perform the following tasks:

1. prepare a family study, based on a home visit interview with the client, in order to ascertain what appropriate family support services may be provided;

2. visit each client at least quarterly;

3. maintain documentation of all significant contacts; and

4. review and evaluate, at least every six months, the care, support and treatment each client is receiving.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

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

Subchapter I. Personal Care Attendant Module

§5079. General Provisions

A. Providers applying for the Personal Care Attendant module under the HCBS license shall meet the core licensing requirement as well as the module specific requirements of this Section.

B. Personal care attendant services may include:

1. assistance and prompting with:

a. personal hygiene;

b. dressing;

c. bathing;

d. grooming;

e. eating;

f. toileting;

g. ambulation or transfers;

h. behavioral support;

i. other personal care needs; and

j. any medical task which can be delegated;

2. assistance and/or training in the performance of tasks related to:

a. maintaining a safe and clean home environment such as housekeeping, bed making, dusting, vacuuming and laundry;

b. cooking;

c. shopping;

d. budget management;

e. bill paying; and

f. evacuating the home in emergency situations;

3. personal support and assistance in participating in community, health and leisure activities which may include transporting and/or accompanying the participant to these activities;

4. support and assistance in developing relationships with neighbors and others in the community and in strengthening existing informal, social networks and natural supports; and

5. enabling and promoting individualized community supports targeted toward inclusion into meaningful, integrated experiences (e.g. volunteer work and community awareness) activities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36: **§5081. Operational Requirements**

A. PCA providers shall schedule personal care attendant staff in the manner and location as required by each client's ISP.

B. PCA providers shall have a plan that identifies at least one trained and qualified back-up worker for each client served.

1. It is the responsibility of the provider to ensure that a trained and qualified back-up worker is available as needed to meet the requirements of the ISP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

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

Subchapter J. Respite Care

§5083. General Provisions

A. Providers applying for the Respite Care module under the HCBS license shall meet the core licensing requirement as well as the applicable module specific requirements of this Section.

B. The goal of respite care is to provide temporary, intermittent relief to informal caregivers in order to help prevent unnecessary or premature institutionalization while improving the overall quality of life for both the informal caregiver and the client.

C. Respite care may be provided as an in-home or center-based service. The services may be provided in the client's home or in a licensed respite center.

D. Providers of in-home respite care services must comply with:

1. all HCBS providers core licensing requirements;
2. PCA module specific requirements; and
3. the respite care services module in-home requirements.

E. Providers of center-based respite care services must comply with:

1. all HCBS providers core licensing requirements;
2. respite care services module in-home requirements; and
3. respite care services module center-based requirements.

F. When applying for the respite care service module under the HCBS provider license, the provider shall indicate whether it is providing in-home respite care, center-based respite care or both.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

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

§5085. Operational Requirements for In-Home Respite Care

A. All in-home respite care service providers shall:

1. make available to clients, the public and HSS the day and hours that respite is to be provided;

2. make available to clients, the public and HSS a detailed description of populations served as well as services and programming; and

B. In-home respite care service providers shall have adequate administrative, support, professional and direct care staff to meet the needs of clients at all times.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

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

§5087. Operational Requirements for Center-Based Respite Care

A. All center-based respite care service providers shall meet the following daily aspects of care.

1. The daily schedule shall be developed in relation to the needs of the clients.

2. Clients shall be given training in good habits of personal care, hygiene and grooming.

a. The family shall supply the client with personal care, hygiene and grooming items and supplies.

b. The provider shall ensure that the family supplies the client with his/her own clothing.

3. The provider shall make available to each client an adequate number of supervised recreational activities.

B. All center-based respite care service providers shall meet the following health aspects of care.

1. Responsibility for the health supervision of the client shall be placed with the client's personal physician.

a. The provider shall have written agreements for obtaining diagnosis and treatment of medical and dental problems for clients who do not have a personal physician. This agreement can be with a local hospital, clinic or physician.

2. Arrangements for medical isolation shall be available. The provider shall inform the family to remove the client when necessary.

3. Medication shall be prescribed only by a licensed physician.

C. Food and Nutrition

1. Planning, preparation and serving of foods shall be in accordance with the nutritional, social, emotional and medical needs of the clients. The diet shall include a variety of food, and be attractively served. Clients shall be encouraged, but not forced, to eat all of the food served.

2. Food provided shall be of adequate quality and in sufficient quantity to provide the nutrients for proper growth and development.

3. Clients shall be provided a minimum of three meals daily, plus snacks.

4. All milk and milk products used for drinking shall be Grade A and pasteurized.

5. There shall be no more than 14 hours between the last meal or snack on one day and the first meal of the following day.

D. The provider shall request from the family that all clients over five years of age have money for personal use. Money received by a client shall be his own personal property and shall be accounted for separately from the provider's funds.

E. Privacy

1. The HCBS provider staff shall function in a manner that allows appropriate privacy for each client.

2. The space and furnishings shall be designed and planned to enable the staff to respect the clients' right to privacy and at the same time provide adequate supervision according to the ages and developmental needs of the client.

3. The provider shall not use reports or pictures, nor release (or cause to be released) research data, from which clients can be identified without written consent from the client, parents or legal guardians.

F. Contact with Family, Friends and Representatives

1. Clients in care shall be allowed to send and receive uncensored mail and conduct private telephone conversations with family members.

2. If it has been determined that the best interests of the client necessitate restrictions on communications or visits, these restrictions shall be documented in the service plan.

3. If limits on communication or visits are indicated for practical reasons, such as expense of travel or telephone calls, such limitations shall be determined with the participation of the client and family.

G. Furnishings and Equipment

1. Furnishings and equipment shall be adequate, sufficient and substantial for the needs of the age groups in care.

2. All bedrooms shall be on or above street grade level and be outside rooms. Bedrooms shall accommodate no more than four residents. Bedrooms must provide at least 60 square feet per person in multiple sleeping rooms and not less than 80 square feet in single rooms.

3. Each resident shall be provided a separate bed of proper size and height, a clean, comfortable mattress and bedding appropriate for weather and climate.

4. There shall be separate sleeping rooms for adults and for adolescents. When possible, there should be individual sleeping rooms for clients whose behavior would be upsetting to others.

5. Appropriate furniture shall be provided, such as a chest of drawers, a table or desk, an individual closet with clothes racks and shelves accessible to the residents.

6. Individual storage space reserved for the client's exclusive use shall be provided for personal possessions such as clothing and other items so that they are easily accessible to the resident during his/her stay.

H. Bath and Toilet Facilities

1. There shall be a separate toilet/bathing area for males and females beyond pre-school age. The provider shall have one toilet/bathing area for each eight clients admitted, but in no case shall have less than two toilet/bathing areas.

2. Toilets should be convenient to sleeping rooms and play rooms.

3. Toilets, bathtubs and showers shall provide for individual privacy unless specifically contraindicated for the individual, as stated in the service plan.

4. Bath/toilet area shall be accessible, operable and equipped with toilet paper, soap and paper towels or hand drying machines.

5. Every bath/toilet shall be wheelchair accessible.

6. Individuals shall be provided privacy when using a bath/toilet area.

7. Every bath/toilet area door shall be designed to permit opening of the locked door from the outside, in an emergency. The opening device shall be readily accessible to the staff.

I. There shall be a designated space for dining. Dining room tables and chairs shall be adjusted in height to suit the ages of the clients.

J. Heat and Ventilation

1. The temperature shall be maintained within a reasonable comfort range (65 to 80 degrees Fahrenheit).

2. Each habitable room shall have access to direct outside ventilation by means of windows, louvers, air conditioner, or mechanical ventilation horizontally and vertically.

K. Health and Safety

1. The facility shall comply with all applicable building codes, fire and safety laws, ordinances and regulations.

2. Secure railings shall be provided for flights of more than four steps and for all galleries more than four feet from the ground.

3. Where clients under age two are in care, gates shall be provided at the head and foot of each flight of stairs accessible to these clients.

4. Before swimming pools are made available for client use, written documentation must be received by DHH confirming that the pool meets the requirements of the Virginia Graeme Baker Pool and Spa Safety Act of 2007 or, in lieu of, written documentation confirming that the pool meets the requirements of ANSI/APSP-7 (2006 Edition) which is entitled the "American National Standard for Suction Entrapment Avoidance in Swimming Pools, Wading pools, Spas, Hot Tubs and Catch Basins."

a. An outdoor swimming pool shall be enclosed by a six foot high fence. All entrances and exits to pools shall be closed and locked when not in use. Machinery rooms shall be locked to prevent clients from entering.

b. An individual, 18 years of age or older, shall be on duty when clients are swimming in ponds, lakes or pools where a lifeguard is not on duty. The individual is to be certified in water safety by the American Red Cross.

c. There shall be written plans and procedures for water safety.

5. Storage closets or chests containing medicine or poisons shall be securely locked.

6. Garden tools, knives and other dangerous instruments shall be inaccessible to clients without supervision.

7. Electrical devices shall have appropriate safety controls.

L. Maintenance

1. Buildings and grounds shall be kept clean and in good repair.

2. Outdoor areas shall be well drained.

3. Equipment and furniture shall be safely and sturdily constructed and free of hazards to clients and staff.

4. The arrangement of furniture in living areas shall not block exit ways.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

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

Subchapter K. Substitute Family Care Module

§5089. General Provisions

A. Providers applying for the Substitute Family Care module under the HCBS license shall meet the core licensing requirements as well as the module specific requirements of this Section. In addition to complying with the appropriate licensing regulations, SFC providers shall also establish:

1. an advisory committee comprised of persons with developmental disabilities and their families to provide guidance on the aspirations of persons with developmental disabilities who live in home and community settings;

2. a medical decision-making committee for each SFC client who is unable to give informed consent for surgical or medical treatment which shall fulfill the requirements for executing medical decision-making for those clients as required by R.S. 40:1299.53 or its successor statute.

B. Substitute family care services provide 24-hour personal care, supportive services, and supervision to adults who meet the criteria for having a developmental disability.

C. The SFC Program is designed to:

1. support individuals with developmental disabilities in a home environment in the community through an array of naturally occurring and arranged community resources similar to those enjoyed by most individuals living in the community in all stages of life;

2. expand residential options for persons with developmental disabilities;

a. this residential option also takes into account compatibility of the substitute family and the participant, including individual interests, age, health, needs for privacy, supervision and support needs;

3. provide meaningful opportunities for people to participate in activities of their choosing whereby creating a quality of life not available in other settings;

4. serve persons who require intensive services for medical, developmental or psychological challenges;

a. the SFC provider is required to provide the technical assistance, professional resources and more intensive follow-up to assure the health, safety and welfare of the client(s).

D. Substitute family care services are delivered by a principal caregiver, in the caregiver's home, under the oversight and management of a licensed SFC provider.

1. The SFC caregiver is responsible for providing the client with a supportive family atmosphere in which the availability, quality and continuity of services are appropriate to the age, capabilities, health conditions and special needs of the individual.

2. The licensed SFC provider shall not be allowed to serve as the SFC caregiver.

E. Potential clients of the SFC program shall meet the following criteria:

1. have a developmental disability as defined in R.S. 28:451.1-455.2 of the Louisiana Developmental Disability Law or its successor statute;

2. be at least 18 years of age; and

3. have an assessment and service plan pursuant to the requirements of the HCBS provider licensing rule;

a. The assessment and service plan shall assure that the individual's health, safety and welfare needs can be met in the SFC setting.

F. SFC Caregiver Qualifications

1. An SFC caregiver shall be certified by the SFC provider before any clients are served. In order to be certified, the SFC caregiver applicant shall:

a. undergo a professional home study;

b. participate in all required orientations, trainings, monitoring and corrective actions required by the SFC provider; and

c. meet all of the caregiver specific requirements of this Section.

2. The personal qualifications required for certification include:

a. Residency. The caregiver shall reside in the state of Louisiana and shall provide SFC services in the caregiver's home. The caregiver's home shall be located in the state of Louisiana and in the region in which the SFC provider is licensed;

b. Criminal Record and Background Clearance. Members of the SFC caregiver's household shall not have any felony convictions. Other persons approved to provide care or supervision of the SFC client for the SFC caregiver shall not have any felony convictions;

i. prior to certification, the SFC caregiver, all members of the SFC caregiver applicant's household and persons approved to provide care or supervision of the SFC client on a regular or intermittent basis, shall undergo a criminal record and background check.;

ii. annually thereafter, the SFC caregiver, all members of the SFC caregiver applicant's household and persons approved to provide care or supervision of the SFC client on a regular or intermittent basis, shall have background checks.

c. Age. The SFC principal caregiver shall be at least 21 years of age. Maximum age of the SFC principal caregiver shall be relevant only as it affects his/her ability to provide for the SFC client as determined by the SFC provider through the home assessment. The record must contain proof of age.

3. The SFC caregiver may be either single or married. Evidence of marital status must be filed in the SFC provider's records and may include a copy of legal documents adequate to verify marital status.

4. The SFC caregiver is not prohibited from employment outside the home or from conducting a business in the home provided that:

a. the SFC home shall not be licensed as another healthcare provider;

b. such employment or business activities do not interfere with the care of the client;

c. such employment or business activities do not interfere with the responsibilities of the SFC caregiver to the client;

d. a pre-approved, written plan for supervision of the participant which identifies adequate supervision for the participant is in place; and

e. the plan for supervision is signed by both the SFC caregiver and the administrator or designee of the SFC provider.

G. The SFC caregiver shall not be certified as a foster care parent(s) for the Department of Social Services (DSS) while serving as a caregiver for a licensed SFC provider.

1. The SFC provider, administrator or designee shall request confirmation from DSS that the SFC caregiver applicant is not presently participating as a foster care parent and document this communication in the SFC provider's case record.

H. In addition to the discharge criteria in the core requirements, the client shall be discharged from the SFC program upon the client meeting any of the following criteria:

1. incarceration or placement under the jurisdiction of penal authorities or courts for more than 30 days;

2. lives in or changes his/her residence to another region in Louisiana or another state;

3. admission to an acute care hospital, rehabilitation hospital, intermediate care facility for persons with developmental disabilities (ICF/DD) or nursing facility with the intent to stay longer than 90 consecutive days;

4. the client and/or his legally responsible party(s) fails to cooperate in the development or continuation of the service planning process or service delivery;

5. a determination is made that the client's health and safety cannot be assured in the SFC setting; or

6. failure to participate in SFC services for 30 consecutive days for any reason other than admission to an acute care hospital, rehabilitation hospital, ICF/DD facility or nursing facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

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

§5090. Operational Requirements for Substitute Family Care Providers

A. Training

1. Prior to the introduction of an SFC client into a SFC home, the SFC provider shall ensure that the caregiver receives a minimum of six hours of training designed to assure the health and safety of the client, including any areas relevant to the SFC client's support needs.

a. The provider shall also conduct a formal review of the SFC client's support needs, particularly regarding medical and behavioral concerns as well as any other pertinent areas.

2. Within the first 90 days following the client's move into the home, the SFC provider shall provide and document training to the SFC caregiver(s) on:

a. the client's support plan and the provider's responsibilities to assure successful implementation of the plan;

b. emergency plans and evacuation procedures;

c. client rights and responsibilities; and

d. any other training deemed necessary to support the person's individual needs.

3. Annually, the SFC provider shall provide the following training to the SFC caregiver:

a. six hours of approved training related to the client's needs and interests including the client's specific priorities and preferences; and

b. six hours of approved training on issues of health and safety such as the identification and reporting of allegations of abuse, neglect or exploitation.

4. On an as-needed basis the SFC provider shall provide the SFC caregiver with additional training as may be deemed necessary by the provider.

B. Supervision and Monitoring. The SFC provider shall provide ongoing supervision of the SFC caregiver to ensure quality of services and compliance with licensing standards. Ongoing supervision and monitoring shall consist of the following.

1. The SFC provider shall conduct in-person monthly reviews of each SFC caregiver and/or household in order to:

a. monitor the health and safety status of the client through visits;

i. more frequent visits shall be made when concerns are identified;

b. monitor the implementation of the client's service plan to ensure that it is effective in promoting accomplishment of the client's goals;

c. assure that all services included in the service plan are readily available and utilized as planned;

d. assure that the objectives of the medical, behavioral or other plans are being accomplished as demonstrated by the client's progress; and

e. resolve discrepancies or deficiencies in service provision.

2. The SFC provider shall conduct annual reviews of each SFC caregiver and/or household in order to assure the annual certification relating to health, safety and welfare issues and the client's adjustment to the SFC setting. The annual review shall include:

a. written summaries of the SFC caregiver's performance of responsibilities and care for the client(s) placed in the home;

b. written evaluation of the strengths and needs of the SFC home and the client's relationship with the SFC caregiver, including the goals and future performance;

c. review of all of the licensing standards to ensure compliance with established standards;

d. review of any concerns or the need for corrective action, if indicated; and

e. complete annual inventory of the client's possessions.

C. The SFC provider shall assure the following minimum services are provided by the SFC caregiver:

1. 24-hour care and supervision, including provisions for:

a. a flexible, meaningful daily routine;

b. household tasks;

c. food and nutrition;

d. clothing;

e. care of personal belongings;

f. hygiene; and

g. routine medical and dental care;

2. room and board;

3. routine and reasonable transportation;

4. assurance of minimum health, safety and welfare needs;

5. participation in school, work or recreational/leisure activities, as appropriate;

6. access to a 24-hour emergency response through written emergency response procedures for handling emergencies and contact numbers for appropriate staff for after hours; and

a. for purposes of these provisions, after hours shall include holidays, weekends, and hours between 4:31 p.m. and 7:59 a.m. on Monday through Friday;

7. general supervision of personal needs funds retained for the client's use if specified in the service plan.

D. Client Records

1. SFC Providers shall ensure that the SFC caregiver complies with the following standards for client records.

a. Information about clients and services of the contract agency shall be kept confidential and shared with third parties only upon the written authorization of the client or his/her authorized representative, except as otherwise specified in law.

b. The SFC caregiver shall make all client records available to the department or its designee and any other state or federal agency having authority to review such records.

c. The SFC caregiver shall ensure the privacy of the client's protected health information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

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

§5091. Operational Requirements for Substitute Family Care Caregivers

A. The SFC caregiver(s) shall provide adequate environments that meet the needs of the clients.

B. The SFC caregiver's home shall be located within a 25 mile radius of community facilities, resources and services such as medical care, schools, recreation facilities, churches and other community facilities, unless a waiver is granted by the department.

C. The home of the SFC family shall not be used as lodging for any person(s) who is not subject to the prior approval certification process of the SFC family. The SFC family shall notify the administrator, or designee of the SFC provider, of any person(s) allowed to live in the home following the initial certification.

1. In a non-emergent situation, prior notification is required. In an emergent situation, notification shall be made within 48 hours of the additional person's move into the substitute's family home.

2. All persons residing with the SFC family, even on a non-permanent basis, shall undergo criminal record and background checks.

3. The SFC family shall accept persons requiring care or supervision only through the SFC provider with whom they have a current contract.

D. The SFC caregiver shall care for no more than two SFC clients in the caregiver's home. The SFC caregiver shall allow no more than three persons unrelated to the principal caregiver to live in the home. These three persons include the SFC clients.

E. The SFC caregiver shall have a stable income sufficient to meet routine expenses, independent of the payments for their substitute family care services, as demonstrated by a reasonable comparison between income and expenses conducted by the administrator or designee of the SFC provider.

F. The SFC caregiver must have a plan that outlines in detail the supports to be provided. This plan shall be approved and updated as required by the SFC provider. The SFC caregiver shall allow only approved persons to provide care or supervision to the SFC client.

1. An adequate support system for the supervision and care of the participant in both on-going and emergent situations shall include:

a. identification of any person(s) who will supervise the participant on a regular basis which must be prior approved by the administrator or designee of the SFC agency provider;

b. identification of any person(s) who will supervise for non-planned (emergency) assumption of supervisory duties who has not been previously identified and who shall be reported to the agency provider administrator or designee within 12 hours; and

c. established eligibility for available and appropriate community resources.

G. The SFC caregiver and/or household shall receive referrals only from the licensed SFC provider with whom it has a contract.

H. SFC Caregiver's Home Environment

1. The home of the SFC caregiver shall be safe and in good repair, comparable to other family homes in the neighborhood. The home and its exterior shall be free from materials and objects which constitute a danger to the individual(s) who reside in the home.

2. SFC homes featuring either a swimming or wading pool must ensure that safety precautions prevent unsupervised accessibility to clients.

3. The home of the SFC caregiver shall have:

a. functional air conditioning and heating units which maintain an ambient temperature between 65 and 80 degrees Fahrenheit;

b. a working telephone;

c. secure storage of drugs and poisons;

d. secure storage of alcoholic beverages;

e. pest control;

f. secure storage of fire arms and ammunition;

g. household first aid supplies to treat minor cuts or burns;

h. plumbing in proper working order and availability of a method to maintain safe water temperatures for bathing; and

i. a clean and sanitary home, free from any health and/or safety hazards.

4. The SFC home shall be free from fire hazards such as faulty electrical cords, faulty appliances and non-maintained fireplaces and chimneys, and shall have the following:

a. operating smoke alarms within 10 feet of each bedroom;

b. portable chemical fire extinguishers located in the kitchen area of the home;

c. posted emergency evacuation plans which shall be practiced at least quarterly; and

d. two unrestricted doors which can be used as exits.

5. The SFC home shall maintain environments that meet the following standards.

a. There shall be a bedroom for each client with at least 80 square feet exclusive of closets, vestibules and bathrooms and equipped with a locking door, unless contraindicated by any condition of the client.

i. The department may grant a waiver from individual bedroom and square feet requirements upon good cause shown, as long as the health, safety and welfare of the client are not at risk.

b. Each client shall have his own bed unit, including frame, which is appropriate to his/her size and is fitted with a non-toxic mattress with a water proof cover.

c. Each client shall have a private dresser or similar storage area for personal belongings that is readily accessible to the client.

d. There shall be a closet, permanent or portable, to store clothing or aids to physical functioning, if any, which is readily accessible to the client.

e. The client shall have access to a working telephone.

f. The home shall have one bathroom for every two members of the SFC household, unless waived by the department.

g. The home shall have cooking and refrigeration equipment and kitchen and or dining areas with appropriate furniture that allows the client to participate in food preparation and family meals.

h. The home shall have sufficient living or family room space, furnished comfortably and accessible to all members of the household.

i. The home shall have adequate light in each room, hallway and entry to meet the requirements of the activities that occur in those areas.

j. The home shall have window coverings to ensure privacy.

I. Automobile Insurance and Safety Requirements

1. Each SFC caregiver shall have a safe and dependable means of transportation available as needed for the client.

2. The SFC caregiver shall provide the following information to the SFC provider who is responsible for maintaining copies in its records:

a. current and valid driver's licenses of persons routinely transporting the client;

b. current auto insurance verifications demonstrating at least minimal liability insurance coverage;

c. documentation of visual reviews of current inspection stickers; and

d. documentation of a driving history report on each family member who will be transporting the client.

3. If the client(s) are authorized to operate the family vehicle, sufficient liability insurance specific to the client(s) use shall be maintained at all times.

J. Client Records

1. The SFC caregiver shall forward all client records, including progress notes and client service notes to the SFC provider on a monthly basis. The following information shall be maintained in the client records in the SFC caregiver's home:

a. client's name, sex, race and date of birth;

b. client's address and the telephone number of the client's current place of employment, school or day provider;

c. client's Medicaid/Medicare and other insurance cards and numbers;

d. client's social security number and legal status;

e. name and telephone number of the client's preferred hospital, physician and dentist ;

f. name and telephone number of the closest living relative or emergency contact person for the client;

g. preferred religion (optional) of the client;

h. Medicaid eligibility information;

i. medical information, including, but not limited to:

i. current medications, including dosages, frequency and means of delivery;

ii. the condition for which each medication is prescribed; and

iii. allergies;

j. identification and emergency contact information on persons identified as having authority to make emergency medical decisions in the case of the individual's inability to do so independently;

k. progress notes written on at least a monthly basis summarizing services and interventions provided and progress toward service objectives; and

i. Checklists alone are not adequate documentation for progress notes;

1. a copy of the client's ISP and any vocational and behavioral plans.

2. Each SFC family shall have documentation attesting to the receipt of an adequate explanation of:

a. the client's rights and responsibilities;

b. grievance procedures;

c. critical incident reports; and

d. formal grievances filed by the client.

3. All records maintained by the SFC caregiver shall clearly identify the:

a. date the information was entered or updated in the record;

b. signature or initials of the person entering the information; and

c. documentation of the need for ongoing services.

K. The SFC caregiver shall be required to take immediate actions to protect the health, safety and welfare of clients at all times.

1. When a client has been involved in a critical incident or is in immediate jeopardy, the SFC caregiver shall seek immediate assistance from emergency medical services and local law enforcement agencies, as needed.

2. If abuse, neglect or exploitation is suspected or alleged, the SFC caregiver is required to report such abuse, neglect or exploitation in accordance with R.S.40:2009.20 or any successor statute.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

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

Subchapter L. Supervised Independent Living Module §5093. General Provisions

A. Providers applying for the Supervised Independent Living Module under the HCBS license shall meet the core licensing requirements as well as the module specific requirements of this Section.

B. When applying for the SIL module under the HCBS provider license, the provider shall indicate whether the provider is initially applying as an SIL or as an SIL via shared living conversion process, or both.

C. Clients receiving SIL services must be competent majors and at least 18 years of age. An SIL living situation is created when an SIL client utilizes an apartment, house or other single living unit as his place of residence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

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

§5094. Operational Requirements for the Supervised Independent Living Module

A. A provider shall ensure that the living situation is freely selected by the client and that the living situation shall be:

1. accessible and functional, considering any physical limitations or other disability of the client;
2. free from any hazard to the health or safety of the client;
3. properly equipped with accommodations for activities of daily living;
4. in compliance with applicable health, safety, sanitation and zoning codes;
5. a living situation that affords the client individual privacy;
6. arranged such that if there is more than one client in the living situation, the living environment does not conflict with the individual clients ISP;
7. equipped with a separate functional kitchen area including space for food storage and a preparation area. The kitchen area shall include, at a minimum, a:
 - a. stove;
 - b. oven;
 - c. microwave;
 - d. refrigerator; and
 - e. sink;
8. equipped with a separate functional private bathroom. There shall be at least one bathroom for every two clients residing at the SIL. Entrance to a bathroom from one bedroom shall not be through another bedroom. Entrance to the client's bathroom shall be accessible without the client having to traverse through another client's bedroom;
9. equipped with a separate living area;
10. equipped with a separate private bedroom with a locking door, if not contraindicated by a condition of the client residing in the room;
 - a. there shall be at least one bedroom for each two clients living in the SIL. There shall be a window in each bedroom. Each bedroom shall contain a minimum of 80 square feet for single resident bedrooms or 120 square feet for two resident bedrooms. This square footage shall be exclusive of closets, vestibules and bathrooms;
 - b. there shall be no more than two clients per bedroom. Each client shall be provided his own bed. However, a married couple may share a bed;
11. equipped with hot and cold water faucets that are easily identifiable and are equipped with a method for scald control;
12. equipped with functional utilities, including:
 - a. water;
 - b. sewer; and

c. electricity;

13. equipped with functional air conditioning and heating units which maintain an ambient temperature between 65 and 80 degrees Fahrenheit throughout the SIL;

14. kept in a clean, comfortable home-like environment;

15. equipped with the following furnishings:

a. a bed unit per client which includes a frame, clean mattress and clean pillow;

b. a private dresser or similar storage area for personal belongings that is readily accessible to the resident. There shall be one dresser per client;

c. one closet, permanent or portable, to store clothing or aids to physical functioning, if any, which is readily accessible to the resident. There shall be one closet per client;

d. a minimum of two chairs per client;

e. a table for dining;

f. window treatments to ensure privacy; and

g. adequate light in each room, hallway and entry to meet the requirements of the activities that occur in those areas; and

16. equipped with a functional smoke detector and fire extinguisher.

B. An SIL shall provide any client placed in the living situation:

1. 24-hour access to a working telephone in the SIL;

2. access to transportation; and

3. access to any services in the client's approved ISP.

C. The department shall have the right to inspect the SIL and client's living situation.

D. An SIL provider shall ensure that no more than four clients are placed in an apartment, house or other single living unit utilized as a supervised independent living situation.

1. A SIL living situation shall make allowances for the needs of each client to ensure reasonable privacy which shall not conflict with the program plan of any resident of the living situation.

2. No clients shall be placed together in a living situation against their choice. The consent of each client shall be documented in the clients' record.

E. Supervision

1. For purposes of this Section, a supervisor is defined as a person, so designated by the provider agency, due to experience and expertise relating to client needs and who does not otherwise carry a patient case load.

2. The licensed/certified professional shall meet the following requirements:

a. have one year of experience working directly with persons with mental retardation or other developmental disabilities and is one of the following:

i. a doctor of medicine or osteopathy;

ii. a registered nurse;

iii. an individual who holds at least a bachelor's degree in a health care service field such as occupational therapy, physical therapy, psychology, or social work.

3. A supervisor or a licensed/certified professional qualified in the state of Louisiana must have a minimum of three documented contacts per week with the client, with at least one contact being face-to-face in the home with the client. The other two contacts may be made by telephone.

a. No combination of SIL telephone contacts and the face-to-face contact will be accepted as having met more than one of the required contacts on the same date. Providers may make as many contacts in a day as are necessary to meet the needs of the client. However, only one of those contacts will be accepted as having met one of the three required contacts.

4. Attempted face-to-face contacts or telephone contacts are unacceptable and will not count towards meeting the requirements.

F. In addition to the core licensing requirements, the SIL provider shall:

1. provide assistance to the client in obtaining and maintaining housing;

2. allow participation in the development, administration and oversight of the client's service plan to assure its effectiveness in meeting the client's needs; and

3. assure that bill payment is completed monthly. Such bills include, but are not limited to:

- a. rent;
- b. utilities;
- c. pest control;
- d. food;
- e. telephone (if applicable);
- f. transportation (if applicable); and
- g. insurance (if applicable).

G. An SIL provider shall assess the following in selecting the location of the SIL situation for the client:

- a. risks associated with the location;
- b. client cost;
- c. proximity to the client's family and friends;
- d. access to transportation;
- e. proximity to health care and related services;
- f. client choice;
- g. proximity to the client's place of employment;

and

h. access to community services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

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

§5095. Supervised Independent Living Shared Living Conversion Process

A. The SIL Shared Living Conversion process is a situation in which a home and community-based shared living model, for up to six persons, may be chosen as a living option for participants in the Residential Options Waiver or any successor waiver.

B. Only an existing ICF/DD group or community home with up to 8 beds as of promulgation of the final Rule governing these provisions, may voluntarily and permanently close its home and its related licensed, Medicaid certified and enrolled ICF/DD beds to convert to new community-based waiver opportunities (slots) for up to six persons in shared living model or in combination with other ROW residential options. These shared living models will be located in the community.

1. Notwithstanding any other provision to the contrary, an SIL Shared Living Conversion model shall ensure that no more than six ROW waiver clients live in an

apartment, house or other single living situation upon conversion.

C. The DHH Office for Citizens with Developmental Disabilities (OCDD) shall approve all individuals who may be admitted to live in and to receive services in an SIL Shared Living Conversion model.

D. The ICF/DD provider who wishes to convert an ICF/DD to an SIL via the Shared Living Conversion model shall be approved by OCDD and shall be licensed by HSS prior to providing services in this setting, and prior to accepting any ROW participant or applicant for residential or any other developmental disability service(s).

E. An ICF/DD provider who elects to convert to an SIL via the Shared Living Conversion model may convert to one or more conversion models, provided that the total number of SIL Shared Living Conversion slots; beds shall not exceed the number of Medicaid facility need review bed approvals of the ICF(s)/DD so converted.

1. The conversion of an ICF(s)/DD to an SIL via the Shared Living Conversion process may be granted only for the number of beds specified in the applicant's SIL Shared Living Conversion model application to OCDD.

2. At no point in the future may the provider of a converted SIL, which converted via the Shared Living Conversion process, be allowed to increase the number of SIL slots approved at the time of conversion.

3. Any remaining Medicaid facility need review bed approvals associated with an ICF/DD that is being converted cannot be sold or transferred and are automatically considered terminated.

F. An ICF/DD provider who elects to convert to an SIL via the Shared Living Conversion process shall obtain the approval of all of the residents of the home(s) (or the responsible parties for these residents) regarding the conversion of the ICF/DD prior to beginning the process of conversion.

G. Application Process

1. The ICF/DD owner or governing board must sign a conversion agreement with OCDD regarding the specific beds to be converted and submit a plan for the conversion of these beds into ROW shared living or other ROW residential waiver opportunities, along with a copy of the corresponding and current ICF/DD license(s) issued by HSS.

a. This conversion plan must be approved and signed by OCDD and the owner or signatory of the governing board prior to the submittal of a HCBS provider, SIL module licensing application to DHH-HSS.

2. A licensed and certified ICF/DD provider who elects to convert an ICF/DD to an SIL via the Shared Living Conversion process shall submit a licensing application for a HCBS provider license, SIL Module. The ICF/DD applicant seeking to convert shall submit the following information with his licensing application:

a. a letter from OCDD stating that the owner or governing board has completed the assessment and planning requirements for conversion and that the owner or governing board may begin the licensing process for an HCBS provider, SIL Module;

b. a letter of intent from the owner or authorized representative of the governing board stating:

i. that the license to operate an ICF/DD will be voluntarily surrendered upon successfully completing an initial licensing survey and becoming licensed as an SIL via the Shared Living Conversion process; and

ii. that the ICF/DD Medicaid facility need review bed approvals will be terminated upon the satisfactory review of the conversion as determined by OCDD, pursuant to its 90 day post conversion site visit; and

3. an executed copy of the conversion agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

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

Subchapter M. Supported Employment Module

§5099. General Provisions

A. The provider applying to be licensed as a supported employment provider agency shall meet all of the HCBS provider core licensing requirements with the exception of the following requirements. The supported employment provider agency is not required to:

1. return all telephone calls from clients within one hour, other than during working hours;

2. have written policies and procedures approved by the owner or governing body that addresses client funds and emergency preparedness;

3. have written policies and procedures for behavior management, provided that the provider has no client with behavior management issues;

4. ensure that the administrator shall be available to be onsite at the supported employment provider location within one hour;

5. have nursing services staff and direct care staff;

6. have a client's assessment of needs conducted by a registered nurse; and

7. maintain two weeks of progress notes at the client's home.

B. The administrator of the supported employment provider agency shall be exempt from the education qualifications listing in the core licensing requirements of this Chapter.

C. The assessment of needs shall be done prior to placement of the client on a job site. A Medicaid HCBS comprehensive assessment approved by a DHH program office for a Medicaid recipient shall not substitute for the assessment of needs. A comprehensive plan of care approved by the department for Medicaid or waiver reimbursement shall not substitute for the ISP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

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

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability, and autonomy as described in R.S. 49:972.

Public Comments

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

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, July 28, 2010 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Alan Levine
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Home and Community-Based Service Providers—Minimum Licensing Standards

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will not have a programmatic fiscal impact to the state other than the cost of promulgation for FY 09-10. It is anticipated that \$13,366 (SGF) will be expended in FY 09-10 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have no effect on revenue collections since the licensing fees, in the same amounts, will continue to be collected.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule proposes to revise and combine the existing licensing standards for providers of adult day care services, family support services, personal care attendant services, respite care services and supervised independent living services, and to adopt minimum licensing standards for providers of substitute family care and supported employment services in order to establish comprehensive home and community-based services (HCBS) provider licensing standards and a single HCBS license. It is anticipated that implementation of this proposed rule will not have economic cost or benefits to HCBS providers for FY 09-10, FY 10-11 and FY 11-12 since the required licensing fees have not changed.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Don Gregory
Medicaid Director
1006#106

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Bureau of Health Services Financing

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

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:XIII.10301 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 10 of the 2009 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, and other measures as permitted under federal law." This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for medical equipment, supplies and appliances to further reduce the reimbursement rates (*Louisiana Register*, Volume 35, Number 5). As a result of the allocation of additional funds by the legislature to lessen the impact of state fiscal year 2010 budget reductions, the bureau repealed the rate reduction provisions of the May 1, 2009 Emergency Rule (*Louisiana Register*, Volume 35, Number 8) and adjusted the reimbursement rate reductions (*Louisiana Register*, Volume 35, Number 8). The department subsequently amended the provisions of the August 4, 2009 Emergency Rule to exclude services to recipients under the age of 21 from the rate reduction (*Louisiana Register*, Volume 35, Number 9). The department promulgated an Emergency Rule to amend the provisions of the September 1, 2009 Emergency Rule to revise the formatting of LAC 50:XIII.10301 as a result of the promulgation of the September 20, 2009 final Rule governing the reimbursement methodology for medical equipment, supplies and appliances (*Louisiana Register*, Volume 35, Number 12).

As a result of a continuing budgetary shortfall in state fiscal year 2010, the department promulgated an Emergency Rule which further reduced the reimbursement rates for medical equipment, supplies and appliances (*Louisiana Register*, Volume 36, Number 1). The department promulgated an Emergency Rule which amended the January 22, 2010 Emergency Rule in order to revise the listing of medical equipment, supplies and appliances that are excluded from the rate reduction (*Louisiana Register*, Volume 36, Number 2). A final Rule is being published June 20, 2010 which incorporates the provisions of the August 4, 2009, September 1, 2009 and December 20, 2009 Emergency Rules (*Louisiana Register*, Volume 36, Number

6). This proposed Rule is being promulgated to continue the provisions of the February 20, 2010 Emergency Rule.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XIII. Home Health Program

Subpart 3. Medical Equipment, Supplies and Appliances

Chapter 103. Reimbursement Methodology

§10301. General Provisions

A. - D.2. . . .

E. Effective for dates of service on or after January 22, 2010, the reimbursement paid for medical equipment, supplies and appliances shall be reduced by 5 percent of the rates on file as of January 21, 2010.

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

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

2. Effective for dates of service on or after February 20, 2010, oxygen, equipment and related supplies shall also be excluded from the rate reduction.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1894 (September 2009), amended LR 36:XXX (June 2010), LR 36:

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

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule may have an adverse impact on family functioning, stability and autonomy as described in R.S. 49:972 in the event that provider participation in the Medicaid Program is diminished as a result of reduced reimbursement rates.

Public Comments

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

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, July 28, 2010 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally

or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Alan Levine
Secretary

standing of providers and could possibly cause a reduction in employment opportunities.

Don Gregory
Medicaid Director
1006#107

Robert E. Hosse
Staff Director
Legislative Fiscal Office

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Home Health Program—Durable
Medical Equipment—Reimbursement Reduction**

NOTICE OF INTENT

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

Medical Necessity Criteria (LAC 50:I.1101)

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will result in estimated programmatic savings to the state of approximately \$11,565 for FY 09-10, \$60,082 for FY 10-11 and \$76,203 for FY 11-12. It is anticipated that \$410 (\$205 SGF and \$205 FED) will be expended in FY 09-10 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on the current Federal Medical Assistance Percentage (FMAP) as allowed in the American Recovery and Reinvestment Act of 2009 (81.48%). Additional federal funds are projected to be available in the current year through December 2010. To the extent that DHH utilizes federal match, up to the allowable match for the eligibility period (through December 2010), state general fund match could be reduced. In January of FY 10-11, the FMAP is anticipated to drop to 68.04%. In the event of this decrease, the state general funds will increase to the federally required match.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately \$51,580 for FY 09-10, \$177,960 for FY 10-11 and \$168,981 for FY 11-12. It is anticipated that \$205 will be expended in FY 09-10 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on the current Federal Medical Assistance Percentage (FMAP) as allowed in the American Recovery and Reinvestment Act of 2009 (81.48%). Additional federal funds are projected to be available in the current year through December 2010. To the extent that DHH utilizes federal match, up to the allowable match for the eligibility period (through December 2010), state general fund match could be reduced. In January of FY 10-11, the FMAP is anticipated to drop to 68.04%. In the event of this decrease, the state general funds will increase to the federally required match.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

This proposed rule is being promulgated to continue the provisions of the February 20, 2010 emergency rule which reduced the reimbursement rates paid for medical equipment, supplies and appliances (approximately 11,417 recipients). It is anticipated that implementation of this proposed rule will reduce program expenditures in the Medicaid Program by approximately \$63,555 for FY 09-10, \$238,042 for FY 10-11 and \$245,184 for FY 11-12.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

It is anticipated that the implementation of this proposed rule will not have an effect on competition. However, it is anticipated that implementation of this proposed rule may have a negative effect on employment as it will reduce the reimbursements made for durable medical equipment. The reduction in payments may adversely impact the financial

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt LAC 50:I.Chapter 11 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 administers the Title XIX Medicaid Program which provides access to medically necessary services for the treatment of illness and/or medical conditions for Medicaid eligible recipients. Previously, the determination of medical necessity was based solely upon the recommendations of the recipient's physician or the prior authorization unit for those services requiring prior authorization. The department now proposes to adopt specific criteria defining medical necessity in order to assure uniformity in the medically necessary determination process for all Medicaid covered services.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part I. Administration

Subpart 1. General Provisions

Chapter 11. Medical Necessity

§1101. Definition and Criteria

A. Medically necessary services are defined as those health care services that are in accordance with evidence-based medical standards or that are considered by most physicians (or other independent licensed practitioners) within the community of their respective professional organizations to be the standard of care.

B. In order to be considered medically necessary, services must be:

1. deemed reasonably necessary to diagnose, correct, cure, alleviate or prevent the worsening of a condition or conditions that endanger life, cause suffering or pain or have resulted or will result in a handicap, physical deformity or malfunction; and

2. those for which no equally effective, more conservative or less costly course of treatment is available or suitable for the recipient.

C. Any such services must be individualized, specific and consistent with symptoms or confirmed diagnosis of the illness or injury under treatment, and neither more nor less than what the recipient requires at that specific point in time.

D. Services that are experimental, non-FDA approved, investigational or cosmetic are specifically excluded from Medicaid coverage and will be deemed "not medically necessary."

1. The Medicaid director, in consultation with the Medicaid medical director, may consider authorizing services at his discretion 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 36:

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

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive effect on family functioning, stability, or autonomy as described in R.S. 49:972 by assuring uniformity in the medically necessary determination process for coverage of all services.

Public Comments

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

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, July 28, 2010 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Alan Levine
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Medical Necessity Criteria

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 09-10. It is anticipated that \$328 (\$164 SGF and \$164 FED) will be expended in FY 09-10 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections other than the federal share of the promulgation costs for FY 09-10. It is anticipated that \$164 will be collected in FY 09-10 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule is being promulgated to adopt the specific criteria currently used for defining medical necessity for Medicaid covered services in a codified format for inclusion in the Louisiana Administrative Code. It is anticipated that

implementation of this proposed rule will not have estimable cost or economic benefits for directly affected persons or non-governmental groups in FY 09-10, FY 10-11 and FY 11-12.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition and employment.

Don Gregory
Medicaid Director
1006#108

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Bureau of Health Services Financing

Outpatient Hospital Services
Non-Rural, Non-State Hospitals and
Children's Specialty Hospitals
Reimbursement Rate Reduction
(LAC 50:V.5313, 5317, 5513, 5517, 5713,
5719, 5913, 5917, 6115 and 6119)

The Department of Health and Hospitals, Bureau of Health Services Financing hereby repeals the provisions of the January 22, 2010 Emergency Rule, in its entirety, governing outpatient hospital services and amends LAC 50:V.5313, §5513, §5713, §5913 and §6115 and adopts §5317, §5517, §5719, §5917 and §6119 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 10 of the 2009 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, and other measures as permitted under federal law." This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

In September 2009, the department promulgated an Emergency Rule which revised the reimbursement methodology for outpatient services rendered by children's specialty hospitals (*Louisiana Register*, Volume 35, Number 9). In November 2009, the department amended the August 4, 2009 Emergency Rule to revise the formatting of LAC 50:V.5313, §5513, §5713, §5913 and §6115 as a result of the promulgation of the September 20, 2009 final Rule governing outpatient hospital services (*Louisiana Register*, Volume 35, Number 11). In January 2010, the department established a Medicaid upper payment limit financing mechanism to provide supplemental payments to hospitals for providing healthcare services to low income and needy patients (*Louisiana Register*, Volume 36, Number 1).

As a result of a continuing budgetary shortfall in state fiscal year 2010, the department promulgated an Emergency Rule which amended the reimbursement methodology for outpatient hospital services to further reduce the reimbursement rates paid to non-rural, non-state hospitals and children's specialty hospitals (*Louisiana Register*,

Volume 36, Number 2). The department subsequently repealed the January 22, 2010 Emergency Rule in its entirety and amended the provisions governing the reimbursement methodology for outpatient hospital services to adjust the rate reduction (*Louisiana Register*, Volume 36, Number 2). A final Rule is being published June 20, 2010 which incorporates the provisions of the August 4, 2009 and the November 20, 2009 Emergency Rules governing outpatient hospital services (*Louisiana Register*, Volume 36, Number 6). This proposed Rule is being promulgated to continue the provisions of the February 3, 2010 Emergency Rule.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospitals

Subpart 5. Outpatient Hospitals

Chapter 53. Outpatient Surgery

Subchapter B. Reimbursement Methodology

§5313. Non-Rural, Non-State Hospitals

A. - B. ...

C. Low Income and Needy Care Collaboration. Effective for dates of service on or after January 1, 2010, quarterly supplemental payments will be issued to qualifying non-rural, non-state hospitals for outpatient surgery services rendered during the quarter. Maximum aggregate payments to all qualifying hospitals in this group shall not exceed the available upper payment limit per state fiscal year.

1. Qualifying Criteria. In order to qualify for the supplemental payment, the non-rural, non-state hospital must be affiliated with a state or local governmental entity through a Low Income and Needy Care Collaboration Agreement

a. A non-state hospital is defined as a hospital which is owned or operated by a private entity.

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

2. Each qualifying hospital shall receive quarterly supplemental payments for the outpatient services rendered during the quarter. Quarterly payment distribution shall be limited to one-fourth of the lesser of:

a. the difference between each qualifying hospital's outpatient Medicaid billed charges and Medicaid payments the hospital receives for covered outpatient services provided to Medicaid recipients. Medicaid billed charges and payments will be based on a 12 consecutive month period for claims data selected by the department; or

b. for hospitals participating in the Medicaid Disproportionate Share Hospital (DSH) Program, the difference between the hospital's specific DSH limit and the hospital's DSH payments for the applicable payment period.

D. Effective for dates of service on or after February 3, 2010, the reimbursement paid to non-rural, non-state hospitals for outpatient surgery shall be reduced by 5 percent of the fee schedule on file as of February 2, 2010.

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

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

§5317. Children's Specialty Hospitals

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

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

2. Final reimbursement shall be 97 percent of allowable cost as calculated through the cost report settlement process.

B. Effective for dates of service on or after February 3, 2010, the reimbursement paid to children's specialty hospitals for outpatient surgery shall be reduced by 5 percent of the fee schedule on file as of February 2, 2010.

1. Final reimbursement shall be 92.15 percent of allowable cost as calculated through the cost report settlement process.

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

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

Chapter 55. Clinic Services

Subchapter B. Reimbursement Methodology

§5513. Non-Rural, Non-State Hospitals

A. - B. ...

C. Low Income and Needy Care Collaboration. Effective for dates of service on or after January 1, 2010, quarterly supplemental payments will be issued to qualifying non-rural, non-state hospitals for clinic services rendered during the quarter. Maximum aggregate payments to all qualifying hospitals in this group shall not exceed the available upper payment limit per state fiscal year.

1. Qualifying Criteria. In order to qualify for the supplemental payment, the non-rural, non-state hospital must be affiliated with a state or local governmental entity through a Low Income and Needy Care Collaboration Agreement.

a. A non-state hospital is defined as a hospital which is owned or operated by a private entity.

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

2. Each qualifying hospital shall receive quarterly supplemental payments for the outpatient services rendered during the quarter. Quarterly payment distribution shall be limited to one-fourth of the lesser of:

a. the difference between each qualifying hospital's outpatient Medicaid billed charges and Medicaid payments the hospital receives for covered outpatient services provided to Medicaid recipients. Medicaid billed charges and payments will be based on a 12 consecutive month period for claims data selected by the department; or

b. for hospitals participating in the Medicaid Disproportionate Share Hospital (DSH) Program, the difference between the hospital's specific DSH limit and the hospital's DSH payments for the applicable payment period.

D. Effective for dates of service on or after February 3, 2010, the reimbursement paid to non-rural, non-state hospitals for outpatient clinic services shall be reduced by 5 percent of the fee schedule on file as of February 2, 2010.

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

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

§5517. Children's Specialty Hospitals

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

B. Effective for dates of service on or after February 3, 2010, the reimbursement paid to children's specialty hospitals for outpatient hospital clinic services shall be reduced by 5 percent of the fee schedule on file as of February 2, 2010.

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

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

Chapter 57. Laboratory Services

Subchapter B. Reimbursement Methodology

§5713. Non-Rural, Non-State Hospitals

A. - B. ...

C. Low Income and Needy Care Collaboration. Effective for dates of service on or after January 1, 2010, quarterly supplemental payments will be issued to qualifying non-rural, non-state hospitals for laboratory services rendered during the quarter. Maximum aggregate payments to all qualifying hospitals in this group shall not exceed the available upper payment limit per state fiscal year.

1. Qualifying Criteria. In order to qualify for the supplemental payment, the non-rural, non-state hospital must be affiliated with a state or local governmental entity through a Low Income and Needy Care Collaboration Agreement.

a. A non-state hospital is defined as a hospital which is owned or operated by a private entity.

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

2. Each qualifying hospital shall receive quarterly supplemental payments for the outpatient services rendered during the quarter. Quarterly payment distribution shall be limited to one-fourth of the lesser of:

a. the difference between each qualifying hospital's outpatient Medicaid billed charges and Medicaid payments the hospital receives for covered outpatient services provided to Medicaid recipients. Medicaid billed charges and payments will be based on a 12 consecutive month period for claims data selected by the department; or

b. for hospitals participating in the Medicaid Disproportionate Share Hospital (DSH) Program, the difference between the hospital's specific DSH limit and the hospital's DSH payments for the applicable payment period.

D. Effective for dates of service on or after February 3, 2010, the reimbursement paid to non-rural, non-state hospitals for outpatient laboratory services shall be reduced by 5 percent of the fee schedule on file as of February 2, 2010.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Service Financing, LR 35:1900 (September 2009), amended LR 36:1250 (June 1), LR 36:

§5719. Children's Specialty Hospitals

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

B. Effective for dates of service on or after February 3, 2010, the reimbursement paid to children's specialty hospitals for outpatient clinical diagnostic laboratory services shall be reduced by 5 percent of the fee schedule on file as of February 2, 2010.

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

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

Chapter 59. Rehabilitation Services

Subchapter B. Reimbursement Methodology

§5913. Non-Rural, Non-State Hospitals

A. - B. ...

C. Low Income and Needy Care Collaboration. Effective for dates of service on or after January 1, 2010, quarterly supplemental payments will be issued to qualifying non-rural, non-state hospitals for rehabilitation services rendered during the quarter. Maximum aggregate payments to all qualifying hospitals in this group shall not exceed the available upper payment limit per state fiscal year.

1. Qualifying Criteria. In order to qualify for the supplemental payment, the non-rural, non-state hospital must be affiliated with a state or local governmental entity through a Low Income and Needy Care Collaboration Agreement.

a. A non-state hospital is defined as a hospital which is owned or operated by a private entity.

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

2. Each qualifying hospital shall receive quarterly supplemental payments for the outpatient services rendered during the quarter. Quarterly payment distribution shall be limited to one-fourth of the lesser of:

a. the difference between each qualifying hospital's outpatient Medicaid billed charges and Medicaid payments the hospital receives for covered outpatient services provided to Medicaid recipients. Medicaid billed charges and payments will be based on a 12 consecutive month period for claims data selected by the department; or

b. for hospitals participating in the Medicaid Disproportionate Share Hospital (DSH) Program, the difference between the hospital's specific DSH limit and the hospital's DSH payments for the applicable payment period.

D. Effective for dates of service on or after February 3, 2010, the reimbursement paid to non-rural, non-state hospitals for outpatient rehabilitation services provided to

recipients over the age of three years shall be reduced by 5 percent of the fee schedule on file as of February 2, 2010.

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

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

§5917. Children's Specialty Hospitals

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

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

2. Final reimbursement shall be 97 percent of allowable cost as calculated through the cost report settlement process.

B. Effective for dates of service on or after February 3, 2010, the reimbursement paid to children's specialty hospitals for outpatient rehabilitation services provided to recipients over the age of three years shall be reduced by 5 percent of the fee schedule on file as of February 2, 2010.

1. Final reimbursement shall be 92.15 percent of allowable cost as calculated through the cost report settlement process.

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

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

Chapter 61. Other Outpatient Hospital Services

Subchapter B. Reimbursement Methodology

§6115. Non-Rural, Non-State Hospitals

A. - B. ...

C. Low Income and Needy Care Collaboration. Effective for dates of service on or after January 1, 2010, quarterly supplemental payments will be issued to qualifying non-rural, non-state hospitals for outpatient hospital services other than clinical diagnostic laboratory services, outpatient surgeries and rehabilitation services rendered during the quarter. Maximum aggregate payments to all qualifying hospitals in this group shall not exceed the available upper payment limit per state fiscal year.

1. Qualifying Criteria. In order to qualify for the supplemental payment, the non-rural, non-state hospital must be affiliated with a state or local governmental entity through a Low Income and Needy Care Collaboration Agreement.

a. A non-state hospital is defined as a hospital which is owned or operated by a private entity.

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

2. Each qualifying hospital shall receive quarterly supplemental payments for the outpatient services rendered during the quarter. Quarterly payment distribution shall be limited to one-fourth of the lesser of:

a. the difference between each qualifying hospital's outpatient Medicaid billed charges and Medicaid payments the hospital receives for covered outpatient services provided to Medicaid recipients. Medicaid billed charges

and payments will be based on a 12 consecutive month period for claims data selected by the department; or

b. for hospitals participating in the Medicaid Disproportionate Share Hospital (DSH) Program, the difference between the hospital's specific DSH limit and the hospital's DSH payments for the applicable payment period.

D. Effective for dates of service on or after February 3, 2010, the reimbursement paid to non-rural, non-state hospitals for outpatient hospital services other than clinical diagnostic laboratory services, outpatient surgeries, rehabilitation services and outpatient hospital facility fees shall be reduced by 5 percent of the rates effective as of February 2, 2010. Final reimbursement shall be at 74.56 percent of allowable cost through the cost settlement process.

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

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

§6119. Children's Specialty Hospitals

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

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

2. Final reimbursement shall be 97 percent of allowable cost as calculated through the cost report settlement process.

B. Effective for dates of service on or after February 3, 2010, the reimbursement paid to children's specialty hospitals for outpatient hospital services other than clinical diagnostic laboratory services, outpatient surgeries, rehabilitation services, and outpatient hospital facility fees shall be reduced by 5 percent of the rates effective as of February 2, 2010.

1. Final reimbursement shall be 92.15 percent of allowable cost as calculated through the cost report settlement process.

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

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

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

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule may have an adverse impact on family functioning, stability and autonomy as described in R.S. 49:972 in the event that provider participation in the Medicaid Program is diminished as a result of reduced reimbursement rates.

Public Comments

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

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, July 28, 2010 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Alan Levine
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Outpatient Hospital Services—Non-Rural, Non-State Hospitals and Children’s Specialty Hospitals—Reimbursement Rate Reduction

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in an estimated programmatic savings to the state of \$691,411 for FY 09-10, \$3,150,930 for FY 10-11, and \$3,996,389 for FY 11-12. It is anticipated that \$1,394 (\$697 SGF and \$697 FED) will be expended in FY 09-10 for the state’s administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on the current Federal Medical Assistance Percentage (FMAP) as allowed in the American Recovery and Reinvestment Act of 2009 (81.48%). Additional federal funds are projected to be available in the current year through December 2010. To the extent that DHH utilizes federal match, up to the allowable match for the eligibility period (through December 2010), state general fund match could be reduced. In January of FY 10-11, the FMAP is anticipated to drop to 68.04%. In the event of this decrease, the state general funds will increase to the federally required match.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will decrease federal revenue collections by approximately \$3,044,278 for FY 09-10, \$9,332,947 for FY 10-11, and \$8,862,005 for FY 11-12. It is anticipated that \$697 will be expended in FY 09-10 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on the current Federal Medical Assistance Percentage (FMAP) as allowed in the American Recovery and Reinvestment Act of 2009 (81.48%). Additional federal funds are projected to be available in the current year through December 2010. To the extent that DHH utilizes federal match, up to the allowable match for the eligibility period (through December 2010), state general fund match could be reduced. In January of FY 10-11, the FMAP is anticipated to drop to 68.04%. In the event of this decrease, the state general funds will increase to the federally required match.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule proposes to continue the provisions of the February 3, 2010 emergency rule which amended the

provisions governing the reimbursement methodology for outpatient hospital services to reduce the reimbursement rates for outpatient hospital services rendered by non-rural, non-state hospitals and children’s specialty hospitals. It is anticipated that implementation of this proposed rule will decrease expenditures for outpatient hospital services by approximately \$3,737,083 for FY 09-10, \$12,483,877 for FY 10-11 and \$12,858,394 for FY 11-12.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition. However, we anticipate that the implementation may have a negative effect on employment as it will reduce the payments made to hospitals for outpatient hospital services. The reduction in payments may adversely impact the financial standing of hospitals and could possibly cause a reduction in employment opportunities.

Don Gregory
Medicaid Director
1006#109

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Bureau of Health Services Financing

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

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:XV.16107 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 10 of the 2009 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, and other measures as permitted under federal law." This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the Pregnant Women Extended Services Dental Program to include coverage of two additional dental procedures, increase the reimbursement fees for designated dental services and clarify the provisions governing the reimbursement methodology for dental services rendered to Medicaid eligible pregnant women (*Louisiana Register*, Volume 35, Number 9).

As a result of a budgetary shortfall in state fiscal year 2010, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for dental services to reduce the reimbursement rates for services provided to Medicaid eligible pregnant women (*Louisiana Register*, Volume 36, Number 2). This proposed Rule is being promulgated to

continue the provisions of January 22, 2010 Emergency Rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule may have an adverse impact on family functioning, stability and autonomy as described in R.S. 49:972 in the event that provider participation in the Medicaid Program is diminished as a result of reduced reimbursement rates.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 13. Pregnant Women Extended Services

Chapter 161. Dental Services

§16107. Reimbursement

A. - C. ...

D. Effective for dates of service on or after January 22, 2010, the reimbursement fees for dental services provided to Medicaid eligible pregnant women shall be reduced to the following percentages of the 2008 National Dental Advisory Service Comprehensive Fee Report 70th percentile, unless otherwise stated in this Chapter:

1. 73 percent for the comprehensive periodontal evaluation exam;
2. 70 percent for the following diagnostic services:
 - a. intraoral-periapical first film;
 - b. intraoral-periapical, each additional film; and
 - c. panoramic film and prophylaxis, adult; and
3. 65 percent for the remaining diagnostic services and all periodontic procedures, restorative and oral and maxillofacial surgery procedures which includes the following dental services:
 - a. intraoral, occlusal film;
 - b. bitewings, two films;
 - c. amalgam (one, two or three surfaces) primary or permanent;
 - d. amalgam (four or more surfaces);
 - e. resin-based composite (one, two or three surfaces), anterior;
 - f. resin-based composite (four or more surfaces) or involving incisal angle, anterior;
 - g. resin-based composite crown, anterior;
 - h. resin-based composite (one, two, three, four or more surfaces), posterior;
 - i. prefabricated stainless steel crown, primary or permanent tooth;
 - j. prefabricated resin crown;
 - k. periodontal scaling and root planning (four or more teeth per quadrant);
 - l. full mouth debridement to enable comprehensive evaluation and diagnosis;
 - m. extraction, coronal remnants-deciduous tooth;
 - n. extraction, erupted tooth or exposed root (elevation and/or forceps removal);
 - o. surgical removal of erupted tooth requiring elevation of mucoperiosteal flap and removal of bone and/or section of tooth;
 - p. removal of impacted tooth, soft tissue; and
 - q. removal of impacted tooth, partially bony.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:434 (March 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1902 (September 2009), LR 36:

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

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule may have an adverse impact on family functioning, stability and autonomy as described in R.S. 49:972 in the event that provider participation in the Medicaid Program is diminished as a result of reduced reimbursement rates.

Public Comments

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

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, July 28, 2010 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Alan Levine
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Pregnant Women Extended Services—Dental Services—Reimbursement Rate Reduction

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in estimated programmatic savings to the state of approximately \$12,503 for FY 09-10, \$54,888 for FY 10-11 and \$69,615 for FY 11-12. It is anticipated that \$410 (\$205 SGF and \$205 FED) will be expended in FY 09-10 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on the current Federal Medical Assistance Percentage (FMAP) as allowed in the American Recovery and Reinvestment Act of 2009 (81.48%). Additional federal funds are projected to be available in the current year through December 2010. To the extent that DHH utilizes federal match, up to the allowable match for the eligibility period (through December 2010), state general fund match could be reduced. In January of FY 10-11, the FMAP is anticipated to drop to

68.04%. In the event of this decrease, the state general funds will increase to the federally required match.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately \$55,704 for FY 09-10, \$162,575 for FY 10-11 and \$154,372 for FY 11-12. It is anticipated that \$205 will be expended in FY 08-09 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on the current Federal Medical Assistance Percentage (FMAP) as allowed in the American Recovery and Reinvestment Act of 2009 (81.48%). Additional federal funds are projected to be available in the current year through December 2010. To the extent that DHH utilizes federal match, up to the allowable match for the eligibility period (through December 2010), state general fund match could be reduced. In January of FY 10-11, the FMAP is anticipated to drop to 68.04%. In the event of this decrease, the state general funds will increase to the federally required match.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule is being promulgated to continue the provisions of the January 22, 2010 emergency rule which amended the reimbursement methodology for dental services to reduce the reimbursement rates for services provided to Medicaid eligible pregnant women. It is anticipated that implementation of this proposed rule will reduce program expenditures in the Medicaid Program by approximately \$68,617 for FY 09-10, \$217,463 for FY 10-11 and \$223,987 for FY 11-12.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition. However, it is anticipated that implementation of this proposed rule may have a negative effect on employment as it will reduce the reimbursement fees paid for dental services rendered to Medicaid eligible pregnant women. The reduction in payments may adversely impact the financial standing of dentists and could possibly cause a reduction in employment opportunities.

Don Gregory
Medicaid Director
1006#111

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

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

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt §§15111-15113 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 10 of the 2009 Regular Session of the Louisiana Legislature which states: "The secretary is

directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, and other measures as permitted under federal law." This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

As a result of a budgetary shortfall in state fiscal year 2010, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule to adjust the reimbursement rates paid for physician services (*Louisiana Register*, Volume 35, Number 8). The August 4, 2009 Emergency Rule was amended to incorporate exclusions to the rate reduction for prenatal evaluation and management, and delivery services rendered by physicians (*Louisiana Register*, Volume 35, Number 11).

As a result of a continuing budgetary shortfall, the bureau promulgated an Emergency Rule which amended the provisions governing the Professional Services Program in order to further reduce the reimbursement rates paid for physician services (*Louisiana Register*, Volume 36, Number 2). That Emergency Rule also repromulgated the provisions, in their entirety, in Subchapter B of LAC 50:IX.Chapter 151 in order to reorganize these provisions in a clear and concise manner in the *Louisiana Administrative Code*. The November 20, 2009 Emergency Rule was amended to incorporate the provisions of the January 22, 2010 Emergency Rule governing physician services (*Louisiana Register*, Volume 36, Number 3). The department subsequently amended the January 22, 2010 Emergency Rule to clarify the provisions governing reimbursement of physician services rendered to recipients 16 years of age or older (*Louisiana Register*, Volume 36, Number 5). A final Rule is being published June 20, 2010 which incorporates the provisions of the August 4, 2009, November 20, 2009, and the March 20, 2010 Emergency Rules (*Louisiana Register*, Volume 36, Number 6). This proposed Rule is being promulgated to continue the provisions of the May 22, 2010 Emergency Rule.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part IX. Professional Services Program

Subpart 15. Reimbursement

Chapter 151. Reimbursement Methodology

Subchapter B. Physician Services

§15111. General Provisions (Reserved)

§15113. Reimbursement

A. – D.3.b. ...

E. Effective for dates of service on or after January 22, 2010, physician services rendered to recipients 16 years of age or older shall be reduced to 75 percent of the 2009 Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount.

1. The following physician services rendered to recipients 16 years of age or older shall be reimbursed at 80

percent of the 2009 Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount:

- a. prenatal evaluation and management services;
- b. preventive medicine evaluation and management services; and
- c. obstetrical delivery services.

F. Effective for dates of service on or after January 22, 2010, all physician services rendered to recipients under the age of 16 shall be reimbursed at 90 percent of the 2009 Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount.

G. Effective for dates of service on or after January 22, 2010, all physician-administered drugs shall be reimbursed at 90 percent of the 2009 Louisiana Medicare Average Sales Price (ASP) allowable or billed charges, whichever is the lesser amount.

H. Effective for dates of service on or after January 22, 2010, all physician services that are currently reimbursed below the reimbursement rates in §15113.E-G shall be increased to the rates in §15113.E-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, Bureau of Health Services Financing, LR 36:1252 (June 2010), amended LR 36:

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

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule may have an adverse impact on family functioning, stability and autonomy as described in R.S. 49:972 in the event that provider participation in the Medicaid Program is diminished as a result of reduced reimbursement rates.

Public Comments

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

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, July 28, 2010 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Alan Levine
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Professional Services Program—Physician Services Reimbursement Rate Reduction

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in estimated programmatic savings to the state of approximately \$1,289,669 for FY 09-10, \$5,717,821 for FY 10-11 and \$7,252,027 for FY 11-12. It is anticipated that \$410 (\$205 SGF and \$205 FED) will be expended in FY 09-10 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on the current Federal Medical Assistance Percentage (FMAP) as allowed in the American Recovery and Reinvestment Act of 2009 (81.48%). Additional federal funds are projected to be available in the current year through December 2010. To the extent that DHH utilizes federal match, up to the allowable match for the eligibility period (through December 2010), state general fund match could be reduced. In January of FY 10-11, the FMAP is anticipated to drop to 68.04%. In the event of this decrease, the state general funds will increase to the federally required match.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately \$5,674,683 for FY 09-10, \$16,935,984 for FY 10-11 and \$16,081,392 for FY 11-12. It is anticipated that \$205 will be expended in FY 08-09 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on the current Federal Medical Assistance Percentage (FMAP) as allowed in the American Recovery and Reinvestment Act of 2009 (81.48%). Additional federal funds are projected to be available in the current year through December 2010. To the extent that DHH utilizes federal match, up to the allowable match for the eligibility period (through December 2010), state general fund match could be reduced. In January of FY 10-11, the FMAP is anticipated to drop to 68.04%. In the event of this decrease, the state general funds will increase to the federally required match.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule is being promulgated to continue the provisions of the January 22, 2010 and the May 20, 2010 emergency rules which amended the provisions governing the Professional Services Program in order to reduce the reimbursement rates paid for physician services. It is anticipated that implementation of this proposed rule will reduce program expenditures in the Medicaid Program by approximately \$6,964,762 for FY 09-10, \$22,653,805 for FY 10-11 and \$23,333,419 for FY 11-12.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition. However, it is anticipated that implementation of this proposed rule may have a negative effect on employment as it will reduce the payments

made to physicians. The reduction in payments may adversely impact the financial standing of providers and could possibly cause a reduction in employment opportunities.

Don Gregory
Medicaid Director
1006#112

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Personal Care Services—Long-Term
Policy Clarifications
(LAC 50:XV.12901, 12902, 12903,
12905, 12911, and 12913)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services propose to amend LAC 50:XV.12901, §12902, §12903, §12905, §12911 and §12913 under 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.

Senate Resolution 180 and House Resolution 190 of the 2008 Regular Session of the Louisiana Legislature directed the department to develop and implement cost control mechanisms to provide the most cost-effective means of financing the Long-Term Personal Care Services (LT-PCS) Program. In compliance with these legislative directives, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services amended the provisions governing the LT-PCS Program to: 1) implement uniform needs-based assessments for authorizing service units; 2) reduce the limit on LT-PCS service hours; 3) mandate that providers must show cause for refusing to serve clients; and 4) incorporate provisions governing an allocation of weekly service hours (*Louisiana Register*, Volume 35, Number 11). The department now proposes to amend the provisions governing long-term personal care services to establish provisions that address requests for services and to clarify the provisions governing restrictions for paid direct care staff and the place of service.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 9. Personal Care Services

Chapter 129. Long Term Care

§12901. General Provisions

A. The purpose of personal care services is to assist individuals with functional impairments with their daily living activities to enable them to reside and remain safely in their own home. Personal care services must be provided in accordance with an approved service plan and supporting documentation. In addition, personal care services must be coordinated with the other Medicaid and non-Medicaid services being provided to the recipient and will be considered in conjunction with those other services.

B. - D. ...

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

2. - 2.b. ...

E. Requests for long-term personal care services (LT-PCS) shall be accepted from the following individuals:

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

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

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

F. Each recipient who requests LT-PCS has the option to designate a responsible representative. For purposes of these provisions, a responsible representative shall be defined as the person designated by the recipient to act on his/her behalf in the process of accessing and/or maintaining personal care services.

1. The appropriate form authorized by the Office of Aging and Adult Services (OAAS) shall be used to designate a responsible representative.

a. The written designation of a responsible representative does not give legal authority for that individual to independently handle the recipient's business without his/her involvement.

b. The written designation is valid until revoked by the recipient. To revoke the written designation, the revocation must be submitted in writing to the OAAS or its designee.

2. The functions of a responsible representative are to:

a. assist and represent the recipient in the assessment, care plan development and service delivery processes; and

b. to assist the recipient in obtaining all necessary documentation for these processes.

3. The paid PCS worker providing services to a recipient may not act as that recipient's responsible representative.

4. An owner or employee of a personal care attendant services agency may not be designated as a responsible representative for any recipient who receives long-term personal 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, Office of the Secretary, Bureau of Health Services Financing, LR 29:911 (June 2003), amended LR 30:2831 (December 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 32:2082 (November 2006), LR 34:2577 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:2450 (November 2009), amended LR 36:

§12902. Participant Direction Option

A. - E.1. ...

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

3. Misuse of Monthly Allocation of Funds. The LA POP participant or his/her responsible representative uses

the monthly budgeted funds to purchase items unrelated to personal care needs or otherwise misappropriate the funds.

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

5. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2578 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 36:

§12903. Covered Services

A. - A.7. ...

B. IADLs are those activities that are considered essential for sustaining the individual's health and safety, but may not require performance on a daily basis. IADLs include tasks such as:

1. - 2. ...

3. shopping;

B.4. - 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 29:912 (June 2003), amended LR 30:2831 (December 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2578 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 36:

§12905. Recipient Qualifications

A. - B.1. ...

2. is able, either independently or through a responsible representative, to participate in his/her care and direct the services provided by the personal care services worker; and

B.3. - C.3. ...

4. if unable to make decisions independently, have a willing responsible representative who understands the rights, risks and responsibilities of managing the participant's care.

D. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:912 (June 2003), amended LR 30:2831 (December 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office of Aging and Adult Services, LR 32:2082 (November 2006), LR 34:2579 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 36:

§12911. Staffing Requirements

A. - B.3. ...

C. Restrictions. The following persons are prohibited from serving as the paid direct care worker for a recipient:

1. the spouse;
2. the curator;
3. the tutor;
4. the legal guardian;
5. the responsible representative; or
6. the person to whom the recipient has given

Representative and Mandate authority (also known as Power of Attorney).

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2832 (December 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2580 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 36:

§12913. Place of Service

A. - B. ...

C. Participants are not permitted to receive LT-PCS while living in a home or property owned, operated, or controlled by a provider of services who is not related by blood or marriage to the recipient.

1. - 3. Repealed.

D. The recipient must be present in the home when services, especially IADLs, are being furnished in the home

E. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:913 (June 2003), amended LR 30:2833 (December 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2581 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 36:

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

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability, and autonomy as described in R.S. 49:972.

Public Comments

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

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, July 28, 2010 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written

comments is 4:30 p.m. on the next business day following the public hearing.

Alan Levine
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Personal Care Services - Long-Term
Policy Clarifications**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that implementation of this proposed rule will not have a programmatic fiscal impact to the state other than the cost of promulgation for FY 09-10. It is anticipated that \$820 (\$410 SGF and \$410 FED) will be expended in FY 09-10 for the state's administrative expense for promulgation of this proposed rule and the final rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will have no effect on federal revenue collections other than the federal share for promulgation. It is anticipated that \$410 will be collected in FY 09-10 for the federal share of the expense for promulgation of this proposed rule and the final rule.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

This rule proposes to amend the provisions governing long-term personal care services (LT-PCS) to establish provisions that address requests for services and to clarify the provisions governing paid direct care worker restrictions and place of service. It is anticipated that implementation of this proposed rule will not have economic costs or benefits for FY 09-10, FY 10-11 and FY 11-12.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

This rule has no known effect on competition and employment.

Don Gregory
Medicaid Director
1006#110

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Gaming Control Board**

Video Draw Poker
(LAC 42:XI.2403, 2405, 2407, and 2415)

The Louisiana Gaming Control Board hereby gives notice that it intends to amend LAC 42:XI.2403, 2405, 2407, and 2415.

**Title 42
LOUISIANA GAMING
Part XI. Video Poker**

Chapter 24. Video Draw Poker

§2403. Definitions

A. ...

Advertise or Advertising—to issue an advertisement.

Advertisement—public notice or announcement of gaming activities, gaming promotions, or of a gaming establishment. Public notice or announcement includes, but is not limited to, all written communication, signage, and radio or television broadcasts.

Encourage Play—see *Promote* or *Promoting*.

Promote or *Promoting*—To engage in a *Promotion*.

Promotion—An activity, prize, or event offered or held on the premises of a licensed video poker establishment for the purpose of directly encouraging or rewarding the play of video poker devices at the establishment. For the purpose of this part, *promotion* does not include on-premises advertising of the promotional activity, prize, or event.

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:4862.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Gaming Enforcement Section, Video Gaming Division, LR 18:196 (February 1992), amended LR 21:582 (June 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 30:266 (February 2004), repromulgated LR 30:439 (March 2004), amended LR 32:108 (January 2006), LR 36:

§2405. Application and License

A.1. - 4. ...

5. Except as otherwise provided in this Paragraph, all licensed establishment applications submitted to the division shall be for an existing and operating business.

a.i. An entity that intends to build a truck stop facility and apply for a Type V video gaming license is eligible to submit a notice of intent to build a truck stop facility on a form prescribed by the division if it either:

(a). provides proof of application to the local governing authority of the parish where the truck stop is to be located for a certificate of compliance with applicable zoning ordinances and building codes, a statement of approval for the operation of video draw poker devices at a truck stop facility as required by R.S. 27:324(C), and has published the public notices required by R.S. 27:306(A)(6); or

(b). has applied with the appropriate authority for a building permit, and has published the public notices required by R.S. 27:306(A)(6).

ii. The notice of intent to build a truck stop facility shall include:

(a). proof of application for a certificate of compliance with applicable zoning ordinances and a statement of approval of the operation of video poker devices from the applicable local governing authority or a statement that local approval is not required; or proof of application for a building permit filed with the appropriate governing authority; and

(b). proof of publication of the notice of intent to build a qualified truck stop facility as required by R.S. 27:306(A)(6)(a);

(c). proof of issuance of the press release required by R.S. 27:306 (A)(6)(d); and

(d). a plat showing the location of the truck stop facility and the surrounding area identifying schools, churches, playgrounds, synagogues, public libraries, residences, and buildings on the National Historic Registry.

b. Once accepted by the division, a notice of intent to build a truck stop facility shall expire after one year.

i. – v. Repealed.

c.i. - B.9.e....

10.a. Within 15 days following a force-majeure event which has not affected video poker operation but necessitates closing any part of the licensed entity in order to make repairs, a licensee shall notify the division which may, following an on-site inspection to evaluate damage to the premises, grant the licensee a 60 day waiver from the provisions of LAC 42:XI.2405.B.9.a.

b. The division may grant one 60 day extension if it determines that the licensee has made substantial progress towards completing the necessary repairs within the original 60 day waiver period and the applicant can demonstrate a reasonable likelihood of completing the necessary repairs within the next 60 days.

c. Under no circumstances shall a licensee continue video poker operations without completing the necessary repairs and resuming normal operations for a period longer than 120 days.

C. - D.7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Gaming Enforcement Section, Video Gaming Division, LR 18:196 (February 1992), amended LR 21:582 (June 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 23:1322 (October 1997), LR 24:955 (May 1998), LR 26:346 (February 2000), LR 26:2322 (October 2000), LR 27:61 (January 2001), LR 29:362 (March 2003), LR 30:267 (February 2004), repromulgated LR 30:439 (March 2004), amended LR 34:1037 (June 2008), LR 35:82 (January 2009), repromulgated LR 35:480 (March 2009), amended LR 36:

§2407. Operation of Video Draw Poker Devices

A. - A.7. ...

8. An establishment licensee and/or the device owner who owns and/or operates the video draw poker devices at the licensed establishment may only promote or encourage the play of the video draw poker devices in compliance with the following:

a. All promotions shall comply with the Act and these regulations as well as all federal and state laws and regulations and municipal ordinances including, but not limited to, R.S. 27:402 and the Louisiana Charitable Raffles, Bingo and Keno Licensing Law, R.S. 4:701 et seq. The establishment licensee, and/or the device owner conducting the promotion is/are responsible for ensuring that all promotions are in compliance with this Paragraph.

b. A promotion requiring either a purchase, fee, or video poker play styled as either a raffle, drawing, sweepstakes, or any other event which utilizes a ticket, entry form, registration, or other mechanism used to determine the winner based on either the winner's name or corresponding ticket, entry form, registration, or other identification mechanism being chosen by virtue of a randomizing event shall not offer a prize or prize package valued over \$250.

c. A promotion shall not require the participant to be present at any time in order to win.

d. All rules, terms, and conditions of the promotion shall be displayed in a prominent manner inside the licensed establishment at all times during the promotion.

e. If the promotion requires participants to engage in the play of video poker, the value of the prize or prize package awarded shall not exceed the maximum payout set by the internal mechanism of the video draw poker device and shall not be based solely upon the value of a single winning hand played on the video draw poker device.

f. Giveaway promotions designed to promote the overall business may offer prizes valued in excess of the limits listed in Subparagraphs (b) and (e) provided that participation:

i. is open to the general public;

ii. does not require a purchase;

iii. does not require video poker play or entrance to gaming areas.

g. Notwithstanding the provisions of this Section, or any other provision of law to the contrary, no prize for any promotion may provide food to any patron free of charge or below the cost to the licensee or the device owner.

A.9. - D. ...

1. Except for a uniform logo which has been adopted by the division or other advertisement allowed by this Subsection, no other advertising of video gaming activities shall be displayed anywhere on the exterior of any licensed establishment.

2. The word "casino" may be used (with or without including the problem gambler toll-free telephone number) either alone, as part of the d/b/a name of the licensed establishment, or in printed advertisements on the exterior of the licensed establishment and premises provided that:

a. the establishment is a Type IV or Type V licensee; and

b. use of the word "casino" on the premises is in compliance with all applicable local and state zoning and/or signage ordinances.

3. With the exception of the word "casino" as set forth in subsection 2, Type IV and V licensees may advertise freely on the exterior of the licensed establishment provided that all such printed advertisements display the problem gambler toll-free telephone number in a manner consistent with these rules and is in compliance with all applicable local and state zoning and/or signing ordinances.

4. Electronic displays capable of displaying moving characters or type, such as video monitors, video display panels, and LED reader boards, shall, if used to advertise video gaming activities, display the problem gambler toll-free telephone number every five minutes in a size, font, speed, brightness, and contrasting color scheme so that the toll-free number and accompanying letters are clearly visible and discernable by viewers.

5. Duplication of the uniform logo shall be identical to the design and colors of the approved uniform logo.

6. The size of the uniform logo shall not exceed 6 feet in height and 6 feet in width.

7. The uniform logo may be displayed alone or in conjunction with advertisement by the licensed establishment of other activities that do not pertain to video gaming.

8. For purposes of advertising prohibitions, a licensed establishment which is a qualified truck stop facility shall include the entire area which comprises the qualified truck stop facility.

9. The logo format may be obtained for duplication by all licensed establishments from their respective device owners.

10. The division shall enforce the prohibition of all other video gaming advertising on licensed premises that are not permitted by these rules or the Act.

11. All letters accompanying the toll-free telephone number shall be in capital letters and the same size as the toll-free telephone number. The toll-free telephone number and letters shall appear in conspicuous and legible type in contrast by typography, layout, or color with all other printed material on the advertisement.

12. Notwithstanding Subparts 2 and 4, exterior print advertising, including but not limited to billboards, shall display the toll-free telephone number and all accompanying letters in a rectangle. The rectangle shall comprise an area equal to 1/10 of the entire advertisement's height and extend across the entire width of the advertisement. The toll-free telephone number and accompanying letters must be sized to utilize the entire area within the rectangle. In the case of billboards, the rectangle containing the toll-free telephone number shall be a part of the billboard itself and not a separate add-on to the frame.

13. Notwithstanding Subparts 2 and 4, interior print advertising, including but not limited to posters, banners and other forms of advertising intended to be viewed from within the licensed establishment, but not the designated gaming area, shall display the toll-free telephone number and all accompanying letters in a rectangle. The rectangle shall comprise an area equal to 1/20 of the entire advertisement's height and extend across the entire width of the advertisement. The toll-free telephone number and accompanying letters must be sized to utilize the entire area within the rectangle.

14. The problem gambler toll-free telephone number shall be prominently displayed at all interior and exterior entrances to all gaming areas. The letters and numbers shall be fully visible, at least 2 inches in height and contrast with the background.

15. Print advertising which is handheld or which is customarily viewed by the person holding the advertisement, including but not limited to newspapers, flyers, coupons and other forms of advertising shall display the toll-free telephone number and all accompanying letters in a rectangle. The rectangle shall comprise an area equal to 1/20 of the entire advertisement's height and extend across the entire width of the advertisement. The toll-free telephone number and accompanying letters must be sized to utilize the entire area within the rectangle.

16. A licensee which is required to display the toll-free telephone number may seek approval from the division for particular forms of print advertising on an individual basis. In those instances where the licensee seeks approval, the division may in its discretion, approve the print advertisement in writing. The approved advertisement shall conform to the division's written approval.

17. The Penalty for any violation of this Paragraph shall be \$500.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Gaming

Enforcement Section, Video Gaming Division, LR 18:196 (February 1992), amended LR 21:582 (June 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:85 (January 1999), LR 27:205 (February 2001), LR 30:267 (February 2004), repromulgated LR 30:441 (March 2004), amended LR 33:857 (May 2007), LR 36:

§2415. Gaming Establishments

A. - D.4.d. ...

5. Each qualified truck stop facility filing a new application, including a change in ownership, on or after January 1, 2011, shall comply with the following requirements.

a. The parking lot area shall be paved and striped so as to clearly indicate where drivers are to park their tractor-trailers and shall provide sufficient maneuvering room to allow for proper parking.

b. The parking lot area shall be clearly marked with indicators directing drivers to the proper lanes for ingress and egress.

c. All two-way truck travel lanes, if paved with concrete or asphalt, shall be striped so as to indicate lane division.

6. The licensee has a continuing responsibility to maintain the dimensions of the parking area, minimum number of required parking spaces, access to all parking spaces, and travel lanes in accordance with the Act and these rules. The licensee shall upon request provide to the division applicable documentation supporting the design and construction of the parking area in accordance with the Act and these rules.

E. - E.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Police, Gaming Enforcement Section, Video Gaming Division, LR 18:197 (February 1992), amended LR 21:582 (June 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 23:1322 (October 1997), LR 24:1504 (August 1998), LR 26:1321 (June 2000), LR 36:

Family Impact Statement

Pursuant to the provisions of R.S. 49:953(A), the Louisiana Gaming Control Board, through its chairman, has considered the potential family impact of amending LAC 42:IX.2403, 2405, 2407, and 2415.

It is accordingly concluded that amending LAC 42:XI.2403, 2405, 2407, and 2415 would appear to have a positive yet inestimable impact on the following:

1. the effect on stability of the family;
2. the effect on the authority and rights of parents regarding the education and supervision of their children;
3. the effect on the functioning of the family;
4. the effect on family earnings and family budget;
5. the effect on the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Small Business Impact Statement

Pursuant to the provisions of R.S. 49:965.5 the Louisiana Gaming Control Board, through its chairman, has concluded that there will be no adverse impact on small business if LAC 42:XI.2403, 2405, 2407, and 2415 are amended as the rule changes have the following effects:

Public Comments

All interested persons may contact Jonathon Wagner, Attorney General's Gaming Division, telephone (225) 326-6500, and may submit comments relative to these proposed Rules, through July 10, 2010, to 1885 North 3rd Street, Suite 500, Baton Rouge, LA 70802.

Dane K. Morgan
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Video Draw Poker

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes are not anticipated to result in additional state or local government costs or savings. The proposed rules provide for the following changes: defines advertisement and promotion; allows intent to build notices to expire after one year; allows exceptions following a force majeure event which necessitates closing any part of a licensed entity in order to make repairs; creates guidelines allowing video poker licensees to promote their establishments; allows type 4 and 5 video poker licensees to advertise more freely; requires new type 5 license applicants to possess suitable parking lot and travel lanes.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

With the exception of the rules regarding promotional or advertising activities, no effect on revenue collections of state or local governmental units is anticipated to result from implementation of the proposed rules. The rules regarding promotional or advertising activities may lead to an increase in revenues, but the effect of these changes is not predictable

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The rules regarding promotional or advertising activities may lead to an increase in revenues for video poker licensees. The specific impact on the licensees cannot be determined.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rules have the potential to increase competition among video poker licensees by drawing new customers to their businesses. It is possible that the increased revenues generated by the new patrons could create new employment opportunities.

Dane K. Morgan
Chairman
1006#091

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections Office of the State Fire Marshal

Property Protection Licensing
(LAC 55:V.Chapter 32)

In accordance with the provisions of R.S.49:950 et seq., and R.S.40:1484.3, relative to the authority of the State Fire Marshal to promulgate and enforce rules, relative to the regulation of Life Safety and Property Protection, in particular, Security, Household Fire Warning, Stand Alone Electro/Mechanical, Special Locking and Closed Circuit

Television Equipment and/or Systems, notice is hereby given that the Office of the State Fire Marshal intends to adopt the following rules.

Title 55

PUBLIC SAFETY

Part V. Administrative Rules On Life Safety And Property Protection

Chapter 32. Security, Household Fire Warning, Stand Alone Electro/Mechanical, Special Locking and Closed Circuit Television Equipment and/or Systems Rules

§3201. Purpose

A. The purpose of these rules is to regulate the activity of certifying, designing, inspecting, installing, integrating, maintaining, selling and servicing of security, household fire warning, stand alone electro/mechanical locking, special locking and closed circuit television equipment and/or systems in the interest of protecting and preserving lives and property pursuant to authority of R.S. 40:1664.1 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1664.2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 36:

§3203. Applicability of Rules

A. These rules shall apply to all firms and persons engaged in property protection activity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1664.2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 36:

§3205. Exceptions

A. These rules shall not apply to the following:

1. firms and/or persons engaging in the activity of certifying, inspecting, installing, integrating, or servicing fire detection and alarm equipment and/or systems in commercial businesses;

2. the certifying, inspecting, installing, integrating, or servicing of security or CCTV equipment and/or systems by building owners or their own employees;

3. firms and/or persons, including public agencies, engaging in the activity of certifying, inspecting, installing, integrating, or servicing camera systems in public vehicles;

4. law enforcement agencies or private investigation firms currently licensed by the Louisiana Board of Private Investigators installing camera systems in conjunction with an active investigation. Individual private investigators must be licensed through a private investigation firm with the Louisiana Board of Private Investigators to be exempt from this Subpart.;

5. firms or agencies installing cameras for traffic flow or for detecting traffic violations;

6. firms and/or persons engaging in the activity of certifying, inspecting, installing, integrating, maintaining, selling and servicing of gate systems exclusively designed for egress by vehicles;

7. firms and/or persons who sell security, locking and/or camera systems and equipment at wholesale to contractors licensed per R.S. 40:1664.1 et seq.;

8. a member of the building trades or a building owner that installs or removes complete lock sets or locking devices when doing so in the course of residential or

commercial new construction or remodeling. The exemption for members of the building trades is limited to General Contractors and their direct employees who are properly licensed through the Louisiana State Board of Contractors;

9. any merchant or retail store that is in the business of recoding new locks on the retail premises. Locks must be purchased at the same location and recoded at the time of purchase;

10. firms and/or persons who only install bank locking equipment, including but not limited to, vaults, safes, automatic teller machines, and/or safety deposit boxes, while doing so in conjunction with a licensed locksmith or bank locking contractor. The licensed locksmith or bank locking contractor shall certify the installation;

11. any manufacturer, and his employee or representative, who acts as a consultant to a certified firm in the certifying, inspecting, installing, integrating, or servicing of property protection systems and/or equipment while under the direct supervision of the certified firm.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1664.2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 36:

§3207. Notices by the Fire Marshal

A. Any notice required to be given by the State Fire Marshal by any provision of R.S. 40:1664.1 et seq. or these rules must be given by personal or domiciliary service or mailed, postage prepaid, to the person's residence or firm address as it appears on the records in the Office of State Fire Marshal. It is the responsibility of the person or firm involved to ensure that the Office of the State Fire Marshal has a correct address for the person or firm.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1664.2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 36:

§3209. Certificate, License Required

A. Each firm engaged in property protection activity shall apply for a certificate of registration in the endorsements of certification desired in accordance with these rules prior to conducting any such activity in this state.

B. Each person or employee, including apprentices, engaged in property protection activity shall apply for a license in the endorsements of licensure desired in accordance with these rules prior to conducting any such activity in this state.

C. Any firm and/or person described in Subsection A or B of this Section, which has not applied for and received a current and valid certificate of registration or license, shall immediately cease such activities. The Office of the State Fire Marshal shall take all steps necessary to enforce an order to cease and desist and pursue administrative penalties against violators of this Subpart.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1664.2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 36:

§3211. Definitions

A. The following words and terms, when used in these rules, shall have the following meanings, unless the context clearly indicates otherwise.

Apprentice—a person who is licensed to work under the direct supervision and accompaniment of a technician who is licensed to the same firm and holding a valid license to perform the same acts.

Bank Auxiliary Systems—systems and equipment which are found in financial institutions but are not directly associated with locking systems. Such systems, include but are not limited to, after hour depositories, tube systems, teller audio/video systems, and automatic teller machines, excluding the safe.

Bank Auxiliary Systems Endorsement—that document issued by the State Fire Marshal to an employee to engage in property protection activity of bank auxiliary systems.

Bank Locking Endorsement—that document issued by the State Fire Marshal to a firm or employee authorizing either to engage in property protection activity of bank locking systems and equipment.

Bank Locking Systems—stand alone electro/mechanical and special locking systems and equipment found in financial institutions or designed for protection of financial transactions in other commercial businesses. Such systems and equipment include, but is not limited to, vaults, safes, automatic teller machines, cash dispenser, safe deposit boxes, tube systems, closed circuit television and depository systems and/or equipment.

Building Trade—a contractor who holds a valid General Contractor's license through the Louisiana State Board of Contractors. The definition includes employees of the general contractor. It does not include subcontractors working for the general contractor.

Certificate of Registration—that document issued by the State Fire Marshal to a firm authorizing it to engage in such activities as defined in these rules.

Certify—to attest to the proper functionality, inspection, installation, integration, maintenance, or service of property protection equipment and systems in accordance with all applicable engineered specifications, manufacturer's specifications, the applicable NFPA codes and standards and the reviewed fire marshal plans.

Closed Circuit Television Endorsement—that document issued by the State Fire Marshal to a firm or employee authorizing either to engage in property protection activity of closed circuit television systems and equipment.

Closed Circuit Television System—a system and its components which transmits video and/or audio signals or images via cameras, computer or other means. Transmissions may be done via hard wire, including, but not limited to, coaxial cable, fiber optic cable, network cable, internet protocol (IP), or wireless devices and means. The term includes security camera and/or surveillance camera systems.

Commercial Businesses—all buildings including, but not limited to, public, private and industrial structures. The term does not include one and two family dwellings.

Contact Person—that individual designated by a firm to act as liaison with the Office of the State Fire Marshal.

Design—to create a specific layout for a property protection system for the purpose of protecting persons and/or property. The term "layout of the system" only refers to those persons who physically create such layout after visiting the location. Design and/or layout of the system's

devices shall follow manufacturer's recommendations and application limitations.

Detention Locking Endorsement—that document issued by the State Fire Marshal to a firm or employee authorizing either to engage in property protection activity of stand alone electro/mechanical and/or special locking systems and equipment in penal institutions.

Detention Locking Systems—stand alone electro/mechanical and/or special locking systems and equipment as found in penal institutions.

Direct Supervision—oversight given by a technician of an apprentice while performing property protection activity. Both the technician and apprentice must both be licensed to the same firm. To be considered direct supervision, an apprentice and the supervising technician must both be physically present at the work location. They are not required to constantly be in line of sight of each other.

Door Hardware—builders' hardware or architectural hardware, including but not limited to, stand alone electro/mechanical locks, latches, exit hardware, closures and hinges mounted onto doors intended to operate and secure the door properly. The term does not include special locking systems and equipment.

Door Hardware Endorsement—that document issued by the State Fire Marshal to a firm or employee authorizing either to engage in the consulting and/or the providing of technical advice regarding the selection of door hardware.

Door Hardware Installation Endorsement—that document issued by the State Fire Marshal that authorizes a firm or person to engage in property protection activity of door hardware equipment and the consulting or the providing of technical advice regarding the selection of door hardware. The termination of these components to the house power system is not permitted. Any property protection activity of special locking systems and equipment requires the firm or person to hold a separate special locking system, locksmith or security endorsement.

Employee—a person who works for a firm as defined by R.S.40:1664.2 et seq., in return for financial or other compensation.

a. For the purposes of the licensing requirements, contained in R.S. 40:1664.2 et seq., employees shall not include secretaries, drivers or accounting or other administrative personnel.

b. For the purposes of licensing requirements, the firm owner or owners shall be considered an "employee" if he or she is or will be certifying, inspecting, installing, integrating, maintaining, selling and/or servicing security, household fire warning, stand alone electro/mechanical, special locking and closed circuit television equipment and/or systems.

Equipment Distributor—those firms and/or persons who sell security, locking and/or camera systems and equipment at wholesale to property protection contractors licensed per R.S. 40:1664.1 et seq. Equipment distributors shall not engage in property protection contracting without being properly licensed per this Subpart.

Firm—a sole proprietorship, partnership, corporation, limited Liability Company or any other entity.

Full Locksmith Endorsement—that document issued by the State Fire Marshal to a firm or employee authorizing either to engage in property protection activity of stand alone

electro/mechanical, special locking and closed circuit television systems and equipment.

Household Fire Warning Endorsement—that document issued by the State Fire Marshal that authorizes a firm or person to engage in property protection activity of fire detection and alarm systems in one and two family dwellings.

Household Fire Warning System—fire detection and alarm systems consisting of stand-alone and/or interconnected devices intended to detect and warn occupants of fire, smoke, heat, and/or poisonous gases. The term includes, but is not limited to, heat detectors, smoke detectors and carbon monoxide detectors. Systems and equipment may be powered by direct or alternating current power.

Inspection—a visual examination of a system or portion thereof to verify that it appears to be in operating condition and is free of physical damage.

Installation—the initial placement of property protection equipment and systems or an addition, extension, or alteration after initial placement.

Integration—the act of developing a unified and functioning property protection system and/or equipment in accordance with manufacturers' specification and/or NFPA codes and standards.

License—that document issued by the State Fire Marshal to an employee of a certified firm authorizing the employee to engage in the activities as defined by these rules.

Limited Locksmith Endorsement—that document issued by the State Fire Marshal to a firm or employee authorizing either to engage in property protection activity of stand alone electro/mechanical locks. It does not include performing property protection activity of closed circuit television or special locking systems and equipment.

Maintenance—work, including, but not limited to repair, replacement, and service, performed to ensure that equipment operates properly. It includes a thorough examination for physical damage or condition to prevent its operation and any necessary repair or replacement.

Nationally Recognized Testing Laboratory—a nationally recognized testing company concerned with product and service evaluation, which, after conducting successful examinations, inspections, tests and reexaminations, reflects approval by various labeling, listing and classification actions.

NFPA—the National Fire Protection Association, Inc., a nationally recognized standards-making organization.

Officer—the president, vice president, secretary, treasurer, comptroller, general manager or any other person who performs functions corresponding to such positions for a property protection firm.

Operating Location—a physical office which houses employees and business documents or records and from which the acts authorized by the certificate of registration are performed. The office must be open and accessible during normal work hours. The use of a storage facility, telephone answering service or post office box shall not constitute a location for purposes of this subpart. The office must physically reside within the boundaries of Louisiana.

Pedestrian Gate System—an access control system or barrier used to prevent unauthorized entry to a building or

area. Pedestrian gates may be secured by either stand alone electro/mechanical locks or special locking systems and equipment.

Person—a natural individual, including any owner, manager, officer, or employee of any firm.

Pocket License—that document issued by the State Fire Marshal to an employee of a certified firm, in pocket size and bearing a photographic image of the licensee, authorizing the employee to engage in the activities as defined by these rules.

Principal—a person or entity that has a controlling interest of a property protection firm regardless of the form of organization. *Principal* includes a person or entity entitled to exercise the prerogatives or indicia of ownership or control of a property protection firm whether by direct action, assignment, or any other kind of substitution or subrogation.

Property Protection Activity—the act of certifying, designing, inspecting, installing, integrating, maintaining, selling and/or servicing of security, household fire warning, stand alone electro/mechanical locking, special locking and closed circuit television equipment and/or systems pursuant to R.S.40:1664.1 et seq.

Property Protection Equipment and Systems—those systems and equipment designed to protect persons and property from the dangers of fire, theft, unauthorized entry or other harmful actions or events.

Property Protection Sales and Design Endorsement—that document issued by the State Fire Marshal to a person who designs or sells a property protection system or equipment for the purpose of protecting persons and property.

Qualifying Person—the employee of a firm who currently meets the certification, examination and/or training requirements set for each endorsement by the Life Safety and Property Protection Advisory Board. A qualifier shall physically reside within 150 miles of the operating location and actively engage in the property protection activity for which the firm is authorized to perform.

Security Endorsement—that document issued by the State Fire Marshal that authorizes a firm or person to engage in property protection activity of security, household fire warning and closed circuit television systems and/or special locking systems and equipment.

Security Systems—those assemblies of wiring, electronic transmitting devices, detection devices, and related equipment for the detection of theft, unauthorized entry or other physical harm to a structure's occupants or property.

Sell—to solicit on behalf of a property protection firm by any means for the sale or lease of a property protection system. The term includes, but is not limited to, solicitation via telephone or electronic devices, public notice or advertisement, door to door or any other type of personal interaction.

Service—the act of repair, bypass or replacement of property protection equipment/systems to ensure its proper functioning.

Special Locking System—electronic, magnetic and/or pneumatic locking systems and/or equipment actuated from a remote location that is found in commercial businesses. The term includes, but is not limited to, access control,

delayed egress, electrified hardware, detention locks, magnetic locks, Special Health Care locks, pneumatic, pin, card reader, proximity, biometric, video/telephone, pedestrian gate and remote control and wireless access systems and equipment.

Special Locking System Endorsement—that document issued by the State Fire Marshal that authorizes a firm or person to engage in property protection activity of special locking systems and equipment.

Stand Alone Electro/Mechanical Locks—locks that are operated by electric, electronic and/or mechanical means which are actuated at the door only. Stand alone electro/mechanical locks include, but is not limited to, hotel room door locks, battery operated locks, push button locks, self-powered door locks, key fob and combination locks. The term does not include special locking systems.

Traffic Camera Systems—camera systems intended to monitor traffic flow or violations of traffic laws.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1664.2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 36:

§3213. Certificates of Registration

A. Every firm must obtain from the State Fire Marshal a certification of registration with the appropriate endorsements as provided for by R.S.40:1664.1 et seq., before engaging in the property protection activity of security, household fire warning, stand alone electro/mechanical locks, special locking systems and closed circuit television equipment and/or systems.

1. Each firm, as defined by R.S.40:1664.1 et seq., shall have at least one licensed technician per endorsement of certification to perform the act or acts authorized by its certificate.

2. Each firm, as defined by R.S.40:1664.1 et seq., shall have at least one licensed qualifier per endorsement of certification to perform the act or acts authorized by its certificate. When a firm only has one technician, the technician can also be the qualifier.

3. Firms as defined by R.S.40:1664.1 et seq., and their owners shall be responsible for the acts of their agents and employees for the purpose of these rules including the initiation of administrative action by the State Fire Marshal.

B. The following shall apply to certificates of registration.

1. Posting. Each certificate shall be posted conspicuously at each firm and/or branch office premises.

2. Changes of Ownership. The change of a firm's majority ownership invalidates the current certificate. To assure continuance of the firm's ability to conduct property protection contracting, an application for a new certificate shall be submitted to the State Fire Marshal within 10 days after such change in ownership.

3. Change of Corporate Officers. Any change of corporate officers within the licensure period, must be reported in writing to the State Fire Marshal within 10 days of the change. This change does not require a revised certificate.

4. Duplicates. A duplicate certificate must be obtained from the State Fire Marshal to replace a lost or destroyed certificate. The certificate holder must submit written

notification of the loss or destruction within 10 days, accompanied by the required fee specified in these rules.

5. Revisions/Changes. The change of a firm's name, location, or mailing address or operating status requires a revision of the certificate of registration. Certificates of registration requiring changes must be surrendered to the State Fire Marshal within 10 days after the change requiring the revision. The firm must submit written notification of the change with the surrendered certificate of registration, accompanied by the required fee specified in by R.S. 40:1664.1 et seq.

6. Non-Transferability. A certificate of registration is not transferable from one firm to another.

7. Validity. A certificate of registration is valid for one year from date of issue, and must be renewed annually.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1664.2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 36:

§3215. Licensure

A. Required. Each person who engages in property protection activity of security, household fire warning, stand alone electro/mechanical locks, special locking systems and closed circuit television equipment and/or systems shall have a current and valid license issued by the State Fire Marshal.

B. Types of Endorsement. Each license shall be identified by endorsement, which indicates the authorized act or acts which may be performed by the licensee.

C. Posting. It is not necessary to post an employee license on a wall. A master list of all employees' names and license numbers must be kept at each office location and must be available for review upon request by the State Fire Marshal or his designated representative.

D. Pocket License. The pocket license is for immediate identification purposes only so long as such license remains valid and while the holder is employed by the firm reflected on the license and shall be on his/her person at all times when conducting property protection activity in the field. The pocket license need not be visibly displayed when working in areas where the license may be damaged or lost. The license must still be available for inspection upon request.

E. Duplicate License. A duplicate license must be obtained from the State Fire Marshal to replace a lost or destroyed license. The license holder and his employer must submit written notification within 10 days of the loss or destruction of a license, accompanied by the required fee as specified in these rules.

F. Revised Licenses. The change of a licensee's employer, home address or mailing address or employment status requires a revised license. Licenses requiring revision must be surrendered to the State Fire Marshal within ten days after the change requiring the revision. The license holder and his employer must submit written notification of the necessary change with the surrendered license, accompanied by the required fee as specified in these rules.

G. Non-Transferable. A license is not transferable from one person to another or from one firm to another.

H. License Reciprocity. The State Fire Marshal may waive license requirements for an applicant with a valid license from another state if that state has license

requirements substantially equivalent to Louisiana and which recognizes licenses issued by this office.

I. Validity. A license is valid for one year from date of issue, and must be renewed annually, unless the State Fire Marshal adopts a system under which licenses expire on various dates during the year. Should a staggered renewal system be adopted, the renewal fees shall be prorated on a monthly basis so that each licensee pays only that portion of the fee that is allocable to the number of months during which the license is valid.

J. Transfer of Employer. When a currently licensed employee transfers to a new employer, a revised license shall be required indicating the new firm's information. The license shall be revised to show the same expiration date of the new employer. Upon receipt of the revision application by the State Fire Marshal, the individual may go to work for the new employer while waiting the processing of the license. This go-to-work allowance shall not authorize the employee to engage in property protection activity for which he/she was not previously licensed to perform or for which the firm is not currently registered to perform.

K. Age Limitations. For the purpose of licensing, no one under the age of 18 shall be eligible for a technician's license and no person under the age of 16 shall be eligible for an apprentice license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1664.2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 36:

§3217. Alteration of Certificates or Licenses

A. Any alteration of a certificate of registration or license renders it invalid and such alteration shall be the basis for administrative action in accordance with penalties set forth in R.S.40:1664.1 et seq. and these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1664.2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 36:

§3219. Application for Certificates of Registration

A. Applications for a certificate of registration for Life Safety and/or Property protection firms shall be in writing on the forms provided by the State Fire Marshal and accompanied by the required fee as specified in these rules.

B. The application for certificates of registration shall:

1. be executed by the sole proprietor, or by each partner of a partnership, or by the authorized officer of the firm;

2. identify the type of endorsement applied for;

3. identify the physical and mailing address, if different, of the firm's operating location;

4. identify any and all names by which the firm may conduct activity regulated by R.S. 40:1664.1 et seq., and these rules. Only one trade or "Doing Business As" name shall be permitted per each certificate of registration;

5. identify each principal and officer of the firm;

6. identify the contact person as defined by these rules;

7. identify the qualifying person for each endorsement applied for;

8. include a separate employee application for each qualifying person along with the required training or

certification credentials as established by the Life Safety and Property Protection Advisory Board and an originally signed and notarized employment affidavit. A firm must employ and license at least one qualifier. Multiple Qualifiers may be licensed;

9. be accompanied by:

a. at least one application with fee from an employee seeking to obtain a technician's license in each endorsement;

b. a current certificate of insurance issued to the Office of the State Fire Marshal showing a minimum of \$500,000 coverage;

c. a copy of the local or occupational license for the firm.

C. The application shall also include written authorization by the applicant permitting the State Fire Marshal or his representative to enter, examine, and inspect any premise, building, room, vehicle, or establishment used by the applicant while engaged in property protection activity to determine compliance with the provisions of R.S.40:1664.1 et seq., and these rules.

D. When the applicant has completed the requirements contained above, a pre-certification inspection may be conducted at the facilities or of the vehicles of the applicant for verification of compliance with this subpart. The office may inspect vehicles, equipment, buildings, devices, premises or any other area to be used in performing the activities allowed by the certificate of registration. After issuance of a certificate of registration, such facilities may be inspected annually thereafter or as frequently as deemed necessary to ensure that the equipment requirement continues to be met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1664.2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 36:

§3221. Qualifying Persons

A. Each certified firm or each firm seeking certification shall employ at least one qualifying person for each endorsement it is making application for. No property protection system or equipment shall be certified, inspected, installed, integrated, maintained, serviced, sold, or submitted to the State Fire Marshal for review if the firm does not employ a qualifying person as provided herein.

B. The qualifying person shall be a paid employee and shall receive a W-2 or K-1 tax form from the firm. The qualifier shall only qualify one firm for which he is employed. An individual may not qualify multiple firms at the same time. A contract employee cannot be used to fulfill this requirement except as provided by Subsection G below. A qualifier must physically reside within 150 miles of the office for which he or she qualifies.

C. The qualifying person shall be primarily and actively engaged in supervising the property protection activity of those systems or equipment for which the firm holds endorsements for. If a firm holds multiple endorsements, then multiple qualifiers may be utilized to meet this requirement. Upon request by the State Fire Marshal or his representative(s), a qualifier shall provide documentation attesting to his or her supervision of any certification, integration, inspection, installation, maintenance or service performed by the firm he or she qualifies.

D. A qualifier must meet the minimum examination, certification, or training requirements as established by the Life Safety and Property Protection Advisory Board. The State Fire Marshal shall send notice to licensed firms of all changes to qualifier credentials made by the Life Safety and Property Protection Advisory Board.

E. At anytime that a firm finds itself without a qualifying person, such firm shall only be able to continue certifying, inspecting, maintaining and/or servicing existing contractual obligations for that endorsement but shall not engage in any new work until a qualifying person has been employed as provided herein. A firm may not submit plans to the Office of the State Fire Marshal when it finds itself without a qualifying person.

F. This office shall be notified in writing within 10 working days anytime a qualifying person's employment is terminated for any reason.

G. A firm which loses its qualifying person and has timely notified the Office of the State Fire Marshal shall have 90 days to hire another qualifying person. If after the loss of such an employee, a replacement cannot be found within the 90 days, the firm may make a request to the Office of the State Fire Marshal to temporarily hire a qualifying person on a contractual basis. Good cause must be shown why another employee cannot be permanently hired. Approval by the Office of the State Fire Marshal for the hiring of a qualifying person on a contractual basis shall not exceed six months. Not later than 30 days prior to the expiration of the six month period, the firm may request an additional six month period to employ a qualifying person on a contractual basis if good cause is shown why the firm cannot hire an employee to fulfill this requirement. The Office of the State Fire Marshal may grant one additional six month period during which a firm may employ a qualifying person on a contractual basis.

H. Failure to notify this office in writing within 10 working days of the loss of a qualifying person will cause forfeiture of any extension of time to hire another qualifying person.

I. A qualifying person must obtain an individual employee license as required by these rules. Licensure of the qualifier shall include a signed and notarized affidavit indicating the employment relationship and duties of the qualifier. If a firm desires to use multiple qualifiers for submitting plans and supervising the property protection activity of the firm, then it must register and license the additional qualifiers with the Office of the State Fire Marshal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1664.2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 36:

§3223. Application for Licenses

A. Applications for a license from an employee of a certified firm shall be on forms provided by the State Fire Marshal and accompanied by the required fee as specified in these rules.

B. Applications for individual licenses shall be accompanied by a written statement from the employer certifying the applicant's competency to perform property protection activity of the systems and equipment authorized by the endorsements applied for.

C. Unless a provisional license is issued, applications for individual licenses will not be accepted unless accompanied by documentation showing that the applicant has met all competency requirements as determined by the Life Safety and Property Protection Advisory Board.

D. No competency examination or training is required for an apprentice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1664.2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 36:

§3225. Fees—General Information

A. Every fee required in accordance with the provisions of R.S. 40:1664.1 et seq., and these rules, shall be paid by firm check or certified funds made payable to the "Office of the State Fire Marshal." Cash or personal checks cannot be accepted.

B. Fees shall be paid at or mailed to the Office of the State Fire Marshal, Attention Licensing Section, at 8181 Independence Blvd., Baton Rouge, LA 70806.

C. Late fees are required on all certificates of registration or licenses which are not timely renewed as outlined in R.S. 40:1664.1 et seq.

D. A renewal application accompanied by the required renewal fee and deposited with the United States Postal Service is deemed to be timely filed, regardless of actual date of delivery, when its envelope bears a legible postmark date which is on or before the expiration date of the certificate or license being renewed.

E. Certificates or licenses which have been expired for more than 60 days will be suspended and applicants must apply and pay for a new certificate of registration or license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1664.2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 36:

§3227. Fees—Specific Information

A. Certificate of Registration Fees

	Initial	Renewal
Technical Endorsement		
Security	\$250	\$50
Specialty Endorsement		
Household Fire	\$250	\$50
CCTV	\$250	\$50
Technical Endorsement		
Locksmith	\$250	\$50
Specialty Endorsement		
Limited Locksmith	\$250	\$50
Door Hardware	\$250	\$50
Door Hardware Installation	\$250	\$50
Bank Locking	\$250	\$50
Special Locking	\$250	\$50
Detention Locking	\$250	\$50

B. License Fees

	Initial	Renewal
Technical Endorsement		
Security	\$100	\$50
Specialty Endorsement		
Household Fire	\$100	\$50
CCTV	\$100	\$50
Property Protection Sales/Design	\$100	\$50
Apprentice	\$50	\$50

	Initial	Renewal
Technical Endorsement		
Locksmith	\$100	\$50
Specialty Endorsement		
Limited Locksmith	\$100	\$50
Door Hardware	\$100	\$50
Door Hardware Installation	\$100	\$50
Bank Locking	\$100	\$50
Bank Auxiliary	\$100	\$50
Special Locking	\$100	\$50
Detention Locking	\$100	\$50
Property Protection Sales and Design	\$100	\$50
Apprentice	\$50	\$50

C. Late Renewal Fee

1. A penalty shall be assessed in accordance with R.S.40:1664.2 et seq. for the late renewal of a certificate of registration or license.

D. Change in ownership: \$250.

E. Changes or alterations: \$20.

F. Duplicate Certificates of Registration or license: \$20.

G. Replacement Pocket Registration Card: \$20.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1664.2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 36:

§3229. Initial Certification, Continuing Education

A. Initial Certification. Applicants for an individual initial license are required to meet the initial certification requirements as established by the Life Safety and Property Protection Advisory Board.

B. Continuing Education. Applicants for an individual license who wish to renew their licenses are required to meet the continuing education requirements as established by the Life Safety and Property Protection Advisory Board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1664.2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 36:

§3231. Property Protection Systems and Equipment

A. All property protection systems and equipment shall be certified, designed, installed, integrated, maintained or serviced in a manner that maintains the highest level of operation afforded by the manufacturer of the product.

B. All property protection systems and equipment shall be certified, designed, installed, integrated, maintain or serviced in a manner that meets all applicable codes and/or standards enumerated in LAC. 55:V.103 or these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1664.2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 36:

§3233. Installation Tags

A. Upon installation of any special locking system, the system shall have a tag permanently affixed to the control panel or at the connection to the power source. The installation tag shall be a minimum of 2 3/4 inches by 2 3/4 inches. Maximum size cannot exceed 5 inches by 5 inches. The tag shall be white in color and have a self adhesive backing. The following information and wording shall be required to be preprinted on the front side of the tag:

1. DO NOT REMOVE BY ORDER OF THE STATE FIRE MARSHAL (all capital letters, in bold type);

2. Installation Tag;
3. Installation Date;
4. Firm's Name;
5. Firm's Certificate Number;
6. Technician's Name;
7. Technician's License Number;
8. Technician's Signature;
9. NFPA Code Edition System Was Installed Under;
10. plan review or exemption number;
11. serial or model number of panel, if applicable.

B. All tags shall have a signature line for the technician to sign the tag upon completion of the work. No preprinted signatures are permitted. Technicians must sign the tag; initials are not permitted. Other information to be completed on the tag may be either handwritten or preprinted. Apprentices are not permitted to sign tags.

C. If after initial installation a control panel is replaced for any reason, a new installation tag shall be completed and attached as above, noting the appropriate changes in information.

D. Copies of certificates of compliance required to be completed by this office shall be attached to the system in a plastic pocket pouch/sleeve or given to the owner for filing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1664.2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 36:

§3235. Certification Tags, Service Tags, Partial Impairment Tags, Impairment Tags (Special Locking Systems and Equipment Only)

A. Certification Tags (Green Tags)

1. All firms engaged in property protection activity of special locking systems and equipment shall have a certification tag which shall be completed and attached to a special locking system, after it has been certified, inspected, installed, or integrated indicating all work that has been done.

2. Certification tags shall be green in color.
3. The certification tag shall be attached at the control panel or if no panel, at the connection to the power source (breaker panel).
4. The certification tag shall be attached in such a way as to not hamper the actuation and operation of the equipment or system.

5. A certification tag shall be attached on all systems or equipment found to be in proper working condition and which are found to be in an operational condition per the inspection, testing and maintenance chapters of the applicable NFPA codes and standards. This tag shall be used for new installations and shall be in addition to the installation tag provided for in these rules.

6. Certification tags must contain all of the information listed below:

- a. DO NOT REMOVE BY ORDER OF THE STATE FIRE MARSHAL (all capital letters in bold face type);
- b. firm's name, physical address and telephone number;
- c. firm's State Fire Marshal certificate number;

d. technician's name and State Fire Marshal license number to be printed on tag either at the time of service or preprinted;

e. technician's signature to be signed at time of service (no preprinted signatures nor initials are permitted; apprentices are not permitted to sign tags);

f. day, month and year in which the certification was performed (must be punched through certification tag at designated marks for day, month and year; designated marks for day, month and year shall only be punched once per tag);

g. type of work performed. Only installation or Certification shall be noted on tag for type of work performed (must be punched through the certification tag);

i. "Installation" shall be punched on the tag when the special locking system or equipment is initially placed into use or after an addition or extension to the system has been made. Punching "Installation" indicates the initial certification of the system or equipment has been completed;

ii. "Certification" shall be punched on the tag when the special locking system or equipment has its annual inspection. Punching "Certification" indicates that any required service performed to the system or equipment at the time has been completed;

iii. specifics as to the type of work performed shall be noted on rear of tag, (i.e. new installation, annual certification, etc);

h. serial number of special locking system's control panel if present;

i. owner of system and address of owner (to be noted on rear of tag).

7. Other information may be permitted on the tag after a review and approval by the fire marshal. A request for additional information shall be made to the fire marshal in writing with a sample tag indicating the requested additions.

B. Service Tags (Blue Tags)

1. All firms engaged in property protection activity of special locking systems and equipment shall have a service tag which shall be completed and attached to a special locking system, after it has been maintained or serviced indicating all work that has been done.

2. Service tags shall be blue in color.
3. The service tag shall be attached at the control panel or if no panel, at the connection to the power source (breaker panel).

4. The service tag shall be attached in such a way as to not hamper the actuation and operation of the equipment or system.

5. A service tag shall be attached on all systems or equipment found to be in proper working condition after maintenance or service and which are found to be in an operational condition per the inspection, testing and maintenance chapters of the applicable NFPA codes and standards. This tag shall also be used for all service and maintenance where the system is found to meet the above conditions.

6. Service tags must contain all of the information listed below:

- a. DO NOT REMOVE BY ORDER OF THE STATE FIRE MARSHAL (all capital letters in bold face type);
- b. firm's name, physical address and telephone number;

- c. firm's State Fire Marshal certificate number;
- d. technician's name and State Fire Marshal license number to be printed on tag either at the time of service or preprinted;
- e. technician's signature to be signed at time of service (no preprinted signatures nor initials are permitted; apprentices are not permitted to sign tags);
- f. day, month and year in which service was performed (must be punched through service tag at designated marks for day, month and year; designated marks for day, month and year shall only be punched once per tag);
- g. type of work performed. Only Service shall be noted on tag for type of work performed (must be punched through the service tag);
- i. "Service" shall be punched on the tag when the special locking system or equipment is repaired or replaced to ensure proper operation in between required certification periods;
- ii. specifics as to the type of work performed shall be noted on rear of tag, (i.e. changed push button, repaired motion detector, etc);
- h. serial number of special locking system's control panel if present;
- i. owner of system and address of owner (to be noted on rear of tag).

7. Other information may be permitted on the tag after a review and approval by the fire marshal. A request for additional information shall be made to the fire marshal in writing with a sample tag indicating the requested additions.

C. Partial Impairment Tags (Yellow Tags)

1. All firms engaged in property protection activity of special locking systems and equipment shall be allowed to have a partial impairment tag, to be yellow in color, which is to be used when minor deficiencies are found on the equipment or system. The partial impairment tag is in addition to the requirement of having a service tag and impairment tag.

2. A partial impairment tag may be placed on all equipment or systems in which there is a deficiency with the equipment or system but where the equipment or system is still functional. This would include situations where routine service is needed but has not been approved by the owner of the equipment or system.

3. A partial impairment tag shall not remain on equipment or a system for more than 60 days. If the problem is not corrected after 60 days the certified firm shall be required to notify, in writing, the Office of the State Fire Marshal Inspection Section. The firm does not have to physically return to the building for re-inspection. The mailing of the impairment notice is sufficient.

4. Partial impairment tags must contain all of the information listed below:

- a. **DO NOT REMOVE BY ORDER OF THE STATE FIRE MARSHAL** (all capital letters in bold face type);
- b. firm's name, physical address and telephone number;
- c. firm's State Fire Marshal certificate number;
- d. technician's name and State Fire Marshal license number to be printed on tag either at the time of service or preprinted;

e. technician's signature to be signed at time of inspection (no preprinted signatures nor initials are permitted (apprentices are not permitted to sign tags);

f. day, month and year in which the impairment was found (to be punched through service tag at designated marks for day, month and year; designated marks for day, month and year shall only be punched once per tag);

g. type of impairment found (to be hand written on rear of tag). If additional space is needed to note the impairments, then multiple tags shall be used noting 1 of 2, 2 of 2, etc.;

h. serial number of special locking system's control panel if present;

i. business owner or tenant and physical address of where the system is located (to be noted on rear of tag).

D. Impairment Tags (Red Tags)

1. All firms engaged in property protection activity of special locking systems and equipment shall have an impairment tag, to be red in color, which is to be used when major deficiencies are found on these systems or equipment.

2. An impairment tag shall be placed on all special locking systems upon discovery that the system or equipment is impaired to the point that life safety is at risk or to the point that the automatic or manual release on the system will be prevented from functioning as intended.

3. Impairment tags shall also be placed on any equipment or system where life safety is in imminent danger.

4. Written notice shall be made to the owner and to the Office of the State Fire Marshal Inspection Section by the certified firm as soon as is practically possible but shall not exceed two working days after the system or equipment is red tagged. Notification to the Office of the State Fire Marshal is not needed for fire hoses removed from service. Written notification can be by electronic mail or facsimile. The Office of the State Fire Marshal shall provide a form for notification. Additional notification (written or verbally) should be made to the local fire department when a system is red tagged.

5. Impairment tags must contain all of the information listed below:

- a. **DO NOT REMOVE BY ORDER OF THE STATE FIRE MARSHAL** (all capital letters in bold face type);
- b. firm's name, physical address and telephone number;
- c. firm's State Fire Marshal certificate number;
- d. technician's name and State Fire Marshal license number to be printed on tag either at the time of service or preprinted;
- e. technician's signature to be signed at time of inspection (no preprinted signatures nor initials are permitted (apprentices are not permitted to sign tags);
- f. day, month and year in which the inspection was performed (to be punched through service tag at designated marks for day, month and year; designated marks for day, month and year shall only be punched once per tag);
- g. type of impairment found (to be hand written on rear of tag). If additional space is needed to note the impairments, then multiple tags shall be used noting 1 of 2, 2 of 2, etc.;

h. serial number of special locking system's control panel if present;

i. business owner or tenant and physical address of where the system is located (to be noted on rear of tag).

6. Notification of special locking equipment/systems inspections where no deficiencies are found need not be sent to the Office of the State Fire Marshal unless specifically requested.

E. Written Notification. The following information is required to be sent when written notification is made to the Office of the State Fire Marshal Inspection Section:

1. name, address, and telephone number of the owner of the system;

2. name, address, telephone number, and certificate number of the firm noting the impairment;

3. name and license number of the technician who did the certification, inspection, maintenance, or service;

4. type of system (manufacturer and model number should also be included);

5. the name and year edition of the code or standard the firm used for inspection;

6. reason for the impairment. Note: A copy of the inspection or service report shall be included; and

7. date system or equipment was red or yellow tagged.

F. Other Requirements

1. On all special locking systems, a plastic pocket pouch/sleeve shall be attached to the control panel, or near the power source when no control panel is installed, where all tags shall be maintained for a period of one year after the system's annual certification. Upon a new annual certification, all previous service tags may be removed and given to the owner to keep on file.

2. All tags must be card stock, plastic, vinyl, tyevak or metal in order to maintain the running record for the system.

3. All tags shall be 5 1/4 inches in height and 2 5/8 inches in width.

4. Firms shall have their tags printed and one forwarded to the State Fire Marshal's Licensing Section for approval and incorporation in the firm's file.

5. Tags may be removed only by licensed employees of a certified firm or employees of the State Fire Marshal's office and certified fire prevention bureaus.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1664.2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 36:

§3237. Fair and Ethical Business Practices

A. Property protection firms and employees shall conduct all business practices in compliance with all applicable laws.

B. Property protection firms and employees shall impartially analyze safety or security problems of their customers and advance the best possible solution for the protection of the customer.

C. Property protection firms and employees shall refrain from associating with or allowing the use of their name (personal or professional) by any enterprise which in any way permits misrepresentation.

D. Property protection firms and employees shall not misrepresent the features afforded by any product nor make unwarranted claims about the merits of any product or

service they offer. Examples include, but are not limited to the following:

1. representing to a client that non-restricted or widely available keys (whether stamped "Do Not Duplicate" or not) provide any measure of assurance against unauthorized duplication;

2. selling a used product as new;

3. claiming the customer's existing equipment is out of date or substandard when it is not.

E. Property protection firms and employees shall avoid using any improper or questionable means of soliciting business. Prohibited practices include:

1. affixing stickers to permanent fixtures such as doors or door frames or in any way defacing the property of any person without his express consent;

2. installing stickers or any other promotions in such fashion that they falsely represent that the firm has previously serviced the system or equipment in that location;

3. installing or supplying systems or equipment which curtails the customer's ability to choose a different company or technician for product support or service, unless the firm obtains the customer's expressed written consent;

4. modifying the customer's hardware in any fashion that will curtail the customer's ability to choose a different company or technician for later product support or service or cause him to incur additional expense by doing so, unless the firm obtains the customer's express written consent.

F. Property protection firms and employees shall not directly solicit in violation of a no compete agreement, such as an employee offering competing bids to customers of his employer.

G. Property protection firms and employees shall not use a name in advertising which is similar enough to a competitor's name to cause confusion among consumers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1664.2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 36:

§3239. Prohibited Acts and Equipment

A. The following acts are prohibited and shall be considered grounds for administrative action to be taken against firms, persons and/or employees committing such:

1. charging a customer for work that was not performed;

2. misrepresenting oneself and/or one's firm to a customer, prospective customer or to employees of the State Fire Marshal, his designated representative or other public official.

3. impersonating the State Fire Marshal, his designated representative or any other public official.

4. intimidating or coercing a customer.

5. certifying, inspecting, installing, integrating, maintaining or servicing special locking systems and/or equipment contrary to plans submitted for review, applicable NFPA codes, standards, and/or manufacturer's specifications without specific written permission from the Office of the State Fire Marshal.

6. falsifying an application or any other document submitted to obtain a certificate or license or other documentation requested by or submitted to the Office of the State Fire Marshal.

7. falsifying tags, labels, inspection reports, invoices, system reports and/or other documents.

8. working an apprentice, or as an apprentice, without direct supervision by a technician licensed to perform the work being done and licensed to the same firm.

9. working an employee without the appropriate endorsement of license.

10. working without the appropriate endorsement of firm certificate or license.

11. working with an expired firm certificate or license.

12. failing to notify the Office of the State Fire Marshal of any changes that affect licensure.

13. contracting to a firm or person who is not properly certified or licensed through the Office of the State Fire Marshal to perform acts regulated by the provisions of R.S. 40:1664.1 et seq. or these rules.

14. failing to adhere to the tagging and/or notification policies of the Office of the State Fire Marshal.

15. installing a special locking system prior to submitting plans and required documentation and receiving authorization to install such system from the Plan Review Section of the Office of the State Fire Marshal.

16. failing to possess the equipment, tools, NFPA codes, standards or manufacturer's U.L. listed installation and service manuals to properly certify, inspect, install, integrate, maintain or service the systems or equipment for which a firm is certified.

17. failing to adhere to all applicable laws and rules governing property protection systems and/or equipment as promulgated by the Office of the State Fire Marshal.

18. engaging in false, misleading or deceptive acts or unfair or unethical business practices.

19. aiding and abetting an unlicensed person or firm to engage in property protection activity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1664.2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 36:

§3241. Enforcement

A. The State Fire Marshal or his designated representative, shall make, or cause to be made, from time to time, inspections of a firm's physical locations, vehicles or job sites to verify required certificates, employee lists, employee licenses, business records and insurances, equipment, tools, NFPA codes, standards and manufacturer's manuals and property protection activity performed, and as circumstances dictate, to determine that firms and their employees are engaging in activity in accordance with the requirements of R.S. 40:1664.1 et seq., and these rules.

B. The State Fire Marshal shall investigate all complaints of alleged violations of R.S. 40:1574 et seq., 40:1664.1 et seq., and these rules. Complaints of alleged violations shall be made in writing to the Licensing Section of the State Fire Marshal's office. The office shall make available a complaint form to be used as needed. Penalties shall be administered to those firms and/or employees found to have violated these laws and/or rules. Proposed administrative penalty letters shall act as official notification of alleged violations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1664.2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 36:

§3243. Administrative Actions

A. The State Fire Marshal may refuse the issuance or renewal of, suspend, or revoke a certificate of registration, or license and impose administrative penalties, if, after notice, as provided for by the Administrative Procedures Act, it is found that a person, certified firm, or licensee or an applicant for registration, or license, failed to comply with the provisions of R.S. 40:1664.1 et seq., or these rules.

B. Offenses. The following categories shall denote classification of offenses for persons, firms and employees for determining the penalty to be imposed.

1. Minor:

a. failing to notify the Office of the State Fire Marshal of any changes that affect licensure;

b. failing to adhere to the tagging and/or notification policies of the Office of the State Fire Marshal;

c. working with an expired (31-45 days) license, or certificate of registration;

d. failing to properly display a firm certificate.

2. Serious:

a. misrepresenting oneself and/or one's firm to a customer, prospective customer or to employees of the State Fire Marshal, his designated representative or other public official;

b. certifying, inspecting, installing, integrating, maintaining or servicing special locking systems and/or equipment contrary to plans submitted for review, applicable NFPA codes, standards, and/or manufacturer's specifications without specific written permission from the Office of the State Fire Marshal;

c. working an apprentice, or as an apprentice, without direct supervision by a technician licensed to perform the work being done and licensed to the same firm;

d. working an employee without the appropriate endorsement of license;

e. working without the appropriate endorsement of firm certificate or license;

f. working with an expired (46-60 days) license or firm certificate;

g. contracting to a firm or person who is not properly certified or licensed through the Office of the State Fire Marshal to perform acts regulated by the provisions of R.S. 1664.1 et seq., or these rules;

h. failing to possess the equipment, tools, NFPA codes, standards or manufacturer's U.L. listed installation and service manuals to properly certify, inspect, install, integrate, maintain or service the systems or equipment for which a firm is certified;

i. committing five or more Minor offenses within a three year period.

3. Major:

a. charging a customer for work that was not performed;

b. impersonating the State Fire Marshal, his designated representative or any other public official;

c. intimidating or coercing a customer;

d. falsifying an application or any other document submitted to obtain a certificate or license or other documentation requested by or submitted to the Office of the State Fire Marshal;

- e. falsifying tags, labels, inspection reports, invoices and/or other documents;
- f. working without any or with a suspended firm certificate of registration or license;
- g. working an employee with a suspended license;
- h. aiding and abetting an unlicensed person or firm to engage in property protection activity;
- i. installing a special locking system or equipment prior to submitting plans and required documentation and receiving authorization to install such system from the Plan Review Section of the Office of the State Fire Marshal;
- j. committing three or more serious offenses within a three year period;
- k. engaging in false, misleading or deceptive acts or unfair or unethical business practices.

C. Penalties. The following fine schedule shall be used to access fines to persons, firms, and/or employees who violate the laws and rules governing property protection activity. Penalties will be imposed to persons, firms and/or employees based on the classification of offense. Each classification of offense will have a minimum and maximum fine shown and any other administrative penalty that may be imposed.

1. Firms and/or Persons

- a. Minor: \$50 fine to \$250 fine and/or official warnings may be imposed.
- b. Serious: \$250 fine to \$1,000 fine and/or suspensions of up to 90 days may be imposed.
- c. Major: \$1,000 fine to \$5,000 fine and/or suspensions from 91 to 365 days may be imposed and/or revocation of certificate may be imposed.

2. Employees and/or Persons

- a. Minor: \$10 fine to \$50 fine and/or official warnings may be imposed.
- b. Serious: \$50 fine to \$500 fine and/or suspensions of up to 90 days may be imposed.
- c. Major: \$500 to \$5,000 fine and/or suspensions from 91 to 365 days may be imposed and/or revocation of license may be imposed.

3. The State Fire Marshal may deviate from this fine schedule where circumstances and/or evidence warrant a more stringent or more lenient penalty.

4. In lieu of fine payments, the State Fire Marshal may require remedial or additional training be obtained by those found in violation.

5. Those offenses not enumerated in this list shall receive penalties for violations of similar nature.

6. The Office of the State Fire Marshal may also pursue criminal charges or injunctive relief for any of the above enumerated offenses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1664.2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 36:

§3245. Severability

A. If any provision of these rules or the application thereof to any firm, person, employee or circumstance is held invalid for any reason, the invalidity shall not affect the other provisions or any other application of these rules which can be given effect without the invalid provisions or application. To this end, all provisions of these rules are declared to be severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1664.2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 36:

§3247. Adopted Standards

A. The office adopts by reference in their entirety those copyrighted codes or standards enumerated in LAC 55:V.103 published by and available from the National Fire Protection Association, Inc. (NFPA), Batterymarch Park, Quincy, Massachusetts, 02268. A copy of the codes and standards shall be kept available for public inspection in the Office of the State Fire Marshal. In addition to those listed standards, the following shall also be adhered to as applicable:

- 1. ASME/ANSI A17.1—Safety Code for Elevators and Escalators;
- 2. ASME/ANSI A17.3—Safety Code for Existing Elevators and Escalators;
- 3. ASME/ANSI A117.1—Specifications for Handicapped Accessibility;
- 4. ADAAG—American Disability Accessibility Act Guidelines;
- 5. United States Department of Transportation;
- 6. Code of Federal Regulations 49.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1664.2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 36:

§3249. National Recognized Testing Laboratory

A. This office approves Underwriters Laboratories, Inc., Factory Mutual Research Corporation, the United States Testing Company, Inc. and Intertek-ETL as nationally recognized testing laboratories for the purpose of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1664.2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 36:

§3251. Equipment and Facilities

A. Each certified firm location shall be required to possess the equipment, tools, NFPA codes, standards and manufacturer's UL listed installation and service manuals necessary to properly certify, inspect, install, integrate, maintain or service the systems or equipment for which it is certified. Required codes, standards and manuals may be either in print or in an electronic format.

B. The following equipment and code books shall be required depending upon the firm's certification endorsement.

- 1. Security:
 - a. certification, service, partial impairment (optional) and impairment tags;
 - b. installation tags;
 - c. NFPA 70, 80 and 101 (latest edition as enumerated in LAC 55:V.103 and these rules);
 - d. copy of Life Safety and Property Licensing Law and Rules;
 - e. manufacturer's installation manuals;
 - f. sound level meter.
- 2. Household fire warning:
 - a. NFPA 70 and 101 (latest edition as enumerated in LAC 55:V.103 and these rules);

- b. copy of Life Safety and Property Licensing Law and Rules;
 - c. manufacturer's installation manuals;
 - d. sound level meter.
3. Closed circuit television:
- a. NFPA 70 (latest edition as enumerated in LAC 55:V.103 and these rules);
 - b. copy of Life Safety and Property Licensing Law and Rules;
 - c. manufacturer's installation manuals.
4. Full locksmith:
- a. certification, service, partial impairment (optional) and impairment tags;
 - b. installation tags;
 - c. NFPA 70, 80 and 101 (latest edition as enumerated in LAC 55:V.103 and these rules);
 - d. copy of Life Safety and Property Licensing Law and Rules;
 - e. manufacturer's installation manuals.
5. Limited locksmith:
- a. NFPA 80 and 101 (latest edition as enumerated in L.A.C. 55:V:103 and these rules);
 - b. copy of Life Safety and Property Licensing Law and Rules;
 - c. manufacturer's installation manuals.
6. Bank locking:
- a. certification, service, partial impairment (optional) and impairment tags;
 - b. installation tags;
 - c. NFPA 70, 80 and 101 (latest edition as enumerated in LAC 55:V.103 and these rules);
 - d. copy of Life Safety and Property Licensing Law and Rules;
 - e. manufacturer's installation manuals.
7. Detention locking:
- a. certification, service, partial impairment (optional) and impairment tags;
 - b. installation tags;
 - c. NFPA 70, 80 and 101 (latest edition as enumerated in LAC 55:V.103 and these rules);
 - d. copy of Life Safety and Property Licensing Law and Rules;
 - e. manufacturer's installation manuals.
8. Door hardware:
- a. NFPA 70, 80 and 101 (latest edition as enumerated in LAC 55:V.103 and these rules);
 - b. copy of Life Safety and Property Licensing Law and Rules;
 - c. manufacturer's installation manuals.
9. Door hardware installation:
- a. NFPA 70, 80 and 101 (latest edition as enumerated in LAC 55:V.103 and these rules);
 - b. copy of Life Safety and Property Licensing Law and Rules;
 - c. manufacturer's installation manuals.
10. Special locking:
- a. certification, service, partial impairment (optional) and impairment tags;
 - b. installation tags;
 - c. NFPA 70, 80 and 101 (latest edition as enumerated in LAC 55:V.103 and these rules);

d. copy of Life Safety and Property Licensing Law and Rules;

e. manufacturer's installation manuals.

C. The State Fire Marshal or his representative(s) may inspect a firm's physical location(s) or vehicle(s) to ensure the proper equipment, tools, NFPA codes, NFPA standards, manufacturer's UL listed installation and service manuals and business records and insurances are possessed by the firm. Firms must possess all applicable manufacturers' installation and service manuals for the systems and/or equipment it services.

D. Business records shall include, but not be limited to, invoices, work orders, service reports, payroll records, federal and state tax information for employees, occupational licenses, income tax filings, property tax notifications and filings, utility records, certificates of insurance for general liability and workmen compensation coverage and workers compensation reports and/or filings.

E. The State Fire Marshal or his representative(s) may require that a firm or its employee(s) demonstrate a proficiency to use the necessary equipment to properly certify, inspect, install, integrate, maintain or service special locking systems and equipment. Proficiency shall be deemed to be achieved if the system or equipment complies with the applicable NFPA code or standard and/or manufacturer's specifications.

F. For those firms or their employee(s) which do not possess the proper equipment, tools and manuals or who fail to demonstrate the ability to properly perform the required work, then an order of correction shall be made to the contractor or his employee to obtain the required equipment, tools, NFPA codes, standards or manual or to obtain additional training within a specified time period. Another inspection shall be conducted by the State Fire Marshal or his representative to verify compliance with the order of correction. Good cause must be shown if proficiency is not shown or the required equipment, tools, NFPA codes, standards or manuals are not obtained by the time of the second inspection. Additional time may be granted for good cause. If good cause is not shown, then administrative action may be pursued.

G. The office may specifically enumerate additional required equipment or business records at a later date should it be deemed necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1664.2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 36:

§3253. Plan Review

A. No special locking system requiring plan submittal in accordance with R.S. 40:1574 et seq., shall be installed prior to submitting plans with required documentation and receiving authorization to install such system from the plan review section of the Office of the State Fire Marshal.

B. Only listed qualifiers of a firm shall be listed on applications for full plan review or exemption to full plan review. Additionally, any correspondence regarding a submittal, to include but not be limited to, telephone, email or written correspondence, shall only be through a listed qualifier of the firm, owner of the firm, a professional of record or owner of the building.

C. A new plan review shall be required when a firm takes over a project in progress from another firm, listing the new firm's information and any changes to the project.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1664.2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 36:

§3255. Electrical Contractors

A. All electrical contractors who have met all requirements and passed a prescribed written examination based upon National Fire Protection Association (NFPA) Code 70, the National Electrical Code, that has been given either by a recognized political subdivision of the State of Louisiana or by the State Licensing Board for Contractors, shall be authorized to install special locking systems, security and closed circuit television systems and equipment in accordance with manufacturer's specifications and applicable National Fire Protection Association (NFPA) codes as enumerated in LAC 55:V.103 and these rules.

B. The electrical contractor shall ensure that plans have been submitted and reviewed by the state fire marshal prior to installing any new or renovated special locking system.

C. Electrical contractors are not permitted to certify, inspect, service or maintain special locking systems, security and closed circuit television systems.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1664.2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 36:

§3257. Miscellaneous Provisions

A. Marking of Vehicles

1. All service vehicles owned or operated by firms or their employees used for regulated activities, as defined by R.S. 40:1664.1 et seq. and these rules shall have the firm name, firm certificate number and firm telephone number permanently inscribed, painted, stenciled or affixed by magnetic means on such vehicles. Such markings shall be a minimum of two and one-half inches in height and not less than one-fourth inch in width. Letters and numbers shall be on a contrasting background and be conspicuously seen from the outside of the vehicle. This requirement does not prevent a firm to use an unmarked vehicle on special occasions where covert work is required.

B. Restrictions

1. Certificate or license holders are not agents or representatives of the State of Louisiana, the Department of Public Safety or the Office of the State Fire Marshal. No claims or inferences of such shall be made.

2. A certificate or license does not authorize anyone to enforce these rules or to enter any building without the owner's permission or to engage in property protection activity without the owner's permission.

3. Certificate and license holders shall not allow the use of their certificate or licenses by other firms, persons or employees.

4. A license holder shall not perform any property protection activity unless employed by and within the course and scope of that employment with a firm regulated by the provisions of R.S.40:1664.1 et seq.

5. A person shall not perform any act for which a certificate or license is required unless:

a. first being certified or licensed to perform such acts; and

b. is employed by a firm certified to perform those acts; and

c. is performing those acts for the certified firm by which he is employed.

6. An *apprentice*, as defined in these rules, shall not perform any activity regulated by R.S.40:1664.1 et seq., unless employed by a certified firm and is directly supervised by a license holder authorized to perform such act or acts. Both the apprentice and licensee shall be employed by the same certified firm.

7. Nothing in these rules shall prevent an appropriately certified firm or licensed person from certifying, inspecting, installing, integrating, maintaining, selling, or servicing any manufacturer's system or equipment.

C. Multiple Names and Locations

1. If a firm uses multiple names (i.e. trade or "doing business as" names), it must apply for a separate certificate of registration for each name if the firm name has a separate state or federal tax number. If the firm name does not have a separate state or federal tax number, then it shall be permitted to be registered with the firm's primary name. Only one trade or "doing business as" name shall be permitted to be registered along with the firm's primary name. Any other name that the firm wishes to use must have its own certificate of registration and must meet all licensing requirements as a separate and independent firm.

2. If a firm uses multiple locations, each location must apply for and receive its own certificate of registration. Each location is considered a separate firm and must meet all licensing requirements for firms.

3. If a firm advertises telephone numbers for dispatch purposes in various locations but has no physical office in those locations, then the advertisement must indicate "For Dispatch Only".

D. Special Locking System Required Certification

1. A building owner shall ensure that each special locking system within his commercial business is certified annually by a firm with either a Security or Full Locksmith endorsement.

2. For the purpose of determining the exact date of a required certification, the following guidelines shall apply: Where only the year is known but not the month, January shall be used for the month, where the month is known but not the day, the first day of the month shall be used.

3. The certified firm shall not be responsible for more frequent inspections as required by the applicable engineered specifications, manufacturer's specifications or per the inspection, testing and maintenance chapters as set forth in the applicable NFPA codes and standards unless under contract to perform such.

E. Advertising

1. All advertising indicating property protection activity within Louisiana, including but not limited to telephone advertising, bids, letter head and business cards, shall indicate a firm's certificate of registration number, the firm's physical address and local telephone number.

F. Service Invoices and Inspection Reports

1. All service invoices or inspection reports shall reflect the inspection, installation, integration, maintenance,

or service performed, all parts replaced, date of service, the firm name, the firm certificate number, the technician's name who performed the work and the technician's license number.

G. Locking Service Record Keeping

1. A locksmith who bypasses, manipulates, or originates a first key by code for a device safeguarding an area where access is meant to be limited, whether or not for compensation, shall document:

- a. where the work was performed;
- b. the name, address, date of birth, telephone number, and driver's license number or other identification number of the person requesting the work to be done; and
- c. the signature of that person.

2. A copy of the work order form shall be kept by the licensed locksmith for a period of two years and shall include:

- a. the name and license number of the locksmith; or
- b. the name and identification number of the registered employee who performed the services.

3. Work order forms required to be kept under this Section shall be available for inspection upon written request made three days in advance by the State Fire Marshal or his representative(s) or a law enforcement agency.

4. A locksmith who bypasses, manipulates, or originates a first key for a motor vehicle, whether or not for compensation, shall document:

- a. the name, address, date of birth, telephone number, vehicle identification number, and driver's license number or other identification number of the person requesting entry; and
- b. the signature of that person.

5. A copy of the work order form shall be kept by the licensed locksmith for a period of two years and shall include:

- a. the name and license number of the locksmith; or
- b. the name and identification number of the registered employee who performed the services.

6. Work order forms required to be kept under this Section shall be available for inspection upon written request made three days in advance by the State Fire Marshal or his representative(s) or a law enforcement agency.

H. Security System Panels, Factory Default Code Reset

1. A security system owner who wishes to change security firms must notify the existing firm in writing of his wishes if he desires to have the panel lockout code reset. All financial obligations of the system owner to the existing firm must be met prior to firm being required to reset the panel to factory default.

2. The firm shall return the panel to factory default within five working days upon written notice by the system owner.

3. Where a panel cannot be reset to factory default, then the panel shall be cleared of its memory to allow complete reprogramming.

4. This provision does not apply to panels which are proprietary in nature and will not work unless monitored and/or maintained by the proprietary firm.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1664.2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 36:

Family Impact Statement

1. The effect of these rules on the stability of the family. These rules should not affect the stability of the family. The rules are only applicable to businesses which engage in life safety and property protection contracting, specifically, security and locking contractors pursuant to R.S. 40:1664.1 et seq.

2. The effect of these rules on the authority and rights of parents regarding the education and supervision of their children. These rules should not affect the authority and rights of parents regarding the education and supervision of their children. The rules are only applicable to businesses which engage in life safety and property protection contracting, specifically, security and locking contractors pursuant to R.S. 40:1664.1 et seq.

3. The effect of these rules on the functioning of the family. These rules should not affect the functioning of the family. The rules are only applicable to businesses which engage in life safety and property protection contracting, specifically, security and locking contractors pursuant to R.S. 40:1664.1 et seq.

4. The effect of these rules on family earnings and family budget. These rules should not affect family earnings and family budget. The rules are only applicable to businesses which engage in life safety and property protection contracting, specifically, security and locking contractors pursuant to R.S. 40:1664.1 et seq.

5. The effect of these rules on the behavior and personal responsibility of children. These rules should not affect the behavior and personal responsibility of children. The rules are only applicable to businesses which engage in life safety and property protection contracting, specifically, security and locking contractors pursuant to R.S. 40:1664.1 et seq.

6. The effect of these rules on the ability of the family or local government to perform the function as contained in the proposed rules. These rules do not require the family or local government to perform any function.

Public Comments

Interested persons may submit written comments on these proposed rules to DSFM Boyd Petty at 8181 Independence Blvd., Baton Rouge, LA 70806. Comments should be submitted no later than July 20, 2010 at 4:30 p.m. to Boyd Petty, Office of State Fire Marshall, Licensing Section, 8181 Independence Blvd., Baton Rouge, La. 70806.

Public Hearing

In the event the required number of comments are received, a public hearing is tentatively scheduled for July 26, 2010, at 10 a.m. at 8181 Independence Blvd., Baton Rouge, LA 70806. Please call in advance to verify the time and place of the meeting

Jill P. Boudreaux
Under Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Property Protection Licensing**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Implementation costs would be limited to the cost of copying the new rules and advertising in the State Register.

However, it is anticipated that these costs will be very minimal. The proposed rules provide for regulation of property protection contractors. Legislation regarding property protection became effective January 1, 2007. The agency is now proposing rules for regulation.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No fiscal impact is anticipated. Legislation regarding property protection came into effect on January 1, 2007. There have never been any rules for property protection contractors. The property protection rules are now being created to mirror and clarify the current licensing law.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Minimum expense would be experienced by contractors for marking vehicles and printing new tags.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Firms will be able to compete on an equal level with others in the industry due to clarity in the rules.

Jill P. Boudreaux
Undersecretary
1006#051

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT
Department of Revenue
Policy Services Division

Income Tax Credits for Wind or Solar Energy Systems
(LAC 61:I.1907)

Under the authority of R.S. 47:287.785, R.S. 47:295, R.S. 47:1511, and R.S. 47:6030, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to amend LAC 61:I.1907 relative to income tax credits for wind or solar energy systems.

Act 467 of the 2009 Regular Session of the Louisiana Legislature amended R.S. 47:6030 to expand the existing credit to taxpayers who do not own the structures into which the wind or solar energy systems are installed. This amendment to the Rule will clarify the application of the credits for those taxpayers who purchase and install wind or solar energy systems.

Title 61
REVENUE AND TAXATION

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

Chapter 19. Miscellaneous Tax Exemptions

§1907. Income Tax Credits for Wind or Solar Energy Systems

A. Revised Statute 47:6030 provides an income tax credit for the purchase and installation of a wind or solar energy system by a Louisiana taxpayer, the owner of a residential rental apartment project, or by a taxpayer who purchases and installs such a system in a residence or a residential rental apartment project which is located in the state. In order for costs associated with the purchase and installation of a wind or solar energy system to qualify for this credit, the expenditure must be made on or after January 1, 2008. The amount of the credit is equal to 50 percent of

the first \$25,000 of the cost of each wind or solar energy system.

B. Definitions

Charge Controller—an apparatus designed to control the state of charge of a bank of batteries.

Grid-Connected, Net Metering System—a wind or solar electric system interconnected with the utility grid in which the customer only pays the utility for the net energy used from the utility minus the energy fed into the grid by the customer. All interconnections must be in accordance with the capacity, safety and performance interconnection standards adopted as part of the Louisiana Public Service Commission's, the New Orleans City Council's, or other Louisiana utility regulatory entities, as appropriate, established Net Metering rules and procedures.

Inverter—an apparatus designed to convert direct current (DC) electrical current to alternating current (AC) electrical energy. Modern inverters also perform a variety of safety and power conditioning functions that allow them to safely interconnect with the electrical grid.

Photovoltaic Panel—a panel consisting of a collection of solar cells capable of producing direct current (DC) electrical energy when exposed to sunlight.

Residence—a single family dwelling, one dwelling unit of a multi-family, owner occupied complex, or one residential dwelling unit of a rental apartment complex. To be considered a residence, the physical properties of the space must provide the basic elements of a home, including appropriate and customary appliances and facilities and the occupant must use the facilities as a home with the intent to remain for a period exceeding thirty days. All eligible residences must be located in Louisiana.

Solar Electric System—a system consisting of photovoltaic panels with the primary purpose of converting sunlight to electrical energy and all equipment and apparatus necessary to connect, store and process the electrical energy for connection to and use by an electrical load.

Solar Thermal System—a system consisting of a solar energy collector with the primary purpose of converting sunlight to thermal energy and all devices and apparatus necessary to transfer and store the collected thermal energy for the purposes of heating water, space heating, or space cooling.

Supplemental Heating Equipment—a device or apparatus installed in a solar thermal system that utilizes energy sources other than wind or sunlight to add heat to the system, with the exception of factory installed auxiliary heat strips that are an integral component of a specifically engineered solar hot water storage tank.

Wind Energy System—a system of apparatus and equipment with the primary purpose of intercepting and converting wind energy into mechanical or electrical energy and transferring this form of energy by a separate apparatus to the point of use or storage.

C. Eligibility for Wind and/or Solar Energy Systems Tax Credits

1. Each residence or apartment project in the state is eligible for tax credits for the number of separate complete wind, solar electric, and solar thermal energy systems necessary to ensure that the residence or apartment project is supplied with all of its energy needs. For a residential rental

apartment project, a single apartment unit may include in its energy needs the energy required to service the apartment unit and its proportionate energy needs with respect to a separately metered common load.

2. All wind or solar energy systems must be installed in the immediate vicinity of the residence or apartment project claiming the credit such that the electrical, mechanical or thermal energy is delivered directly to the residence or apartment project.

3. In order to claim a tax credit(s) for a wind energy system, solar electric energy system, or solar thermal energy system, the components for each system must be purchased and installed at the same time as a system.

4. For a taxpayer other than the owner of the residence or residential rental apartment project to claim a tax credit for a wind energy system, solar electric energy system, or solar thermal energy system, the taxpayer must provide the department with a copy of the contract in which the owner of the residence has clearly and unambiguously stated that he is not entitled to and will not claim the tax credit. Absent such a contract, the owner of the residence or residential rental apartment project is the only taxpayer eligible to claim the credit and the installer or developer shall have no right to the credit.

D. Claiming the Wind and Solar Energy Systems Tax Credit

1. The credit for the purchase and installation of a wind energy system or solar energy system by a taxpayer at his residence shall be claimed by the taxpayer on his Louisiana individual income tax return.

2. The credit for the purchase and installation of a wind energy system or solar energy system by the owner of a residential rental apartment project shall be claimed by the owner on his Louisiana individual, corporate or fiduciary income tax return.

3. The credit for the purchase and installation of a wind energy system or solar energy system by a taxpayer who purchases and installs such a system in a residence or a residential rental apartment project of which he is not the owner shall be claimed by the taxpayer on his Louisiana individual, corporate or fiduciary income tax return.

E. Wind and Solar Energy Systems Eligible for the Tax Credit

1. The credit provided by R.S. 47:6030 is only allowed for complete and functioning wind energy systems or solar energy systems. Local and state sales and use taxes are an eligible system cost. Uncapitalized financing costs are not an eligible system cost.

a. Exceptions to General Rule Allowing Credit Only for Complete Systems

i. Exception in the Case of a Multi-Family Residence

(a). In order to be eligible to receive the credit, the owner of a single unit in a multi-family residence project must have an undivided interest in the wind or solar energy system that is being installed.

(b). If a component of a wind or solar energy system is shared, documentation must be supplied dividing up the costs of the component between all those eligible for the credit.

(c). Subsequent purchasers of units in the multi-family residence not in possession of an undivided interest at the time of installation, will not be eligible for the credit.

ii. Exception Allowing Shared Inverters

(a). Shared inverters are permitted when two or more systems are being installed at the same time.

(b). Any equipment added at a later date can not use existing system components and has to have every element of a complete system in order to qualify for the credit.

2. Wind Energy Systems. Eligible wind energy systems under the tax credit include systems designed to produce electrical energy and systems designed to produce mechanical energy through blades, sails, or turbines and may include the following.

System Type	Eligible System Components
DC Wind Electric Generation Systems	DC output wind turbine, controllers, towers & supports, charge controllers, inverters, batteries, battery boxes, DC and AC disconnects, junction boxes, monitors, display meters, lightning and ground fault protection, and wiring and related electrical devices and supplies from generator to residence or electrical load
AC Wind Electric Generation Systems	AC output wind turbine, controllers, towers and supports, charge controllers, power conditioners/grid interconnection devices, batteries, battery boxes, AC disconnects, junction boxes, monitors, display meters, lightning and ground fault protection, and wiring and related electrical devices and supplies from generator to residence or electrical load
Mechanical Wind Systems	Mechanical output wind turbine, towers and supports, mechanical interconnection between turbine and mechanical load

3. Solar Electric Systems. Eligible solar electric systems under the tax credit include grid-connected net metering systems, grid-connected net metering systems with battery backup, stand alone alternating current (AC) systems and stand alone direct current (DC) systems, designed to produce electrical energy and may include the following.

System Type	Eligible System Components
Grid-Connected, Net Metering Solar Electric Systems	Photovoltaic panels, mounting systems, inverters, AC and DC disconnects, lightning and ground fault protection, junction boxes, remote metering display devices and related electrical wiring materials from the photovoltaic panels to point of interconnection with the residence or electrical load
Grid-Connected, Net Metering Solar Electric Systems with Battery Backup	Photovoltaic panels, mounting systems, inverters, charge controllers, batteries, battery cases, AC and DC disconnects, lightning and ground fault protection, junction boxes, remote metering display devices and related electrical wiring materials from the photovoltaic panels to point of interconnection with the residence or electrical load
Stand Alone Solar Electric AC Systems	Photovoltaic panels, mounting systems, inverters, charge controllers, batteries, battery cases, AC and DC disconnects, lightning and ground fault protection, junction boxes, remote metering display devices and related electrical wiring materials from the photovoltaic panels to point of interconnection with the residence or electrical load

System Type	Eligible System Components
Stand Alone Solar Electric DC Systems	Photovoltaic panels, mounting systems, charge controllers, batteries, battery cases, DC disconnects, lightning and ground fault protection, junction boxes, remote metering display devices and related electrical wiring materials from the photovoltaic panels to point of interconnection with the residence or electrical load

4. Solar Thermal Systems. Solar thermal systems eligible under the tax credit include systems designed to produce domestic hot water, systems designed to produce thermal energy for use in heating and cooling systems and solar pool heating systems and may include the following.

System Type	Eligible System Components
Domestic Solar Hot Water Systems	Solar thermal collectors, mounting systems, solar hot water storage tanks, pumps, heat exchangers, drain back tanks, expansion tanks, controllers, sensors, valves, freeze protection devices, air elimination devices, photovoltaic panels for PV systems, piping and other related materials from the solar thermal collectors to the solar hot water storage tanks
Heating and Cooling Thermal Energy Systems	Solar thermal collectors, mounting systems, solar hot water storage tanks, pumps, heat exchangers, drain back tanks, expansion tanks, controllers, sensors, valves, freeze protection devices, air elimination devices, photovoltaic panels for PV systems, piping and other related materials from the solar thermal collectors to the solar hot water storage tanks
Solar Pool Heating System	Solar pool heating collectors, mounting systems and devices, controllers, actuators, valves, pool covers, air elimination devices, sensors, piping and other related materials from solar pool heating collectors to interconnection with pool filtration system

5. All wind and solar energy systems for which a tax credit is claimed shall include an operations and maintenance manual containing a working diagram of the system, explanations of the operations and functions of the component parts of the system and general maintenance procedures.

6. All photovoltaic panels, wind turbines, inverters and other electrical apparatus claiming the tax credit must be UL listed and installed in compliance with manufacturer specifications and all applicable building and electrical codes.

7. All solar thermal apparatus claiming the tax credit must be certified by the Solar Rating and Certification Corporation (SRCC) and installed in compliance with manufacturer specifications and all applicable building and plumbing codes.

8. Applicants applying for the tax credit on any system(s) must provide proof of purchase to the Louisiana Department of Revenue detailing the following as applicable to your particular solar or wind energy system installation:

- a. type of system applying for the tax credit;
- b. output capacity of the system:
 - i. Solar Electric Systems—total nameplate listed kW of all installed panels;
 - ii. Solar Thermal Systems—listed SRCC annual BTU or equivalent kWh output;
 - iii. Wind Electric Systems—total rated kW of all alternators and generators;

iv. Wind Mechanical Systems—shaft horsepower as rated by manufacturer, licensed contractor or licensed professional engineer;

c. physical address where the system is installed in the state;

d. total cost of the system as applied towards the tax credit separated by:

- i. equipment costs;
- ii. installation costs;
- iii. taxes;

e. make, model, and serial number of generators, alternators, turbines, photovoltaic panels, inverters, and solar thermal collectors applied for in the tax credit;

f. name and Louisiana contractor's license number of installer;

g. if applicable, copy of the modeled array output report using the PV Watts Solar System Performance Calculator developed by the National Renewable Energy Laboratory and available at the website www.nrel.gov/rredc/pvwatts. The analysis must be performed using the default PV Watts de-rate factor;

h. copy of a solar site shading analysis conducted on the installation site using a recognized industry site assessment tool such as a Solar Pathfinder or Solmetric demonstrating the suitability of the site for installation of a solar energy system.

F. Eligible Costs

1. Eligible Costs. Eligible costs that can be included under the tax credit are reasonable and prudent costs for equipment and installation of the wind and solar energy systems defined in Subsection B and described in Subsection E above which costs shall include any capitalized expenditures incurred in connection with the acquisition or installation thereof. Equipment costs must be in accordance with Subsection E above.

a. All installations must be performed by a contractor duly licensed by and in good standing with the Louisiana Contractors Licensing Board with a classification of Solar Energy Equipment and a certificate of training in the design and installation of solar energy systems from an industry recognized training entity, or a Louisiana technical college, or the owner of the residence.

2. Ineligible Costs. Labor costs for individuals performing their own installations are not eligible for inclusion under the tax credit. Supplemental heating equipment costs used with solar collectors are not eligible for inclusion under the tax credit.

3. Whenever, in return for the purchase price or as an inducement to make a purchase, marketing rebates or incentives are offered, the eligible cost shall be reduced by the fair market value of the marketing rebate or incentive received. Such marketing rebates or incentives include, but are not limited to, cash rebates, prizes, gift certificates, trips or any other thing of value given by the installer to the customer as an inducement to purchase an eligible wind or solar energy system.

4. Only one wind or solar energy systems tax credit is available for each eligible system. Once a wind or solar energy systems tax credit is claimed by a taxpayer for a particular system, that same system is not eligible for any other tax credit pursuant to this Section. If the residential

property or system is sold, the taxpayer who claimed the tax credit must disclose his use of the tax credit to the purchaser.

G. Other Tax Benefits Disallowed

1. A taxpayer shall not receive any other state tax credit, exemption, exclusion, deduction, or any other tax benefit for wind and solar property for which the taxpayer has received a wind energy system, solar electric energy system, or solar thermal energy system credit under R.S. 47:6030.

a. Taxpayers claiming a wind energy system, solar electric energy system, or solar thermal energy system credit may not claim a state depreciation deduction for capitalized system costs.

2. Exception. The credit may be used in addition to any federal tax credits earned for the same system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6030 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, LR 34:2206 (October 2008), amended LR 36:

Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature the following Family Impact Statement is submitted to be published with the Notice of Intent in the Louisiana Register. A copy of this statement will also be provided to our Legislative Oversight Committees.

1. The effect on the stability of the family. Implementation of this proposed Rule will have no effect on the stability of the family.

2. The effect on the authority and rights of parents regarding the education and supervision of their children. Implementation of this proposed Rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect on the functioning of the family. Implementation of this proposed Rule will have no effect on the functioning of the family.

4. The effect on family earnings and family budget. Implementation of this proposed Rule will have no effect on family earnings and family budgets.

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

Any interested person may submit written data, views, arguments, or comments regarding this proposed rule to Vanessa LaFleur, Director, Policy Services Division, by mail to P.O. Box 44098, Baton Rouge, LA 70804. All comments must be submitted no later than 4:30 p.m., July 26, 2010.

Public Hearing

A public hearing will be held on July 27, 2010, at 11:00 a.m. in the Calcasieu Room located on the second floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA 70802.

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Income Tax Credits for Wind or Solar Energy Systems

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This proposed amendment to this rule will have no cost or savings impact to state or local governments. Act 467 of the 2009 Regular Session of the Louisiana Legislature amended R.S. 47:6030 to expand the existing refundable credit of 50% of the first \$25,000 in purchase and installation costs for wind and solar energy systems to taxpayers who purchase and install systems in residential property owned by others. This amendment to the rule will clarify the application of the credits for those taxpayers who purchase and install wind or solar energy systems. It is expected that there will be no change in the amount of resources needed to apply the proposed amended rule. Any costs of additional verification of the credits caused by the change will be absorbed in the Department of Revenue's existing budget.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

State general fund revenue will likely decline by an indeterminable amount in Fiscal Year 2009-2010 and thereafter due to the proposed amendment to this rule.

Tax year 2008 marked the first year that the credits were available and the provisions of Act 467 were not effective until tax year 2009. Extending this credit to non-owners and allowing the rental of systems will possibly increase the utilization of the credit but the increase cannot be established with certainty. By expanding the credit to taxpayers who purchase and install systems in residential property owned by others, the purchaser/installer can rent a system to a resident owner and get the benefit of the credit while relieving the resident owner of the burden of the upfront cost of the system. However, without a pattern of utilization on the existing credit and the unknown impact of a recently uncapped 30% federal credit, it is possible that credits claimed could increase substantially over the next few years.

This proposed amended rule will have no impact on local revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed amended rule will likely increase receipts of sellers, distributors, and installers of these systems to the extent that non-owners participate in the credit.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Sellers, distributors, and installers of solar systems will likely see an increase in receipts and possibly employment due to the expanded credit eligibility. The extent to which solar systems may be installed instead of more typical power sources is unknown, but the choice of solar over a more standard power source could increase as knowledge of the expanded eligibility of the credit becomes more widespread.

Cynthia Bridges
Secretary
1006#060

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT
Department of Treasury
State Employees' Retirement System

DROP Excess Benefit Arrangement (LAC 58:I.3117)

The Department of the Treasury, Board of Trustees of the Louisiana State Employees' Retirement System ("LASERS") proposes to adopt LAC 58:I.3117, regarding a means of adjusting DROP benefits in accordance with the limits established by Section 415(b) of the Internal Revenue Code. This Rule is needed to keep LASERS tax qualified status under the Internal Revenue Code. This rule change complies with and is enabled by La. R.S. 11:515. No preamble for these Rules has been prepared.

Title 58

RETIREMENT

Part I. Louisiana State Employees' Retirement System
Chapter 31. Excess Benefit Arrangement
§3117. DROP Benefits

A. The DROP benefit of any member may not exceed the annual benefit authorized by Section 415(b) of the Internal Revenue Code. For purposes of determining whether a member's benefit exceeds the limitations of this Subsection, the following shall apply:

1. Adjustment if benefit not a straight life annuity.

a. If the form of benefit is other than a straight life annuity, such benefit shall be adjusted actuarially to the equivalent of a straight life annuity to determine whether the limitations set forth in this Subsection are met.

b. For the purposes of this Subsection, no adjustment shall be taken into account for any ancillary benefit which is not directly related to retirement income benefits.

2. Adjustment if benefit commences before age 62.

a. If the benefit distribution commences before age 62, the actual retirement benefit shall not exceed the adjusted dollar limitation. The adjusted dollar limitation shall be the equivalent, determined in a manner consistent with reduction of benefits for early retirement under Section 415(b)(2)(E) of the Internal Revenue Code, of \$160,000, as of January 1, 2002, adjusted annually pursuant to Section 415(d) of the Internal Revenue Code, commencing at age 62. For purposes of this adjustment, survivor benefits, that portion of a joint and survivor annuity which is the survivor benefit, and any other ancillary benefits shall not be taken into account.

b. No adjustment shall be required under this Subsection if the member is a "qualified participant" as that term is defined in Section 415(b)(2)(H) of the Internal Revenue Code.

c. No adjustment shall be required under this Subsection if the benefit is payable due to the member's disability or preretirement death.

3. If the benefit distribution commences after age 65, the adjusted dollar limitation shall be the equivalent, determined in a manner consistent with the adjustments under Section 415(b)(2)(E) of the Internal Revenue Code, of \$160,000, as of January 1, 2002, adjusted annually pursuant to Section 415(d) of the Internal Revenue Code, commencing at age 65. For purposes of this adjustment, survivor benefits, that portion of a joint and survivor annuity

which is the survivor benefit, and any other ancillary benefits shall not be taken into account.

B. The maximum retirement benefit payable under this Section to any member who has completed less than 10 years of credited service shall be the number determined under Subsection A multiplied by a fraction, the numerator of which shall be the number of years of service, and the denominator of which shall be 10.

C. Notwithstanding the foregoing, the benefit payable to a member shall not be deemed to exceed the limits of Subsection A if the total benefits payable to a member under all defined benefit plans maintained by the state, its agencies, or its political subdivisions do not exceed \$10,000 and the state, its agencies, or its political subdivisions have never maintained a defined contribution plan in which the member has participated.

D. Any benefit that, as a result of an election made under R.S. 11:447(A), would exceed the limitations on benefits imposed by Section 415(b) of the Internal Revenue Code shall be paid into the excess benefit arrangement established under R.S. 11:454.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 36:

Family Impact Statement

The proposed Rule adoption creates LAC 58:I.3117. This rule change should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rules.

Public Comments

Interested persons may submit written comments on the proposed changes until 4:30 p.m., July 23, 2010, to Steve Stark, Board of Trustees for the Louisiana State Employees' Retirement System, P.O. Box 44213, Baton Rouge, LA 70804.

Cindy Rougeou
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: DROP Excess Benefit Arrangement

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

LASERS has an excess benefit arrangement because of the limitations on benefits found in Internal Revenue Code Section 415(b). LASERS needs a repository for benefit payments which would otherwise exceed the Section 415(b) limits, because making such payments directly to a participant would jeopardize LASERS' tax qualified status. The proposed rule would specifically allow any DROP payments which would otherwise exceed the Internal Revenue Code Section 415(b)

limits to be paid into the excess benefit arrangement, rather than directly to the participant. No implementation costs to state or local governmental units are anticipated to result from the implementation of this rule adoption.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No effect on revenue collections of state or local governmental units is anticipated to result from the implementation of this rule adoption.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Persons whose income from LASERS exceeds the limits set forth in Section 415(b) of the Internal Revenue Code shall be affected. LASERS has accounted for such limitations in the regular (monthly benefit) retirement plan by implementing the excess benefit arrangement found in R.S. 11:454 and in LAC 58:I.3101 et seq. LASERS expects no associated costs or economic benefits to result from the proposed rule adoption as the rule merely expands the excess benefit arrangement to include DROP.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition or employment in the public or private sectors is anticipated to result from the proposed rule adoption.

Cindy Rougeou
Executive Director
1006#034

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Hunting Preserve Regulations (LAC 76:V.305)

The Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission do hereby advertise their intent to amend the rules for hunting preserves.

Title 76

WILDLIFE AND FISHERIES

Part V. Wild Quadrupeds and Wild Birds

Chapter 3. Wild Birds

§305. Hunting Preserve Regulations

A. As provided by R.S. 56:651, the department may issue a license to operate hunting preserves. Hunting preserves are to be operated under the following regulations.

1. Application Requirements

a. Application shall be made in writing on forms provided by the department.

b. Applicant must provide proof of ownership or verification of exclusive hunting rights from the landowner of the property the hunting preserve is to be operated. This is to be returned with the application.

c. All applicants, including applicants for renewal as required by the department, must provide a written operational plan detailing the type(s) of birds to be released, the methods(s) and time of release, and location(s) of release. A description of hunting activities that occur or are likely to occur on the preserve and surrounding property must also be included. In the case of hunting preserves approved to utilize mallards, a map must be included in the operational plan which indicates the release site, water areas,

and shooting areas. A license will not be issued until the operational plan has been approved by the department. Deviation from the approved operational plan is permitted only with written consent of the department.

d. The department may revoke/deny any hunting preserve license for failure to comply with any fish or wildlife laws, for reasons relating to disease or public health, for deviation from an approved operational plan, or for failure to abide by the rules and regulations established for this hunting preserve program. Revocation/denial shall be for a minimum of one entire hunting preserve season.

e. New applications must be received prior to August 1 for operation during the forthcoming hunting preserve season.

2. Suitability of Area for Use as a Hunting Preserve

a. No license for a hunting preserve shall be issued until an on-site investigation has been completed by the department and the department has determined that the property is suitable for the purpose of the proposed hunting preserve. The department shall base its determination on whether or not the proposed shooting area will cause conflicts with wild migratory game bird hunting, or be in violation of state and federal regulations concerning the feeding of migratory waterfowl or the use of live decoys, that the establishment of the shooting area will be in the public interest, and that the operation of a hunting preserve at the location specified in the application will not have a detrimental effect upon wild migratory or resident game birds.

b. No license shall be issued for any hunting preserve situated on a marsh, lake, river or any other place where there are concentrations of wild waterfowl or if its operations are likely to result in attracting such concentrations of wild waterfowl.

c. No hunting preserve using mallards shall be located within five miles of any wildlife area with significant waterfowl concentrations owned or leased by the state or federal government or by non-profit conservation organizations.

d. Licenses for hunting preserves using mallards will not be issued in the coastal zone, defined as that area south of I-10 from the Texas state line to Baton Rouge, south of I-12 from Baton Rouge to Slidell and south of I-10 from Slidell to the Mississippi state line.

e.i. No license shall be issued for the use of pheasants on any hunting preserve situated within areas with medium to high turkey populations. Except, a conditional license for the use of pheasants may be issued provided the applicant/licensee agrees to and adheres to the following.

(a). The pheasant flock must be free of *Heterakis gallinarum*, the vector for *Histomonas meleagridis* which can cause blackhead disease in wild turkeys.

(b). Department biologists or other authorized personnel must be granted access to all pheasant pens without advance notice to collect biological samples for *Heterakis gallinarum* testing.

(c). If greater than 10 percent of the samples indicate the presence of *Heterakis gallinarum*, pheasant releases must immediately stop and cannot resume until the flock is treated and subsequent testing by the department indicates that no greater than 10 percent of the samples are positive for *Heterakis gallinarum*.

(d). Use of drugs to control *Heterakis gallinarum* must adhere to drug withdrawal times as established under federal guidelines.

ii. In areas with low turkey populations and low potential for expansion, pheasants may be used without condition. This determination will be made at the local level by a department biologist in consultation with the wild turkey program leader.

f. The licensee is responsible for notifying the department of changes in activities or conditions that may affect the suitability of the property for a hunting preserve. If at any time, the department determines that activities or conditions on the hunting preserve or surrounding property make the property unsuitable for a hunting preserve, or that continued operation of the hunting preserve is not consistent with these regulations, the department may immediately revoke the hunting preserve license, or require modification of the operational plan.

g. Applicants and licensees are advised that hunting preserve licenses are issued following a review and recommendations by department staff. Licenses are issued on an annual basis for a 12-month term only. Changing conditions, including those such as climatic, biological, and land use, which may be beyond the control of the applicant/licensee, may result in certain applications not being granted, or licenses not being renewed. Annual renewal of hunting preserve licenses cannot be assured and applicants/licensees are cautioned to take these factors into consideration when making any investments or commitments which may relate to the continued issuance of a hunting preserve license.

3. Types of Releases Allowed

a. The use of mallards on hunting preserves is limited to those operations whereby domestic mallards are released in a controlled fashion to proceed over positioned shooters in their flight path. No direct releases of any species of domesticated waterfowl into the wild for any sporting purposes or for any reasons are permitted within the state.

b. Quail may be released after September 1 on hunting preserves for the purpose of providing coveys for hunting. Pheasants and chukars may not be released on hunting preserves more than one day prior to a scheduled hunt. No direct releases of domesticated game birds, including but not limited to quail, pheasants and chukars, into the wild for purpose of population establishment are permitted within the state.

c. All quail and mallards must be banded in accordance with R.S. 56:654(4) prior to release.

4. Inspection of Permitted Areas and Domesticated Game Birds

a. Applicant must provide proof that the birds to be released originated from a source flock participating in the National Poultry Improvement Plan (NPIP) within 365 days prior to release and have not been in contact with birds from non-NPIP sources.

b. The premises of game bird production facilities and/or holding pens may be inspected by the department or by a designated agent for assessment of health of birds and sanitation of facilities. General pen requirements must conform to those adopted by the Louisiana Wildlife and Fisheries Commission for game breeders.

c. Accurate records of animal husbandry and mortality must be maintained at production/holding facilities and will be subject to periodic inspection by the department.

d. Every person who brings or causes to be brought into this state live domestically reared game birds for shooting purposes must comply with Livestock Sanitary Board regulations on livestock, poultry, and wild animals (R.S. 7:11705, 11767 and 11789). A copy of the health certificate must also be forwarded to the Department of Wildlife and Fisheries within 10 days for each shipment of birds. Any shipment of birds not accompanied by a health certificate shall be destroyed or returned to the place of origin by the importer at his sole cost and responsibility.

5. Hunting Licenses Requirements. A basic hunting license or hunting preserve license is required of all persons hunting on hunting preserves. In addition, a Louisiana Waterfowl Hunting License (formerly known as a state duck stamp) is required as provided by law of all persons taking or hunting mallards on any hunting preserves.

6. Season Dates. The season during which shooting will be permitted shall be set by the Louisiana Wildlife and Fisheries Commission. The current season is fixed for the period of October 1 through April 30.

7. Shooting Hours. Shooting hours for hunting preserves shall be set by the Louisiana Wildlife and Fisheries Commission. The current hours are one-half hour before sunrise to sunset.

8. Methods of take:

- a. shotguns 10 gauge or smaller capable of holding no more than three shells in the magazine and chamber combined; nontoxic shot is required for hunting mallards on hunting preserves approved for use of mallards;
- b. muzzle-loading shotguns;
- c. falconry;
- d. archery equipment.

B. Existing state laws R.S. 56:651-659 and federal law 50 CFR 21:13 address bird banding, bird identification, bird transportation, reports and records and other issues. Compliance with these state and federal laws are mandatory. Hunting and taking of wild migratory and wild resident game birds on licensed hunting preserves must conform to all state and federal hunting regulations, including, but not limited to: non-toxic shot requirements, federal duck stamp requirements, live decoy prohibition, seasons and bag limits.

C. Changes in Rules. The Louisiana Wildlife and Fisheries Commission, Louisiana Department of Agriculture and the U.S. Fish and Wildlife Service may from time to time make changes in these rules and it is the responsibility of the licensee to apprise himself of any changes and to abide by them.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:651-659.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 18:1136 (October 1992), amended LR 28:1033 (May 2002), LR 36:

Family Impact Statement

In accordance with Act No. 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).

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 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.

Public Comments

Interested persons may submit written comments relative to the proposed Rule to Mr. Fred Kimmel, Wildlife Division, Box 98000, Baton Rouge, LA 70898-9000, prior to Thursday, August 5, 2010.

Stephen J. Oats
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Hunting Preserve Regulations

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
No increase or decrease in costs associated with implementing the proposed rule is anticipated. Implementation of the rule will be carried out by existing staff and funding level.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The proposed rule change is anticipated to have little or no effect 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 rule amends the current rule to allow use of pheasants on licensed hunting preserves in areas of the state containing high to medium wild turkey populations provided the pheasants are free of the parasite *Heterakis gallinarum*.

Pheasant hunters, hunting preserves that choose to provide pheasant hunting activities and businesses that provide goods and services to pheasant hunters could directly benefit by the proposed rule change. Pheasant hunters could benefit by having additional hunting locations to hunt pheasant in Louisiana. Hunting preserves that choose to utilize pheasants for recreational activities could benefit from increased bookings from hunters who want to hunt pheasants and businesses that provide goods and services to these hunters may experience a slight increase in revenue from the sale of outdoor hunting related goods and services.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change may produce a slight increase in competition and employment in the private sectors from the increased number of hunting preserves offering pheasant hunting and the increase in the number of hunters wanting to hunt pheasant. No change on competition and employment in the public sector is anticipated.

Wynette Kees
Undersecretary
1006#053

Robert E. Hosse
Staff Director
Legislative Fiscal Office

Potpourri

POTPOURRI

Department of Agriculture and Forestry Horticulture Commission

Retail Floristry Examination

The retail floristry examinations scheduled for July 19-23, 2010, 9:30 a.m. at Louisiana Technical College, Lomax Hall, Ruston, LA, has been postponed pending the outcome of HB 1407. Since HB 1407 in its current form deletes the requirement for the practical exam, it would not be prudent to go forward with the exam at this time. If necessary, the exam will be rescheduled for a later date. If the bill passes and the practical exam is in fact deleted, all applicants who applied for the exam will receive a refund. 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.

Mike Strain, DVM
Commissioner

1006#035

POTPOURRI

Department of Health and Hospitals Office of Public Health Maternal and Child Health Section

Maternal and Child (MCH) Block Grant Federal Funding

The Department of Health and Hospitals (DHH) intends to apply for Maternal and Child (MCH) Block Grant Federal Funding for FY 2010-2011 in accordance with Public Law 97-35 and the Omnibus Budget Reconciliation Act of 1981. The Office of Public Health, Maternal and Child Health Section, is responsible for program administration of the grant.

The Block Grant Application describes in detail the goals and planned activities of the State Maternal and Child Health Program for the next year. Program priorities are based on the results of a statewide needs assessment conducted in 2010, which is updated annually based on relevant data collection.

Interested persons may request copies of the application from:

State of Louisiana
DHH - Office of Public Health
Maternal and Child Health Section
628 N. 4th Street
Baton Rouge, LA 70821

Or view a summary of the application at:
<http://www.dhh.louisiana.gov/offices/publications.asp?ID=267&Detail=2116>.

Additional information may be gathered by contacting Tracy Hubbard at (225)-342-7805.

Clayton Williams
Assistant Secretary

1006#069

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
Kansas & Gulf Co.	Wildcat-No La Shreveport Dist	S	Nelson	002	14523(30)
Louark Producing Co.	Bayou Choctaw	L	Wilberts Myrtle Grove	014	25227(30)
Burnham Drlg. Corp	Caddo Pine Island	S	Caddo Oil And Mining Co	002	56695
Curt Weaver et al	Cameron Meadows	L	Cameron Meadows	018	19305
Westen Oil & Gas, Inc.	Section 28	L	J J Martin et al	001	69678
Quintana Petroleum Corp.	Wildcat-So La Houma Dist	L	Nettie Marie Jones et al	001	128356
Jefferson Lake Sulphur Company	Bay St Elaine	L	Salt Dome Royalties Inc	002	24471
Henry White	Monroe	M	White	001	6903
George Saulsbury	Ora	M	J N Compton	003-A	91956
Major & Garvin	Caddo Pine Island	S	Weiller et al	002	52020
Crow-Gulf Coast Venture	Big Island, North	M	Paul 1 Su100;Paul Belgard	001	94336(30)
Marine Drilling Inc	Section 28	L	J J Martin et al	011	72993
Mario Oil & Gas, Llc	French Fork	M	Thompson Heirs Swd	001	58069
Mario Oil & Gas, Llc	French Fork	M	Wx C Ra Sug;Thompson Heirs	001	130627
Mario Oil & Gas, Llc	French Fork	M	Wx C Ra Sug;Thompson Heirs	002-ALT	220518
James A Crowson, Jr	Caddo Pine Island	S	J Crowson	001	201745
James A Crowson, Jr	Caddo Pine Island	S	J Crowson	002	203543
James A Crowson, Jr	Caddo Pine Island	S	J Crowson Swd	001	972441

Operator	Field	District	Well Name	Well Number	Serial Number
James A Crowson, Jr	Honore	S	H Ra Sue;Haynes Merc Co	001	198842
James A Crowson, Jr	Honore	S	H Ra Suf;Haynes Merc Co	002	204321
James A Crowson, Jr	Honore	S	H Ra Suc;Green Oaks Farms	001	207094
James A Crowson, Jr	Honore	S	Green Oaks Farms Swd	002	215946
James A Crowson, Jr	Honore	S	Green Oaks Farms	003	215982
James A Crowson, Jr	Honore	S	Green Oaks Farms	004	216180
James A Crowson, Jr	Honore	S	Green Oaks Farms	005	216767
Sonoran Energy Inc	Cheneyville, West	M	Aus C Ra Sul;Crowell 3	001	220535
Sonoran Energy Inc	Masters Creek	M	Aus C Ra Sur;Crosby 24	001	219443
Sonoran Energy Inc	Masters Creek	M	Aus C Ra Su72;Crowell 7	001	220577
Green Operating	Caddo Pine Island	S	Stokes	001	34051
Green Operating	Caddo Pine Island	S	Stokes	002	38240
Green Operating	Caddo Pine Island	S	Gamm Swd	002	43994
Green Operating	Caddo Pine Island	S	Seybert	002	50896
Green Operating	Caddo Pine Island	S	J C Ducote	002	60360
Green Operating	Caddo Pine Island	S	Stokes	004	63076
Green Operating	Caddo Pine Island	S	Pardue	001	66668
Green Operating	Caddo Pine Island	S	Pardue	002	67880
Green Operating	Caddo Pine Island	S	Pardue	003	75441
Green Operating	Caddo Pine Island	S	J C Ducote	001	96375
Green Operating	Caddo Pine Island	S	Seybert Swd	001	97538
Green Operating	Caddo Pine Island	S	Seybert	003	97539
Green Operating	Caddo Pine Island	S	Seybert	004	97540
Green Operating	Caddo Pine Island	S	Seybert	005	97541
Green Operating	Caddo Pine Island	S	Seybert	006	97542
Green Operating	Caddo Pine Island	S	Seybert	007	97543
Green Operating	Caddo Pine Island	S	Melvin Underwood	001	100155
Green Operating	Caddo Pine Island	S	Melvin Underwood	002	101038
Green Operating	Caddo Pine Island	S	Melvin Underwood	003	101039
Green Operating	Caddo Pine Island	S	J C Ducote	003	112552
Green Operating	Caddo Pine Island	S	Jessie Gayle	003	117573
Green Operating	Caddo Pine Island	S	Seybert	008	153014
Green Operating	Caddo Pine Island	S	Melvin Underwood	004	153015
Green Operating	Caddo Pine Island	S	Jessie Gayle	004	162842

Operator	Field	District	Well Name	Well Number	Serial Number
Green Operating	Caddo Pine Island	S	Seybert	009	170461
Green Operating	Caddo Pine Island	S	Melvin Underwood	005	172003
Green Operating	Caddo Pine Island	S	Jessie Gayle	001	172492
Green Operating	Caddo Pine Island	S	Jessie Gayle	002	172493
Green Operating	Caddo Pine Island	S	Walker	002	178312
Green Operating	Caddo Pine Island	S	Walker	001	178515
Green Operating	Caddo Pine Island	S	J H Wilson	001	181089
Green Operating	Caddo Pine Island	S	Harris Estate	001	182834
Green Operating	Caddo Pine Island	S	J H Wilson	002	183458
Green Operating	Caddo Pine Island	S	J H Wilson	003	184904
Green Operating	Caddo Pine Island	S	J H Wilson	004	184905
Green Operating	Caddo Pine Island	S	Harris Estate	002	187849
Green Operating	Caddo Pine Island	S	Harris Estate	003	199196
Green Operating	Caddo Pine Island	S	Harris Estate	004	199197
Green Operating	Caddo Pine Island	S	J H Wilson	005	201511
Green Operating	Caddo Pine Island	S	Woodall-Stringfellow Swd	021	201769
Green Operating	Caddo Pine Island	S	J H Wilson	006	201895
Green Operating	Caddo Pine Island	S	Minnie Lee Bussa Swd	001	971024
Green Operating	Caddo Pine Island	S	Wilson Swd	001	971345
*Three "N" One Production	Caddo Pine Island	S	Noel Est	1-D	223482

*Note: This well was orphaned in May 2010, but the serial number listed in the Potpourri List was incorrect (223428).

James H. Welsh
Commissioner

1006#076

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 16 claims in the amount of \$72,938.90 were received for payment during the period May 1, 2010-May 31, 2010.

There were 16 claims paid and 0 claims denied.

Loran coordinates of reported underwater obstructions are:

27950.7 46866.8 Terrebonne

Latitude/Longitude coordinates of reported underwater obstructions are:

2903.369	9038.521	Terrebone
2906.189	8913.524	Plaquemines
2907.472	9052.825	Terrebone
2909.090	9039.080	Terrebone
2911.768	8918.180	Plaquemines
2916.464	8952.034	Plaquemines
2918.110	8948.820	Plaquemines
2936.062	8932.798	Plaquemines
2943.080	8928.740	St. Bernard
2947.194	8938.163	St. Bernard
2948.544	8939.181	St. Bernard
2950.169	8941.340	St. Bernard
2950.534	8937.660	St. Bernard
2950.622	8938.325	St. Bernard
2982.641	8959.988	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.

Robert D. Harper
Secretary

1006#128

POTPOURRI

Department of Revenue Office of the Secretary

June Meeting of Act 442 Collaborative Working Group

The next meeting of the Collaborative Working Group will be conducted on Wednesday, June 30, 2010, at 9 a.m. in the Griffon Room on the first floor of the LaSalle Building, 617 N. Third Street, Baton Rouge, Louisiana.

Section 4 of Act 442 of the 2009 Regular Session of the Louisiana Legislature established a collaborative working group of state and local tax administrators and industry representatives for the purpose of assisting in developing policy regarding the determination of which items should be considered as moveable or immovable property for the purposes of state and local sales and use tax.

The group's mission is to study and develop specific proposals on the definition of tangible personal property under Chapters 2, 2-A, 2-B and 2-D of Title 47 of the Louisiana Revised Statutes of 1950. The group shall report its policy recommendations to the chairmen of the House Committee on Ways and Means and Senate Committee on Revenue and Fiscal Affairs no later than January 31, 2011.

The group shall cease to exist on June 30, 2011.

Further information concerning this meeting may be obtained from Ted James, Office of the Secretary, P.O. Box 66258, Baton Rouge, LA 70896, phone (225) 219-2707.

Cynthia Bridges
Secretary

1006#065

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