

I. EXECUTIVE ORDER

BJ 12-24 Executive Branch—Expenditure Reduction 1

BJ 12-25 Executive Branch—Expenditure Freeze 2

BJ 13-01 School and Campus Safety..... 3

II EMERGENCY RULES

Children and Family Services

Office of the Secretary—Community and Family Support System—Flexible Family Fund
(LAC 48:I.Chapter 161) 5

Governor

Board of Pardons—General Administration and Clemency (LAC 22:V.101-123 and 201-213)..... 7

Health and Hospitals

Board of Pharmacy—Compounding for Prescriber’s Use (LAC 46:LIII.Chapter 25) 14

Durable Medical Equipment (DME) Permit (LAC 46:LIII.2401 and 2403)..... 15

Bureau of Health Services Financing—Abortion Facilities—Licensing Standards
(LAC 48:I.4403, 4409, and 4415) 18

Coordinated Care Network—Dental Benefits Plan (LAC 50:I.Chapter 29)..... 19

Coordinated Care Network—Physician Services—Reimbursement Methodology
(LAC 50:I.3307 and 3509)..... 25

Disproportionate Share Hospital Payments (LAC 50.V.2501, 2701, 2705 and 2707)..... 27

Disproportionate Share Hospital Payments—Community Hospitals (LAC 50.V.2701)..... 29

Early and Periodic Screening, Diagnosis and Treatment—Dental Program
(LAC 50:XV.6515 and Chapter 69) 29

Early and Periodic Screening, Diagnosis and Treatment—School-Based Health Centers
(LAC 50:XV.9113)..... 30

Electronic Health Records Incentive Payments—Inclusion of Optometrists (LAC 50:I.12501)..... 31

Home and Community-Based Services Waivers—Children’s Choice—Money Follows the Person
Rebalancing Demonstration Extension (LAC 50:XXI.11107)..... 32

Home and Community-Based Services Waivers—Community Choices Waiver
(LAC 50:XXI.8105, Chapter 83, 8501, 8701, 8901-8903, 9301, and Chapter 95)..... 32

Home and Community-Based Services Waivers—Community Choices Waiver—Reimbursement
Rate Reduction (LAC 50:XXI.9501)..... 36

Hospice Services (LAC 50:XV.3101 and 3501)..... 37

Inpatient Hospital Services—Non-Rural, Non-State Hospitals—Reimbursement Rate Reduction
(LAC 50:V.953, 955 and 967)..... 38

Inpatient Hospital Services—Non-Rural, Non-State Public Hospitals—Reimbursement
Methodology (LAC 50:V.963) 39

Inpatient Hospital Services—Public-Private Partnerships—Reimbursement Methodology
(LAC 50:V.1703)..... 39

Inpatient Hospital Services—Small Rural Hospitals—Low Income and Needy Care Collaboration
(LAC 50:V.1125) 40

Outpatient Hospital Services—Diabetes Self-Management Training (LAC 50:V.Chapter 63) 41

Outpatient Hospital Services—Non-Rural, Non-State Hospitals and Children’s Specialty Hospitals
Reimbursement Rate Reduction (LAC 50:V.5313, 5317, 5513, 5517, 5713, 5719, 6115 and 6119)..... 42

Outpatient Hospital Services—Non-Rural, Non-State Public Hospitals—Supplemental Payments
(LAC 50:V.5315, 5515, 5717, 5915 and 6117) 44

Personal Care Services—Long-Term—Policy Clarifications and Service Limit Reduction
(LAC 50:XV.12901-12909 and 12911-12915)..... 46

Pregnant Women Extended Services—Dental Services—Program Termination
(LAC 50:XV.Chapter 161) 50

This public document was published at a total cost of \$2,400. Five hundred copies of this public document were published in this monthly printing at a cost of \$2,400. The total cost of all printings of this document including reprints is \$2,400. This document was published by Moran Printing, Inc. 5425 Florida Boulevard, Baton Rouge, LA 70806, as a service to the state agencies in keeping them cognizant of the new rules and regulations under the authority of R.S. 49:950-971 and R.S. 49:981-999. This material was printed in accordance with standards for printing by state agencies established pursuant to R.S. 43:31. Printing of this material was purchased in accordance with the provisions of Title 43 of the Louisiana Revised Statutes.

The Office of the State Register provides auxiliary aids for the *Louisiana Register* for visually impaired individuals. By appointment, oral presentation of the *Register* is available at the Office of the State Register, or an audiocassette tape of requested sections of the *Register* can be provided for the cost incurred by the Office of the State Register in producing such a tape. For more information contact the Office of the State Register.

Pregnant Women Extended Services—Substance Abuse Screening and Intervention Services (LAC 50:XV.Chapter 163)	51
Professional Services Program—Children’s Immunizations—Reimbursement Methodology (LAC 50:IX.8305).....	52
Professional Services Program—Diabetes Self-Management Training (LAC 50:IX.701, 703, 705 and 15103)	53
Professional Services Program—Physician Services—Reclassification of Optometry Services (LAC 50:IX.15113 and 15115).....	54
Professional Services Program—Physician Services—Reimbursement Methodology (LAC 50:IX.15113).....	56
Professional Services Program—Physician Services—Reimbursement Rate Reduction (LAC 50:IX.15113).....	57
Professional Services Program—Physician Services—Reimbursement Rate Reduction (LAC 50:IX.15113).....	57
Rehabilitation Clinics—Termination of Coverage for Recipients 21 and Older (LAC 50:XI.103 and 301)	58
Targeted Case Management—HIV Coverage Termination (LAC 50:XV.10505, 10701 and Chapter 119).....	59
Targeted Case Management—Nurse Family Partnership—Program Termination (LAC 50:XV.10505, 10701 and Chapter 111)	60
Office for Citizens with Developmental Disabilities—Home and Community-Based Services Waivers Children’s Choice—Money Follows the Person Rebalancing Demonstration Extension (LAC 50:XXI.11107).....	32
Office of Aging and Adult Services—Home and Community-Based Services Waivers—Community Choices Waiver (LAC 50:XXI.8105, Chapter 83, 8501, 8701, 8901-8903, 9301, and Chapter 95).....	32
Home and Community-Based Services Waivers—Community Choices Waiver Reimbursement Rate Reduction (LAC 50:XXI.9501).....	36
Personal Care Services—Long-Term—Policy Clarifications and Service Limit Reduction (LAC 50:XV.12901-12909 and 12911-12915).....	46
Office of Public Health—Review and Approval of Plans and Specifications for Issuance of a Permit for a Potable Water Supply (LAC 51:XII.105).....	61
Office of the Secretary—Community and Family Support System—Flexible Family Fund (LAC 48:I.Chapter 161).....	5
Public Safety and Corrections	
State Uniform Construction Code Council—State Uniform Construction Code (LAC 55:VI.301)	62
Wildlife and Fisheries	
Wildlife and Fisheries Commission—2013 Commercial Shark Season	63
Commercial King Mackerel Harvest—2013-14 Commercial King Mackerel Season.....	63
Fall Inshore Shrimp Season Closure—December 18, 2012	64
Fall Inshore Shrimp Season Closure—December 20, 2012	64
Reef Fish—Harvest Regulations—2013 Greater Amberjack Commercial Trip Limit.....	64
Reef Fish—Harvest Regulations—2013-2014 Recreational Reef Fish Seasons	65
III. RULES	
Children and Family Services	
Division of Programs, Licensing Section—Penalty for the Operation of an Unlicensed Facility (LAC 67:III.7302 and 7355; and V.6704, 6953, 7103 and 7303).....	66
Economic Stability Section—Child Welfare Emergency Assistance Services Program (LAC 67:III.5597).....	67
Culture, Recreation, and Tourism	
Office of the State Library—Cultural Resources (LAC 25:VII.Chapters 1, 3, 5, 13, 23, 27, 31, 41, 43, 45, 51, and 53).....	67
Education	
Board of Elementary and Secondary Education—Bulletin 118—Statewide Assessment Standards and Practices (LAC 28:CXI.319, 701, 1701, 1804, 1805, 1806, 1807, 1808, 1809, 1810, 1813, 1817, 1825, 2201, 2203, 2205, 2207, 2400, 2409, 2411, 2412, 2413, and 2415).....	73
Bulletin 119—Louisiana School Transportation Specifications and Procedures (LAC 28:CXIII.303, 307, 309, 1905, 1907, and 3101).....	80
Bulletin 126—Charter Schools—Application Process (LAC 28:CXXXIX.512).....	81
Bulletin 129—The Recovery School District (LAC 28:CXLV.505).....	82
Bulletin 133—Scholarship Programs (LAC 28:CLIII.1301, 1303, and 1305).....	82
Board of Regents—Registration and Licensure (LAC 28:IX.103 and 105).....	84
Environmental Quality	
Office of the Secretary, Legal Division—Office of Environmental Assessment References (LAC 33:VI. 803 and XI.905) (MM015).....	85
Governor	
Division of Administration, Office of Facility Planning and Control—Capital Improvement Projects Louisiana Building Code (LAC 34:III.131)	85

Health and Hospitals

Board of Dentistry—Continuing Education, Licensure Examinations and Criminal History Records (LAC 46:XXXIII.1613, 1709, and 1809).....	86
General Provisions—Evidence of Graduation, Restricted Licensees, Temporary Licenses, and Returning to Active Practice (LAC 46:XXXIII.103, 105, 120, and 124).....	86
Licensure by Credentials (LAC 46:XXXIII.306, 307, 706, and 707).....	87
Restrictive License; Fees, Sedation, Educational Requirements, Facilities and Exceptions (LAC 46:XXXIII.415, 1505, 1506, 1509, 1511, and 1513).....	89
Board of Wholesale Drug Distributors—Policy and Procedures and Quarantine of Legend Drugs or Legend Devices (LAC 46:XCI.313 and 1101).....	91
Bureau of Health Services Financing—Coordinated Care Network—Pharmacy Services Coverage (LAC 50:I.3503, 3505, 3507, and 3509).....	92
Early and Periodic Screening, Diagnosis and Treatment—Uncompensated Care Payments (LAC 50:XV.Chapter 97).....	93
Family Planning Clinics—Reimbursement Methodology—Office of Public Health Uncompensated Care Payments (LAC 50:XI.3501).....	93
Inpatient Hospital Services—Distinct Part Psychiatric Units—Reimbursement Methodology (LAC 50:V.915 and 959).....	94
Inpatient Hospital Services—Non-Rural, Non-State Public Hospitals—Reimbursement Methodology (LAC 50:V.963).....	95
Laboratory Services—Office of Public Health Uncompensated Care Payments (LAC 50:XIX.4329).....	95
Professional Services Program—Family Planning Services—Office of Public Health Uncompensated Care Payments (LAC 50:IX.15143).....	96
Professional Services Program—Immunizations—Office of Public Health Uncompensated Care Payments (LAC 50:IX.8305, 8505 and 8701).....	96
Targeted Case Management—Nurse Family Partnership Program—Uncompensated Care Payments (LAC 50:XV.10701).....	97
Office of Public Health—Early and Periodic Screening, Diagnosis and Treatment—Uncompensated Care Payments (LAC 50:XV.Chapter 97).....	93
Family Planning Clinics—Reimbursement Methodology—Office of Public Health Uncompensated Care Payments (LAC 50:XI.3501).....	93
Laboratory Services—Office of Public Health Uncompensated Care Payments (LAC 50:XIX.4329).....	95
Professional Services Program—Family Planning Services—Office of Public Health Uncompensated Care Payments (LAC 50:IX.15143).....	96
Professional Services Program—Immunizations—Office of Public Health Uncompensated Care Payments (LAC 50:IX.8305, 8505 and 8701).....	96
Targeted Case Management—Nurse Family Partnership Program—Uncompensated Care Payments (LAC 50:XV.10701).....	97

Public Safety and Corrections

Office of Motor Vehicles—Driver Education (LAC 55:III.155).....	98
Office of State Police—Special Permit for Vehicles Hauling Sugarcane (LAC 73:I.303).....	98

Revenue

Policy Services Division—Corporation Income and Franchise Tax Filing Extensions (LAC 61:III.2503).....	99
Income Tax Credits for Wind or Solar Energy Systems (LAC 61:I.1907).....	99
Individual Income Tax Filing Extensions (LAC 61:III.2501).....	102
Payment (LAC 61:I.1516).....	103
Withholding by Professional Athletic Teams (LAC 61:I.1520).....	103

Transportation and Development

Aviation Section—Aviation Program Needs and Project Priority Process (LAC 70:IX.Chapters 3 and 9).....	104
Office of Highways/Engineering—Design-Build Pilot Program Repeal (LAC 70:I.Chapter 7).....	117
Office of Multimodal Planning—Port Design-Build Pilot Program (LAC 56:III.Chapter 23).....	117
Office of Operations—Special Permit for Vehicles Hauling Sugarcane (LAC 73:I.303).....	98

Treasury

Board of Trustees of the Louisiana State Employees' Retirement System—Election to the Board of Trustees (LAC 58:I.401, 405, and 407).....	119
Plan Year; Limitations Year (LAC 58:I.115 and 117).....	120

Wildlife and Fisheries

Wildlife and Fisheries Commission—Designation and Take of Exotic Fish (LAC 76:VII.199).....	120
Falconry (LAC 76:V.301).....	120

IV. NOTICES OF INTENT

Children and Family Services

Division of Programs—Juvenile Detention Facilities Fees, Fines, Penalties, and State Central Registry Disclosure (LAC 67:V.Chapter 75).....	127
---	-----

Economic Development

Office of Business Development—Competitive Projects Tax Exemption Program (LAC 13:I.Chapter 47)	131
Office of Business Development, Office of Entertainment Industry Development—Entertainment Industry Tax Credit Programs—Digital Media and Software Act (LAC 61:I.1661-1671)	133
Musical and Theatrical Production Income Tax Credit Program (LAC 61.I.1690-1699)	140

Education

Board of Secondary and Elementary Education—Bulletin 118—Statewide Assessment Standards and Practices (LAC 28:CXI.305, 701 and 1817).....	144
Bulletin 126—Charter Schools (LAC 28:CXXXIX.2709 and 2711)	148
Bulletin 129—The Recovery School District (LAC 28:CXLV.505).....	150
Bulletin 134—Tuition Donation Rebate Program (LAC 28:CLV.Chapters 1-13)	152
Bulletin 135—Health and Safety (LAC 28:CLVII.Chapters 1 and 3)	158
Bulletin 741—Louisiana Handbook for School Administrators—High Schools (LAC 28:CXV.2317)	168

Environmental Quality

Office of the Secretary, Legal Division—Control Facilities to be Installed When Feasible (LAC 33:III.905)(AQ338).....	169
Incorporation by Reference of 40 CFR 60 (LAC 33:III.3003)(AQ339ft)	171

Governor

Board of Examiners of Certified Shorthand Reporters—Continuing Education (LAC 46:XXI.603 and 607)	172
Commission on Law Enforcement and Administration of Criminal Justice—Innocence Compensation Fund (LAC 22:III.Chapters 81-87)	173
Crime Victims Reparations Board—Limits on Awards (LAC 22:XIII.503)	174
Division of Administration, Racing Commission—Disputed Races (LAC 35:IX.9105).....	175
Nonsteroidal and/or Anti-Inflammatory Medication (LAC 35:I.1505)	176
Real Estate Commission—Real Estate (LAC 46:LXVII.Chapters 53 and 55).....	177

Health and Hospitals

Board of Examiners for Speech-Language Pathology and Audiology—General Requirements (LAC 46:LXXV.107, 109, 121, 125, 130, and 701).....	179
Board of Examiners of Nursing Facility Administrators—Exam Requirements and Complaints (LAC 46:XLIX.303, 503, 505, 511, 701, 709, 713, 903, 905, 1101, 1105, 1107, 1201, and 1301).....	182
Board of Medical Examiners—Physician Practice; Dispensation of Medications (LAC 46:XLV.6506).....	185
Board of Pharmacy—Compounding for Prescriber’s Use (LAC 46:LIII.Chapter 25)	186
Hospital Off-Site Satellite Pharmacy (LAC 46:LIII.1503 and 1525)	188
Bureau of Health Services Financing—Abortion Facilities—Licensing Standards (LAC 48:I.4403, 4409, and 4415)	190
Home and Community-Based Services Waivers—New Opportunities Waiver—Reimbursement Rate Reduction (LAC 50:XXI.14301).....	192
Home and Community-Based Services Waivers—Residential Options Waiver—Reimbursement Rate Reduction (LAC 50:XXI.16901).....	193
Home and Community-Based Services Waivers—Supports Waiver—Reimbursement Rate Reduction (LAC 50:XXI.6101).....	194
Home Health Program—Durable Medical Equipment—Reimbursement Rate Reduction (LAC 50:XIII.10301).....	196
Home Health Program—Nursing and Home Health Aide Services—Reimbursement Rate Reduction (LAC 50:XIII.701)	197
Medicaid Provider Screening and Enrollment (LAC 50:I.Chapter 15).....	198
Personal Care Services—Long Term Cost Reporting Requirements (LAC 50:XV.12919)	200
Office for Citizens with Developmental Disabilities—Home and Community-Based Services Waivers New Opportunities Waiver—Reimbursement Rate Reduction (LAC 50:XXI.14301).....	192
Home and Community-Based Services Waivers—Residential Options Waiver—Reimbursement Rate Reduction (LAC 50:XXI.16901).....	193
Home and Community-Based Services Waivers—Supports Waiver—Reimbursement Rate Reduction (LAC 50:XXI.6101).....	194
Office of Public Health—Disease Reporting Requirements and Blood Bank Storage Temperature (LAC 51:II.105, 113 and XIX.309).....	201
Permit Requirements and Additional Requirements for a Potable Water Supply, and Inapplicability of Certain Requirements of Ten State Standards (LAC 51:XII.101, 105, 106, and 107)	205

Public Safety and Corrections

Uniform Construction Code Council—Uniform Construction Code (LAC 55:VI.301).....	207
--	-----

Transportation and Development	
Professional Engineering and Land Surveying Board—Naval Architecture/Marine Engineering and Flood Protection Levees (LAC 46:LXI.903, 1901, and 2909)	209
Treasury	
Board of Trustees of the Louisiana State Police Retirement System—Internal Revenue Code Provisions (LAC 58:IX.Chapter 2)	210
V. ADMINISTRATIVE CODE UPDATE	
Cumulative—January 2012 through December 2012	219
VI. POTPOURRI	
Children and Family Service	
Division of Programs—Temporary Assistance to Needy Families (TANF)—Caseload Reduction Report.....	223
Environmental Quality	
Office of the Secretary, Legal Division—2008 Ozone (O3) National Ambient Air Quality Standards (NAAQS) State Implementation Plan (SIP) Revisions	223
Governor	
Coastal Protection and Restoration Authority—Public Hearing—State Fiscal Year 2014 Draft Annual Plan.....	223
Division of Administration, Tax Commission—Public Hearing.....	224
Natural Resources	
Office of Conservation—Orphaned Oilfield Sites	224
Office of the Secretary, Fishermen's Gear Compensation Fund—Underground Obstruction Latitude/Longitude Coordinates	225
Public Safety and Corrections	
Oil Spill Coordinator's Office—Deepwater Horizon Oil Spill Phase II Early Restoration Plan and Environmental Review	225
VII. INDEX	227

Executive Orders

EXECUTIVE ORDER BJ 12-24

Executive Branch—Expenditure Reduction

WHEREAS, pursuant to R.S. 39:75(A)(1), the Division of Administration is directed to submit a monthly budget status report to the Joint Legislative Committee on the Budget (hereafter "the Committee") indicating the balance of the budget for the State General Fund and dedicated funds by comparing the official forecast for these funds to the total authorized appropriations from each fund; once approved by the Committee, the most recent budget status report becomes the official budget status of the State;

WHEREAS, if the most recently approved budget status report indicates that the total appropriation from any fund will exceed the official forecast for that fund, R.S. 39:75(B) requires the Committee to immediately notify the Governor that a projected deficit exists for that fund;

WHEREAS, the Committee notified the Governor that it approved a budget status report at its December 14, 2012 meeting, indicating a projected deficit of One Hundred Sixty-Five Million Four Hundred Sixty-Four Thousand Six Hundred Eighty-Nine Dollars (\$165,464,689) exists in the State General Fund for Fiscal Year 2012-2013, based in part on the revised official forecast of revenue available for appropriation adopted by the Revenue Estimating Conference on December 13, 2012, compared to total appropriations;

WHEREAS, once notified that a projected deficit exists, pursuant to Article VII, Section 10, of the Constitution of Louisiana, R.S. 39:75(C)(1)(a), and R.S. 39:75(C)(3), the Governor has interim budget balancing powers to adjust the budget, including the authority to reduce appropriations for the executive branch of government for any program that is appropriated from a fund that is in a deficit posture, not exceeding three percent (3%) in the aggregate of the total appropriations for each budget unit for the fiscal year, issuing executive orders in the form of freeze orders prohibiting the expenditure of monies, and if the Governor does not make necessary adjustments in the appropriations to eliminate the projected deficit within thirty (30) days of the determination of the projected deficit in a fund, R.S. 39:75(D) mandates that the Governor call a special session of the Louisiana Legislature for that purpose;

WHEREAS, as authorized by R.S. 39:75(C)(1)(a), I am exercising my unilateral interim budget balancing powers to reduce the projected deficit by \$127,835,080;

WHEREAS, after utilizing that authority, \$37,629,609 remains of the projected deficit which must be eliminated, therefore I am issuing an executive order expenditure freeze pursuant to R. S. 39:75(C)(3) to eliminate the remaining amount of the projected deficit;

WHEREAS, this Executive Order and the Executive Order Expenditure Freeze may utilize all or a portion of the General Fund dollar savings objective specified in Executive Order BJ 2012-6.

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: The following departments, agencies, and/or budget units (hereafter "Unit" and/or "Units") of the executive branch of the State of Louisiana, as described in and/or funded by appropriations through Act 13 of the 2012 Regular Session of the Louisiana Legislature (hereafter "the Act"), shall reduce expenditure of funds appropriated to the Unit from the State General Fund by the Act, in the amounts shown below:

Act 13—General Operating Appropriations Act:

Schedule 01-Executive Department State General Fund

01-102	Inspector General \$ 54,859
01-103	Mental Health Advocacy Service \$ 40,000
01-107	Division of Administration \$ 18,898,785
01-111	Governor's Office of Homeland Security \$ 381,054
01-112	Military Affairs \$ 1,082,099
01-126	Board of Tax Appeals \$ 17,125
01-129	Louisiana Commission on Law Enforcement \$ 331,563

Schedule 03-Veterans Affairs

03-130	Veteran's Affairs \$ 596,943
--------	------------------------------

Schedule 04-Elected Officials

04-139	Secretary of State \$ 1,000,000
04-160	Agriculture and Forestry \$ 102,412

Schedule 05-Economic Development

05-251	Office of the Secretary \$ 430,199
--------	------------------------------------

Schedule 06-Culture, Recreation and Tourism

06-264	Office of State Parks \$ 932,134
--------	----------------------------------

Schedule 08-Corrections Services

08A-400	Corrections Administration \$ 1,169,019
08A-401	C. Paul Phelps Correctional Center \$ 585,496
08A-402	Louisiana State Penitentiary \$ 1,777,086
08A-405	Avoyelles Correctional Center \$ 508,439
08A-406	Louisiana Correctional Institute for Women \$ 79,112
08A-409	Dixon Correctional Institute \$ 48,510
08A-413	Elayn Hunt Correctional Center \$ 353,571
08A-414	David Wade Correctional Center \$ 718,873
08A-412	B. B. Sixty Rayburn Correctional Center \$ 139,409
08A-415	Adult Probation and Parole \$ 1,200,000

Schedule 08-Youth Services

08C-403	Office of Juvenile Justice \$ 3,637,542
---------	---

Schedule 09-Health and Hospitals

09-300	Jefferson Parish Human Services Authority \$ 206,799
09-301	Florida Parishes Human Services Authority \$ 141,461
09-302	Capital Area Human Services District \$ 119,266
09-304	Metropolitan Human Services District \$ 299,969
09-305	Medical Vendor Administration \$ 1,196,804
09-306	Medical Vendor Payments \$ 46,510,044
09-307	Office of the Secretary \$ 3,500
09-309	South Central Human Services Authority \$ 18,446
09-320	Office of Aging and Adult Services \$ 103,839
09-326	Office of Public Health \$ 2,128,387
09-330	Office of Behavioral Health \$ 860,151

09-340 Office of Citizens with Developmental Disabilities \$ 170,280

Schedule 10-Department of Children and Family Services

10-360 Office of Children and Family Services \$ 3,153,009

Schedule 11-Natural Resources

11-434 Office of Mineral Resources \$ 180,321

Schedule 17-State Civil Service

17-562 Ethics Administration \$ 60,838

17-563 State Police Commission \$ 17,276

17-564 Division of Administrative Law \$ 10,217

Schedule 19-Higher Education

19A-HIED \$ 22,000,000

19A-661 Office of Student Financial Assistance \$ 834,387

Schedule 19-Special Schools and Commissions

19B-653 Louisiana School for the Deaf and Visually Impaired \$ 230,000

19B-666 Board of Elementary and Secondary Education \$ 18,879

Schedule 19-Education

19D-681 Subgrantee Assistance \$ 8,255,913

19D-697 Non-Public Educational Assistance \$ 6,868

19D-699 Special School Districts \$ 440,015

Schedule 20-Other Requirements

20-451 Local Housing of State Adult Offenders \$ 2,527,793

20-452 Local Housing of State Juvenile Offenders \$ 159,267

20-930 HIED Debt Service and Maintenance \$ 631,159

20-931 LED Debt Service and State Commitments \$ 1,796,608

20-XXX Funds \$ 1,669,354

SECTION 2:

A. No later than December 28, 2012, the head of each Unit listed in Section 1 of this Order shall submit to the Commissioner a midyear budget reduction plan, on the BA-7 form and questionnaire, which reflects the Unit's proposed allocation of the expenditure reduction ordered in Section 1 of this Order (hereafter "mid-year budget reduction plan"), and a description of the methodology used to formulate the mid-year budget reduction plan.

B. In the event that positions of employment will be affected by the mid-year budget reduction, these positions should be included in your mid-year budget reduction plan.

C. No Unit shall implement the expenditure reduction mandated by Section 1 of this Order without the Commissioner's prior written approval of the Unit's mid-year budget reduction plan.

D. After the Commissioner has given approval of a Unit's mid-year budget reduction plan, any change to the mid-year budget reduction plan requires prior written approval from the commissioner.

SECTION 3: The Commissioner is authorized to develop additional guidelines as necessary to facilitate the administration of this Order.

SECTION 4: All departments, commissions, boards, offices, entities, agencies, and officers of the State of Louisiana, or any political subdivision thereof, are authorized and directed to cooperate in the implementation of the provisions of this Order.

SECTION 5: This Order is effective upon signature and shall remain in effect through June 30, 2013, unless amended, modified, terminated, or rescinded prior to that date.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 14 day of December, 2012.

Bobby Jindal
Governor

ATTEST BY
THE GOVERNOR
J. Thomas Schedler
Secretary of State
1301#129

EXECUTIVE ORDER BJ 12-25

Executive Branch—Expenditure Freeze

WHEREAS, pursuant to R.S. 39:75(A)(1), the Division of Administration is directed to submit a monthly budget status report to the Joint Legislative Committee on the Budget (hereafter "the Committee") indicating the balance of the budget for the State General Fund and dedicated funds by comparing the official forecast for these funds to the total authorized appropriations from each fund; once approved by the Committee, the most recent budget status report becomes the official budget status of the State;

WHEREAS, if the most recently approved budget status report indicates that the total appropriation from any fund will exceed the official forecast for that fund, R.S. 39:75(B) requires the Committee to immediately notify the Governor that a projected deficit exists for that fund;

WHEREAS, the Committee notified the Governor that it approved a budget status report at its December 14, 2012 meeting, indicating a projected deficit of One Hundred Sixty-Five Million Four Hundred Sixty-Four Thousand Six Hundred Eighty-Nine Dollars (\$165,464,689) exists in the State General Fund for Fiscal Year 2012-2013, based in part on the revised official forecast of revenue available for appropriation adopted by the Revenue Estimating Conference on December 13, 2012, compared to total appropriations;

WHEREAS, once notified that a projected deficit exists, pursuant to Article VII, Section 10, of the Constitution of Louisiana, R.S. 39:75(C)(1)(a), and R.S. 39:75(C)(3), the Governor has interim budget balancing powers to adjust the budget, including the authority to reduce appropriations for the executive branch of government for any program that is appropriated from a fund that is in a deficit posture, not exceeding three percent (3%) in the aggregate of the total appropriations for each budget unit for the fiscal year, issuing executive orders in the form of freeze orders prohibiting the expenditure of monies, and if the Governor does not make necessary adjustments in the appropriations to eliminate the projected deficit within thirty (30) days of the determination of the projected deficit in a fund, R.S. 39:75(D) mandates that the Governor call a special session of the Louisiana Legislature for that purpose;

WHEREAS, as authorized by R.S. 39:75(C)(1)(a), I have exercised my unilateral interim budget balancing powers to reduce the projected deficit by \$127,835,080;

WHEREAS, after utilizing that authority, \$37,629,609 remains of the projected deficit which must be eliminated, therefore I am issuing an executive order expenditure freeze pursuant to R. S. 39:75(C)(3) to eliminate the remaining amount of the projected deficit;

WHEREAS, this Executive Order and the Executive Order Expenditure Reduction may utilize all or a portion of the General Fund dollar savings objective specified in Executive Order BJ 2012-6.

WHEREAS, the Preamble Section 18(F) of Act 13 of the 2012 Regular Session of the Louisiana Legislature (hereafter "the Act") authorizes and directs the Commissioner of Administration to reduce the budget by \$15,000,000 in State General Fund (hereafter "preamble reductions");

WHEREAS, after a total of \$3,221,158 in preamble reductions have already been implemented via vetoes within the Act, \$11,778,842 remains of the preamble reductions which must be eliminated, therefore I am issuing this Executive Order to eliminate the remaining amount of the preamble reductions.

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: The following departments, agencies, and/or budget units (hereafter "Unit" and/or "Units") of the executive branch of the State of Louisiana, as described in and/or funded by appropriations through the Act, shall reduce or freeze expenditure of funds appropriated to the Unit from the State General Fund by the Act, in the amounts shown below:

**Act 13—General Operating Appropriations Act
Expenditure Freeze:**

Schedule 01-Executive Department State General Fund

01-102 Inspector General \$ 35,490

01-126 Board of Tax Appeals \$ 336

Schedule 06-Culture, Recreation and Tourism

06-264 Office of State Parks \$ 3,067,866

Schedule 08-Corrections Services

08A-400 Corrections Administration \$ 30,981

08A-401 C. Paul Phelps Correctional Center \$ 2,803,780

Schedule 08-Youth Services

08C-403 Office of Juvenile Justice \$ 962,458

Schedule 17-State Civil Service

17-563 State Police Commission \$ 22,724

Schedule 19-Education

19D-699 Special School Districts \$ 559,985

Schedule 20-Other Requirements

20-452 Local Housing of State Juvenile Offenders \$
340,733

20-931 LED Debt Service and State Commitments \$
17,893,132

20-XXX Funds \$ 11,912,124

SECTION 2:

A. No later than December 28, 2012, the head of each Unit listed in Section 1 of this Order shall submit to the Commissioner a midyear budget reduction plan and preamble reduction plan (hereafter "mid-year budget

reduction plans", on the BA-7 form and questionnaire, which reflects the Unit's proposed allocation of the expenditure freeze ordered in Section 1 of this Order, and a description of the methodology used to formulate the mid-year budget reduction plans.

B. In the event that positions of employment will be affected by the mid-year budget reduction plans, these positions should be included in your mid-year budget reduction plans.

C. No Unit shall implement the expenditure freeze mandated by Section 1 of this Order without the Commissioner's prior written approval of the Unit's mid-year budget reduction plans.

D. After the Commissioner has given approval of a Unit's mid-year budget reduction plans, any change to the mid-year budget reduction plans requires prior written approval from the Commissioner.

SECTION 3: The Commissioner is authorized to develop additional guidelines as necessary to facilitate the administration of this Order, including the allocation for the preamble reductions.

SECTION 4: All departments, commissions, boards, offices, entities, agencies, and officers of the State of Louisiana, or any political subdivision thereof, are authorized and directed to cooperate in the implementation of the provisions of this Order.

SECTION 5: This Order is effective upon signature and shall remain in effect through June 30, 2013, unless amended, modified, terminated, or rescinded prior to that date.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 14 day of December, 2012.

Bobby Jindal
Governor

ATTEST BY
THE GOVERNOR
J. Thomas Schedler
Secretary of State
1301#130

EXECUTIVE ORDER BJ 13-01

School and Campus Safety

WHEREAS, On December 21, 2012, Louisianians and our fellow Americans observed a moment of silence to remember and mourn the senseless tragedy that took the lives of 26 innocent children and adults at Sandy Hook Elementary School in Newtown, Connecticut;

WHEREAS, the Department of Education, the Board of Elementary and Secondary Education, the Board of Regents, the Board of Supervisors of the Louisiana State University Agricultural and Mechanical College, the Board of Supervisors of the Southern University Agricultural and Mechanical College, the Board of Supervisors of the University of Louisiana System and the Board of Supervisors of the Louisiana

Community and Technical Colleges System provide for a safe learning environment for the children and young people attending schools and colleges of this State;

WHEREAS, many others contribute to a safe learning environment for the children and young people attending schools and colleges of this State, including, the Department of Public Safety and Corrections, Department of Health and Hospitals, Department of Children and Family Services, Office of Juvenile Justice and the Governor's Office of Homeland Security and Emergency Preparedness;

WHEREAS, Louisiana has already enacted Act 313 of the 2001 Regular Legislative Session mandating that all elementary and secondary public schools prepare, maintain and exercise a Crisis Management and Response Plan to ensure that every student, teacher and school employee has access to a safe, secure and orderly school that is conducive to learning;

WHEREAS, when such a tragedy occurs it is imperative that those involved with school and campus safety for the more than 1,700 public and private schools, colleges and universities work collaboratively to re-examine the plans and measures in place to identify any areas needing improvement, incorporate new strategies and work together to exercise existing response plans;

WHEREAS, efforts to prevent, respond and manage these violent crises must include collaboration amongst Louisiana's law enforcement of over 15,500 commissioned law enforcement officers from state, parish, local, university and tribal police officers; and the sharing of information through the Louisiana State Analytical Fusion Center (LA-SAFE) in order to identify threats, prevent acts of terrorism and promote deterrence by establishing situational awareness and assistance in disseminating accurate information to those agencies responsible for public safety;

WHEREAS, continued partnerships between the Louisiana State Police, Louisiana Sheriffs, Chiefs of Police, Attorney General and District Attorneys are paramount to effective prevention, response and prosecution of persons committing these violent assaults on our citizens; and communication and collaboration between law enforcement and local school boards to assist with planning and implementation of crisis response plans is crucial to the safety of students, faculty and staff in our schools;

WHEREAS, Colonel Michael D. Edmonson, the Deputy Secretary for the Department of Public Safety and Corrections and the Superintendent of State Police, serves as the General Chair of the International Association of Chiefs of Police, State and Provincial Police Division, and can share communications, training and education efforts with law enforcement officials on a state, national and international level;

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: The Department of Public Safety and Corrections, Department of Education, Department of Health and Hospitals, Department of Children and Family Services, Office of Juvenile Justice, Governor's Office of Homeland Security and Emergency Preparedness, the Board of Elementary and Secondary Education, the Board of Regents, the Board of Supervisors of the Louisiana State University Agricultural and Mechanical College, the Board of Supervisors of the Southern University Agricultural and Mechanical College, the Board of Supervisors of the University of Louisiana System and the Board of Supervisors of the Louisiana Community and Technical Colleges System, to designate representatives with knowledge and expertise on this issue to participate in a study group co-chaired by Colonel Michael D. Edmonson, Superintendent of State Police, and James M. LeBlanc, Secretary of Department of Public Safety and Corrections. This study group shall collaboratively review and assess the State's current programs and plans in order to identify any necessary improvements or changes in light of the tragedy in Newtown, Connecticut.

SECTION 2: The collaborative review and assessment of the State's current programs and plans should:

A. identify and implement improvements within the respective authority of each State agency,

B. identify recommendations for changes or revisions requiring legislative action prior to the deadline for filing bills to be considered during the next regular session of the Legislature, and

C. identify and disseminate recommendations for changes or revisions requiring local action to each State agency's local partners and interested stakeholders.

SECTION 3: This Order is effective upon signature and shall remain in effect until amended, modified, terminated or rescinded by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 4th day of January, 2013.

Bobby Jindal
Governor

Bobby Jindal
Governor

ATTEST BY
THE GOVERNOR
J. Thomas Schedler
Secretary of State
1301#131

Emergency Rules

DECLARATION OF EMERGENCY

**Department of Health and Hospitals
Office of the Secretary
and
Department of Children and Family Services
Office of the Secretary**

Community and Family Support System
Flexible Family Fund (LAC 48:I.Chapter 161)

The Department of Health and Hospitals, Office of the Secretary and the Department of Children and Family Services, Office of the Secretary amend §16103, §16105, §16107, §16109, §16111, §16113 and §16115 of Part I concerning the Community and Family Support System Flexible Family Fund as authorized by R.S. 28:821 and as directed by House Bill 1 of the 2012 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, cost sharing, and other measures as permitted under federal law.” This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

Act 378 of the 1989 Regular Session of the Louisiana Legislature and Act 1011 of the 1991 Regular Session of the Louisiana Legislature created and continued the Community and Family Support System (R.S. 28:821 et seq.). The original Rule was promulgated to implement the cash subsidy program to provide a cash stipend to families of eligible children with severe and profound disabilities to offset the cost of keeping their children at home. The Department of Health and Hospitals, Office of the Secretary and the Department of Children and Family Services, Office of the Secretary amended the provisions governing the Community and Family Support System Flexible Family Fund by introducing a universal screening protocol for all children with identified qualifying exceptionalities for severity of functional limitations and changed terminology for qualifying exceptionalities to reflect current usage. The Rule also changed the name of the program from cash subsidy to flexible family fund. (*Louisiana Register*, Volume 37, Number 9).

As a result of a budgetary shortfall in state fiscal year 2013, the Department of Health and Hospitals promulgated an Emergency Rule which amended the provisions governing the Flexible Family Fund to enact financial eligibility criteria for children receiving a home and

community-based services waiver (*Louisiana Register*, Volume 38, Number 9). This Emergency Rule is being promulgated to continue the provisions of the October 1, 2012 Emergency Rule. This action is being taken to avoid a budget deficit.

Effective February 1, 2013, the Department of Health and Hospitals, Office of the Secretary and the Department of Children and Family Services, Office of the Secretary amends the provisions governing the eligibility determination for the flexible family fund to enact financial eligibility criteria for children receiving a home and community-based services waiver.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 11. Community and Family Support System Chapter 161. Community and Family Support System - Flexible Family Fund

§16103. Definitions

* * *

Family—the basic family unit consists of one or more adults and children, if any, related by blood, marriage, adoption, and residence in the same household.

Family Income—money or its equivalent in exchange for labor or services, from the sale of goods or property, or as profit from financial investments, benefits, entitlement, and any income that is not from working or from whatever source of gross income, which means all income from whatever source derived including (but not be limited to) the following:

1. interest;
2. rents;
3. royalties;
4. dividends;
5. alimony and separate maintenance payments;
6. annuities;
7. income from life insurance and endowment contracts;
8. pensions; and
9. income from an interest in an estate or trust.

* * *

Proof of Family Income—documentation of income, which for the flexible family fund, is a copy of the most recent tax return and all schedule attachments for each family member.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Children and Family Services, Office of the Secretary, LR 18:186 (February 1992), amended LR 23:862 (July 1997), LR 28:1019 (May 2002), LR 33:1135 (June 2007), LR 37:2584 (September 2011), amended by the Department of Children and Family Services, Office of the Secretary and Department of Children and Family Services Office of the Secretary, LR 39:

§16105. Application Process

A. - B. ...

C. For the application to be complete, the documentation listed in §16103 of this rule, which identifies a qualifying exceptionality and proof of family income for families whose children receive a home and community-based services waiver, must accompany the application for the flexible family fund, and the application must be signed by the responsible care giver and received by the appropriate agency through the mail.

D. Applications for the flexible family fund shall be screened at the point of initial application to determine whether the child has a qualifying exceptionality, to determine financial eligibility for families whose children receive waiver services, to determine that the child is appropriately served by the agency and to ensure that applications are routed to the appropriate agency. When family income exceeds 650 percent of the federal poverty level and the child is a home and community-based services waiver recipient, the child will be ineligible for participation in the flexible family fund.

E. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Children and Family Services, Office of the Secretary, LR 18:186 (February 1992), amended LR 23:862 (July 1997), LR 28:1019 (May 2002), LR 33:1135 (June 2007), LR 37:2584 (September 2011), amended by the Department of Children and Family Services, Office of the Secretary and Department of Children and Family Services Office of the Secretary, LR 39:

§16107. Determining Children Eligible for the Flexible Family Fund

A. - F. ...

G. Children who receive a home and community-based services waiver and whose family income is at or less than 650 percent of the federal poverty level are eligible to participate in the flexible family fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Children and Family Services, Office of the Secretary, LR 18:186 (February 1992), amended LR 23:862 (July 1997), LR 28:1019 (May 2002), LR 33:1135 (June 2007), LR 37:2584 (September 2011), amended by the Department of Children and Family Services, Office of the Secretary and Department of Children and Family Services Office of the Secretary, LR 39:

§16109. Children Ineligible for the Flexible Family Fund

A. - A.2. ...

3. children in residence at the Louisiana School for the Deaf and the Louisiana School for the Visually Impaired; and

4. children receiving a home and community-based services waiver and whose family income exceeds 650 percent of the federal poverty level.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

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

of Children and Family Services, Office of the Secretary, LR 18:186 (February 1992), amended LR 23:862 (July 1997), LR 28:1019 (May 2002), LR 33:1135 (June 2007), LR 37:2584 (September 2011), amended by the Department of Children and Family Services, Office of the Secretary and Department of Children and Family Services Office of the Secretary, LR 39:

§16111. Eligibility Determination

A. - D. ...

E. There shall be financial eligibility criteria for the flexible family fund for recipients of a home and community-based services waiver.

1. DHH will determine if recipients of a home and community-based services waiver meet the financial eligibility requirements for the flexible family fund.

2. Recipients of a home and community-based services waiver whose family income exceeds 650 percent of the federal poverty level will be excluded from the flexible family fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Children and Family Services, Office of the Secretary, LR 18:186 (February 1992), amended LR 23:862 (July 1997), LR 28:1019 (May 2002), LR 33:1135 (June 2007), LR 37:2584 (September 2011), amended by the Department of Children and Family Services, Office of the Secretary and Department of Children and Family Services Office of the Secretary, LR 39:

§16113. Payment Guidelines

A. - C. ...

D. The family of recipients of a home and community-based services waiver is required to report to OCDD accurate and current family income. If a flexible family fund recipient becomes certified for a home and community-based services waiver, the family is required to report this change in status to OCDD and submit proof of family income. Documentation must be received by OCDD within 30 days of the change in income or home and community-based services waiver recipient status.

E. If it is discovered that the family of the recipient of a home and community-based services waiver sent in inaccurate family income eligibility documentation or that the family did not update OCDD with changes in income, and the recipient no longer meets the financial eligibility requirements as defined in §16111 of this rule, OCDD may follow-up with recoupment of funds paid during the period of ineligibility. If it is discovered that the family of the flexible family fund recipient did not update OCDD of certification of home and community-based services and the recipient did not meet the family financial eligibility requirements §16111 of this rule, OCDD may follow-up with recoupment of funds paid during the period of ineligibility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Children and Family Services, Office of the Secretary, LR 18:186 (February 1992), amended LR 23:862 (July 1997), LR 28:1019 (May 2002), LR 33:1135 (June 2007), LR 37:2584 (September 2011), amended by the Department of Children and Family Services, Office of the Secretary and Department of Children and Family Services Office of the Secretary, LR 39:

§16115. Terminations

A. - A.6. ...

7. failure to comply with the provisions of the individual agreement or the flexible family fund, including the requirement to maintain quarterly contact with the agency administering the flexible family fund and the requirement to provide required documentation, including proof of income for families of children receiving a home and community-based services waiver;

8. child's exceptionality or degree of severity no longer meets eligibility criteria;

9. child attains age 18 years;

10. responsible care giver fails to maintain the child in an approved educational program; or

11. income for the family of the child receiving a home and community-based services waiver exceeds 650 percent of the federal poverty level.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Children and Family Services, Office of the Secretary, LR 18:186 (February 1992), amended LR 23:862 (July 1997), LR 28:1019 (May 2002), LR 33:1135 (June 2007), LR 37:2584 (September 2011), amended by the Department of Children and Family Services, Office of the Secretary and Department of Children and Family Services Office of the Secretary, LR 39:

Interested persons may submit written comments to Laura Brackin, Office for Citizens with Developmental Disabilities, P.O. Box 3117, Baton Rouge, LA 70821-3117. She is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at OCDD state office and regional offices and Human Services Authorities and Districts.

Bruce D. Greenstein
Secretary

1301#028

DECLARATION OF EMERGENCY

Office of the Governor Board of Pardons

General Administration and Clemency
(LAC 22:V.101-123 and 201-213)

The Board of Pardons is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to amend its rules of LAC 22:V.101-123 and promulgate rules of LAC 22:V.201-213 of the Louisiana Board of Pardons. This rulemaking implements Act 714 of the 2012 Regular Session of the Louisiana Legislature with respect to training requirements of members of the Board of Pardons. In addition this rulemaking establishes rules with respect to types of clemency, eligibility criteria, clemency applications for capital cases, and records management.

The Emergency Rule is necessary to implement the changes to the Louisiana Board of Pardon's Rules to detail the procedure that an offender who has been sentenced to death may apply to the Louisiana Board of Pardons for a

recommendation to the Governor for a reprieve or stay of execution. Heretofore no rules were promulgated for use by the board of pardons on capital cases. On December 12, 2012, a district court judge lifted a stay of execution for a Louisiana Death Row inmate and set an execution date for February 13, 2013. In LAC 22:V.213, the rules provide for the pardon board application process of a condemned inmate, but further provide that the application must be delivered to the board office not later than the twenty-first calendar day before the scheduled execution. A delay in promulgation of the rules would have an adverse impact on the affected offender.

The rules further provide specific eligibility criteria for an incarcerated offender to apply for clemency. To be eligible to apply for clemency, an incarcerated offender must have been incarcerated for a period of 10 years; must be disciplinary report free for a period of 24 months prior to the submission of the application; must possess a marketable job skill through job experience or vocational training; and cannot be in lockdown status at the time of application or at the time of the Pardon Board hearing should such hearing be granted; or that the application must be accompanied by written recommendation of the trial official(s) with a statement that the penalty now appears excessive, along with a recommendation of a definite term now considered by the official to be just and proper. A delay in promulgation of the rules would have an adverse impact on the affected offenders.

The Board of Pardons has determined that the adoption of an Emergency Rule is necessary and hereby provides notice of its declaration of emergency effective on December 21, 2012 in accordance with R.S. 49:953. This Emergency Rule shall be in effect for 120 days or until adoption of the final Rule, whichever occurs first.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part V. Board of Pardons

Chapter 1. Administration

§101. Mission Statement

A. The mission of the Louisiana Board of Pardons is to perform its duties as imposed by Article I, Sections 10 and 20, and Article IV, Section 5, of the Louisiana Constitution and recommend the resolution of clemency matters to the Governor.

B. The mission of the Committee on Parole is to determine the time and conditions of release for eligible offenders in a manner that ensures public safety and facilitates an offender's reintegration into society, recognizing that the parole process is an essential element of the criminal justice system.

C. Using evidence based research, the parole decision makers (Committee members) shall:

1. render just determination in regard to parole release and revocations, thereby maximizing the restoration of human potential while restraining the growth of the Louisiana prison population;

2. impose reasonable and prudent conditions of release consistent with the goal of structured reintegration of an offender's release into the community; and

3. impose realistic and relevant conditions of release tailored to the specific offender.

D. The board seeks to promote successful offender reentry by maintaining contact during supervision to not only intervene and address violation behavior, but to acknowledge and support compliance and accomplishments.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.1 and 15:572.4.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons, LR 39:

§103. Filing Procedure

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Pardons, LR 16:1062 (December 1990), amended LR 24:1132 (June 1998), repealed by Office of the Governor, Board of Pardons, LR 39:

§105. Discretionary Powers of the Board

A.1. The Board of Pardons, at its discretion, may deny any applicant a hearing for any of the following reasons:

- a. serious nature of the offense;
- b. insufficient time served on sentence;
- c. insufficient time after release;
- d. proximity of parole/good time date;
- e. institutional disciplinary reports;
- f. probation/parole—unsatisfactory/violated;
- g. past criminal record; or
- h. any other factor determined by the board.

2. However, nothing in Chapter 1 shall prevent the board from hearing any case.

B. In any matters not specifically covered by LAC 22:V.Chapter 1, the board shall have discretionary powers to act.

C. No person shall have a right of appeal from a decision of the board of pardons or the Governor regarding clemency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Pardons, LR 16:1062 (December 1990), amended LR 24:1133 (June 1998), LR 28:1026 (May 2002), amended by Office of the Governor, Board of Pardons, LR 39:

§107. Contact with the Board of Pardons

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:573.1, 15:574.12 and 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Pardons, LR 24:1133 (June 1998), repealed by the Office of the Governor, Board of Pardons, LR 39:

§109. Hearing Granted

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.4, 15:574.12 and 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Pardons, LR 24:1133 (June 1998), amended LR 26:88 (January 2000), repealed by Office of the Governor, Board of Pardons, LR 39:

§111. Notice of Public Hearing Dates

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.4 and 15:574.12(G) and R.S. 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Correction, Board of Pardons, LR 16:1063 (December 1990), amended LR 24:1133 (June 1998), repealed by Office of the Governor, Board of Pardons, LR 39:

§113. Denials by Board after Public Hearing

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Pardons, LR 24:1134 (June 1998) repealed by the Office of the Governor, Board of Pardons, LR 39:

§115. Denial/No Action Taken by Governor after Favorable Recommendation

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Pardons, LR 24:1134 (June 1998), repealed by Office of the Governor, Board of Pardons, LR 39:

§117. Governor Grants

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Pardons, LR 24:1134; repealed by Office of the Governor, Board of Pardons, LR 39:

§119. Training

A. Within 90 days of being appointed to the board, each member shall complete a comprehensive training course developed by the Department of Public Safety and Corrections. Each member shall complete a minimum of eight hours of training annually.

B. Each board member shall be issued a *Rules and Procedures Manual* and shall sign a statement to acknowledge receipt of the manual. Such statement shall include the board member's agreement to completely and thoroughly familiarize himself or herself with the information contained therein and to conduct himself at all times in a manner which will strictly adhere to the letter of the law, as well as the spirit and intent. The manual shall contain, but not be limited to, a copy of the following:

1. Louisiana Board of Parole Rules and Procedures;
2. Code of Governmental Ethics;
3. R.S. 42:1 et seq. (Public Policy for Open Meetings Law);

4. all Department of Public Safety and Corrections regulations and/or statutes with particular reference to the operations of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.4.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons, LR 39:

§121. Contact with the Board of Pardons

A. Contact with the Board of Pardons or any member is prohibited except by appearing/testifyng at a public hearing or by written letter addressed to the Board of Pardons.

B. If a board member is improperly contacted, he/she must immediately notify the individual in writing that the contact is illegal. The letter must be accompanied by a copy of R.S.15:573.1, and the contact must be reported to the other board members.

C. Any prohibited contact after an individual has been informed of the prohibition as provided in §121.B shall be fined not more than \$500 or imprisoned for not more than six months or both.

D. All letters in favor of pardon, clemency, or commutation of sentence are subject to public inspection. Exceptions to §121 are:

1. letters from any victim of a crime committed by the applicant being considered for pardon, clemency, or commutation of sentence, or any person writing on behalf of the victim;

2. any letters written in opposition to pardon, clemency, or commutation of sentence.

E. All letters written by elected or appointed public officials in favor of or opposition to pardon, clemency, or commutation of sentence received after August 15, 1997 are subject to public inspection and shall be recorded in a central register maintained by the board. The register shall contain the name of the individual whose pardon, clemency, or commutation of sentence is subject of the letter, the name of the public official who is the author of the letter and the date the letter was received by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:573.1, 15:574.12 and 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons, LR 39:

§123. Board Spokesperson

A. Only the chairman of the board or, in the absence of the chairman, the vice-chairman shall be authorized to speak on behalf of the entire board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons, LR 39:

§125. Records Management and Confidentiality of Information

A. Records Management and Retention

1. The board shall implement a records management program to ensure all Board of Pardons vital records are stored managed, and disposed of in accordance with state law. The board shall use the Records Retention Schedule created and maintained by the Department of Public Safety and Corrections, Corrections Services.

B. Confidentiality

1. The presentence investigation report, the pre-parole report, the clemency investigation, the information and data gathered by staff of the board, the prison record, and any other information obtained by the board or the Department of Public Safety and Corrections, in the discharge of their official duties shall be confidential and shall not be subject to public inspection or be disclosed directly or indirectly to anyone except as provided by these rules and R.S. 15:574.12, and regulations of the Department of Public Safety and Corrections.

C. Release of Information—Sex Offenders

1. The board is authorized to release to the public the following information regarding sex offenders:

- a. name and address;
- b. crime of conviction and date of conviction;
- c. date of release on parole or diminution of sentence;
- d. most recent photograph available; and

e. any other information that may be necessary and relevant for public protection.

2. Verbal requests for such information are acceptable.

3. The chairman of the board or his or her designee may require a written request before releasing any information.

4. The board cannot release any information regarding victims or witnesses of sex crimes to the sex offender or the general public.

D. Release of Information—Minor Victim(s)

1. In addition to any other information authorized to be released, the board may, pursuant to R.S. 15:546, release information concerning any inmate under the jurisdiction of the board who is convicted of any sex offense or criminal offense against a victim who is a minor, or who has been determined to be a sexually violent predator.

E. Release of Information—Criminal Convictions

1. The board may disseminate information regarding an offender's criminal convictions without restriction.

F. Other information regarding an offender's criminal history records, including nonconviction history may only be released subject to the restrictions outlined in R.S. 15:548. Unless the request is made by a representative of a criminal justice agency or a juvenile justice agency, such information shall, under normal circumstances, be released only pursuant to a written request.

G. The board shall be immune from liability for the release of information concerning any sex offender, sexually violent predator, or child predator.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons, LR 39:

Chapter 2. Clemency

§201. Types of Clemency

A. Executive Pardon. An executive pardon is a full pardon which unconditionally releases a person from punishment and forgives guilt for any Louisiana convictions. It restores an applicant to all of the rights of citizenship possessed by the person before his or her conviction, including the right to own, possess, or use firearms.

B. Pardon without Firearm Authority. A pardon without firearm authority releases a person from punishment and forgives guilt. It entitles an applicant to all of the rights of citizenship enjoyed by the person before his or her conviction, except the specific authority to own, possess, or use firearms.

C. Pardon for Misdemeanor. A pardon for a misdemeanor conviction releases a person from punishment and forgives guilt.

D. Commutation of Sentence. A commutation of sentence may adjust an applicant's penalty to one less severe but does not restore any civil rights, and it does not restore the authority to own, possess, or use firearms.

E. Specific Authority to Own, Possess, or Use Firearms. The specific authority to own, possess, or use firearms restores an applicant the right to own, possess, or use firearms, which were lost as a result of a felony conviction. Due to federal firearms laws, the pardon board will not consider requests for firearm authority from individuals convicted in federal or out-of-state courts.

F. First Offender Pardons. For the purposes of this section "first offender" means a person convicted within Louisiana of a felony but never previously convicted of a felony within Louisiana or convicted under the laws of any other state or of the United States or of any foreign government or country of a crime which, if committed in this state would have been a felony, regardless of any previous convictions for any misdemeanors. Once such a pardon is granted, the individual who received such pardon shall not be entitled to receive another such pardon. Types of first offender pardons are listed below.

1. Offenders Sentenced after November 5, 1968 and before December 31, 1974. An offender sentenced after November 5, 1968 and before December 31, 1974, who has never been previously convicted of a felony, and who has completed serving their sentence, is eligible to apply for a governor's first offender pardon. By Executive Order dated March 16, 2001, all of these types of applications for clemency must be submitted to the pardon board.

2. Offenders Sentenced on or after January 1, 1975 and before December 27, 1999 (automatic first offender pardon). A first offender sentenced on or after January 1, 1975 and who has never been previously convicted of a felony shall be automatically pardoned upon completion of his sentence without a recommendation of the pardon board and without action by the governor. The Division of Probation and Parole of the Department of Public Safety and Corrections has responsibility for the issuance of this type of first offender pardon certificate. The certificate proclaims that the offender has been restored all basic rights of citizenship, which includes the right to vote, but does not specifically restore the right to own, possess, or use firearms.

3. Offenders Sentenced after December 27, 1999 (Automatic First Offender Pardon). A first offender sentenced after December 26, 1999 for a non-violent crime, or convicted of aggravated battery, second degree battery, aggravated assault, mingling harmful substances, aggravated criminal damage to property, purse snatching, extortion, or illegal use of weapons or dangerous instrumentalities never previously convicted of a felony shall be pardoned automatically upon completion of his sentence without a recommendation of the board of pardons and without action by the governor. The Division of Probation and Parole of the Department of Public Safety and Corrections has responsibility for the issuance of this type of first offender pardon certificate. The certificate proclaims that the offender has been restored all basic rights of citizenship, which includes the right to vote, but does not specifically restore the right to own, possess, or use firearms.

4. No person convicted of a sex offense as defined in R.S. 15:541 or determined to be a sexually violent predator or a child predator under the provisions of R.S. 15:542.1 et seq. shall be exempt from the registration requirements of R.S. 15:542.1 et seq., as a result of a pardon under the provision of this subsection.

5. Any person sentenced on or after January 1, 1975 receiving a first offender pardon under these provisions may be charged and punished as a second or multiple offender as provided in R.S. 15:529.1

6. No first offender pardon may be issued to a first offender unless that person has paid all of the court costs

which were imposed in connection with the conviction of the crime for which the pardon is to be issued.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572, 15:573.1, 15:574.12 and 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons, LR 39:

§203. Eligibility for Clemency Consideration

A. Eligibility

1. Pardons. A person may not apply for a pardon if the applicant has any outstanding detainers, or any pecuniary penalties or liabilities which total more than \$1,000 and result from any criminal conviction or traffic infraction. In addition, no person is eligible to apply for pardon unless the applicant has paid all court costs which were imposed in connection with conviction of the crime for which pardon is requested.

2. Commutation of Sentence. A person may not be considered for a commutation of sentence unless he or she has been granted a hearing by the pardon board and has had his or her case placed upon a pardon board agenda.

3. Remission of Fines and Forfeitures. A person may not apply for a remission of fines and forfeitures unless he or she has completed all sentences imposed and all conditions of supervision have expired or been completed, including, but not limited to, parole and/or probation.

4. Specific Authority to Own, Possess, or Use Firearms. A person may not apply for the specific authority to own, possess, or use firearms unless he or she has completed all sentences imposed for the applicant's most recent felony conviction and all conditions of supervision imposed for the applicant's most recent felony conviction have expired or been completed, including, but not limited to, parole and/or probation, for a period of five years. The applicant may not have any outstanding detainers, or any pecuniary penalties or liabilities which total more than \$1,000 and result from any criminal conviction or traffic infraction. In addition, the applicant may not have had any outstanding victim restitution, including, but not limited to, restitution pursuant to a court or civil judgment or by order of the committee on parole.

B. Applications. All applications must be submitted in accordance with §205, Application Filing Procedures.

C. Incarcerated Applicants or Applicants under Supervision of the Louisiana Department of Public Safety and Corrections

1. An executive pardon shall not be considered for an offender while in prison, except when exceptional circumstances exist.

2. An incarcerated offender who is not serving a life sentence may request a commutation of sentence:

a. after having served a minimum of 10 years; and

b. must have been disciplinary report free for a period of at least twenty-four months prior to the date of the application; and

c. must not be classified to a maximum custody status at the time of the application or at the time of the hearing (if a hearing is granted); and

d. must possess a marketable job skill, either through previous employment history or through successful completion of vocational training while incarcerated; or

e. upon the written recommendation from trial official(s) that includes

1. a statement that the penalty now appears to be excessive;

2. a recommendation of a definite term now considered by the official as just and proper;

3. a statement of the reasons for the recommendation based upon facts directly related to the facts of the case and in existence, but not available to, the court or jury at the time of trial, or a statutory change in penalty for the crime which would appear to make the original penalty excessive.

D. Life Sentences. An offender sentenced to life may not apply until he has served 15 years from the date of sentence, unless he has sufficient evidence which would have caused him to have been found not guilty. The offender must also meet the criteria stated in Subparagraphs C.2.a-d of this Section

C. Capital Cases. Any offender sentenced to death may submit an application within one year from the date of the direct appeal denial. (See also §213, Capital Cases.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:573.1, 15:574.12 and 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons, LR 39:

§205. Application Filing Procedure

A. All Applicants

1. Every application must be submitted on the form approved by the Board of Pardons and must contain the following information:

- a. name of applicant;
- b. prison number [Department of Corrections (DOC) number];
- c. date of birth;
- d. race/sex;
- e. education (highest grade completed);
- f. age at time of offense;
- g. present age;
- h. offender class;
- i. place of incarceration (incarcerated applicant only);
- j. parish of conviction/judicial district/court docket number;
- k. offense(s) charged, convicted of or plead to;
- l. parish where offense(s) committed;
- m. date of sentence;
- n. length of sentence;
- o. time served;
- p. prior parole and/or probation;
- q. when and how parole or probation completed;
- r. prior clemency hearing/recommendation/ approval;
- s. reason for requesting clemency;
- t. relief requested and narrative detailing the events surrounding the offense;
- u. institutional disciplinary reports (incarcerated applicants only); total disciplinary reports, number within the last 24 months; nature and date of last violation; and custody status.

2. The application shall be signed and dated by applicant and shall contain a prison or mailing address and home address.

3. An application must be completed. If any required information does not apply, the response should be "NA."

B. In addition to the information submitted by application, the following required documents must be attached as they apply to each applicant.

1. Incarcerated Applicants. Any applicant presently confined in any institution must attach a current master prison record and time computation/jail credit worksheet and have the signature of a classification officer verifying the conduct of the applicant as set out in §205.A.1.u and a copy of conduct report. Applicants sentenced to death must attach proof of direct appeal denial.

2. Parolees. Applicants presently under parole supervision or who have completed parole supervision must attach a copy of their master prison record or parole certificate.

3. Probationers. Applicants presently under probation supervision or who have completed the probationary period must attach a certified copy of sentencing minutes or copy of automatic first offender pardon.

4. First Offender Pardons [R.S. 15:572(B)]. Applicants who have received an automatic first offender pardon must attach a copy of the automatic first offender pardon.

C. No additional information or documents may be submitted until applicant has been notified that he/she will be given a hearing. The Board of Pardons will not be responsible for items submitted prior to notification that a hearing will be granted.

D. Reapplication upon Denial. Any applicant denied by the board shall be notified, in writing, of the reason(s) for the denial and thereafter may file a new application as indicated below:

1. Applicants Sentenced to Life Imprisonment. Any applicant with a life sentence may reapply seven years after the initial denial; five years after the subsequent denial; and every five years thereafter. Applicant must also meet the criteria stated in §203.C.2.a-d.

2. Other. Applicants without a life sentence may file a new application two years from date of the letter of denial.

3. Fraudulent Documents or Information. Any fraudulent documents or information submitted by an applicant will result in an automatic denial by the board and no new application will be accepted until four years have elapsed from the date of letter of denial.

4. Governor Granted Clemency. The Office of the Governor will notify an applicant if any clemency is granted. Any otherwise eligible person who has been granted any form of executive clemency by the governor may not reapply for further executive clemency for at least four years from the date that such action became final.

5. Denial/No Action Taken by Governor after Favorable Recommendation. The board shall notify an applicant after its receipt of notification from the governor that the board's favorable recommendation was denied or no action was taken. The applicant may submit a new application one year from the date of the letter or denial or notice of no action.

E. Notice of Action Taken on Application. After review of application for clemency by the board, applicants shall be notified, in writing, of action taken by the board. Action can include granting a hearing before the board or denial of a hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:573.1, 15:574.12 and 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons, LR 39:

§209. Hearing Granted

A. After notice to an applicant that a hearing has been granted the applicant must provide the Board of Pardons office with proof of advertisement within 90 days from the date of notice to grant a hearing. Advertisement must be published in the official journal of the parish where the offense occurred. This ad must state:

"I (applicant's name), (DOC number), have applied for clemency for my conviction of (crime). If you have any comments, contact the Board of Pardons (225) 342-5421."

B. Along with the proof of advertisement published in the local journal, the applicant may submit additional information, (e.g., letters of recommendation and copies of certificates of achievement and employment/residence agreement).

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.4, 15:574.12 and 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons, LR 39:

§211. Hearings before the Pardon Board

A. The board shall meet on regularly scheduled dates as determined by it, and at such other times as the chairman may determine are necessary for the purpose of reviewing and taking action on clemency applications before it and to transact such other business as it deems necessary. The meeting calendar shall be made available to the public. The hearing dates shall also be posted on the website maintained by the board.

B. After receipt of all documents required by §203 and the clemency investigation from the appropriate probation and parole district, the board shall set the matter for public hearing.

C. At least 30 days prior to public hearing date, the board shall give written notice of the date, time, and place to the following:

1. the district attorney and sheriff of the parish in which the applicant was convicted; and, in Orleans Parish, the superintendent of police;
2. the applicant;
3. the victim who has been physically or psychologically injured by the applicant (if convicted of that offense), and the victim's spouse or next of kin, unless the injured victim's spouse or next of kin advises the board, in writing, that such notification is not desired;
4. the spouse or next of kin of a deceased victim when the offender responsible for the death is the applicant (if convicted of that offense), unless the spouse or next of kin advises the board, in writing, that such notification is not desired;
5. the Crime Victims Services Bureau of the Department of Public Safety and Corrections; and
6. any other interested person who notifies the board of pardons, in writing, giving name and return address.

D. The district attorney, injured victim, spouse, or next of kin, and any other persons who desire to do so shall be given a reasonable opportunity to attend the hearing. The district attorney or his representative, victim, victim's family, and a victim advocacy group, may appear before the board of pardons by means of telephone communication from the office of the local district attorney.

E. Only three persons in favor, to include the applicant, and three in opposition, to include the victim/victim's family member, will be allowed to speak at the hearing. Any person making an oral presentation to the board will be allowed no more than five minutes. All persons making oral presentations in favor of an applicant shall be allowed cumulatively no more than 10 minutes. All persons making oral presentations against an applicant, including victims, shall be allowed cumulatively no more than 10 minutes. The chairman may extend the time limitations for oral presentations at his or her discretion. However, there is no limit on written correspondence in favor of and/or opposition to the applicant's request.

F. If an applicant is released from custody and/or supervision prior to public hearing date, the case will be closed without notice to the applicant. Applicant may reapply two years from the date of release.

G. Applicant's failure to attend and/or notify the board of pardons office of his/her inability to attend the hearing will result in an automatic denial. The applicant may reapply two years from the date of scheduled hearing. Lifers who fail to attend and/or advise of inability to attend may reapply in seven years if it is his/her initial hearing, five years if subsequent hearing date, and five years thereafter.

H. Four members of the board shall constitute a quorum for the transaction of business, and all actions of the board shall require the favorable vote of at least four members of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.4, 15:574.12 and 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons, LR 39:

§213. Capital Cases

A. The board will consider recommending to the governor a stay of execution of death sentence upon receipt of a written application in behalf of a condemned felon. Any such application shall contain the following information.

1. the name of the applicant, together with any other pertinent identifying information;
2. identification of the applicant's agents, if any, who are presenting the application;
3. certified copies of the indictment, judgment, verdict of the jury, and sentence in the case, including official documentation verifying the scheduled execution date;
4. a brief statement of the offense for which the prisoner has been sentenced to death;
5. a brief statement of the appellate history of the case, including its current status;
6. a brief statement of the legal issues which have been raised during the judicial progress of the case;
7. the requested length of duration of the stay, which shall be in increments of 30 days, unless a different duration is requested on the basis of the grounds for the application set forth pursuant to §213.A.8.
8. all grounds upon the basis of which the stay is requested; provided that such grounds shall not call upon the board to decide technical questions of law which are properly presented via the judicial process; and,
9. a brief statement of the effect of the offender's crime upon the family of the victim.

B. The written application must be delivered to the board office, Post Office Box 94304, Baton Rouge, LA 70804 not later than the twenty-first calendar day before the execution

is scheduled. If the twenty-first calendar day before the execution is scheduled falls on a weekend or state observed holiday, the application shall be delivered not later than the next business day. The chairman may extend this timeframe for acceptance of the written application at his or her discretion, based on good and adequate cause. Otherwise, the applicant's recourse will be directly to the governor.

C. All supplemental information, including but not limited to amendments, addenda, supplements, or exhibits, must be submitted in writing and delivered to the board office, Post Office Box 94304, Baton Rouge, LA 70804 not later than the fifteenth calendar day before the execution is scheduled. If the fifteenth calendar day before the execution is scheduled falls on a weekend or state observed holiday, all additional information including but not limited to amendments, addenda, supplements, or exhibits shall be delivered not later than the next business day. The chairman may extend this timeframe for acceptance of supplemental information at his or her discretion, based on good and adequate cause.

D. Any information filed with the application, including but not limited to amendments, addenda, supplements, or exhibits, which require reproduction facilities, equipment, or technology not operated by the board, must be provided by the applicant in an amount sufficient to allow review by all members of the board. An amount sufficient shall mean not less than ten and not more than 20 copies of the duplicate item.

E. A convicted person seeking a board recommendation to the governor of a reprieve or stay of execution may request an interview with a member of the board. Such request shall be included in the written application or any supplement filed therewith.

F. Upon receipt of a request for interview, the chairman shall designate at least one member of the board to conduct the requested interview. Such interview shall occur at the confining unit of the Department of Public Safety and Corrections. Attendance at such interviews shall be limited to the convicted person and their counsel of record, the designated board member(s), and institutional staff. The board may consider statements by the offender made at such interviews when considering the offender's application for reprieve or stay of execution.

G. The board shall consider and decide applications for stay or reprieve from execution. Upon review, a majority of the board, in written and signed form may:

1. recommend to the governor a reprieve from execution (which may include a recommendation to commute the sentence to life imprisonment);
2. not recommend a reprieve from execution; or
3. set the matter for a hearing as soon as practicable and at a location convenient to the board and the parties to appear before it.

H. When the board sets a hearing pursuant Paragraph G.3 of this Section, it shall notify the trial officials of the parish of conviction and the attorney general of the state of Louisiana and allow any such official(s), or the designated representatives thereof, the opportunity to attend the hearing and/or to present any relevant information. Prior to the hearing date, the chairman may convene a conference

meeting with attorneys for the state and the convicted person to discuss and resolve any hearing preparation issues (i.e., the issues to be heard and considered by the board, list witnesses and exhibits from both sides and any other pertinent details). No testimony from witnesses will be taken. The purpose of the conference is to improve the quality of the hearing with thorough preparation.

I. At the time of notifying the trial officials, the board shall also notify any representative of the family of the victim (who has previously requested to be notified) of the receipt of the application, the setting of a hearing, and of said representative or family member's rights to provide any written comments or to attend the hearing.

J. All hearings conducted by the board under this section shall be in open session pursuant to requirements of the Louisiana Open Meetings Act. For the purpose of discussing matters which are deemed confidential by statute, or where otherwise authorized by the provisions of the Louisiana Open Meetings Act, the proceedings may be conducted in executive session closed to members of the general public, for that limited purpose. Only those persons whose privacy interests and right to confidentiality may be abridged by discussion involving disclosure of confidential information may be allowed to meet with members of the board in their executive session to discuss that information. No decision, vote, or final action by the board shall be made during a closed meeting; the board's decision, vote, or final action shall be made and announced in an open meeting. The hearing may be recessed prior to its completion and reconvened pursuant to the directions of the board.

K. Advocates for and against the death penalty, generally, and members of the general public may present written information for the board's consideration at its central office headquarters at any reasonable time.

L. After the conclusion of the hearing, the board shall render its decision, reached by majority vote, within a reasonable time, which decision shall be either to:

1. recommend to the governor a reprieve from execution (which may include a recommendation for a commutation of sentence to life imprisonment);
2. not recommend a reprieve from execution; or
3. recess the proceedings without rendering a decision on the merits, if a reprieve has been granted by the governor or if a court of competent jurisdiction has granted a stay of execution.

M. Each of the provisions of this policy are subject to waiver by the board when it finds that there exists good and adequate cause to suspend said provisions and adopt a different procedure which it finds to be better suited to the exigencies of the individual case before it.

N. Successive or repetitious reprieve applications submitted in behalf of the same condemned felon may be summarily denied by the board without meeting.

O. Time Limits. At the clemency hearing for capital punishment cases, the offender's clemency counsel and the attorneys for the state may make an oral presentation, each not to exceed 15 minutes collectively. Representatives of the victim's family may make oral statements not to exceed an additional five minutes collectively. The chairman may extend these time frames at his or her discretion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.4, 15:574.12 and 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons, LR 39:

Sheryl M. Ranatza
Chairman

1212#10

DECLARATION OF EMERGENCY

Department of Health and Hospitals Board of Pharmacy

Compounding for Prescriber's Use (LAC 46:LIII.Chapter 25)

The Louisiana Board of Pharmacy is exercising the emergency provisions of the Administrative Procedure Act, specifically at R.S. 49:953.B, to repeal certain portions of its rules permitting pharmacists to compound medications intended for administration by practitioners without the necessity of a patient-specific prescription.

The statutory definition of *compounding* at La. R.S. 37:1164(5) embodies three concepts—the necessity of a patient-specific prescription issued in the context and course of a legitimate physician-patient relationship, the inclusion of anticipatory preparation based on routine prescribing patterns, and the exclusion of preparation of copies of commercially available products. There is no statutory authority for the compounding of medications in the absence of a patient-specific prescription. The administrative code currently contains provisions for the preparation and labeling of practitioner administered compounds without the necessity of a patient-specific prescription.

The board has taken note of the recent tragedies associated with fungal meningitis traced to a compounding pharmacy in Massachusetts. That pharmacy was licensed to do business in Louisiana, although none of the cases to date have been located within the state. Further, the Board has learned there are other similar types of pharmacies operating across the country that are licensed to do business in Louisiana. Some of these pharmacies specialize in the large-scale preparation of practitioner administered compounds as opposed to compounding medications pursuant to patient-specific prescriptions. Further, the Board has recently learned that other state boards of pharmacy may have resource limitations that restrict their ability to inspect such facilities on a sufficiently regular basis.

The preparation of compounds in the absence of a patient-specific prescription is construed as manufacturing as opposed to compounding. Compounding by pharmacies is regulated by the Board. Manufacturing is regulated by the federal Food and Drug Administration (FDA). In an abundance of caution for the health, safety and welfare of Louisiana citizens, the Board seeks to repeal the rule which allows the compounding of preparations without the necessity of a patient-specific prescription. The business entity that wishes to continue the preparation of such products will be able to apply for a manufacturer's registration from the federal Food and Drug Administration and then continue their same activities.

The board has determined this emergency rule is necessary to prevent imminent peril to the public health, safety, and welfare. The declaration of emergency is effective December 13, 2012, and shall remain in effect for the maximum time period allowed under the Administrative Procedure Act or until adoption of the final rule, whichever shall first occur. In recognition of the necessity for practitioners to develop alternative business procedures to acquire needed medications for their patients, the Board has instructed its compliance officers to delay their assessment of compounding pharmacies for compliance with this emergency rule until January 14, 2013.

Title 46

Professional and Occupational Standards

Part LIII.PharmacistsChapter 25. Prescriptions, Drugs, and Devices

Subchapter C. Compounding of Drugs

§2533. Definitions

A. As used in this Subchapter, the following terms shall have the meaning ascribed to them in this Section.

Practitioner Administered Compounds—Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2105 (October 2003), effective January 1, 2004, amended LR 39:

§2535. General Standards

A. - C. ...

D. - D.3. Repealed

E. ...

F. Labeling of Compounded Products.

1. ...

2. - 2.i. Repealed

G. Manufacturing Activities. No pharmacy shall engage in the manufacturing of drugs or drug products within the prescription department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 23:1316 (October 1997), amended LR 29:2105 (October 2003), effective January 1, 2004, amended LR 39:

§2537. Requirements for Compounding of Sterile Products

A. - F.

G. Labeling.

1 a. - i. Repealed

2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2106 (October 2003), effective January 1, 2004, amended LR 39:

Malcolm J. Broussard
Executive Director

1301#007

DECLARATION OF EMERGENCY

Department of Health and Hospitals Board of Pharmacy

Durable Medical Equipment (DME) Permit (LAC 46:LIII.2401 and 2403)

The Louisiana Board of Pharmacy is exercising the emergency provisions of the Administrative Procedure Act, specifically at R.S. 49:953(B), to promulgate a new Rule relative to the creation of a new type of pharmacy permit specifically for providers of durable medical equipment (DME) that do not provide prescription drugs. The Emergency Rule is necessary to allow the Board of Pharmacy to issue DME permits to qualifying providers as quickly as possible.

The board has had a long-standing requirement for a pharmacy permit for any entity that wished to provide prescription drugs or devices to Louisiana citizens. The rules for the pharmacy permit contain minimum specifications for the physical plant that reflect concern for any place that stores controlled dangerous substances and other prescription drugs. Moreover, those minimum specifications require the presence of a pharmacist in the prescription department whenever the pharmacy is open for business. There are a growing number of entities that supply prescription devices or equipment but no prescription drugs. The board has determined that public safety does not require the same level of minimum specifications in business settings that do not contain prescription drugs. The board seeks to establish a separate set of rules for DME providers that do not stock or supply prescription drugs to facilitate the creation and issuance of a DME permit in lieu of the presently-required pharmacy permit.

The federal Centers for Medicare and Medicaid Services (CMS) has recently changed their eligibility criteria for DME providers intending to submit claims for services to Medicare to require evidence of compliance with state credentialing requirements.

A delay in promulgating this proposed Rule will result in some DME suppliers that do not stock prescription drugs being disqualified from participation in Medicare, which has the potential of adversely affecting their financial position. Since these suppliers provide vital services to Medicare beneficiaries across the state, the board has determined that this emergency rule is necessary to prevent imminent peril to the public health, safety, and welfare. This Declaration of Emergency was originally effective May 2, 2012 and re-published on August 31, 2012. Although the board has initiated the formal rulemaking process, the emergency rule will expire before the board can complete the process. therefore, the board is re-publishing this declaration and Emergency Rule. It is effective December 28, 2012, and shall remain in effect for the maximum time period allowed under the Administrative Procedure Act or until adoption of the final Rule, whichever shall first occur.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIII. Pharmacists

Chapter 24. Limited Service Providers

Subchapter A. Durable Medical Equipment

§2401. Definitions

A. As used in this Chapter, the following terms shall have the meaning ascribed to them in this Section:

Durable Medical Equipment (DME)—technologically sophisticated medical devices that may be used in a residence, including the following:

- a. oxygen and oxygen delivery system;
- b. ventilators;
- c. respiratory disease management devices;
- d. continuous positive airway pressure (CPAP) devices;
- e. electronic and computerized wheelchairs and seating systems;
- f. apnea monitors;
- g. transcutaneous electrical nerve stimulator (TENS) units;
- h. low air loss cutaneous pressure management devices;
- i. sequential compression devices;
- j. feeding pumps;
- k. home phototherapy devices;
- l. infusion delivery devices;
- m. distribution of medical gases to end users for human consumption;
- n. hospital beds;
- o. nebulizers; and
- p. other similar equipment as determined by rule.

Legend Device—an instrument, apparatus, implement, machine, contrivance, implant, or other similar or related article, including any component part or accessory, which is required under federal law to bear the label, “Caution: federal or state law requires dispensing by or on the order of a physician” and/or “Rx Only,” or any other designation required under federal law.

Medical Gas—those gases and liquid oxygen intended for human consumption.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 39:

§2403. Durable Medical Equipment (DME) Permit

A. No person or other entity shall sell, rent or provide, or offer to sell, rent or provide, directly or indirectly, to consumers in this state any durable medical equipment, legend devices, and/or medical gas until such person has obtained a Durable Medical Equipment (DME) permit from the board.

B. A DME permit shall authorize the permit holder to procure, possess and provide legend devices to the patient or end user; however, the DME permit shall not authorize the permit holder to procure, possess, or provide any prescription medications.

C. The board shall not issue a DME permit to any person or other entity that has not registered with the Louisiana Secretary of State to conduct business within the state.

D. Licensing Procedures

1. A person or other entity desiring to obtain a DME permit shall complete the application form supplied by the board and submit it with any required attachments and the application fee to the board.

2. The applicant shall provide a complete street address reflecting the location where the applicant will hold the equipment and engage in the activity for which the permit is acquired. The board shall not issue more than one permit for the same physical space.

3. The board shall not process applications received by facsimile, or that are incomplete, or submitted with the incorrect fee.

4. A person or other entity who knowingly or intentionally submits a false or fraudulent application shall be deemed to have violated R.S. 37:1241(A)(2).

5. Once issued, the DME permit shall expire on August 31 of every year. No person or other entity shall engage in the provision of DME with an expired DME permit.

E. Maintenance of Permit

1. A DME permit shall be valid only for the person or other entity to whom it is issued and shall not be subject to sale, assignment or other transfer, voluntary or involuntary, nor shall a DME permit be valid for any premises other than the physical location for which it is issued.

2. The DME permit holder shall inform the board in writing of any and all changes to its business location within 10 calendar days, with such notice to include both the previous and new addresses.

3. A duplicate or replacement permit shall be issued upon the written request of the permit holder and payment of the required fee. A duplicate or replacement permit shall not serve or be used as an additional or second permit.

4. A DME provider changing ownership shall notify the board in writing 15 calendar days prior to the transfer of ownership.

a. A change of ownership shall be evident under the following circumstances:

- i. sale;
- ii. death of a sole proprietor;
- iii. the addition or deletion of one or more partners in a partnership;
- iv. bankruptcy sale; or
- v. a 50 percent, or more, change in ownership of a corporation, limited liability company, or association since the issuance of the original DME permit.

b. The new owner shall submit a properly completed application form with all required attachments and appropriate fee to the board.

F. Renewal and Reinstatement of Permit

1. The renewal of an active DME permit shall require the submission of a completed application form supplied by the board supplemented with any required attachments and appropriate fee, prior to the expiration date of the permit.

2. The reinstatement of an expired DME permit shall require the submission of a completed application form

supplied by the board supplemented with any required attachments as well as the renewal and reinstatement fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 39:

§2405. Standards of Practice

A. The DME provider shall not furnish any legend device or medical gas to a patient without a prescription or medical order from a licensed practitioner with prescriptive authority.

B. General Requirements

1. The provider shall establish a suitable facility to house the equipment, allow for equipment maintenance work space, and contain sufficient space for the storage and retrieval of all required records.

2. The provider shall maintain the facility in a clean, orderly and sanitary condition at all times.

3. The facility shall be equipped with a functioning lavatory with hot and cold running water, or in the alternative, hand washing appliances or waterless hand cleaner are available.

4. The facility shall comply with all local and state building laws and fire codes.

5. The provider shall comply with all requirements from the United States Pharmacopeia (USP), the federal Food and Drug Administration (FDA), federal Department of Transportation (DOT) and Occupational Safety and Health Administration (OSHA) relative to the storage, packaging, labeling and shipping of DME including medical gases.

6. The provider shall staff the facility with an adequate number of qualified personnel to properly render DME services in the manner prescribed by law.

7. The provider shall make services continuously available without interruption when such services are essential to the maintenance of life or when the lack of services might reasonably cause harm.

8. The provider shall implement and maintain written procedures for handling complaints, and further, shall maintain a complaint file documenting all complaints and their resolution.

C. Requirements for Providers of Medical Gas, Oxygen and Respiratory Equipment

1. The provider shall comply with the following:

a. when transporting medical gas or oxygen in cylinder or liquid form, comply with all current dot rules;

b. when trans-filling medical oxygen systems, comply with FDA and all state agency requirements regarding trans-filling and repackaging;

c. demonstrate that medical gas and oxygen provided in cylinder or liquid form meet minimum purity standards for medical grade gas or medical grade oxygen; and

d. adhere to the following safety inspection requirements:

i. demonstrate that each piece of oxygen or respiratory equipment has been checked, is free of defects, and operates within the manufacturer's specifications;

ii. refrain from modifying equipment to the extent that the modification might reasonably cause harm;

iii. maintain all electrical components so they do not present fire or shock hazard; and

iv. ensure that all appropriate warning labels or labeling, including tags, are present on the equipment provided.

2. The provider shall comply with the following recall procedures:

a. ensure that lot numbers and expiration dates are affixed to each cylinder delivered;

b. maintain a tracking system for all medical gas and oxygen delivered;

c. document all equipment serial numbers and model numbers to ensure that equipment can be retrieved in the event a recall is initiated; and

d. maintain records for equipment that requires FDA tracking.

3. The provider shall comply with the following maintenance and cleaning requirements:

a. maintain documentation demonstrating that a function and safety check of equipment was performed prior to set-up;

b. maintain an established protocol for cleaning and disinfecting equipment which addresses both aerobic and anaerobic pathogens;

c. maintain a material safety data sheet (MSDS) on file for solutions and products used in cleaning and disinfecting procedures;

d. maintain segregated areas on the premises and in delivery vehicles for clean, dirty and contaminated equipment.

e. clean and disinfect equipment according to manufacturers' specifications;

f. instruct the patient or caregiver on proper cleaning techniques as specified by the manufacturer; and

g. ensure that all medical gas, oxygen and respiratory equipment is properly identified by a tag or label as to its current status of use, i.e., out-of-order or ready for use.

4. The provider shall implement a comprehensive preventive maintenance program which shall include the following:

a. procedures for problem reporting, tracking, recall, and resolution;

b. performance of service as specified by the manufacturer and the documentation of such performance in the service records; and

c. routine inspection, service, and maintenance of equipment located in the patient's home according to the manufacturer's specifications.

5. The provider shall maintain repair logs to document repair and maintenance of equipment, and such logs shall contain the following information:

a. type of equipment;

b. manufacturer;

c. model;

d. serial number;

e. date of repair;

f. specific repair made; and

g. name of person or company performing the repair.

6. The provider shall maintain testing equipment to ensure accurate calibration. Testing equipment shall be appropriate for the level of service offered. Scales used to weigh liquid oxygen reservoirs shall be properly maintained to ensure accuracy.

7. The provider shall utilize client orientation checklists to review the following information with the patient or care giver:

a. instructions for use of the equipment;

b. safety precautions;

c. cleaning procedures;

d. maintenance procedures;

e. return demonstrations on back-up oxygen systems delivered;

f. instruction for emergency and routine contact procedures; and

g. delivery and review of written instruction materials to ensure the patient receives adequate information to properly operate the equipment.

8. A written plan of service shall be developed, implemented, and documented in the patient record. The plan of service shall include, but is not limited to, an assessment of the safety of the home environment, the ability of the patient or care giver to comply with the prescription or medical order, and the ability of the patient or care giver to operate and clean the equipment as instructed.

D. Requirements for Providers of Other Durable Medical Equipment

1. Providers who sell, rent or furnish other DME or legend devices shall comply with the following:

a. provide proper training to personnel for the safe delivery and use of any DME or legend device; and

b. ensure that all manufacturer's recommended assembly and maintenance procedures are followed; and

c. adhere to the following safety inspection measures:

i. demonstrate that each piece of DME or legend device has been checked, is free of defect and operates within the manufacturer's specifications;

ii. refrain from modifying equipment to the extent that the modification might reasonably cause harm;

iii. maintain all electrical components so they do not present fire or shock hazard; and

iv. ensure that all appropriate warning labels or labeling, including tags, are present on the equipment provided.

2. The provider shall comply with the following maintenance and cleaning requirements:

a. maintain documentation demonstrating that a function and safety check of equipment was performed prior to set-up;

b. maintain an established protocol for cleaning and disinfecting equipment which addresses both aerobic and anaerobic pathogens;

c. maintain a material safety data sheet (MSDS) on file for solutions and products used in cleaning and disinfecting procedures;

d. maintain segregated areas on the premises and in delivery vehicles for clean, dirty and contaminated equipment.

e. clean and disinfect equipment according to manufacturers' specifications; and

f. instruct the patient or caregiver on proper cleaning techniques as specified by the manufacturer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 39:

§2407. Exemptions

A. The credentialing requirements of this Subchapter shall not apply to the following persons or entities unless such persons or entities have separate business entities engaged in the business of providing DME to patients at their home:

1. chiropractors;
2. dentists;
3. occupational therapists;
4. optometrists;
5. physical therapists;
6. physicians;
7. podiatrists;
8. respiratory therapists;
9. speech pathologists;
10. veterinarians;
11. distributors;
12. home health agencies;
13. hospice programs;
14. hospitals;
15. long term care facilities;
16. manufacturers; and
17. pharmacies.

B. Pharmacies, long term care facilities and hospitals, although excluded from the credentialing requirements of this Subchapter, shall be subject to and comply with the standards of practice identified herein.

C. Nothing in this Subchapter shall be construed to prohibit the pre-hospital emergency administration of oxygen by licensed health care providers, emergency medical technicians, first responders, fire fighters, law enforcement officers and other emergency personnel trained in the proper use of emergency oxygen.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 39:

Malcolm Broussard
Executive Director

1301#025

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Abortion Facilities—Licensing Standards
(LAC 48:I.4403, 4409, and 4415)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 48:I.4403, §4409, and §4415 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 40:2175.1 et seq., and pursuant to Title XIX of the Social Security Act. This Emergency Rule

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

In compliance with the Louisiana Outpatient Abortion Facility Licensing Law, established in Act 391 of the 2001 Regular Session of the Louisiana Legislature, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions governing the licensing standards for outpatient abortion facilities (*Louisiana Register*, Volume 29, Number 5). The Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions of the May 20, 2003 Rule governing the licensing of abortion facilities in order to clarify the licensing requirements and staffing provisions (*Louisiana Register*, Volume 38, Number 10). This Emergency Rule is being promulgated to continue the provisions of the October 20, 2012 Emergency Rule. This action is being taken to promote the health and welfare of Louisiana citizens by assuring the health and safety of women seeking health care services at licensed abortion facilities.

Effective February 18, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the licensing standards for abortion facilities.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 44. Abortion Facilities

§4403. Licensing Requirements

A. ...

1. An outpatient abortion facility shall be in compliance with all applicable federal, state, and local statutes, laws, rules, regulations, and ordinances, including DHH rules, regulations, and fees, governing or relating to outpatient abortion facilities, abortion or termination procedures, reporting requirements, ultrasound requirements, informed consent requirements or any other matter related to abortion or abortion procedures.

B. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:705 (May 2003), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

§4409. Personnel

A. - A.6. ...

B. Nursing Personnel

1. The outpatient abortion facility shall provide nursing services.

2. The nursing services shall be provided under the direction of a registered nurse.

3. There shall be a plan of administrative authority with delineation of responsibilities and duties for each category of nursing personnel.

4. The number of nursing personnel on duty shall be sufficient to meet the needs of the patient(s) in the facility.

An outpatient abortion facility shall have at least one licensed nurse on duty at all times when there is a patient in the facility who is receiving or recovering from an abortion.

5. All nurses employed by the facility shall have a current and valid Louisiana nursing license as a registered nurse (RN) or licensed practical nurse (LPN), as appropriate. The facility shall verify and maintain documentation of the nursing license in the personnel file.

6. All licensed nurses shall have current documentation in their personnel file of successfully completing a basic life support course.

7. Nursing care policies and procedures shall be in writing and be consistent with accepted nursing standards. Policies shall be developed for all nursing service procedures provided at the facility. The procedures shall be reviewed at least annually and revised as necessary.

8. A formalized program of in-service training and evaluation for competency shall be developed for all categories of nursing personnel and for all nursing services provided at the facility. Training related to required job skills shall be provided to nursing personnel. The facility shall maintain documentation of the training provided and evaluation for competency in the personnel file.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:707 (May 2003), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

§4415. Patient Records and Reports

A. - A.1. ...

2. The department is entitled to access all books, records, or other documents maintained by or on behalf of the facility on the licensed premises to the extent necessary to ensure compliance with this Chapter 44. Ensuring compliance includes permitting photocopying by the department or providing photocopies to the department of any records or other information by or on behalf of the department as necessary to determine or verify compliance with this Chapter.

A.3 - E.2.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:708 (May 2003), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

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

Bruce D. Greenstein
Secretary

1301#095

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Coordinated Care Network—Dental Benefits Plan (LAC 50:I.Chapter 29)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:Chapter 29 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing adopted provisions which implemented a coordinated system of care in the Medicaid Program designed to improve quality of care and health care outcomes through a healthcare delivery system called coordinated care networks, also known as the BAYOU HEALTH Program (*Louisiana Register*, Volume 37, Number 6).

The department now proposes to adopt provisions governing Medicaid coordinated care in order to establish a dental benefits plan through a coordinated care network for all Medicaid recipients under 21 years of age covered in BAYOU HEALTH [the Louisiana Medicaid Program]. This action is being taken to promote the public health and welfare of Medicaid recipients by ensuring continued access to better coordinated and quality dental care services. It is estimated that implementation of this Emergency Rule will be cost neutral to the Medicaid Program for state fiscal year 2012-2013.

Effective January 1, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing adopts provisions governing Medicaid coordinated care to establish a dental benefits plan through a coordinated care network.

Title 50

PUBLIC HEALTH-MEDICAL ASSISTANCE

Part I. Administration

Subpart 3. Medicaid Coordinated Care

Chapter 29. Coordinated Care Network Dental Benefits Plan

§2901. General Provisions

A. Effective March 1, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing shall implement a dental benefits plan through a coordinated care network to provide dental services to recipients under 21 years of age.

B. A coordinated care network dental benefit plan (CCN-DBP) shall serve Medicaid fee-for-service (FFS), BAYOU HEALTH Shared Savings Plan and BAYOU HEALTH Prepaid Health Plans members.

C. Exclusion. The following individuals shall be excluded from enrollment in the CCN-DBP and will continue to receive dental services through the FFS program when appropriate:

1. individuals who are 21 years of age and older; and
2. individuals who reside in out-of-state facilities.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

§2903. Participation Requirements

A. In order to participate in the Medicaid Program, a CCN-DBP must be a successful bidder, be awarded a contract with the department, and complete the readiness review.

B. A CCN-DBP must:

1. meet the federal definition of a PAHP (Prepaid Ambulatory Health Plan) as defined in 42 CFR §438;
2. meet the requirements of R.S. 22:2016 and be licensed, or have a certificate of authority from the Louisiana Department of Insurance (DOI) pursuant to Title 22 of the Louisiana Revised Statutes;
3. be certified by the Louisiana Secretary of State to conduct business in the state;
4. meet solvency standards as specified in federal regulations and Title 22 of the Louisiana Revised Statutes;
5. have a network capacity to enroll a minimum of 627,000 Medicaid and Louisiana Children's Health Insurance Program (LaCHIP) eligibles into the network; and
6. not have an actual or perceived conflict of interest that, at the discretion of the department, would interfere or give the appearance of possibly interfering with its duties and obligations under this Rule, the contract and any and all appropriate guides.

a. Conflict of interest shall include, but is not limited to, being the fiscal intermediary contractor for the department.

C. A CCN-DBP shall ensure the provision of core benefits and services to all assigned members on the day the BAYOU HEALTH DBP is implemented.

D. Upon request by the Centers for Medicare and Medicaid Services, the Office of Inspector General, the Government Accounting Office, the department or its designee, a CCN-DBP shall make all of its records pertaining to its contract (services provided there under and payment for services) with the department available for review, evaluation and audit. The records shall include, but are not limited to the following:

1. pertinent books and documents;
2. financial records;
3. medical records and documents; and
4. provider records and documents involving financial transactions related to the contract.

E. A CCN-DBP shall maintain an automated management information system that collects, analyzes, integrates, and reports data that complies with department and federal reporting requirements.

1. The CCN-DBP shall submit to the department for approval the CCN-DBP's emergency/contingency plan if the CCN-DBP is unable to provide the data reporting specified in the contract and department-issued guides.

F. A CCN-DBP shall obtain insurance coverage(s) as specified in the terms of the contract. Subcontractors, if any, shall be covered under these policies or have insurance comparable to the CCN-DBP's required coverage.

G. A CCN-DBP shall provide all financial reporting as specified in the terms of the contract.

H. A CCN-DBP shall secure and maintain a performance and fidelity bond as specified in the terms of the contract during the life of the contract.

I. In the event of noncompliance with the contract and the department's guidelines, a CCN-DBP shall be subject to the sanctions specified in the terms of the contract including, but not limited to:

1. corrective action plans;
2. monetary penalties;
3. temporary management; or
4. suspension and/or termination of the CCN-DBP's contract.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

§2905. Managed Care Organization Model

Responsibilities

A. The CCN-DBP shall be responsible for the administration and management of its requirements and responsibilities under the contract with the department and any and all department issued guides. This includes all subcontracts, employees, agents and anyone acting for or on behalf of the CCN-DBP.

1. No subcontract or delegation of responsibility shall terminate the legal obligation of the CCN-DBP to the department to assure that all requirements are carried out.

B. A CCN-DBP shall possess the expertise and resources to ensure the delivery of core benefits and services to members and to assist in the coordination of covered services, as specified in the terms of the contract.

1. A CCN-DBP shall have written policies and procedures governing its operation as specified in the contract and department-issued guides.

C. A CCN-DBP shall accept enrollees in the order in which they apply without restriction.

1. A CCN-DBP shall not discriminate against enrollees on the basis of race, gender, color, national origin, age, health status, or need for health care services, and shall not use any policy or practice that has the effect of discriminating on any such basis.

D. A CCN-DBP shall be required to provide service authorization, referrals, coordination, and/or assistance in scheduling the covered services consistent with standards as defined in the Louisiana Medicaid State Plan and as specified in the terms of the contract.

E. The CCN-DBP shall establish and implement a quality assessment and performance improvement program as specified in the terms of the contract and department issued guides.

G. A CCN-DBP shall develop and maintain a utilization management program including policies and procedures with defined structures and processes as specified in the terms of the contract and department issued guides.

H. The CCN-DBP must have administrative and management arrangements or procedures, including a mandatory compliance plan, that are designed to guard against fraud and abuse.

1. The CCN-DBP shall comply with all state and federal laws and regulations relating to fraud, abuse, and waste in the Medicaid programs as well all requirements set forth in the contract and department-issued guides.

I. A CCN-DBP shall maintain a health information system that collects, analyzes, integrates, and reports data as specified in the terms of the contract and all department-issued guides.

1. A CCN-DBP shall collect data on enrollees and provider characteristics and on services furnished to members through an encounter data system as specified in the contract and all department-issued guides.

J. A CCN-DBP shall be responsible for conducting routine provider monitoring to ensure continued access to care for Medicaid recipients and compliance with departmental and contract requirements.

K. A CCN-DBP shall not engage the services of a provider who is in non-payment status with the department or is excluded from participation in federal health care programs (i.e., Medicare, Medicaid, CHIP, etc.).

L. Medical records shall be maintained in accordance with the terms and conditions of the contract. These records shall be safeguarded in such a manner as to protect confidentiality and avoid inappropriate disclosure according to federal and state law.

M. The CCN-DBP shall provide both member and provider services in accordance with the terms of the contract and department-issued guides.

1. The CCN-DBP shall submit member handbooks, provider manuals, and a provider directory to the department for approval prior to distribution, annually and subsequent to any revisions.

a. The CCN-DBP must provide a minimum of 30 days notice to the department of any proposed material changes to the member handbooks and/or provider manuals.

b. After approval has been received from the department, the CCN-DBP must provide a minimum of 15 days notice to the members and/or providers of any proposed material changes to the member handbooks and/or provider manuals.

N. The member handbook shall include, but not be limited to:

1. a table of contents;
2. a general description regarding:
 - a. how a coordinated care network operates;
 - b. member rights and responsibilities;
 - c. appropriate utilization of services; and
 - d. the provider selection process;

3. member rights and protections as specified in 42 CFR §438.100 and the CCN-DBP's contract with the department including, but not limited to:

- a. a member's right to change providers within the CCN-DBP;
- b. any restrictions on the member's freedom of choice among CCN-DBP providers; and
- c. a member's right to refuse to undergo any medical service, diagnoses, or treatment or to accept any health service provided by the CCN-DBP if the member

objects (or in the case of a child, if the parent or guardian objects) on religious grounds;

4. member responsibilities, appropriate and inappropriate behavior, and any other information deemed essential by the CCN-DBP or the department including, but not limited to:

a. reporting to the department's Medicaid Customer Service Unit if the member has or obtains another health insurance policy, including employer sponsored insurance; and

5. the amount, duration, and scope of benefits available under the CCN-DBP's contract with the department in sufficient detail to ensure that members understand the benefits to which they are entitled including, but not limited to:

- a. information about oral health education and promotion programs;
- b. the procedures for obtaining benefits, including prior authorization requirements and benefit limits;
- c. how members may obtain benefits, including emergency services, from out-of-network providers;
- d. how and where to access any benefits that are available under the Louisiana Medicaid State Plan, but are not covered under the CCN-DBP's contract with the department;
- e. the policy on referrals for specialty care;
- f. how to make, change, and cancel dental appointments and the importance of canceling and/or rescheduling rather than being a "no show"; and
- g. the extent to which and how after-hour services are provided;

6. information to call the Medicaid Customer Service Unit toll free telephone number or visit a local Medicaid eligibility office to report changes in parish of residence, mailing address, or family size changes;

7. a description of the CCN-DBP's member services and the toll-free telephone number, fax number, e-mail address, and mailing address to contact CCN-DBP's Member Services Unit;

8. instructions on how to request multi-lingual interpretation and translation services when needed at no cost to the member. This information shall be included in all versions of the handbook in English, Spanish, and Vietnamese; and

9. grievance, appeal and state fair hearing procedures and time frames as described in 42 CFR §438.400 through §438.424 and the CCN-DBP's contract with the department.

O. The provider manual shall include but not be limited to:

1. billing guidelines;
2. medical management/utilization review guidelines;
3. case management guidelines;
4. claims processing guidelines and edits;
5. grievance and appeals procedures and processes; and
6. other policies, procedures, guidelines, or manuals containing pertinent information related to operations and pre-processing claims.

P. The provider directory for members shall be developed in three formats:

1. a hard copy directory for members and, only upon request, potential members; and

2. a web-based online directory for members and the public.

AUTHORITY NOTE: Promulgated in 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 39:

§2907. Network Access Standards and Guidelines

A. The CCN-DBP must maintain and monitor a provider network that is supported by written agreements and is sufficient to provide adequate access of healthcare to enrollees as required by federal law and the terms as set forth in the contract. The CCN-DBP shall adhere to the federal regulations governing access standards as well as the specific requirements of the contract and all department-issued guides.

B. The CCN-DBP must provide for service delivery out-of-network for any core benefit or service not available in network for which the CCN-DBP does not have an executed contract for the provision of such medically necessary services. Further, the CCN-DBP must arrange for payment so that the Medicaid enrollee is not billed for this service.

C. The CCN-DBP shall cover all medically necessary services to treat an emergency dental condition in the same amount, duration, and scope as stipulated in the Medicaid State Plan.

1. Emergency medical condition means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in the following:

- a. placing the health of the individual (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy;
- b. serious impairment to bodily functions; or
- c. serious dysfunction of any bodily organ or part.

2. Emergency services means covered outpatient services that are as follows:

- a. furnished by a provider that is qualified to furnish these services under this Section; and
- b. needed to evaluate or stabilize an emergency medical condition.

D. The CCN-DBPP must maintain a provider network and in-area referral providers in sufficient numbers, as determined by the department, to ensure that all of the required core benefits and services are available and accessible in a timely manner within the CCN-DBP's designated geographic service area(s) as approved by the department, in accordance with the terms and conditions in the contract.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

§2909. Benefits and Services

A. Core benefits and services shall be furnished in an amount, duration, and scope that is no less than the amount, duration, and scope for the same services furnished to enrollees under the Louisiana Medicaid State Plan.

1. Core benefits and services shall be defined as those oral health care services and benefits required to be provided

to Medicaid CCN members Medicaid Fee-For-Service System as specified under the terms of the contract.

2. Covered services shall be defined as those health care services and benefits to which a Medicaid eligible individual is entitled to under the Louisiana Medicaid State Plan.

B. The CCN-DBP:

1. shall ensure that medically necessary services, defined in LAC 50:I.1101, are sufficient in amount, duration, or scope to reasonably be expected to achieve the purpose for which the services are being furnished;

2. may not arbitrarily deny or reduce the amount, duration, or scope of a required service because of diagnosis, type of illness, or condition of the member;

3. may place appropriate limits on a service:

a. on the basis of certain criteria, such as medical necessity; or

b. for the purpose of utilization control, provided the services furnished can reasonably be expected to achieve their purpose;

4. shall provide core benefits and services as outlined and defined in the contract and shall provide medically necessary and appropriate care to Medicaid eligible members;

5. shall provide all of the core benefits and services consistent with, and in accordance with, the standards as defined in the Title XIX Louisiana Medicaid State Plan:

a. the CCN-DBP may exceed the limits as specified in the minimum service requirements outlined in the contract;

b. no medical service limitation can be more restrictive than those that currently exist under the Title XIX Louisiana Medicaid State Plan; and

C. If the CCN-DBP elects not to provide, reimburse for, or provide coverage of a counseling or referral service because of an objection on moral or religious grounds, the CCN-DBP must furnish information about the services it does not cover in accordance with §1932(b)(3)(B)(ii) of the Social Security Act and federal regulations by notifying:

1. the department in its response to the department's request for proposals (RFP) or whenever it adopts the policy during the term of the contract;

2. the potential enrollees before and during enrollment in the CCN-DBP;

3. enrollees within 90 days after adopting the policy with respect to any particular service; and

4. members through the inclusion of the information in the member handbook.

D. The following is a summary listing of the core benefits and services that a CCN-DBP is required to provide:

1. diagnostic services which include oral examinations, radiographs and oral/facial images, diagnostic casts and accession of tissue – gross and microscopic examinations;

2. preventive services which include prophylaxis, topical fluoride treatments, sealants, fixed space maintainers and re-cementation of space maintainers;

3. restorative services which include amalgam restorations, composite restorations, stainless steel and polycarbonate crowns, stainless steel crowns with resin

window; pins, core build-ups, pre-fabricated posts and cores, resin-based composite restorations, appliance removal, and unspecified restorative procedures;

4. endodontic services which include pulp capping, pulpotomy, endodontic therapy on primary and permanent teeth (including treatment plan, clinical procedures and follow-up care), apexification/recalcification, apicoectomy/periradicular services and unspecified endodontic procedures; organ transplant-related services;

5. periodontal services which include gingivectomy, periodontal scaling and root planning, full mouth debridement, and unspecified periodontal procedures;

6. removable prosthodontics services which include complete dentures, partial dentures, denture repairs, denture relines and unspecified prosthodontics procedures;

7. maxillofacial prosthetic services which include fluoride gel carrier;

8. fixed prosthodontic services which include fixed partial denture pontic, fixed partial denture retainer and other unspecified fixed partial denture services;

9. oral and maxillofacial surgery services which include non-surgical extractions, surgical extractions, coronal remnants extractions, other surgical procedures, alveoloplasty, surgical incision, temporomandibular joint (TMJ) procedure and other unspecified repair procedures, durable medical equipment and certain supplies;

10. orthodontic services which include interceptive and comprehensive orthodontic treatments, minor treatment to control harmful habits and other orthodontic services; and;

11. adjunctive general services which include palliative (emergency) treatment, anesthesia, professional visits, miscellaneous services, and unspecified adjunctive procedures.

NOTE: The list of services in §2909.D.1-11 is not all inclusive. The contract, policy transmittals, State Plan amendments, regulations, provider bulletins, provider manuals, published fee schedules, and guides issued by the department are the final authority regarding services.

E. The core benefits and services provided to the members shall include, but are not limited to, those services specified in the contract.

1. Policy transmittals, State Plan amendments, regulations, provider bulletins, provider manuals, and fee schedules, issued by the department are the final authority regarding services.

G. Excluded Services

1. The CCN-DBP is not obligated to provide for the services that are not specified in the contract. Covered services not listed in the contract will continue to be reimbursed by the CCN-P and/or Medicaid Program on a fee-for-service basis. The CCN-DBP shall provide any appropriate medical documentation and/or referral that is medically necessary. The department shall have the right to incorporate these services at a later date if the per member, per month (PMPM) rates have been adjusted to incorporate the cost of such service.

H. Utilization Management

1. The CCN-DBP shall develop and maintain policies and procedures with defined structures and processes for a utilization management (UM) program that incorporates utilization review. The program shall include service

authorization and medical necessity review and comply with the requirements set forth in this Section and the contract.

a. The CCN-DBP shall submit UM policies and procedures to the department for written approval, annually and subsequent to any revisions.

2. The UM Program policies and procedures shall, at a minimum, include the following requirements:

a. the individual(s) who is responsible for determining medical necessity, appropriateness of care, level of care needed, and denying a service authorization request or authorizing a service in amount, duration or scope that is less than requested, must meet the following requirements. The individual shall:

i. be a licensed clinical professional with appropriate clinical expertise in the treatment of a member's condition or disease;

ii. have no history of disciplinary action or sanctions, including loss of staff privileges or participation restrictions that have been taken or are pending such action by any hospital, governmental agency or unit, or regulatory body, that raise a substantial question as to the clinical peer reviewer's physical, mental, or professional competence or moral character; and

iii. attest that no adverse determination will be made regarding any medical procedure or service outside of the scope of such individual's expertise;

b. the methodology utilized to evaluate the clinical necessity, appropriateness, efficacy, or efficiency of health care services;

c. the data sources and clinical review criteria used in decision making;

d. the appropriateness of clinical review shall be fully documented;

e. the process for conducting informal reconsiderations for adverse determinations;

f. mechanisms to ensure consistent application of review criteria and compatible decisions;

g. data collection processes and analytical methods used in assessing utilization of healthcare services; and

h. provisions for assuring confidentiality of clinical and proprietary information.

3. The UM program's medical management and medical necessity review criteria and practice guidelines shall be reviewed annually and updated periodically as appropriate. The CCN-DBP shall use the medical necessity definition as set forth in LAC 50:I.1101 for medical necessity determinations.

a. Medical management and medical necessity review criteria and practice guidelines shall:

i. be objective and based on valid and reliable clinical evidence or a consensus of health care professionals in the particular field;

ii. consider the needs of the members;

iii. be adopted in consultation with contracting health care professionals; and

iv. be disseminated to all affected providers, members, and potential members upon request.

b. The CCN-DBP must identify the source of the medical management criteria used for the review of medical necessity and for service authorization requests.

- i. The vendor must be identified if the criteria are purchased.
- ii. The association or society must be identified if the criteria are developed/recommended or endorsed by a national or state health care provider association or society.
- iii. The guideline source must be identified if the criteria are based on national best practice guidelines.
- iv. The individuals who will make medical necessity determinations must be identified if the criteria are based on the medical training, qualifications, and experience of the CCN-DBP dental director or other qualified and trained professionals.

4. The CCN-DBP shall ensure that only licensed clinical professionals with appropriate clinical expertise in the treatment of a member's condition or disease shall determine service authorization request denials or authorize a service in an amount, duration or scope that is less than requested.

5. The CCN-DBP shall ensure that compensation to individuals or entities that conduct UM activities is not structured to provide incentives for the individual or entity to deny, limit, or discontinue medically necessary covered services to any member in accordance with 42 CFR §438.6(h), 42 CFR §422.208, and 42 CFR §422.210.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

§2911. Payment Methodology

A. Payments to the Dental Benefit Plan. The department, or its fiscal intermediary, shall make monthly capitation payments to the dental benefit plan (DBP) based on a per member, per month (PMPM) rate.

B. As Medicaid is the payor of last resort, the DBP must agree to accept the PMPM rate as payment-in-full from the department and agree not to seek additional payment from a member for any unpaid cost.

C. A DBP shall assume 100 percent liability for any expenditure above the prepaid premium.

D. A DBP shall meet all financial reporting requirements specified in the terms of the contract.

E. A DBP shall have a medical loss ratio (MLR) for each MLR reporting calendar year of not less than 85 percent using definitions for health care services, quality initiatives and administrative cost as specified in 45 CFR Part 158.

1. A DBP shall provide an annual MLR report, in a format as determined by the department, by June 1 following the MLR reporting year that separately reports the DBP's medical loss ratio for services provided to Medicaid enrollees and payment received under the contract with the department from any other products the DBP may offer in the state of Louisiana.

2. If the medical loss ratio is less than 85 percent, the DBP will be subject to refund of the difference, within the timeframe specified, to the department by August 1. The portion of any refund due the department that has not been paid by August 1 will be subject to interest in the amount of ten percent per annum.

3. The department shall provide for an audit of the DBP's annual MLR report and make public the results within 60 calendar days of finalization of the audit.

F. Any cost sharing imposed on Medicaid members must be in accordance with the federal regulations governing cost sharing and cannot exceed the amounts reflected in the Louisiana Medicaid State Plan, but the amounts can be less than the cost sharing levels in the State Plan.

G. The department may adjust the PMPM rate, during the term of the contract, based on:

- 1. the inclusion of covered Medicaid services not incorporated in the applicable PMPM;
- 2. the implementation of federal requirements; and/or
- 3. legislative appropriations and budgetary constraints.

H. The DBP shall not assign its rights to receive the PMPM payment, or its obligation to pay, to any other entity.

1. At its option, the department may, at the request of the DBP, make payment to a third party administrator.

I. In the event that an incorrect payment is made to the DBP, all parties agree that reconciliation will occur.

1. If an error or overcharge is discovered by the department, it will be handled in accordance with the terms and conditions of the contract.

J. Network Provider Reimbursement

1. Reimbursement for covered services shall be equal to or greater than the published Medicaid fee-for-service rate in effect on the date of service. Notwithstanding, upon request by a network provider, or potential network provider, and with the prior approval of the department, exceptions may be granted.

2. The DBP's subcontract with the network provider shall specify that the provider shall accept payment made by the DBP as payment-in-full for core benefits and services provided and shall not solicit or accept any surety or guarantee of payment from the department or the member.

a. The term "member" shall include the patient, parent(s), guardian, spouse or any other legally responsible person of the member being served.

3. The DBP may enter into alternative payment arrangements with its network providers or potential providers with prior approval by the department.

a. The DBP shall not enter into alternative payment arrangements with federally qualified health centers or rural health clinics as the DBP is required to reimburse these providers according to the published FQHC/RHC Medicaid prospective payment schedule rate in effect on the date of service, whichever is applicable.

K. Out-of-Network Provider Reimbursement. The DBP shall reimburse the provider the published Medicaid fee-for-service rate in effect on the date of service.

M. Reimbursement for Emergency Services for In-Network or Out-of-Network Providers

1. The DBP is financially responsible for emergency services in accordance with provisions set forth in 42 CFR §422.113.

2. The reimbursement rate for medically necessary emergency services shall be no less than the published Medicaid fee-for-service rate in effect on the date of service, regardless of whether the provider that furnished the services has a contract with the DBP.

a. The DBP may not concurrently or retrospectively reduce a provider's reimbursement rate for these emergency services provided during an episode of care.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

§2913. Prompt Payment of Claims

A. Network Providers. All subcontracts executed by the CCN-DBP shall comply with the terms in the contract. Requirements shall include at a minimum:

1. the name and address of the official payee to whom payment shall be made;
2. the full disclosure of the method and amount of compensation or other consideration to be received from the CCN-DBP; and
3. the standards for the receipt and processing of claims as specified by the department in the CCN-DBP's contract with the department and department issued-guides.

B. Network and Out-of-Network Providers

1. The CCN-DBP shall make payments to its network providers, and out-of-network providers, subject to conditions outlined in the contract and department issued-guides.

a. The CCN-DBP shall pay 90 percent of all clean claims, as defined by the department, received from each provider type within 15 business days of the date of receipt.

b. The CCN-DBP shall pay 99 percent of all clean claims within 30 calendar days of the date of receipt.

2. The provider must submit all claims for payment no later than 12 months from the date of service.

3. The CCN-DBP and all providers shall retain any and all supporting financial information and documents that are adequate to ensure that payment is made in accordance with applicable federal and state laws.

a. Any such documents shall be retained for a period of at least six years or until the final resolution of all litigation, claims, financial management reviews, or audits pertaining to the contract.

4. There shall not be any restrictions on the right of the state and federal government to conduct inspections and/or audits as deemed necessary to assure quality, appropriateness or timeliness of services and reasonableness of costs.

C. Claims Management

1. The CCN-DBP shall process a provider's claims for covered services provided to members in compliance with all applicable state and federal laws, rules, and regulations as well as all applicable CCN policies and procedures including, but not limited to:

- a. claims format requirements;
- b. claims processing methodology requirements;
- c. explanation of benefits and related function requirements;
- d. processing of payment errors;
- e. notification to providers requirements; and
- f. timely filing.

D. Provider Claims Dispute

1. The CCN-DBP shall:

- a. have an internal claims dispute procedure that is in compliance with the contract and must be approved by the department;

b. contract with independent reviewers to review disputed claims;

c. systematically capture the status and resolution of all claim disputes as well as all associate documentation; and

d. report the status of all disputes and their resolution to the department on a monthly basis as specified in the contract.

E. Claims Payment Accuracy Report

1. The CCN-DBP shall submit an audited claims payment accuracy percentage report to the department on a monthly basis as specified in the contract.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

§2915. Grievance and Appeals Processes

A. The CCN-DBP shall adhere to the provisions governing the grievance and appeals processes for coordinated care network prepaid models outlined in LAC 50:I.Chapter 37, Subparts B and 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, Bureau of Health Services Financing, LR 39:

§2917. Sanctions

A. The CCN-DBP shall adhere to the provisions governing sanctions for coordinated care networks outlined in LAC 50:I.Chapter 39.

AUTHORITY NOTE: Promulgated in 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 39:

§2919. Audit Requirements

A. The CCN-DBP shall adhere to the provisions governing audit requirements for coordinated care networks outlined in LAC 50:I.Chapter 40.

AUTHORITY NOTE: Promulgated in 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 39:

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

Bruce D. Greenstein
Secretary

1301#011

DECLARATION OF EMERGENCY

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

Coordinated Care Network—Physician Services
Reimbursement Methodology
(LAC 50:I.3307 and 3509)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:I.3307 and §3509 in the Medical Assistance Program as authorized by

R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing adopted provisions which implemented a coordinated system of care in the Medicaid Program designed to improve quality of care and health care outcomes through a healthcare delivery system called coordinated care networks, also known as the BAYOU HEALTH Program (*Louisiana Register*, Volume 37, Number 6).

The Patient Protection and Affordable Care Act (PPACA) requires states to reimburse certain physician services at the rates that would be paid for the services (if they were covered) under Medicare. In compliance with PPACA and federal regulations, the department amends the provisions governing the reimbursement methodology for physician services rendered by health plans in the coordinated care networks to increase the reimbursement rates.

This action is being taken to avoid federal sanctions and to secure enhanced federal funding. It is anticipated that implementation of this Emergency Rule will increase expenditures in the Medicaid Program by approximately \$23,963,111 for state fiscal year 2012-2013.

Effective January 1, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for physician services rendered by health plans in the coordinated care networks.

Title 50

PUBLIC HEALTH-MEDICAL ASSISTANCE

Part I. Administration

Subpart 3. Medicaid Coordinated Care

Chapter 33. Coordinated Care Network Shared Savings Model

§3307. Reimbursement Methodology

A. - F.3.l. ...

m. durable medical equipment and supplies;

n. orthotics and prosthetics; and

o. payments made to providers for purposes of complying with section 1932(f) of the Social Security Act and 42 CFR 438.6(c)(5)(vi).

F.4 – F.8. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1581 (June 2011), amended LR 39:

Chapter 35. Coordinated Care Network Managed Care Organization Model

§3509. Reimbursement Methodology

A. - A.5. ...

6. A CCN-P shall be reimbursed payments in order to comply with Section 1932(f) of the Social Security Act and

42 CFR 439.6(c)(5)(vi) on a quarterly basis or other period specified by DHH.

a. For calendar years 2013 and 2014 the CCN-P shall make payments to designated physicians consistent with 42 CFR Part 447, Subpart G, at least equal to the amounts set forth and required under Part 447, Subpart G, and the provisions of this Chapter, consistent with 42 CFR 438.5 and 438.804 as approved by CMS and as specified in the terms and conditions of the contract between DHH and the CCN-P.

B. - J.2. ...

a. Repealed.

3. For calendar years 2013 and 2014, the CCN-P shall make payments to designated physicians consistent with 42 CFR Part 447, Subpart G, at least equal to the amounts set forth and required under Part 447, Subpart G, and the provisions of this Chapter, as specified in the terms and conditions of the contract between DHH and the CCN-P. The CCN-P shall also provide documentation to the state sufficient to enable the state and CMS to ensure that provider payments increase as required by paragraph 42 CFR 438.6(c)(5)(vi)(A) of this Section.

a. The term “member” shall include the patient, parent(s), guardian, spouse or any other legally responsible person of the member being served.

4. The CCN-P may enter into alternative payment arrangements with its network providers or potential providers with prior approval by the department.

a. The CCN-P shall not enter into alternative payment arrangements with federally qualified health centers or rural health clinics as the CCN-P is required to reimburse these providers according to the published FQHC/RHC Medicaid prospective payment schedule rate in effect on the date of service, whichever is applicable.

M. - N.2.a. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1587 (June 2011), amended LR 39:

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

Bruce D. Greenstein
Secretary

1301#012

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Disproportionate Share Hospital Payments (LAC 50.V.2501, 2701, 2705 and 2707)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50.V.2501, 2701, 2705, and 2707 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

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

Act 10 of the 2009 Regular Session of the Louisiana Legislature directed the department to amend the DSH qualifying criteria and payment methodologies for non-rural community hospitals. In compliance with Act 10, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions of the June 26, 2009 Emergency Rule governing supplemental DSH payments to non-rural community hospitals (*Louisiana Register*, Volume 36, Number 1). The department promulgated an Emergency Rule which amended the January 20, 2010 Emergency Rule to amend the provisions governing supplemental DSH payments to non-rural community hospitals in order to redistribute the funds allocated for the state fiscal year 2010 DSH appropriation (*Louisiana Register*, Volume 36, Number 7).

The department promulgated an Emergency Rule which amended the June 29, 2010 Emergency Rule to revise the provisions governing DSH payments to allow for additional payments after completion of the Centers for Medicare and Medicaid Services' mandated independent audit for the state fiscal year (*Louisiana Register*, Volume 37, Number 6). This Emergency Rule is being promulgated to continue the provisions of the June 20, 2011 Emergency Rule. This action is being taken to promote the public health and welfare of uninsured individuals and to ensure their continued access to

health care by assuring that hospitals are adequately reimbursed for furnishing uncompensated care.

Effective February 14, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing DSH payments.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Medical Assistance Program—Hospital Services

Subpart 3. Disproportionate Share Hospital Payments

Chapter 25. Disproportionate Share Hospital Payment Methodologies

§2501. General Provisions

A. - B.3. ...

4. Qualification is based on the hospital's latest filed cost report and related uncompensated cost data as required by the Department. Qualification for small rural hospitals is based on the latest filed cost report. Hospitals must file cost reports in accordance with Medicare deadlines, including extensions. Hospitals that fail to timely file Medicare cost reports and related uncompensated cost data will be assumed to be ineligible for disproportionate share payments. Only hospitals that return timely disproportionate share qualification documentation will be considered for disproportionate share payments. After the final payment during the state fiscal year has been issued, no adjustment will be given on DSH payments with the exception of public state-operated hospitals, even if subsequently submitted documentation demonstrates an increase in uncompensated care costs for the qualifying hospital. After completion of a Center for Medicare and Medicaid Services' (CMS) mandated independent audit for the state fiscal year, additional payments may occur subject to the conditions specified in §2701.B.1, §2705.D.2, and §2707.B. For hospitals with distinct part psychiatric units, qualification is based on the entire hospital's utilization.

B.5. - E. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:654 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:65 (January 2010), amended LR 36:512 (March 2010), LR 39:

Chapter 27. Qualifying Hospitals

§2701. Non-Rural Community Hospitals

A. ...

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

1. Each qualifying public, non-rural community hospital shall certify to the Department of Health and Hospitals its uncompensated care costs. The basis of the certification shall be 100 percent of the hospital's allowable costs for these services, as determined by the most recently filed Medicare/Medicaid cost report. The certification shall be submitted in a form satisfactory to the department no later than October 1 of each fiscal year. The department will claim the federal share for these certified public expenditures. The department's subsequent reimbursement to the hospital shall be in accordance with the qualifying criteria and payment methodology for non-rural community hospitals included in Act 11 of the 2010 Regular Session of the Louisiana Legislature, and may be more or less than the

federal share so claimed. Qualifying public, non-rural community hospitals that fail to make such certifications by October 1 may not receive Title XIX claim payments or any disproportionate share payments until the department receives the required certifications. Adjustments to the certification amounts shall be made in accordance with the final uncompensated care costs as calculated per the CMS mandated audit for the state fiscal year.

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

1. If the hospital's qualifying uninsured cost is less than 4 percent of total hospital cost, no payment shall be made.

2. If the hospital's qualifying uninsured cost is equal to or greater than 4 percent of total hospital cost, but less than 7 percent, the payment shall be 50 percent of an amount equal to the difference between the total qualifying uninsured cost as a percent of total hospital cost and 4 percent of total hospital cost.

3. If the hospital's qualifying uninsured cost is equal to or greater than 7 percent of total hospital cost, but less than or equal to 10 percent, the payment shall be 80 percent of an amount equal to the difference between the total qualifying uninsured cost as a percent of total hospital cost and 4 percent of total hospital cost.

4. If the hospital's qualifying uninsured cost is greater than 10 percent of total hospital cost, the payment shall be 90 percent of qualifying uninsured cost for the portion in excess of 10 percent of total hospital cost and 80 percent of an amount equal to 5 percent of total hospital cost.

5. Qualifying uninsured cost as used for this distribution shall mean the hospital's total charges for care provided to uninsured patients multiplied by the hospital's cost-to-charge ratio as required by the CMS DHS audit rule for the applicable cost report period.

D. The department shall determine each qualifying hospital's uninsured percentage on a hospital-wide basis utilizing charges for dates of service from July 1, 2009 through June 30, 2010.

1. - 5. Repealed.

E. Hospitals shall submit supporting patient specific data in a format specified by the department, reports on their efforts to collect reimbursement for medical services from patients to reduce gross uninsured costs and their most current year-end financial statements. Those hospitals that fail to provide such statements shall receive no payments and any payment previously made shall be refunded to the department. Submitted hospital charge data must agree with the hospital's monthly revenue and usage reports which reconcile to the monthly and annual financial statements. The submitted data shall be subject to verification by the department before DSH payments are made.

F. In the event that the total payments calculated for all recipient hospitals are anticipated to exceed the total amount appropriated, the department shall reduce payments on a pro rata basis in order to achieve a total cost that is not in excess of the amounts appropriated for this purpose. Any funding not distributed per the methodology outlined in C.1-C.5 above shall be reallocated to these qualifying hospitals based

on their reported uninsured costs. The \$10,000,000 appropriation for the non-rural community hospital pool shall be effective only for state fiscal year 2011 and distributions from the pool shall be considered nonrecurring.

G. Of the total appropriation for the non-rural community hospital pool, \$1,000,000 shall be allocated to public and private non-rural community hospitals with a distinct part psychiatric unit and \$1,000,000 shall be allocated to freestanding psychiatric hospitals.

1. To qualify for this payment hospitals must have uninsured cost as defined in §2701.C.5 equal to or greater than 4 percent of total hospital cost and:

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

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

2. Payment shall be calculated by:

a. Dividing each qualifying hospital's distinct part psychiatric unit's uninsured days by the sum of all qualifying psychiatric unit's uninsured days and multiplying by \$1,000,000.

b. Dividing each qualifying freestanding psychiatric hospital's uninsured days by the sum of all qualifying freestanding psychiatric hospital's uninsured days and multiplying by \$1,000,000.

H. The DSH payment shall be made as an annual lump sum payment.

I. Hospitals qualifying as non-rural community hospitals in state fiscal year 2007-2008 and subsequent years may also qualify in the federally mandated statutory hospital category.

J. 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 34:655 (April 2008), amended LR 34:2402 (November 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

§2705. Small Rural Hospitals

A. - D.1.b. ...

2. Additional payments shall only be made after finalization of the CMS mandated DSH audit for the state fiscal year. Payments shall be limited to the aggregate amount recouped from small rural hospitals based on these reported audit results. If the small rural hospitals' aggregate amount of underpayments reported per the audit results exceeds the aggregate amount overpaid, the payment redistribution to underpaid shall be paid on a pro rata basis calculated using each hospital's amount underpaid divided by the sum of underpayments for all small rural hospitals.

E. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:657 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

§2707. Public State-Operated Hospitals

A. ...

B. DSH payments to individual public state-owned or operated hospitals shall be up to 100 percent of the hospital's net uncompensated costs. Final payment shall be made in accordance with final uncompensated care costs as calculated per the CMS mandated audit for the state fiscal year.

C. - D.2.d. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:658 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

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

Bruce D. Greenstein
Secretary

1301#096

DECLARATION OF EMERGENCY

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

**Disproportionate Share Hospital Payments
Community Hospitals (LAC 50.V.2701)**

The Department of Health and Hospitals, Bureau of Health Services Financing repeals LAC 50:V.2701 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 13 of the 2012 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, cost sharing, and other measures as permitted under federal law." This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amended the provisions governing disproportionate share hospital (DSH) payments to revise the provisions governing non-rural community hospitals and federally mandated statutory hospitals to clarify that hospitals qualifying as a non-rural community hospital in state fiscal year 2007-08 may also qualify in the federally mandated statutory hospital category, and to revise the definition of a non-rural community hospital (*Louisiana Register*, Volume 34, Number 11).

Due to a budgetary shortfall in state fiscal year 2013, the department has determined that it is necessary to amend the provisions governing DSH payments to non-rural community hospitals in order to eliminate the community hospital psychiatric DSH pool. This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately \$2,000,000 for state fiscal year 2012-2013.

Effective February 1, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing disproportionate share hospital payments to non-rural community hospitals.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Medical Assistance Program—Hospital Services

Subpart 3. Disproportionate Share Hospital Payments

Chapter 27. Qualifying Hospitals

§2701. Non-Rural Community Hospitals

A. - J. 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 34:655 (April 2008), amended LR 34:2402 (November 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

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

Bruce D. Greenstein
Secretary

1301#094

DECLARATION OF EMERGENCY

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

**Early and Periodic Screening, Diagnosis and Treatment
Dental Program
(LAC 50:XV.6515 and Chapter 69)**

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:XV.6515 and repeals Chapter 69 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.

Due to a continuing budgetary shortfall in state fiscal year 2011, the Department of Health and Hospitals, Bureau of

Health Services Financing amended the provisions governing the reimbursement methodology for dental services in the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Program to further reduce the reimbursement rates (*Louisiana Register*, Volume 37, Number 6).

The department now proposes to amend the provisions governing the Early and Periodic Screening, Diagnosis and Treatment Program in order to remove the provisions governing dental services. The department will establish a dental benefits plan through a coordinated care network in order to provide dental services to all Medicaid recipients under the age of 21. This action is being taken to promote the public health and welfare of Medicaid recipients by ensuring continued access to better coordinated and quality dental care services. It is estimated that implementation of this Emergency Rule will be cost neutral to the Medicaid Program for state fiscal year 2012-2013.

Effective January 1, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the EPSDT Program in order to transition dental services to a coordinated care network dental benefits plan.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 5. Early and Periodic Screening, Diagnosis and Treatment

Chapter 65. General Provisions

§6515. Dental Services

A. Effective March 1, 2013, all Medicaid recipients under the age of 21 shall receive dental services through a coordinated care network dental benefits plan (CCN-DBP), pursuant to the provisions governing Coordinated Care Network Dental Benefits Plan, LAC 50:I.Chapter 29, as published in *Louisiana Register*, Volume 39, Number 1.

B. Any Medicaid recipient under the age of 21 that does not qualify for enrollment in the CCN-DBP shall receive coverage of dental services through the EPSDT Program, as with any other medically necessary Medicaid covered service.

C. Dental services covered in the EPSDT Program shall be reimbursed at the lower of either:

1. the dentist's billed charges minus any third party coverage; or
2. the state's established schedule of fees minus any third party coverage.

AUTHORITY NOTE: Promulgated in 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 39:

Chapter 69. Dental Services

§6901. General Provisions

A. - 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 29:176 (February 2003), amended LR 33:1138 (June 2007), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

§6903. Covered Services

A. - 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 29:175 (February 2003), amended LR 30:252 (February 2004), LR 31:667 (March 2005), LR 33:1138 (June 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1889 (September 2009), amended LR 37:1598 (June 2011), repealed LR 39:

§6905. Reimbursement

A. - H. 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 33:1138 (June 2007), amended LR 34:1032 (June 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1890 (September 2009), amended LR 36:2040 (September 2010), LR 37:1598 (June 2011), repealed LR 39:

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

Bruce D. Greenstein
Secretary

1301#013

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Early and Periodic Screening, Diagnosis and Treatment
School-Based Health Centers (LAC 50:XV.9113)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XV.9113 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 to allow for Medicaid coverage and reimbursement of mental health services provided to students by School Based Health Centers and to establish provisions for other Medicaid-covered services (*Louisiana Register*, Volume 34, Number 8). School Based Health Centers were required to be enrolled as a KIDMED provider.

The KIDMED program was terminated June 1, 2012. Children who received services in the KIDMED Program continue to receive covered services through the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program. The department promulgated an Emergency Rule which amended the standards of participation for School Based Health Centers to require them to be enrolled as an EPSDT Services Provider (*Louisiana Register*, Volume 38, Number 4). This Emergency Rule is being promulgated to continue the provisions of the June 1, 2012 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid eligible recipients and to assure a more efficient and effective delivery of health care services.

Effective January 29, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the standards of participation for School Based Health Centers in the Early and Periodic Screening, Diagnosis and Treatment Program.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 5. Early and Periodic Screening, Diagnosis, and Treatment

Chapter 91. School Based Health Centers

Subchapter B. Provider Participation

§9113. Standards of Participation

A. - D. ...

E. The SBHC must be enrolled as an EPSDT services provider in addition to enrollment for providing any other services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 40:31.3 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 34:1419 (July 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

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

Bruce D. Greenstein
Secretary

1301#097

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Electronic Health Records Incentive Payments
Inclusion of Optometrists (LAC 50:I.12501)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:I.2501 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 American Recovery and Reinvestment Act (ARRA) of 2009 authorized 100 percent federal financial participation to states for the purpose of establishing incentive payments to encourage Medicaid health care providers to adopt, implement, and use certified electronic health records (EHR) technology. In compliance with the directives of ARRA, the Department of Health and Hospitals, Bureau of Health Services Financing adopted provisions to establish Medicaid incentive payments to qualifying professional practitioners and hospitals that adopt, implement, or upgrade certified EHR technology (*Louisiana Register*, Volume 36, Number 12).

The department promulgated an Emergency Rule which amended the provisions governing the EHR Incentive Payments Program to include optometrists as eligible professionals who may qualify to receive incentive payments (*Louisiana Register*, Volume 38, Number 9). This Emergency Rule is being promulgated to continue the provisions of the October 1, 2012 Emergency Rule. This action is being taken to secure new and enhanced federal funding, and to expand provider participation in the EHR Incentive Payment Program.

Effective January 30, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the Electronic Health Records Incentive Payment Program.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part I. Administration

Subpart 13. Electronic Health Records

Chapter 125. Incentive Payments

§12501. General Provisions

A. ...

B. The following providers may qualify to receive Medicaid incentive payments:

1. - 5. ...

6. optometrists;

7. acute care hospitals, including cancer and critical access hospitals; and

8. children's specialty hospitals.

C. - D. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2865 (December 2010), amended LR 39:

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

Bruce D. Greenstein
Secretary

1301#098

DECLARATION OF EMERGENCY

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

Office for Citizens with Developmental Disabilities

Home and Community-Based Services Waivers
Children’s Choice—Money Follows the Person Rebalancing
Demonstration Extension (LAC 50:XXI.11107)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities amend LAC 50:XXI.11107 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities adopted provisions in the Children’s Choice Waiver for the allocation of additional waiver opportunities for the Money Follows the Person Rebalancing Demonstration Program (*Louisiana Register*, Volume 35, Number 9). The department promulgated an Emergency Rule which amended the provisions of the Children’s Choice Waiver to provide for the allocation of waiver opportunities for children who have been identified by the Office for Citizens with Developmental Disabilities regional offices and human services authorities and districts as meeting state-funded family support criteria for priority level 1 and 2, and needing more family support services than what is currently available through state-funded family support services (*Louisiana Register*, Volume 36, Number 9).

The allocation of opportunities for the Money Follows the Person Rebalancing Demonstration Program was scheduled to end September 30, 2011. Section 2403 of the Affordable Care Act of 2010 authorized an extension of the Money Follows the Person Rebalancing Demonstration Program until September 30, 2016. The department promulgated an Emergency Rule which amended the provisions of the Children’s Choice Waiver in order to allow allocation of waiver opportunities until September 30, 2016 (*Louisiana Register*, Volume 37, Number 9). This Emergency Rule is being promulgated to continue the provisions of the September 20, 2011 Emergency Rule. This action is being taken to secure enhanced federal funding.

Effective January 26, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities amend the provisions governing the allocation of opportunities in the Children’s Choice Waiver.

Title 50

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

Subpart 9. Children’s Choice

**Chapter 111. General Provisions§11107. Allocation of
Waiver Opportunities**

A. - B. ...

1. The MFP Rebalancing Demonstration will stop allocation of opportunities on September 30, 2016.

a. In the event that an MFP Rebalancing Demonstration opportunity is vacated or closed before September 30, 2016, the opportunity will be returned to the MFP Rebalancing Demonstration pool and an offer will be made based upon the approved program guidelines.

b. In the event that an MFP Rebalancing Demonstration opportunity is vacated or closed after September 30, 2016, the opportunity will cease to exist.

C. - C.7. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 35:1892 (September 2009), amended LR 39:

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

Bruce D. Greenstein
Secretary

1301#099

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
Community Choices Waiver (LAC 50:XXI.8105, Chapter
83, 8501, 8701, 8901-8903, 9301, and Chapter 95)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services amend LAC 50:XXI.8105, Chapter 83, §8501, §8701, §§8901-8903, §9301, and Chapter 95 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services adopted provisions which established the community choices waiver Program to replace the Elderly and Disabled Adults (EDA) Waiver (*Louisiana Register*, Volume 37, Number 12). The department promulgated an Emergency Rule that amended the December 20, 2011 Rule to clarify provisions governing the delivery of services, to remove the wage pass-through language that was erroneously included in the Rule, and to comply with a court-mandated standard for use in the determination of expedited community choices waiver slots and addition of waiver opportunities (*Louisiana Register*, Volume 38, Number 2). This Emergency Rule is being promulgated to continue the provisions of the February 20, 2012 Emergency Rule. This action is being taken to promote the health and welfare of waiver participants and to ensure that these services are rendered in a more cost-effective manner.

Effective February 17, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services amend the provisions governing the Community Choices Waiver Program.

Title 50

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

Subpart 7. Community Choices Waiver

Chapter 81. General Provisions

§8105. Programmatic Allocation of Waiver Opportunities

A. - D. ...

E. Notwithstanding the priority group provisions, up to 300 community choices waiver opportunities may be granted to qualified individuals who require expedited waiver services. These individuals shall be offered an opportunity on a first-come, first-serve basis.

1. To be considered for an expedited waiver opportunity, the individual must, at the time of the request for the expedited opportunity, be approved for the maximum amount of services allowable under the Long Term Personal Care Services Program and require institutional placement, unless offered an expedited waiver opportunity.

2. The following criteria shall be considered in determining whether or not to grant an expedited waiver opportunity:

a. - b. ...

c. the support from an informal caregiver is not available due to a family crisis;

d. the person lives alone and has no access to informal support; or

e. for other reasons, the person lacks access to adequate informal support to prevent nursing facility placement.

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

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

Office of Aging and Adult Services, LR 37:3517 (December 2011), amended LR 39:

Chapter 83. Covered Services

§8301. Support Coordination

A. Support coordination is services that will assist participants in gaining access to needed waiver and other State Plan services, as well as needed medical, social, educational, housing and other services, regardless of the funding source for these services. Support coordination agencies shall be required to perform the following core elements of support coordination services:

1. intake;

2. assessment;

3. plan of care development and revision;

4. linkage to direct services and other resources;

5. coordination of multiple services among multiple providers;

6. monitoring and follow-up;

7. reassessment;

8. evaluation and re-evaluation of level of care and need for waiver services;

9. ongoing assessment and mitigation of health, behavioral and personal safety risk;

10. responding to participant crisis;

11. critical incident management; and

12. transition/discharge and closure.

B. Support coordinators shall provide information and assistance to waiver participants in directing and managing their services.

1. When participants choose to self-direct their waiver services, the support coordinators are responsible for informing participants about:

a. their responsibilities as an employer;

b. how their activities as an employer are coordinated with the fiscal agent and support coordinator; and

c. their responsibility to comply with all applicable state and federal laws, Rules, policies, and procedures.

2. Support coordinators shall be available to participants for on-going support and assistance in these decision-making areas and with employer responsibilities.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:3519 (December 2011), amended LR 39:

§8305. Environmental Accessibility Adaptations

A. - A.1. ...

a. Once identified by MDS-HC, a credentialed assessor must verify the need for, and draft specifications for, the environmental accessibility adaptation(s).

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, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:3519 (December 2011), amended LR 39:

§8307. Personal Assistance Services

A. - A.3. ...

4. supervision or assistance with health related tasks (any health related procedures governed under the Nurse Practice Act) in accordance with applicable laws governing the delegation of medical tasks/medication administration;

5. supervision or assistance while escorting/accompanying the participant outside of the home to perform tasks, including instrumental activities of daily living, health maintenance or other needs as identified in the POC and to provide the same supervision or assistance as would be rendered in the home; and

A.6. - C. ...

D. Community choices waiver participants cannot receive long-term personal care services.

E. - E.4. ...

5. "A.m. and p.m." PAS cannot be "shared" and may not be provided on the same calendar day as other PAS delivery methods.

6. It is permissible to receive only the "a.m." or "p.m." portion of PAS within a calendar day. However, "a.m." or "p.m." PAS may not be provided on the same calendar day as other PAS delivery methods.

7. PAS providers must be able to provide both regular and "a.m." and "p.m." PAS and cannot refuse to accept a community choices waiver participant solely due to the type of PAS delivery method that is listed on the POC.

F. ...

G. A home health agency direct service worker who renders PAS must be a qualified home health aide as specified in Louisiana's Minimum Licensing Standards for Home Health Agencies.

H. - I. ...

J. The following individuals are prohibited from being reimbursed for providing PAS services to a participant:

J.1. - K. ...

L. It is permissible for the PAS allotment to be used flexibly in accordance with the participant's preferences and personal schedule and OAAS' documentation requirements.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:3519 (December 2011), amended LR 39:

§8311. Adult Day Health Care Services

A. - B. ...

1. meals, which shall not constitute a "full nutritional regimen" (three meals per day) but shall include a minimum of two snacks and a hot nutritious lunch;

2. transportation between the participant's place of residence and the ADHC in accordance with licensing standards;

B.3. - 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, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:3521 (December 2011), amended LR 39:

§8313. Caregiver Temporary Support Services

A. ...

B. Federal financial participation is not claimed for the cost of room and board except when provided as part of caregiver temporary support services furnished in a facility approved by the state that is not a private residence.

C. - E. ...

F. When Caregiver temporary support is provided by an ADHC center, services may be provided no more than 10 hours per day.

G. Caregiver temporary support services may be utilized no more than 30 calendar days or 29 overnight stays per plan of care year for no more than 14 consecutive calendar days or 13 consecutive overnight stays. The service limit may be increased based on documented need and prior approval by OAAS.

H. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:3521 (December 2011), amended LR 39:

§8315. Assistive Devices and Medical Supplies

A. Assistive devices and medical supplies are specialized medical equipment and supplies which include devices, controls, appliances, or nutritional supplements specified in the POC that enable participants to:

A.1. - H. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:3521 (December 2011), amended LR 39:

§8321. Nursing Services

A. Nursing services are services that are medically necessary and may only be provided efficiently and effectively by a nurse practitioner, registered nurse, or a licensed practical nurse working under the supervision of a registered nurse. These nursing services must be provided within the scope of the Louisiana statutes governing the practice of nursing.

B. - 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, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:3522 (December 2011), amended LR 38:3522 (December 2011), amended LR 39:

§8323. Skilled Maintenance Therapy

A. - F.3.i. ...

4. Respiratory therapy services which provide preventative and maintenance of airway-related techniques and procedures including:

F.4.a. - H. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:3522 (December 2011), amended LR 39:

Chapter 85. Self-Direction Initiative

§8501. Self-Direction Service Option

A. The self-direction initiative is a voluntary, self-determination option which allows the participant to coordinate the delivery of personal assistance services through an individual direct support professional rather than through a licensed, enrolled provider agency. Selection of this option requires that the participant utilize a payment mechanism approved by the department to manage the required fiscal functions that are usually handled by a provider agency.

B. - C.2.d.ii. ...

iii. fails to provide required documentation of expenditures and related items;

iv. fails to cooperate with the fiscal agent or support coordinator in preparing any additional documentation of expenditures and related items; or

v. violates Medicaid Program rules or guidelines of the self-direction option.

D. Employee Qualifications. All employers under the self-direction option must:

1. be at least 18 years of age on the date of hire; and
2. complete all training mandated by OAAS within the specified timelines.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:3523 (December 2011), amended LR 39:

Chapter 87. Plan of Care

§8701. Plan of Care

A. The applicant and support coordinator have the flexibility to construct a plan of care that serves the participant's health and welfare needs. The service package provided under the POC shall include services covered under the community choices waiver in addition to services covered under the Medicaid State Plan (not to exceed the established service limits for either waiver or state plan services) as well as other services, regardless of the funding source for these services. All services approved pursuant to the POC shall be medically necessary and provided in a cost-effective manner. The POC shall be developed using a person-centered process coordinated by the support coordinator.

B. - C.1. ...

2. individual cost of each waiver service; and
3. the total cost of waiver services covered by the POC.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:3524 (December 2011), amended LR 39:

Chapter 89. Admission and Discharge Criteria

§8901. Admission Criteria

A. - A.5. ...

B. Failure of the individual to cooperate in the eligibility determination or plan of care development processes or to meet any of the criteria above shall result in denial of admission to the community choices 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, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:3524 (December 2011), amended LR 39:

§8903. Admission Denial or Discharge Criteria

A. - A.6. ...

7. The individual fails to cooperate in the eligibility determination or plan of care development processes or in the performance of the POC.

8. - 9. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:3524 (December 2011), amended LR 39:

Chapter 93. Provider Responsibilities

§9301. General Provisions

A. ...

B. The provider agrees to not request payment unless the participant for whom payment is requested is receiving services in accordance with the Community Choices Waiver Program provisions and the services have been prior authorized and actually provided.

C. Any provider of services under the community choices waiver shall not refuse to serve any individual who chooses their agency unless there is documentation to support an inability to meet the individual's health, safety and welfare needs, or all previous efforts to provide services and supports have failed and there is no option but to refuse services.

C.1. - D. ...

E. Any provider of services under the community choices waiver shall not interfere with the eligibility, assessment, care plan development, or care plan monitoring processes including, but not limited to:

1. harassment;
2. intimidation; or
3. threats against program participants or members of their informal support network, of DHH, or support coordination staff.

F. Any provider of services under the community choices waiver shall have the capacity and resources to provide all aspects of any service they are enrolled to provide in the specified service area.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:3524 (December 2011), amended LR 39:

Chapter 95. Reimbursement

§9501. Reimbursement Methodology

A. - A.1.c. ...

2. in-home caregiver temporary support service when provided by a personal care services or home health agency;

3. caregiver temporary support services when provided by an adult day health care center; and

4. adult day health care services.

B. - G. ...

H. Reimbursement shall not be made for community choices waiver services provided prior to the department's approval of the POC.

I. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:3525 (December 2011), amended LR 39:

§9503. Direct Support Professionals Minimum Wage

A. The minimum hourly rate paid to direct support professionals shall be at least the current federal minimum wage.

A.1. - 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, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:3525 (December 2011), amended LR 39:

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

Bruce D. Greenstein
Secretary

1301#100

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
Community Choices Waiver Reimbursement Rate Reduction
(LAC 50:XXI.9501)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services amend LAC 50:XXI.9501 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 House Bill 1 of the 2012 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, cost sharing, and other measures as permitted under federal law." This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services adopted provisions which established the Community Choices Waiver Program to replace the Elderly and Disabled Adults (EDA) Waiver (*Louisiana Register*, Volume 37, Number 12). The department promulgated an Emergency Rule which amended the December 20, 2011 Rule to clarify provisions governing the delivery of services, to remove the wage pass-through language that was erroneously included in the Rule, and to comply with a court-mandated standard for use in the determination of expedited Community Choices Waiver slots and addition of waiver opportunities (*Louisiana Register*, Volume 38, Number 2).

As a result of a budgetary shortfall in state fiscal year 2013, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for the Community Choices Waiver to reduce the reimbursement rates (*Louisiana Register*, Volume 38, Number 7). The department promulgated an Emergency Rule which amended the provisions of the July 1, 2012 Emergency Rule in order to reduce the reimbursement rates for certain services that were inadvertently omitted from the July 1, 2012 rate reduction (*Louisiana Register*, Volume 38, Number 9). This Emergency Rule is being promulgated to continue the provisions of the October 1, 2012 Emergency Rule. This action is being taken to avoid a budget deficit in the medical assistance programs.

Effective January 30, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services amend the provisions governing the reimbursement methodology for the Community Choices Waiver.

**Title 50
PUBLIC HEALTH-MEDICAL ASSISTANCE
Part XXI. Home and Community-Based Services
Waivers**

**Subpart 7. Community Choices Waiver
Chapter 95. Reimbursement
§9501. Reimbursement Methodology**

A. - H. ...

I. Effective for dates of service on or after July 1, 2012, the reimbursement rates for Community Choices Waiver personal assistance services furnished to one participant shall be reduced by 1.5 percent of the rates in effect on June 30, 2012.

J. Effective for dates of service on or after October 1, 2012, the reimbursement rates for in-home caregiver temporary support services provided by personal care attendants or a home health agency shall be reduced by 1.5 percent of the rates in effect on September 30, 2012.

K. Effective for dates of service on or after October 1, 2012, the reimbursement rates for caregiver temporary support services provided by an adult day health care center shall be reduced by 1.5 percent of the rates in effect on September 30, 2012.

L. Effective for dates of service on or after October 1, 2012, the reimbursement rates for adult day health care services shall be reduced by 1.5 percent of the rates in effect on September 30, 2012.

1. The provider-specific transportation component shall be excluded from this rate reduction.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:3525 (December 2011), amended LR 39:

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

Bruce D. Greenstein
Secretary

1301#101

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Hospice Services (LAC 50:XV.3101 and 3501)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XV.3101 and §3501 under 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 13 of the 2012 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, cost sharing, and other measures as permitted under federal law." This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

As a result of a budgetary shortfall in state fiscal year 2009, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for hospice services provided to long-term care residents to reduce the reimbursement rates (*Louisiana Register*, Volume 35, Number 9). The department promulgated an Emergency Rule which amended the provisions governing hospice services in order to bring these provisions into compliance with the requirements of the Patient Protection and Affordable Care Act (PPACA), and also amended the provisions governing prior authorization for hospice services in order to control the escalating costs associated with the Hospice Program (*Louisiana Register*, Volume 38, Number 3).

Due to a budgetary shortfall in state fiscal year 2013, the department has determined that it is necessary to amend the provisions governing the hospice program in order to discontinue new enrollments in the program. Recipients enrolled in the Hospice Program prior to February 1, 2013 will continue to receive hospice services. These provisions shall not apply to the provision of hospice services under the EPSDT program. Hospice is an optional service covered under the Medicaid State Plan. This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately \$4,164,273 for state fiscal year 2012-2013.

Effective February 1, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the Hospice Program in order to terminate new enrollments into the program.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 3. Hospice

Chapter 31. General Provisions

§3101. Introduction

A. - C. ...

D. Effective February 1, 2013, the Medicaid Program shall terminate new enrollments into the Hospice Program. Recipients currently receiving Medicaid covered hospice services prior to February 1, 2013 will continue to receive hospice care until they no longer meet the criteria for the program. This termination shall not apply to the provision of hospice services under the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1466 (June 2002), amended LR 30:1024 (May 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

Chapter 35. Recipient Eligibility

§3501. Election of Hospice Care

A. ...

1. Effective February 1, 2013, persons not having previously elected or currently receiving hospice care will not be eligible for hospice unless they have already been approved for hospice care through the Medicaid Program. These provisions shall not apply to the provision of hospice services under the EPSDT program.

2. Persons who were receiving Medicaid covered hospice care prior to February 1, 2013 will continue to receive services until they no longer meet the criteria for hospice care.

B. - H.3. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 19:749 (June 1993), amended LR 28:1466 (June 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

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

Bruce D. Greenstein
Secretary

1301#093

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 967)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:V. 953,955, and 967 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 13 of the 2012 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, cost sharing, and other measures as permitted under federal law." This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

As a result of a budgetary shortfall in state fiscal year (SFY) 2011, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for inpatient hospital services to reduce the reimbursement rates for inpatient hospital services rendered by non-rural, non-state hospitals (*Louisiana Register*, Volume 37, Number 7).

In anticipation of a budgetary shortfall in state fiscal year 2013 as a result of the reduction in the state's disaster recovery Federal Medical Assistance Percentage (FMAP) rate, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for inpatient hospital services to reduce the reimbursement rates paid to non-rural, non-state hospitals (*Louisiana Register*, Volume 38, Number 8).

Due to a continuing budgetary shortfall in SFY 2013, the department has determined that it is necessary to amend the provisions governing the reimbursement methodology for inpatient hospital services to further reduce the reimbursement rates paid to non-rural, non-state hospitals. This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that

implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately \$1,002,906 for state fiscal year 2012-2013.

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

Effective February 1, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for inpatient hospital services to reduce the reimbursement rates paid to non-rural, non-state hospitals.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Medical Services

Subpart 1. Inpatient Hospital Services

Chapter 9. Non-Rural, Non-State Hospitals

Subchapter B. Reimbursement Methodology

§953. Acute Care Hospitals

A. - R. ...

S. Effective for dates of service on or after February 1, 2013, the inpatient per diem rate paid to acute care hospitals shall be reduced by 1 percent of the per diem rate on file as of January 31, 2013.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:876 (May 2008), amended LR 34:877 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1895 (September 2009), amended LR 36:1552 (July 2010), LR 36:2561 (November, 2010), LR 37:2161 (July 2011), LR 39:

§955. Long Term Hospitals

A. - I. ...

J. Effective for dates of service on or after February 1, 2013, the inpatient per diem rate paid to long term hospitals shall be reduced by 1 percent of the per diem rate on file as of January 31, 2013.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR: 34:876 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1895 (September 2009), amended LR 36:1554 (July 2010), LR 36:2562 (November, 2010), LR 37:2162 (July 2011), LR 39:

§967. Children's Specialty Hospitals

A. - J. ...

K. Effective for dates of service on or after February 1, 2013, the per diem rates as calculated per §967.A.-C above shall be reduced by 1 percent. Final payment shall be the lesser of allowable inpatient acute care and psychiatric costs as determined by the cost report or the Medicaid discharges or days as specified per §967.A.-C for the period, multiplied by 84.67 percent of the target rate per discharge or per diem limitation as specified per §967.A.-C for the period.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, amended LR 36:2562 (November, 2010), LR 37:2162 (July 2011), LR 39:

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

Bruce D. Greenstein
Secretary

1301#092

DECLARATION OF EMERGENCY

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

Inpatient Hospital Services
Non-Rural, Non-State Public Hospitals
Reimbursement Methodology
(LAC 50:V.963)

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

As a result of a budgetary shortfall in state fiscal year 2011, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for inpatient hospital services to reduce the reimbursement rates for inpatient hospital services rendered by non-rural, non-state hospitals (*Louisiana Register*, Volume 37, Number 7).

The department promulgated an Emergency Rule which amended the provisions governing inpatient hospital services to provide supplemental Medicaid payments to qualifying non-rural, non-state public hospitals (*Louisiana Register*, Volume 38, Number 10). This Emergency Rule is being promulgated to continue the provisions of the October 1, 2012 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 Program.

Effective January 30, 2013, 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 public hospitals.

Title 50

PUBLIC HEALTH-MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 1. Inpatient Hospital Services

Chapter 9. Non-Rural, Non-State Hospitals

Subchapter B. Reimbursement Methodology

§963. Public Hospitals

A.- D.2. ...

E. In the event that there is allowable non-state public upper payment limit that is not utilized, additional non-state public hospitals as defined by the department may be qualified for this payment.

AUTHORITY NOTE: Promulgated in 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 39:

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

Bruce D. Greenstein
Secretary

1301#102

DECLARATION OF EMERGENCY

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

Inpatient Hospital Services
Public-Private Partnerships
Reimbursement Methodology
(LAC 50:V.1703)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:V.1703 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing inpatient hospital services to establish supplemental Medicaid payments to non-state owned hospitals in order to encourage them to take over the operation and management of state-owned and

operated hospitals that have terminated or reduced services. Participating non-state owned hospitals shall enter into a cooperative endeavor agreement with the department to support this public-provider partnership initiative (*Louisiana Register*, Volume 39, Number 11). The department now proposes to amend the provisions governing reimbursement for supplemental Medicaid payments for inpatient psychiatric hospital services provided by non-state owned hospitals participating in public-private partnerships.

This action is being taken to promote the health and welfare of Medicaid recipients by maintaining recipient access to much needed hospital services. It is estimated that implementation of this Emergency Rule will result in an estimated savings of \$2,616,083 to the Medicaid Program for state fiscal year 2012-2013.

Effective January 2, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing supplemental Medicaid payments for inpatient hospital services provided by non-state owned hospitals participating in public-private partnerships.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 1. Inpatient Hospital Services

Chapter 17. Public-Private Partnerships

§1703. Reimbursement Methodology

A. Payments to qualifying hospitals shall be made on a quarterly basis in accordance with 42 CFR 447.272.

B. Effective for dates of service on or after January 2, 2013, a new Medicaid enrolled non-state acute care hospital that enters into a cooperative endeavor agreement with the Department of Health and Hospitals to provide inpatient psychiatric hospital services to Medicaid and uninsured patients, and which also assumes the operation and management of a formerly state-owned and operated psychiatric hospital shall be paid a per diem rate of \$581.11 per day.

AUTHORITY NOTE: Promulgated in 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 39:

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

Bruce D. Greenstein
Secretary

1301#014

DECLARATION OF EMERGENCY

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

Inpatient Hospital Services
Small Rural Hospitals
Low Income and Needy Care Collaboration
(LAC 50:V.1125)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:V.1125 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

In compliance with Act 327 of the 2007 Regular Session of the Louisiana Legislature, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amended the reimbursement methodology governing state fiscal year 2009 Medicaid payments to small rural hospitals for inpatient acute care services and psychiatric services (*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 governing the reimbursement methodology for inpatient hospital services to provide for a supplemental Medicaid payment to small rural hospitals that enter into an agreement with a state or local governmental entity for the purpose of providing healthcare services to low income and needy patients (*Louisiana Register*, Volume 37, Number 11). This Emergency Rule is being promulgated to continue the provisions of the October 20, 2011 Emergency Rule. This action is being taken to secure new federal funding and to promote the public health and welfare of Medicaid recipients by ensuring sufficient provider participation in the Hospital Services Program.

Effective February 14, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for inpatient hospital services rendered by small rural hospitals.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 1. Inpatient Hospital Services

Chapter 11. Rural, Non-State Hospitals

Subchapter B. Reimbursement Methodology

§1125. Small Rural Hospitals

A. - D. ...

E. Low Income and Needy Care Collaboration. Effective for dates of service on or after October 20, 2011, quarterly supplemental payments shall be issued to qualifying 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-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 35:955 (May 2009), amended LR 39:

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

Bruce D. Greenstein
Secretary

1301#103

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

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

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:V.Chapter 63 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

Act 11 of the 2010 Regular Session of the Louisiana Legislature authorized the Department of Health and Hospitals, through its primary and preventive care activity, to provide reimbursement to providers for rendering services that will educate and encourage Medicaid enrollees to obtain appropriate preventive and primary care in order to improve their overall health and quality of life. In keeping with the intent of Act 11, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which adopted provisions in the Hospital Program to provide Medicaid reimbursement for diabetes self-management training (DSMT) services rendered in an outpatient hospital setting (*Louisiana Register*, Volume 37, Number 2). It is anticipated that this new service will promote improved patient self-management skills which will reduce diabetes-related complications that adversely affect quality of life, and subsequently reduce Medicaid costs associated with the care of recipients diagnosed with diabetes-related illnesses.

The department promulgated an Emergency Rule which amended the February 20, 2011 Emergency Rule to clarify the provisions governing service limits (*Louisiana Register*, Volume 37, Number 6). This Emergency Rule is being promulgated to continue the provisions of the June 20, 2011 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients diagnosed with diabetes and to ultimately reduce the Medicaid costs associated with their care.

Effective February 14, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the Hospital Program to provide coverage for diabetes self-management training services rendered in an outpatient hospital setting.

Title 50

PUBLIC HEALTH-MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 5. Outpatient Hospital Services

Chapter 63. Diabetes Education Services

Subchapter A. General Provisions

§6301. Introduction

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

§6303. Scope of Services

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

§6305. Provider Participation

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

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

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

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

Subchapter B. Reimbursement

§6311. Reimbursement Methodology

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

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

Bruce D. Greenstein
Secretary

1301#104

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Outpatient Hospital Services—Non-Rural, Non-State
Hospitals and Children’s Specialty Hospitals
Reimbursement Rate Reduction (LAC 50:V.5313, 5317,
5513, 5517, 5713, 5719, 6115 and 6119)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:V.5313, §5317, §5513, §5517, §5713, §5719, §6115 and §6119 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 13 of the 2012 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, cost sharing, and other measures as permitted under federal law.” This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

As a result of a budgetary shortfall in state fiscal year 2011, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for outpatient hospital services to reduce the reimbursement rates paid to non-rural, non-state hospitals and children’s specialty hospitals (*Louisiana Register*, Volume 37, Number 11).

In anticipation of a budgetary shortfall in state fiscal year 2013 as a result of the reduction in the state’s disaster recovery Federal Medical Assistance Percentage (FMAP) rate, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for outpatient hospital services to reduce the reimbursement rates paid to non-rural, non-state hospitals and children’s specialty hospitals (*Louisiana Register*, Volume 38, Number 8).

Due to a continuing budgetary shortfall, the department has determined that it is necessary to amend the provisions governing the reimbursement methodology for outpatient hospital services to further reduce the reimbursement rates paid to non-rural, non-state hospitals. This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately \$522,183 for state fiscal year 2012-2013.

Taking the proposed rate reductions 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) outpatient hospital services and children's specialty hospital services under the State Plan are available at least to the extent that they are available to the general population in the state.

Effective February 1, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for outpatient hospital services to reduce the reimbursement rates.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospitals

Subpart 5. Outpatient Hospitals

Chapter 53. Outpatient Surgery

Subchapter B. Reimbursement Methodology

§5313. Non-Rural, Non-State Hospitals

A. - G. ...

H. Effective for dates of service on or after February 1, 2013, the reimbursement rates paid to non-rural, non-state hospitals for outpatient surgery shall be reduced by 1 percent of the fee schedule on file as of January 31, 2013.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Service Financing, LR 35:1900 (September 2009), amended LR 36:1250 (June 2010), amended LR 36:1250 (June 2010), LR 36:2041 (September 2010), LR 37:3266 (November 2011), LR 39:

§5317. Children's Specialty Hospitals

A. - E. ...

F. Effective for dates of service on or after February 1, 2013, the reimbursement rates paid to children's specialty hospitals for outpatient surgery shall be reduced by 1 percent of the fee schedule on file as of January 31, 2013.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2042 (September 2010), amended LR 37:3266 (November 2011), LR 39:

Chapter 55. Clinic Services

Subchapter B. Reimbursement Methodology

§5513. Non-Rural, Non-State Hospitals

A. - G. ...

H. Effective for dates of service on or after February 1, 2013, the reimbursement rates paid to non-rural, non-state hospitals for outpatient clinic services shall be reduced by 1 percent of the fee schedule on file as of January 31, 2013.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Service Financing, LR 35:1900 (September 2009), amended LR 36:1250 (June 2010), amended LR 36:1250 (June 2010), LR 36:2042 (September 2010), LR 37:3266 (November 2011), LR 39:

§5517. Children's Specialty Hospitals

A. - E. ...

F. Effective for dates of service on or after February 1, 2013, the reimbursement rates paid to children's specialty hospitals for outpatient hospital clinic services shall be reduced by 1 percent of the fee schedule on file as of January 31, 2013.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2042 (September 2010), amended LR 37:3266 (November 2011), LR 39:

Chapter 57. Laboratory Services

Subchapter B. Reimbursement Methodology

§5713. Non-Rural, Non-State Hospitals

A. - G. ...

H. Effective for dates of service on or after February 1, 2013, the reimbursement rates paid to non-rural, non-state hospitals for outpatient laboratory services shall be reduced by 1 percent of the fee schedule on file as of January 31, 2013.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Service Financing, LR 35:1900 (September 2009), amended LR 36:1250 (June 2010), amended LR 36:1250 (June 2010), LR 36:2042 (September 2010), LR 37:3266 (November 2011), LR 39:

§5719. Children's Specialty Hospitals

A. - E. ...

F. Effective for dates of service on or after February 1, 2013, the reimbursement rates paid to children's specialty hospitals for outpatient clinical diagnostic laboratory services shall be reduced by 1 percent of the fee schedule on file as of January 31, 2013.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2043 (September 2010), amended LR 37:3267 (November 2011), LR 39:

Chapter 61. Other Outpatient Hospital Services

Subchapter B. Reimbursement Methodology

§6115. Non-Rural, Non-State Hospitals

A. - G. ...

H. Effective for dates of service on or after February 1, 2013, the reimbursement rates 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 1 percent of the rates in effect on January 31, 2013. Final reimbursement shall be at 66.46 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), amended LR 36:1250 (June 2010), amended LR 36:2043 (September 2010), LR 37:3267 (November 2011), LR 39:

§6119. Children's Specialty Hospitals

A. - E. ...

F. Effective for dates of service on or after February 1, 2013, the reimbursement fees paid to children's specialty hospitals for outpatient hospital services other than rehabilitation services and outpatient hospital facility fees shall be reduced by 1 percent of the rates in effect on January 31, 2013. Final reimbursement shall be 82.13 percent of allowable cost as calculated through the cost report settlement process.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2044 (September 2010), amended LR 37:3267 (November 2011), LR 39:

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

Bruce D. Greenstein
Secretary

1301#091

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Outpatient Hospital Services
Non-Rural, Non-State Public 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.

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 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 36, Number 12).

The department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for outpatient hospital services to provide supplemental Medicaid payments to qualifying non-rural, non-state public hospitals for state fiscal year 2013 (*Louisiana Register*, Volume 38, Number 10). This Emergency Rule is being promulgated to continue the provisions of the October 1, 2012 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 January 30, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for outpatient hospital services rendered by non-rural, non-state 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. Effective for dates of service on or after October 1, 2012, quarterly supplemental payments may be issued to qualifying non-rural, non-state public hospitals for outpatient surgical services rendered during the quarter. Payment amounts may be reimbursed up to the Medicare inpatient upper payment limits as determined in accordance with 42 CFR §447.272.

1. Qualifying criteria. In order to qualify for the quarterly supplemental payment, the non-rural, non-state public acute care hospital must be designated as a major teaching hospital by the department in state fiscal year 2011 and have provided at least 17,000 Medicaid acute care and distinct part psychiatric unit paid days for state fiscal year 2010 dates of service.

2. Each qualifying hospital may receive quarterly supplemental payments for the outpatient services rendered during the quarter. Quarterly payments may be the difference between each qualifying hospital's outpatient Medicaid billed charges and the 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.

AUTHORITY NOTE: Promulgated in 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 36:2867 (December 2010), amended LR 39:

Chapter 55. Clinic Services

Subchapter B. Reimbursement Methodology

§5515. Non-Rural, Non-State Public Hospitals

A. Effective for dates of service on or after October 1, 2012, quarterly supplemental payments may be issued to qualifying non-rural, non-state public hospitals for clinic services rendered during the quarter. Payment amounts may be reimbursed up to the Medicare inpatient upper payment limits as determined in accordance with 42 CFR §447.272.

1. Qualifying criteria. In order to qualify for the quarterly supplemental payment, the non-rural, non-state public acute care hospital must be designated as a major teaching hospital by the department in state fiscal year 2011 and have provided at least 17,000 Medicaid acute care and distinct part psychiatric unit paid days for state fiscal year 2010 dates of service.

2. Each qualifying hospital may receive quarterly supplemental payments for the outpatient services rendered during the quarter. Quarterly payments may be the difference between each qualifying hospital's outpatient Medicaid billed charges and the 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.

AUTHORITY NOTE: Promulgated in 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 36:2867 (December 2010), amended LR 39:

Chapter 57. Laboratory Services

Subchapter B. Reimbursement Methodology

§5717. Non-Rural, Non-State Public Hospitals

A. Effective for dates of service on or after October 1, 2012, quarterly supplemental payments may be issued to qualifying non-rural, non-state public hospitals for laboratory services rendered during the quarter. Payment amounts may be reimbursed up to the Medicare inpatient upper payment limits as determined in accordance with 42 CFR §447.272.

1. Qualifying criteria. In order to qualify for the quarterly supplemental payment, the non-rural, non-state public acute care hospital must be designated as a major teaching hospital by the department in state fiscal year 2011 and have provided at least 17,000 Medicaid acute care and distinct part psychiatric unit paid days for state fiscal year 2010 dates of service.

2. Each qualifying hospital may receive quarterly supplemental payments for the outpatient services rendered during the quarter. Quarterly payments may be the difference between each qualifying hospital's outpatient Medicaid billed charges and the 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.

AUTHORITY NOTE: Promulgated in 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 36:2868 (December 2010), LR 39:

Chapter 59. Rehabilitation Services

Subchapter B. Reimbursement Methodology

§5915. Non-Rural, Non-State Public Hospitals

A. Effective for dates of service on or after October 1, 2012, quarterly supplemental payments may be issued to qualifying non-rural, non-state public hospitals for rehabilitation services rendered during the quarter. Payment amounts may be reimbursed up to the Medicare inpatient upper payment limits as determined in accordance with 42 CFR §447.272.

1. Qualifying criteria. In order to qualify for the quarterly supplemental payment, the non-rural, non-state public acute care hospital must be designated as a major teaching hospital by the department in state fiscal year 2011 and have provided at least 17,000 Medicaid acute care and distinct part psychiatric unit paid days for state fiscal year 2010 dates of service.

2. Each qualifying hospital may receive quarterly supplemental payments for the outpatient services rendered during the quarter. Quarterly payments may be the difference between each qualifying hospital's outpatient Medicaid

billed charges and the 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.

AUTHORITY NOTE: Promulgated in 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 36:2867 (December 2010), amended LR 39:

Chapter 61. Other Outpatient Hospital Services

Subchapter B. Reimbursement Methodology

§6117. Non-Rural, Non-State Public Hospitals

A. Effective for dates of service on or after October 1, 2012, quarterly supplemental payments may be issued to qualifying non-rural, non-state public hospitals for outpatient services other than clinic services, diagnostic laboratory services, outpatient surgeries and rehabilitation services rendered during the quarter. Payment amounts may be reimbursed up to the Medicare inpatient upper payment limits as determined in accordance with 42 CFR §447.272.

1. Qualifying criteria. In order to qualify for the quarterly supplemental payment, the non-rural, non-state public acute care hospital must be designated as a major teaching hospital by the department in state fiscal year 2011 and have provided at least 17,000 Medicaid acute care and distinct part psychiatric unit paid days for state fiscal year 2010 dates of service.

2. Each qualifying hospital may receive quarterly supplemental payments for the outpatient services rendered during the quarter. Quarterly payments may be the difference between each qualifying hospital's outpatient Medicaid billed charges and the 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.

AUTHORITY NOTE: Promulgated in 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 36:2867 (December 2010), amended LR 39:

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

Bruce D. Greenstein
Secretary

1301#105

DECLARATION OF EMERGENCY

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

Personal Care Services—Long-Term
Policy Clarifications and Service Limit Reduction
(LAC 50:XV.12901-12909 and 12911-12915)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services amend LAC 50:XV.12901-12909 and §§12911-12915 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

Senate Resolution 180 and House Resolution 190 of the 2008 Regular Session of the Louisiana Legislature directed the department to develop and implement cost control mechanisms to provide the most cost-effective means of financing the Long-Term Personal Care Services (LT-PCS) Program. In compliance with these legislative directives, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services amended the provisions governing the LT-PCS Program to: 1) implement uniform needs-based assessments for authorizing service units; 2) reduce the limit on LT-PCS service hours; 3) mandate that providers must show cause for refusing to serve clients; and 4) incorporate provisions governing an allocation of weekly service hours (*Louisiana Register*, Volume 35, Number 11).

The department promulgated an Emergency Rule which amended the provisions governing long-term personal care services to: 1) establish provisions that address requests for services; 2) revise the eligibility criteria for LT-PCS; 3) clarify the provisions governing restrictions for paid direct care staff and the place of service; and 4) reduce the maximum allowed service hours (*Louisiana Register*, Volume 36, Number 8). The department promulgated an Emergency Rule which amended the provisions of the September 5, 2010 Emergency Rule to clarify the provisions of the Rule (*Louisiana Register*, Volume 36, Number 12). The department promulgated an Emergency Rule which amended the provisions of the December 20, 2010 Emergency Rule to further clarify the provisions of the Rule (*Louisiana Register*, Volume 37, Number 4). The department promulgated an Emergency Rule which amended the provisions of the April 20, 2011 Emergency Rule to bring these provisions in line with current licensing standards (*Louisiana Register*, Volume 37, Number 11). The department promulgated an Emergency Rule which amended the November 20, 2011 Emergency Rule to clarify the provisions governing the staffing requirements for LT-PCS (*Louisiana Register*, Volume 38, Number 1). The January 20, 2012 Emergency Rule was published with an error in the effective date and repromulgated with an editor's note in the

February 2012 *Louisiana Register* (*Louisiana Register*, Volume 38, Number 2). The department promulgated an Emergency Rule which amended the January 20, 2012 Emergency Rule to clarify provisions governing the place of service delivery (*Louisiana Register*, Volume 38, Number 2). This Emergency Rule is being promulgated to continue the provisions of the February 20, 2012 Emergency Rule. This action is being taken to avoid a budget deficit in the medical assistance programs.

Effective February 17, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services amend the provisions governing long-term personal care services.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 9. Personal Care Services

Chapter 129. Long Term Care

§12901. General Provisions

A. The purpose of personal care services is to assist individuals with functional impairments with their daily living activities. Personal care services must be provided in accordance with an approved service plan and supporting documentation. In addition, personal care services must be coordinated with the other Medicaid and non-Medicaid services being provided to the recipient and will be considered in conjunction with those other services.

B. Each recipient requesting or receiving long-term personal care services (LT-PCS) shall undergo a functional eligibility screening utilizing an eligibility screening tool called the Level of Care Eligibility Tool (LOCET), or a subsequent eligibility tool designated by the Office of Aging and Adult Services (OAAS).

C. Each LT-PCS applicant/recipient shall be assessed using a uniform assessment tool called the Minimum Data Set-Home Care (MDS-HC) or a subsequent assessment tool designated by OAAS. The MDS-HC is designed to verify that an individual meets eligibility qualifications and to determine resource allocation while identifying his/her need for support in performance of activities of daily living (ADLs) and instrumental activities of daily living (IADLs). The MDS-HC assessment generates a score which measures the recipient's degree of self-performance of late-loss activities of daily living during the period just before the assessment.

1. The late-loss ADLs are eating, toileting, transferring and bed mobility. An individual's assessment will generate a score which is representative of the individual's degree of self-performance on these four late-loss ADLs.

C.2. - C.7. Repealed.

D. Based on the applicant/recipient's uniform assessment score, he/she is assigned to a level of support category and is eligible for a set allocation of weekly service hours associated with that level.

1. If the applicant/recipient disagrees with his/her allocation of weekly service hours, the applicant/recipient or his/her responsible representative may request a fair hearing to appeal the decision.

2. The applicant/recipient may qualify for more hours if it can be demonstrated that:

a. one or more answers to the questions involving late-loss ADLs are incorrect as recorded on the assessment; or

b. he/she needs additional hours to avoid entering into a nursing facility.

E. Requests for personal care services shall be accepted from the following individuals:

1. a Medicaid recipient who wants to receive personal care services;

2. an individual who is legally responsible for a recipient who may be in need of personal care services; or

3. a responsible representative designated by the recipient to act on his/her behalf in requesting personal care services.

F. Each recipient who requests PCS has the option to designate a responsible representative. For purposes of these provisions, a responsible representative shall be defined as the person designated by the recipient to act on his/her behalf in the process of accessing and/or maintaining personal care services.

1. The appropriate form authorized by OAAS shall be used to designate a responsible representative.

a. The written designation of a responsible representative does not give legal authority for that individual to independently handle the recipient's business without his/her involvement.

b. The written designation is valid until revoked by the recipient. To revoke the written designation, the revocation must be submitted in writing to OAAS or its designee.

2. The functions of a responsible representative are to:

a. assist and represent the recipient in the assessment, care plan development and service delivery processes; and

b. to aid the recipient in obtaining all necessary documentation for these processes.

F.3 - F.4. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:911 (June 2003), amended LR 30:2831 (December 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 32:2082 (November 2006), LR 34:2577 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:2450 (November 2009), LR 39:

§12902. Participant Direction Option

A. The Office of Aging and Adult Services implements a pilot program, the Louisiana Personal Options Program (La POP), which will allow recipients who receive long term personal care services (LT-PCS) to have the option of utilizing an alternative method to receive and manage their services. Recipients may direct and manage their own services by electing to participate in La POP, rather than accessing their services through a traditional personal care agency.

1. La POP shall be implemented through a phase-in process in Department of Health and Hospitals administrative regions designated by OAAS.

A.2. - B.1. ...

2. With the assistance of a services consultant, participants develop a personal support plan based on their approved plan of care and choose the individuals they wish to hire to provide the services.

C. - E.1. ...

2. Change in Condition. The participant's ability to direct his/her own care diminishes to a point where he/she can no longer do so and there is no responsible representative available to direct the care.

3. Misuse of Monthly Allocation of Funds. The LA POP participant or his/her responsible representative uses the monthly budgeted funds to purchase items unrelated to personal care needs or otherwise misappropriate the funds.

4. Failure to Provide Required Documentation. The participant or his/her responsible representative fails to complete and submit employee time sheets in a timely and accurate manner, or provide required documentation of expenditures and related items as prescribed in the Louisiana Personal Options Program's Roles and Responsibility agreement.

5. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2578 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 39:

§12903. Covered Services

A. Personal care services are defined as those services that provide assistance with the distinct tasks associated with the performance of the activities of daily living (ADLs) and the instrumental activities of daily living (IADLs). Assistance may be either the actual performance of the personal care task for the individual or supervision and prompting so the individual performs the task by him/herself. ADLs are those personal, functional activities required by the recipient. ADLs include tasks such as:

1. - 5. ...
6. ambulation;
7. toileting; and
8. bed mobility.

B. IADLs are those activities that are considered essential, but may not require performance on a daily basis. IADLs cannot be performed in the recipient's home when he/she is absent from the home. IADLs include tasks such as:

1. light housekeeping;
2. food preparation and storage;
3. shopping;
4. laundry;
5. assisting with scheduling medical appointments when necessary;
6. accompanying the recipient to medical appointments when necessary;
7. assisting the recipient to access transportation;
8. reminding the recipient to take his/her medication as prescribed by the physician; and
9. medically non-complex tasks where the direct service worker has received the proper training pursuant to R.S. 37:1031-1034.

C. Emergency and nonemergency medical transportation is a covered Medicaid service and is available to all recipients. Non-medical transportation is not a required component of personal care services. However, providers may choose to furnish transportation for recipients during the course of providing personal care services. If transportation is furnished, the provider agency must accept any liability for their employee transporting a recipient. It is the responsibility of the provider agency to ensure that the employee has a current, valid driver's license and automobile liability insurance.

1. La POP participants may choose to use some of their monthly budget to purchase non-medical transportation.

a. If transportation is furnished, the participant must accept all liability for their employee transporting them. It is the responsibility of the participant to ensure that the employee has a current, valid driver's license and automobile liability insurance.

D. ...

E. La POP participants may choose to use their services budgets to pay for items that increase their independence or substitute for their dependence on human assistance. Such items must be purchased in accordance with the policies and procedures established by OAAS.

F. Personal care services may be provided by one worker for up to three long-term personal care service recipients who live together and who have a common direct service provider.

G. 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 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 39:

§12905. Eligibility Criteria

A. ...

B. Recipients must meet the eligibility criteria established by OAAS or its designee. Personal care services are medically necessary if the recipient:

1. meets the medical standards for admission to a nursing facility and requires limited assistance with at least one or more activities of daily living;

B.2. - D. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:912 (June 2003), amended LR 30:2831 (December 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office of Aging and Adult Services, LR 32:2082 (November 2006), LR 34:2579 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 39:

§12907. Recipient Rights and Responsibilities

A. - A.2. ...

3. training the individual personal care worker in the specific skills necessary to maintain the recipient's

independent functioning while maintaining him/her in the home;

4. developing an emergency component in the plan of care that includes a list of personal care staff who can serve as back-up when unforeseen circumstances prevent the regularly scheduled worker from providing services;

5. - 9. ...

B. Changing Providers. Recipients may request to change PCS agencies without cause once after each three month interval during the service authorization period. Recipients may request to change PCS providers with good cause at any time during the service authorization period. Good cause is defined as the failure of the provider to furnish services in compliance with the plan of care. Good cause shall be determined by OAAS or its designee.

C. In addition to these rights, a La POP participant has certain responsibilities, including:

1. ...

2. notifying the services consultant at the earliest reasonable time of admission to a hospital, nursing facility, rehabilitation facility or any other institution;

2.a. - 8. ...

9. training the direct service worker in the specific skills necessary to maintain the participant's independent functioning to remain in the home;

10. - 13. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:912 (June 2003), amended LR 30:2832 (December 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2579 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 39:

§12909. Standards for Participation

A. - A.1.c. ...

d. any federal or state laws, Rules, regulations, policies and procedures contained in the Medicaid provider manual for personal care services, or other document issued by the department. Failure to do may result in sanctions.

2. ...

B. In addition, a Medicaid enrolled agency must:

1. maintain adequate documentation as specified by OAAS, or its designee, to support service delivery and compliance with the approved POC and will provide said documentation at the request of the department or its designee; and

2. assure that all agency staff is employed in accordance with Internal Revenue Service (IRS) and Department of Labor regulations.

3 - 12.c. Repealed.

C. An LT-PCS provider shall not refuse to serve any individual who chooses his agency unless there is documentation to support an inability to meet the individual's needs, or all previous efforts to provide service and supports have failed and there is no option but to refuse services.

C.1. - D.2. ...

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

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

Services Financing, LR 29:912 (June 2003), amended LR 30:2832 (December 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2579 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:2451 (November 2009), amended LR 39:

§12910. La POP Standards for Participation

A. Direct service workers employed under LA POP must meet the same requirements as those hired by a PCS agency.

B. All workers must be employed in accordance with Internal Revenue Service (IRS) and Department of Labor regulations.

B.1. - 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 Aging and Adult Services, LR 34:2580 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and Office of Aging and Adult Services, LR 39:

§12911. Staffing Requirements

A. All staff providing direct care to the recipient, whether they are employed by a PCS agency or a recipient participating in La POP, must meet the qualifications for furnishing personal care services per the licensing regulations. The direct service worker shall demonstrate empathy toward the elderly and persons with disabilities, an ability to provide care to these recipients, and the maturity and ability to deal effectively with the demands of the job.

B. - B.3. Repealed.

C. Restrictions

1. The following individuals are prohibited from being reimbursed for providing services to a recipient:

- a. the recipient's spouse;
- b. the recipient's curator;
- c. the recipient's tutor;
- d. the recipient's legal guardian;
- e. the recipient's designated responsible representative; or

f. the person to whom the recipient has given Representative and Mandate authority (also known as Power of Attorney).

D. - E.1.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 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 39:

§12912. Training

A. Training costs for direct service workers employed by La POP participants shall be paid out of the La POP participant's personal supports plan budget.

B. - H. 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 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 39:

§12913. Service Delivery

A. Personal care services shall be provided in the recipient's home or in another location outside of the recipient's home if the provision of these services allows the recipient to participate in normal life activities pertaining to the IADLs cited in the plan of care. The recipient's home is defined as the place where he/she resides such as a house, an apartment, a boarding house, or the house or apartment of a family member or unpaid primary care-giver. IADLs cannot be performed in the recipient's home when the recipient is absent from the home.

1. - 4. Repealed.

B. The provision of services outside of the recipient's home does not include trips outside of the borders of the state without written prior approval of OAAS or its designee, through the plan of care or otherwise.

C. Participants are not permitted to receive LT-PCS while living in a home or property owned, operated, or controlled by a provider of services who is not related by blood or marriage to the participant.

1 - 3. Repealed.

D. - E. ...

F. It is permissible for an LT-PCS recipient to use his/her approved LT-PCS weekly allotment flexibly provided that it is done so in accordance with the recipient's preferences and personal schedule and is properly documented in accordance with OAAS policy.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:913 (June 2003), amended LR 30:2833 (December 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2581 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Financing and the Office of Aging and Adult Services, LR 39:

§12915. Service Limitations

A. Personal care services shall be limited to up to 32 hours per week. Authorization of service hours shall be considered on a case-by-case basis as substantiated by the recipient's plan of care and supporting documentation.

B. There shall be no duplication of services.

1. Personal care services may not be provided while the recipient is admitted to or attending a program which provides in-home assistance with IADLs or ADLs or while the recipient is admitted to or attending a program or setting where such assistance is available to the recipient.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:913 (June 2003), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2581 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:2451 (November 2009), amended LR 39:

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is

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

Bruce D. Greenstein
Secretary

1301#106

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Pregnant Women Extended Services—Dental Services Program Termination (LAC 50:XV.Chapter 161)

The Department of Health and Hospitals, Bureau of Health Services Financing repeals LAC 50:XV.Chapter 161 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 13 of the 2012 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, cost sharing, and other measures as permitted under federal law.” This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

As a result of a budgetary shortfall in state fiscal year 2011, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for dental services to reduce the reimbursement rates for services rendered to Medicaid eligible pregnant women (*Louisiana Register*, Volume 37, Number 11). Due to a budgetary shortfall in state fiscal year 2013, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for dental services rendered to Medicaid eligible pregnant women to reduce the reimbursement rates (*Louisiana Register*, Volume 38, Number 7).

Due to a continuing budgetary shortfall in state fiscal year 2013, the department has determined that it is necessary to repeal the provisions governing dental services rendered to Medicaid eligible pregnant women in order to terminate these services. Dental services provided in the Pregnant Women Extended Services Program are an optional covered service under the Medicaid State Plan. This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately \$1,354,166 for state fiscal year 2012-2013.

Effective February 1, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing repeals the provisions governing dental services rendered to Medicaid eligible pregnant women in order to terminate the program.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 13. Pregnant Women Extended Services

Chapter 161. Dental Services

§16101. Recipient Qualifications

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 30:434 (March 2004), amended LR 30:2834 (December 2004), LR 39:

§16103. Provider Responsibilities

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 30:434 (March 2004), LR 39:

§16105. Covered 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 30:434 (March 2004), amended LR 34:442 (March 2008), LR 34:1419 (July 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1902 (September 2009), LR 39:

§16107. Reimbursement

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 30:434 (March 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1902 (September 2009), LR 36:2044 (September 2010), LR 37:3270 (November 2011), LR 39:

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

Bruce D. Greenstein
Secretary

1301#090

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Pregnant Women Extended Services
Substance Abuse Screening and Intervention Services
(LAC 50:XV.Chapter 163)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XV.Chapter 163 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing provides expanded coverage of certain dental services rendered to Medicaid eligible pregnant women who are in need of periodontal treatment as a means of improving the overall health of mothers and their newborns (*Louisiana Register*, Volume 30, Number 3).

As part of the Department of Health and Hospital's ongoing initiative to improve birth outcomes in the state, the Bureau of Health Services Financing, in collaboration with the Office of Behavioral Health, promulgated an Emergency Rule which adopted provisions to establish Medicaid coverage for substance abuse screening and brief intervention services rendered to Medicaid eligible pregnant women (*Louisiana Register*, Volume 37, Number 4). Research has shown that tobacco dependence and substance abuse intervention programs targeted to pregnant women improves the overall health of the mother and reduces the occurrences of low birth-weight babies and perinatal deaths. It is anticipated that these new services will improve birth outcomes and subsequently reduce Medicaid costs associated with the care of pregnant women and their babies.

The department promulgated an Emergency Rule which amended the April 1, 2011 Emergency Rule in order to require providers to use the Louisiana Health Assessment Referral and Treatment System (LaHART) to receive payment for substance abuse screening and brief intervention services rendered to Medicaid eligible pregnant women (*Louisiana Register*, Volume 38, Number 11). LaHART is a web-based, prenatal behavioral health screening system that screens for tobacco, drug and alcohol abuse as well as domestic violence.

The department now proposes to amend the November 20, 2012 Emergency Rule in order to allow additional LaHART screening and brief intervention services during the service limit time period under certain circumstances. This action is being taken to promote the health and welfare of Medicaid eligible pregnant women and to reduce the Medicaid costs associated with the care of pregnant women and their babies.

Effective January 20, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions of the November 20, 2012 Emergency Rule governing Medicaid coverage of substance abuse screening

and brief intervention services rendered to Medicaid eligible pregnant women.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 13. Pregnant Women Extended Services

Chapter 163. Substance Abuse Screening and Intervention Services

§16301. General Provisions

A. Effective for dates of service on or after April 1, 2011, the department shall provide coverage of substance abuse screening and brief intervention services rendered to Medicaid eligible pregnant women with the Louisiana Health Assessment Referral and Treatment system.

B. Substance abuse screening and intervention services may be performed with the Louisiana Health Assessment Referral and Treatment system at the discretion of the medical professional providing care to the pregnant woman.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

§16303. Scope of Services

A. Screening services shall include the screening of pregnant women with the Louisiana Health Assessment Referral and Treatment system for the use of:

1. alcohol;
2. tobacco;
3. drugs; and/or
4. domestic violence.

B. Intervention services shall include a brief 15-30 minute counseling session with a health care professional intended to help motivate the recipient to develop a plan to moderate or cease their use of alcohol, tobacco, or drugs.

C. Service Limits. Substance abuse screening and intervention services shall be limited to one occurrence each per pregnancy, or once every 270 days.

1. If the patient experiences a miscarriage or fetal death and becomes pregnant within the 270 day period, all LaHART screening and brief intervention services will be reimbursed for the subsequent pregnancy.

AUTHORITY NOTE: Promulgated in 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 39:

§16305. Reimbursement Methodology

A. Effective for dates of service on or after April 1, 2011, the Medicaid Program shall provide reimbursement for substance abuse screening and intervention services rendered to Medicaid eligible pregnant women.

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

C. Effective for dates of service on or after January 1, 2013, Medicaid reimbursement for substance abuse screening and intervention services shall only be made to providers with documented use of the LaHART system.

AUTHORITY NOTE: Promulgated in 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 39:

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

Bruce D. Greenstein
Secretary

1301#089

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Professional Services Program—Children’s Immunizations Reimbursement Methodology (LAC 50:IX.8305)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:IX.8305 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amended the reimbursement methodology governing Medicaid payments to providers for the administration of vaccines to children, and incorporated these provisions into the *Louisiana Administrative Code* in a codified format (*Louisiana Register*, Volume 35, Number 1).

The Patient Protection and Affordable Care Act (PPACA) requires states to reimburse certain primary care services, including the administration of specified children’s immunizations, at the rates that would be paid for the services (if they were covered) under Medicare. In compliance with PPACA and federal regulations, the department amends the provisions governing the reimbursement methodology for Medicaid payments to providers for the administration of certain vaccines to children to increase the reimbursement rates.

This action is being taken to avoid federal sanctions and to secure enhanced federal funding. It is anticipated that implementation of this Emergency Rule will increase expenditures in the Medicaid Program by approximately \$11,017 for state fiscal year 2012-2013.

Effective January 1, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for the administration of children’s immunizations.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part IX. Professional Services Program

Subpart 7. Immunizations

Chapter 83. Children’s Immunizations

§8305. Reimbursement Methodology

A. - B. ...

C. Effective for dates of service on or after January 1, 2013-December 31, 2014, certain vaccine administration services shall be reimbursed at the payment rates that apply to such services and physicians under Part B of Title XVIII of the Social Security Act (Medicare).

1. The following vaccine service codes, when covered by the Medicaid Program, shall be reimbursed at the Medicare rate:

a. 90460, 90461, 90471, 90472, 90473 and 90474;

or

b. their successor codes as specified by the U.S. Department of Health and Human Services.

2. Qualifying Criteria. Reimbursement shall be limited to specified services furnished by a physician, either a doctor of osteopathy or a medical doctor or under the personal supervision of a physician, who attests to a specialty or subspecialty designation in family medicine, general internal medicine or pediatrics, and also attests to meeting one or more of the following criteria:

a. certification as a specialist or subspecialist within family medicine, general internal medicine or pediatric medicine by the American Board of Medical Specialists (ABMS), the American Board of Physician Specialties (ABPS), or the American Osteopathic Association (AOA); or

b. specified evaluation and management (E&M) and vaccine services that equal at least 60 percent of total Medicaid codes paid during the most recently completed calendar year, or for newly eligible physicians the prior month.

3. Payment Methodology. For vaccines provided under the Vaccines for Children Program in calendar years 2013 and 2014, the reimbursement shall be the lesser of the:

a. regional maximum administration fee; or

b. Medicare fee schedule rate in CY 2013 or 2014 that is applicable to the office setting and reflects the mean value over all counties of the rate for each of the specified code(s) (or, if higher, the rate using the 2009 conversion factor and the 2013 and 2014 RVUs) as approved by the Centers for Medicare and Medicaid Services.

4. The department shall make a payment to the provider for the difference between the Medicare and Medicaid rates.

AUTHORITY NOTE: Promulgated in 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 35:71 (January 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

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

Bruce D. Greenstein
Secretary

1301#015

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Professional Services Program
Diabetes Self-Management Training
(LAC 50:IX.701, 703, 705 and 15103)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:IX.Chapter 7 and §15103 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

Act 11 of the 2010 Regular Session of the Louisiana Legislature authorized the Department of Health and Hospitals, through its primary and preventive care activity, to provide reimbursement to providers for rendering services that will educate and encourage Medicaid enrollees to obtain appropriate preventive and primary care in order to improve their overall health and quality of life. In keeping with the intent of Act 11, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing the Professional Services Program to provide Medicaid reimbursement for diabetes self-management training (DSMT) services (*Louisiana Register*, Volume 37, Number 2). It is anticipated that this new service will promote improved patient self-management skills which will reduce diabetes-related complications that adversely affect quality of life, and subsequently reduce Medicaid costs associated with the care of recipients diagnosed with diabetes-related illnesses.

The department promulgated an Emergency Rule which amended the provisions of the February 20, 2011 Emergency Rule governing the Professional Services Program in order to clarify the provider participation requirements for the provision of DSMT services (*Louisiana Register*, Volume 37, Number 6). This Emergency Rule is being promulgated to continue the provisions of the June 20, 2011 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients diagnosed with diabetes and to reduce the Medicaid costs associated with their care.

Effective February 14, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing diabetes self-management training services rendered in the Professional Services Program.

Title 50

PUBLIC HEALTH-MEDICAL ASSISTANCE

Part IX. Professional Services Program

Subpart 1. General Provisions

Chapter 7. Diabetes Education Services

§701. General Provisions

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

§703. Scope of Services

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

B. Service Limits. Recipients shall receive up to 10 hours of services during the first 12-month period beginning with the initial training. After the first 12-month period has ended, recipients shall only be eligible for two hours of individual instruction on diabetes self-management per calendar year.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

§705. Provider Participation

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

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

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

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

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

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

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

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

Subpart 15. Reimbursement

Chapter 151. Reimbursement Methodology

Subchapter A. General Provisions

§15103. Diabetes Education Services

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

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

Bruce D. Greenstein
Secretary

1301#107

DECLARATION OF EMERGENCY

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

Professional Services Program
Physician Services
Reclassification of Optometry Services
(LAC 50:IX.15113 and 15115)

The Department of Health and Hospitals, Bureau of Health Services Financing repeals the February 1982, January 1987, February 1987, and April 1987 Rules governing optometry services, and amends LAC 50:IX.15111 and §15113 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing provides Medicaid reimbursement for optometry services as an optional covered service under the Medicaid State Plan. Optometrists are classified in the Medicaid State Plan as other licensed practitioners and their services are not considered mandatory physician services.

The American Recovery and Reinvestment Act (ARRA) of 2009 authorized 100 percent federal financial participation to states for the purpose of establishing incentive payments to encourage Medicaid health care providers to adopt, implement, and use certified electronic health records (EHR) technology. The Act does not provide for incentive payments to optometrist unless the services rendered by these practitioners are classified as mandatory physician services under the Medicaid State Plan.

Since the department already provides Medicaid reimbursement to participating optometrist to the same extent as physicians who perform the same eye care services, the department promulgated an Emergency Rule which amended the provisions governing physician services in the Professional Services Program in order to reclassify optometry services as a mandatory physician service under the Medicaid State Plan (*Louisiana Register*, Volume 38, Number 10). This reclassification will allow optometrists to qualify for EHR incentive payments. This Emergency Rule also repeals the February 1982, January 1987, February 1987, and April 1987 Rules governing optometry services, and revises and repromulgates the June 1985 Rule in a codified format for inclusion in the *Louisiana Administrative Code*. This Emergency Rule is being promulgated to continue the provisions of the October 1, 2012 Emergency Rule. This action is being taken to secure new and enhanced federal funding, and to expand provider participation in the EHR Incentive Payment Program.

Effective January 30, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing physician services covered in the Professional Services Program.

Title 50

PUBLIC HEALTH – MEDICAL ASSISTANCE

Part IX. Professional Services Program

Subpart 15. Reimbursement

Chapter 151. Reimbursement Methodology

Subchapter B. Physician Services

§15113. General Provisions

A. The reimbursement rates for physician services shall be a flat fee for each covered service as specified on the established Medicaid fee schedule. The reimbursement rates shall be based on a percentage of the Louisiana Medicare Region 99 allowable for a specified year.

B. Optometry Services

1. Effective October 1, 2012, eye care services rendered by a participating optometrist, within their scope of optometric practice, shall be classified and reimbursed under the Medicaid State Plan as a mandatory physician service to the same extent, and according to the same standards as physicians who perform the same eye care services.

2. Recipients in the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program are excluded from optometry service limits.

3. The Medicaid Program shall not provide reimbursement for eyeglasses provided to Medicaid recipients 21 years of age or older.

AUTHORITY NOTE: Promulgated in 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 39:

§15115. Reimbursement

A. 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.

B. 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.

C. 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.

D. 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.

E. 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.

F. 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.

G. 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.

H. Effective for dates of service on or after December 1, 2010, reimbursement shall be 90 percent of the 2009 Louisiana Medicare Region 99 allowable for the following obstetric services when rendered to recipients 16 years of age and older:

1. vaginal-only delivery (with or without postpartum care);
2. vaginal delivery after previous cesarean (VBAC) delivery; and
3. cesarean delivery following attempted vaginal delivery after previous cesarean delivery. The reimbursement for a cesarean delivery remains at 80 percent of the 2009 Louisiana Medicare Region 99 allowable when the service is rendered to recipients 16 years of age and older.

AUTHORITY NOTE: Promulgated in 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 36:2282 (October 2010), amended LR 37:904 (March 2011), LR 39:

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

Bruce D. Greenstein
Secretary

1301#109

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Professional Services Program—Physician Services Reimbursement Methodology (LAC 50:IX.15113)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:IX.15113 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for physician services to increase the reimbursement rates for obstetric delivery services (*Louisiana Register*, Volume 37, Number 3).

As a result of a budgetary shortfall in state fiscal year 2013, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for physician services to reduce the reimbursement rates and discontinue reimbursement for certain procedures (*Louisiana Register*, Volume 38, Number 7).

The Patient Protection and Affordable Care Act (PPACA) requires states to reimburse certain primary care services at the rates that would be paid for the services (if they were covered) under Medicare. In compliance with PPACA and federal regulations, the department amends the provisions governing the reimbursement methodology for physician services to increase the reimbursement rates.

This action is being taken to avoid federal sanctions and to secure enhanced federal funding. It is anticipated that implementation of this Emergency Rule will increase expenditures in the Medicaid Program by approximately \$171,367 for state fiscal year 2012-2013.

Effective January 1, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for physician services covered in the Professional Services Program.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part IX. Professional Services Program

Subpart 15. Reimbursement

Chapter 151. Reimbursement Methodology

Subchapter B. Physician Services

§15113. Reimbursement Methodology

A. - J.3. ...

K. Effective for dates of service on or after January 1, 2013-December 31, 2014, certain physician services shall be reimbursed at the payment rates that apply to such services and physicians under Part B of Title XVIII of the Social Security Act (Medicare).

1. The following physician service codes, when covered by the Medicaid Program, shall be reimbursed at the Medicare rate:

a. evaluation and management (E and M) codes 99201-99499; or

b. their successor codes as specified by the U.S. Department of Health and Human Services.

2. Qualifying Criteria. Reimbursement shall be limited to specified services furnished by or under the personal supervision of a physician, either a doctor of osteopathy or a medical doctor, who attests to a specialty or subspecialty designation in family medicine, general internal medicine or pediatrics, and who also attests to meeting one or more of the following criteria:

a. certification as a specialist or subspecialist in family medicine, general internal medicine or pediatric medicine by the American Board of Medical Specialists (ABMS), the American Board of Physician Specialties (ABPS), or the American Osteopathic Association (AOA); or

b. specified evaluation and management (E and M) and vaccine services that equal at least 60 percent of total Medicaid codes paid during the most recently completed calendar year, or for newly eligible physicians the prior month.

3. Payment Methodology. For calendar years 2013 and 2014, the reimbursement shall be the lesser of the:

a. Medicare Part B fee schedule rate that is applicable to the office setting and reflects the mean value over all counties of the rate for each of the specified E&M codes using the Medicare physician fee schedule rate in effect in calendar years 2013 and 2014 or, if greater, the payment rates that would be applicable in those years using the calendar year 2009 Medicare physician fee schedule conversion factor multiplied by the calendar year 2013 and 2014 relative value units in accordance with 42 CFR 447.405. If there is no applicable rate established by Medicare, the reimbursement shall be the rate specified in a fee schedule established and announced by the Centers for Medicare and Medicaid Services (CMS); or

b. provider's actual billed charge for the service.

4. The department shall make payment to the provider for the difference between the Medicare and Medicaid rates on a quarterly basis or other period as approved by CMS.

AUTHORITY NOTE: Promulgated in 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 36:1252 (June 2010), amended LR 36:2282 (October 2010), LR 37:904 (March 2011), LR 39:

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

Bruce D. Greenstein
Secretary

1301#016

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Professional Services Program Physician Services Reimbursement Rate Reduction (LAC 50:IX.15113)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:IX.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 House Bill 1 of the 2012 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, cost sharing, and other measures as permitted under federal law." This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for physician services to increase the reimbursement rates for obstetric delivery services (*Louisiana Register*, Volume 37, Number 3).

As a result of a budgetary shortfall in state fiscal year 2013, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for physician services to reduce the reimbursement rates and discontinue reimbursement for certain procedures (*Louisiana Register*, Volume 38, Number 7). The department promulgated an Emergency Rule which amended the provisions of the July 1, 2012 Emergency Rule in order to revise the formatting to ensure that these provisions are promulgated in a clear and concise manner (*Louisiana Register*, Volume 38, Number 10). This Emergency Rule is being promulgated to continue the provisions of the October 20, 2012 Emergency Rule. This action is being taken to avoid a budget deficit in the medical assistance programs.

Effective February 18, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for physician services.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part IX. Professional Services Program

Subpart 15. Reimbursement

Chapter 151. Reimbursement Methodology

Subchapter B. Physician Services

§15113. Reimbursement

A. - H.3....

I. Effective for dates of service on or after July 1, 2012, reimbursement shall be as follows for the designated physician services:

1. reimbursement for professional services procedure (consult) codes 99241-99245 and 99251-99255 shall be discontinued;

2. cesarean delivery fees (procedure codes 59514-59515) shall be reduced to equal corresponding vaginal delivery fees (procedure codes 59409-59410); and

3. reimbursement for all other professional services procedure codes, exclusive of Affordable Care Act primary care procedure codes, shall be reduced by 3.4 percent of the rates on file as of June 30, 2012.

AUTHORITY NOTE: Promulgated in 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 36:2282 (October 2010), amended LR 37:904 (March 2011), LR 39:

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

Bruce D. Greenstein
Secretary

1301#108

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

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

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:IX.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 13 of the 2012 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, cost sharing, and other measures as permitted under federal law." This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for physician services to increase the reimbursement rates for obstetric delivery services (*Louisiana Register*, Volume 37, Number 3).

As a result of a budgetary shortfall in state fiscal year 2013, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for physician services to reduce the reimbursement rates and discontinue reimbursement for certain procedures (*Louisiana Register*, Volume 38, Number 7). The department subsequently amended the provisions of the July 1, 2012 Emergency Rule in order to revise the formatting to ensure that these provisions are promulgated in a clear and concise manner (*Louisiana Register*, Volume 38, Number 10). In compliance with the Patient Protection and Affordable Care Act (PPACA) and federal regulations, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for physician services in order to increase the reimbursement rates (*Louisiana Register*, Volume 39, Number 1).

Due to a continuing budgetary shortfall in state fiscal year 2013, the department has determined that it is necessary to amend the provisions governing the reimbursement methodology for physician services in order to further reduce the reimbursement rates. This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately \$280,557 for state fiscal year 2012-2013.

Effective February 1, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for physician services in order to further reduce the reimbursement rates.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part IX. Professional Services Program

Subpart 15. Reimbursement

Chapter 151. Reimbursement Methodology

Subchapter B. Physician Services

§15113. Reimbursement

A. - J.4. ...

K. Effective for dates of service on or after February 1, 2013, the reimbursement for certain physician services shall be reduced by 1 percent of the rate in effect on January 31, 2013.

1. Specified primary care services rendered by a physician with a specialty designation of family medicine, internal medicine, or pediatrics shall be excluded from the February 1, 2013 rate reduction. Rates for such services are exempt from the rate reduction, paralleling the January 1, 2013 implementation of Affordable Care Act requirements for Medicaid to reimburse at the Medicare rate for such services rendered in calendar years 2013 and 2014.

AUTHORITY NOTE: Promulgated in 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 36:2282 (October 2010), amended LR 37:904 (March 2011), LR 39:

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

Bruce D. Greenstein
Secretary

1301#088

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Rehabilitation Clinics

Termination of Coverage for Recipients 21 and Older (LAC 50:XI.103 and 301)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XIII.103 and §301 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 13 of the 2012 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, cost sharing, and other measures as permitted under federal law." This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repromulgated the provisions governing the covered services and reimbursement paid to rehabilitation clinics in a codified format for inclusion in the *Louisiana Administrative Code* (*Louisiana Register*, Volume 30, Number 5).

Due to a budgetary shortfall in state fiscal year 2013, the Department of Health and Hospitals, Bureau of Health Services Financing has determined that it is necessary to amend the provisions governing rehabilitation clinics in order to terminate the coverage and Medicaid reimbursement of services rendered to recipients 21 years of age and older. This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately \$370,862 for state fiscal year 2012-2013.

Effective February 1, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing rehabilitation clinic services rendered to recipients 21 years of age and older in order to terminate coverage of these services.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XI. Clinic Services
Subpart 1. Rehabilitation Clinics

Chapter 1. General Provisions

§103. Services

A. ...

B. Effective for dates of service on or after February 1, 2013, the department terminates the coverage of all rehabilitation services to recipients 21 years of age and older.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:13 (January 1983), repromulgated for inclusion in LAC, LR 30:1021 (May 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

Chapter 3. Reimbursement

§301. Rehabilitation (Ages 3 and Older)

A. - B. ...

C. Effective for dates of service on or after February 1, 2013, reimbursement shall not be made for services rendered to recipients 21 years of age and older.

AUTHORITY NOTE: Promulgated in 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 22:109 (February 1996), amended LR 23:731 (June 1997), repromulgated for inclusion in LAC, LR 30:1021 (May 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

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

Bruce D. Greenstein
Secretary

1301#087

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing

Targeted Case Management—HIV Coverage Termination
(LAC 50:XV.10505, 10701 and Chapter 119)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XV.10505, §10701 and repeals Chapter 119 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 13 of the 2012 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, cost sharing, and other measures as permitted under federal law.” This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Public Health (OPH) amended the provisions governing the reimbursement of targeted case management (TCM) services rendered by the Office of Public Health in the Nurse Family Partnership Program in order to establish Medicaid payment of uncompensated care costs for services rendered by OPH to Medicaid eligible recipients (*Louisiana Register*, Volume 39, Number 1).

Due to a budgetary shortfall in state fiscal year 2013, the Department of Health and Hospitals, Bureau of Health Services Financing has determined that it is necessary to amend the provisions governing targeted case management in order to terminate the coverage and Medicaid reimbursement of TCM services rendered to HIV disabled individuals. This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately \$65,263 for state fiscal year 2012-2013.

Effective February 1, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing targeted case management in order to terminate the coverage of services rendered to HIV disabled individuals.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XV. Services for Special Populations
Subpart 7. Targeted Case Management

Chapter 105. Provider Participation

§10505. Staff Education and Experience

A. - D.2. ...

E. Case Manager Trainee

1. The case management agency must obtain prior approval from the Bureau before a case management trainee can be hired. The maximum allowable caseload for a case manager trainee is 20 recipients. The case management trainee position may be utilized to provide services to the following target populations:

- a. ...
- b. New Opportunities Waiver;
- c. Elderly and Disabled Adult Waiver;
- d. Targeted EPSDT; and
- e. Children’s Choice Waiver.
- f. Repealed.

2. - 2.e. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1038 (May 2004),

amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:1608 (September 2006), amended LR 34:663 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

Chapter 107. Reimbursement

§10701. Reimbursement

A. - H.3.a. ...

1. Effective for dates of service on or after February 1, 2013, reimbursement shall not be made for case management services rendered to HIV disabled individuals.

AUTHORITY NOTE: Promulgated in 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), amended LR 35:73 (January 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, amended LR 35:1903 (September 2009), amended LR 36:1783 (August 2010), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

Chapter 119. HIV Disabled

§11901. Introduction

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 30:1043 (May 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

§11903. Recipient Requirements

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 30:1043 (May 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

§11905. Provider Requirements

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 30:1043 (May 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

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

Bruce D. Greenstein
Secretary

1301#086

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Targeted Case Management—Nurse Family Partnership Program Termination (LAC 50:XV.10505, 10701 and Chapter 111)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XV.10505, §10701 and repeals Chapter 111 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 13 of the 2012 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, cost sharing, and other measures as permitted under federal law.” This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Public Health (OPH) amended the provisions governing the reimbursement of targeted case management (TCM) services rendered by the Office of Public Health in the Nurse Family Partnership Program in order to establish Medicaid payment of uncompensated care costs for services rendered by OPH to Medicaid eligible recipients (*Louisiana Register*, Volume 39, Number 1).

Due to a budgetary shortfall in state fiscal year 2013, the Department of Health and Hospitals, Bureau of Health Services Financing has determined that it is necessary to amend the provisions governing targeted case management in order to terminate the Nurse Family Partnership Program and Medicaid reimbursement of TCM services to first-time mothers. This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately \$505,157 for state fiscal year 2012-2013.

Effective February 1, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing targeted case management in order to terminate the Nurse Family Partnership Program.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 7. Targeted Case Management

Chapter 105. Provider Participation

§10505. Staff Education and Experience

A. ...

B. Case Managers. All case managers must meet one of the following minimum education and experience qualifications:

1. - 3.a. ...
- b. Repealed.
4. ...

C. Case Management Supervisors. All case management supervisors must meet one of the following education and experience requirements:

C.1. - E.2.e. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1038 (May 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:1608 (September 2006), amended LR 34:663 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

Chapter 107. Reimbursement

§10701. Reimbursement

A. - I. ...

J. Effective for dates of service on or after February 1, 2013, the department shall terminate the Nurse Family Partnership Program and Medicaid reimbursement of targeted case management services to first-time mothers.

AUTHORITY NOTE: Promulgated in 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), amended LR 35:73 (January 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, amended LR 35:1903 (September 2009), amended LR 36:1783 (August 2010), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

Chapter 111. Nurse Family Partnership Program

§11101. Introduction

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 Community Supports and Services, LR 30:1041 (May 2004), amended LR 31:2028 (August 2005), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1036 (June 2008), amended LR 36:1783 (August 2010), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

§11103. Recipient Qualifications

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 Community Supports and Services, LR 30:1041 (May 2004), amended LR 31:2028 (August 2005), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1037 (June 2008), amended LR 36:1783 (August 2010), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

§11105. Staff Qualifications

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 26:2796 (December 2000), repromulgated for inclusion in LAC, LR 30:1042 (May 2004), amended LR 31:2028 (August 2005), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

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

Bruce D. Greenstein
Secretary

1301#085

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of Public Health

Review and Approval of Plans and
Specifications for Issuance of a Permit
for a Potable Water Supply (LAC 51:XII.105)

The state health officer, acting through the Department of Health and Hospitals, Office of Public Health (DHH-OPH), pursuant to the rulemaking authority granted by R.S. 40:4(A)(8) and (13), hereby adopts the following emergency rule to prevent an imminent peril to the public welfare. This rule is being promulgated in accordance with the Administrative Procedure Act (R.S.49:950 et seq.).

The state health officer, through DHH/OPH, finds it necessary to promulgate an Emergency Rule effective January 18, 2013, and shall be in effect until April 19, 2013. The agency intends to propose changes to LAC 51:XII.105.D through regular rulemaking. These changes will be published as a notice of intent in the January 20, 2013, *Louisiana Register*.

Title 51

PUBLIC HEALTH—SANITARY CODE

Part XII. Water Supplies

Chapter 1. General

§105. Permit Requirements for a Potable Water Supply

[formerly paragraph 12:002-2]

A. - C. ...

D. The review and approval of plans and specifications submitted for issuance of a permit, will be made in accordance with the “Ten-State Standards” and the

Louisiana Water Well Rules, Regulations, and Standards (LAC 56:I), plus any additional requirements of the state health officer as set forth in this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(8) and R.S. 40:5 (5)(6)(7)(17)(19).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1320 (June 2002), amended LR 39:

Bruce D. Greenstein
Secretary

1301#082

DECLARATION OF EMERGENCY

Department of Public Safety and Corrections State Uniform Construction Code Council

State Uniform Construction Code (LAC 55:VI.301)

The Department of Public Safety and Corrections, Office of the State Fire Marshal, Louisiana State Uniform Construction Code Council (LSUCCC) amends LAC 55:VI.301 in the State Uniform Construction Code as authorized by R.S. 40:1730.26 and R.S. 40:1730.28. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., shall become effective January 1, 2013 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 Public Safety and Corrections, Office of State Fire Marshal, Louisiana State Uniform Construction Code Council (LSUCCC), have found a need to amend, supplement and expand certain provisions of and to readopt the rules relative to §301.2.1.1 of the International Residential Code (IRC) and §903.2.1.2 of the International Building Code (IBC) of the State Uniform Construction Code. §301.2.1.1 Design Criteria provides for wind design requirements in the 2012 IRC. 2012 IRC Figure R301.2(4)A as published by the International Code Council contains current design data which will significantly change the design for wind speeds in Louisiana. This new information and design criteria will provide significant savings to the public and provide the latest data in the construction of one- and two- family dwellings in Louisiana. Due to long design timeframes, the Louisiana State Uniform Code Council intends to adopt these emergency changes to prevent delays in design and to help provide economic development. The current adopted wind map of the IRC in §301.2.1.1, addressing wind design, impacts the cost of construction. The current requirements are possibly delaying the design, permitting, and completion of one- and two- family dwellings. Adoption of the Emergency Rule will allow more reasonable wind provisions to be applied to these structures which ensures the health, safety and welfare of the public. §903.2.1.2 Group A-2 (2.) provides for an occupant load of 100 in the 2012 IBC. Raising the allowable occupant load to 300 will allow many small additions and new construction to be exempt from encumbering the cost of sprinkling the structure. The public welfare dictates that these changes be implemented immediately because of the long design time frames and to prevent unnecessary delays in design.

Adoption of this Emergency Rule will encourage more owners and developers to expand existing facilities or construct new facilities and ensure the health, safety and welfare of the public.

Title 55

PUBLIC SAFETY

Part VI. Uniform Construction Code

Chapter 3. Adoption of the Louisiana State Uniform Construction Code

§301. Louisiana State Uniform Construction Code

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

iii. Amend Chapter 9 to adopt and amend 2012 International Building Code Section 903.2.1.2 Group A-2 (2.) The fire area has an occupant load of 300 or more.

iv. Amend chapter 16, section 1609.1.2, exceptions 1. Wood structural panels with a minimum thickness of 7/16 inch (11.1 mm) and maximum panel span of 8 feet (2438 mm) shall be permitted for opening protection in one- and two-story buildings. Panels shall be precut so that they shall be attached to the framing surrounding the opening containing the product with the glazed opening. Panels shall be predrilled as required for the anchorage method and shall be secured with the attachment hardware provided. Attachments shall be designed to resist the components and cladding loads determined in accordance with the provisions of ASCE 7, with corrosion-resistant attachment hardware provided and anchors permanently installed on the building. Attachment in accordance with Table 1609.1.2 with corrosion-resistant attachment hardware provided and anchors permanently installed on the building is permitted for buildings with a mean roof height of 45 feet (13,716 mm) or less where wind speeds do not exceed 140 mph (63 m/s).

v. Amend chapter 16, section 1613.1 Scope. Every structure, and portion thereof, including nonstructural components that are permanently attached to structures and their supports and attachments, shall be designed and constructed to resist the effects of earthquake motions in accordance with ASCE7, excluding Chapter 14 and Appendix 11A. The seismic design category for a structure is permitted to be determined in accordance with Section 1613 or ASCE 7-10. Figure 1613.5(1) shall be replaced with ASCE 7-10 Figure 22-1. Figure 1613.5(2) shall be replaced with ASCE 7-10 Figure 22-2.

vi. Amend chapter 23, section 2308.2, exceptions 4. Wind speeds shall not exceed 110 miles per hour (mph) (48.4m/s) (3-second gust) for buildings in exposure category B.

2. - 3.a.vii. ...

viii. Substitute Figure R301.2(4)A Basic Wind Speeds of the 2012 IRC, in lieu of Figure R301.2(4) Basic Wind Speeds For 50-Year Mean Recurrence Interval of the 2003 IRC.

3.b. - 7 ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.26 and R.S. 40:1730.28.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:291 (February 2007), amended LR 34:93 (January 2008), LR 34: 883 (May 2008), LR 34:2205 (October 2008), LR 35:1904 (September 2009), LR 36:2574 (November 2010), effective January 1, 2011, LR 37:601 (February 2011), LR 37:913 (March 2011), repromulgated LR 37:2187 (July 2011), LR 37:2726

(September 2011), amended LR 37:3065 (October 2011), LR 38:1994 (August 2012), amended LR 39:

H. "Butch" Browning
State Fire Marshal

1212#018

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

2013 Commercial Shark Season

In accordance with the emergency provisions of R.S. 49:953, which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons, R.S. 56:6(25)(a) and R.S. 56:326.3 which provide 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 rule LAC 76:VII.357.M.2 which allows the secretary to establish seasons, the secretary of the Department of Wildlife and Fisheries hereby declares:

Effective 12:01 a.m., January 1, 2013, the commercial fishery for non-blacknose small coastal sharks, (bonnethead shark, Atlantic sharpnose shark, blacknose shark, finetooth shark) in Louisiana waters as described in LAC 76:VII.357.B.2 will open and remain open until December 31, 2013, or the federally established quota is harvested or expected to be harvested, unless the federal season for a species or species group in the Gulf of Mexico is closed, and the secretary is requested by NOAA Fisheries to take action to enact consistent seasonal regulations.

Effective 12:01 a.m., January 1, 2013, the commercial fishery for non-sandbar large coastal sharks (great hammerhead, scalloped hammerhead, smooth hammerhead, nurse shark, blacktip shark, bull shark, lemon shark, silky shark, spinner shark and tiger shark) in Louisiana waters as described in LAC 76:VII.357.B.2 will open and remain open until the federally established quota is harvested or expected to be harvested, unless the federal season for a species or species group in the Gulf of Mexico is closed, and the secretary is requested by NOAA Fisheries to take action to enact consistent seasonal regulations.

Louisiana has a fixed closed season for the commercial and recreational harvest of all sharks from April 1-June 30 of each year for protection of pupping and nursery areas, which we believe appropriate to maintain for conservation purposes.

Effective with these openings, properly licensed and permitted persons may commercially harvest, possess, and sell non-blacknose small coastal sharks and non-sandbar large coastal sharks whether taken from within or without Louisiana waters in compliance with the rules as set forth by the National Marine Fisheries Service for federal waters, and by the Louisiana Wildlife and Fisheries Commission. Only properly licensed and permitted dealers may purchase non-blacknose small coastal sharks and non-sandbar large coastal sharks during the open season. The fishery for both non-blacknose small coastal sharks and non-sandbar large coastal

sharks in Louisiana state waters will be closed from April 1-June 30.

The secretary has been notified by the National Marine Fisheries Service that the season for commercial harvest of non-blacknose small coastal sharks in the federal waters of the Gulf of Mexico will open on January 1, 2013 and that the commercial fishery for non-sandbar large coastal sharks in the federal waters of the Gulf of Mexico will open on January 1, 2013.

Robert J. Barham
Secretary

1301#019

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Commercial King Mackerel Harvest 2013-14 Commercial King Mackerel Season

In accordance with the provisions of R.S. 49:953 which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to employ emergency procedures to establish seasonal rules to set finfish seasons, R.S. 56:6(25)(a) and 56:326.3 which provide that the Wildlife and Fisheries Commission may set seasons for saltwater finfish; the Wildlife and Fisheries Commission hereby sets the following season for the commercial harvest of king mackerel in Louisiana state waters:

The commercial season for king mackerel in Louisiana state waters will open at 12:01 a.m., July 1, 2013 and remain open until the allotted portion of the commercial king mackerel quota for the western Gulf of Mexico has been harvested or projected to be harvested.

The Commission grants authority to the Secretary of the Department of Wildlife and Fisheries to close the commercial king mackerel season in Louisiana state waters when he is informed by the National Marine Fisheries Service (NMFS) that the commercial king mackerel quota for the western Gulf of Mexico has been harvested or is projected to be harvested. Such closure order shall close the season until 12:01 a.m., July 1, 2014, which is the date expected to be set for the re-opening of the 2014-15 commercial king mackerel season in Federal waters.

The Commission also authorizes the Secretary to open additional commercial king mackerel seasons in Louisiana state waters if he is informed that NMFS has opened such additional seasons and to close such seasons when he is informed that the commercial king mackerel quota for the western Gulf of Mexico has been filled, or is projected to be filled, or as needed to effectively implement the provisions herein upon notification to the Chairman of the Wildlife and Fisheries Commission.

Effective with seasonal closures under this rule, no person shall commercially harvest, possess, purchase, exchange, barter, trade, sell, or attempt to purchase, exchange, barter, trade, or sell king mackerel, whether taken from within or without Louisiana territorial waters. Also effective with this closure, no person shall possess king mackerel in excess of a daily bag limit, which may only be in possession during the

open recreational season by legally licensed recreational fishermen. Nothing shall prohibit the possession or sale of fish by a commercial dealer if legally taken prior to the closure providing that all commercial dealers possessing such fish taken legally prior to the closure shall maintain appropriate records in accordance with R.S. 56:306.5 and R.S. 56:306.6.

Ann L. Taylor
Chairman

1301#031

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Fall Inshore Shrimp Season Closure—December 18, 2012

In accordance with the emergency provisions of R.S. 49:953 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons and R.S. 56:497 which allows the Wildlife and Fisheries Commission to delegate to the secretary of the department the powers, duties and authority to set seasons, and in accordance with a Declaration of Emergency adopted by the Wildlife and Fisheries Commission on August 2, 2012 which authorized the secretary of the Department of Wildlife and Fisheries to close the fall shrimp season when biological and technical data indicate the need to do so or if enforcement problems develop, and following notification to the chairman of the Wildlife and Fisheries Commission, the secretary of the Department of Wildlife and Fisheries does hereby declare that the 2012 fall inshore shrimp season will close on December 18, 2012 at official sunset except for that portion of state inside waters east of the Mississippi River from the Louisiana/Mississippi state line southward to the eastern shore of South Pass of the Mississippi River, and, that portion of state inside waters within the Terrebonne basin south of 29 degrees 13 minutes 00 seconds north latitude from 90 degrees 18 minutes 00 seconds west longitude westward to 90 degrees 34 minutes 00 seconds west longitude, and those inside waters south of 29 degrees 06 minutes 00 seconds north latitude from 90 degrees 34 minutes 00 seconds west longitude westward to 90 degrees 46 minutes 00 seconds west longitude which shall remain open to shrimping until further notice. The number of small white shrimp taken in biological samples within these waters to be closed has increased while water temperatures have decreased and these waters are being closed to protect these shrimp as they over-winter.

Robert J. Barham
Secretary

1301#001

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Fall Inshore Shrimp Season Closure—December 20, 2012

In accordance with the emergency provisions of R.S. 49:953 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons and R.S. 56:497 which allows the Wildlife and Fisheries Commission to delegate to the secretary of the department the powers, duties and authority to set seasons, and in accordance with a Declaration of Emergency adopted by the Wildlife and Fisheries Commission on August 2, 2012 which authorized the secretary of the Department of Wildlife and Fisheries to close the fall shrimp season when biological and technical data indicate the need to do so or if enforcement problems develop, and following notification to the chairman of the Wildlife and Fisheries Commission, the secretary of the Department of Wildlife and Fisheries does hereby declare that the 2012 fall inshore shrimp season will close on December 20, 2012 at official sunset in that portion of state inside waters within the Terrebonne basin south of 29 degrees 13 minutes 00 seconds north latitude from 90 degrees 18 minutes 00 seconds west longitude westward to 90 degrees 34 minutes 00 seconds west longitude, and those inside waters south of 29 degrees 06 minutes 00 seconds north latitude from 90 degrees 34 minutes 00 seconds west longitude westward to 90 degrees 46 minutes 00 seconds west longitude. The number of small white shrimp taken in biological samples within these waters to be closed has increased while water temperatures have decreased and these waters are being closed to protect these shrimp as they over-winter.

Robert J. Barham
Secretary

1301#002

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Reef Fish—Harvest Regulations
2013 Greater Amberjack Commercial Trip Limit

In accordance with the emergency provisions of R.S. 49:953, which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons, R.S. 56:6(25)(a) and R.S. 56:326.3 which provide that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, the Wildlife and Fisheries Commission hereby declares:

The trip limit for the commercial harvest of greater amberjack in Louisiana state waters shall be 2,000 pounds whole weight. The 2,000 pound whole weight trip limit will remain in effect throughout the 2013 season for the commercial harvest of greater amberjack in Louisiana state waters.

The Commission also hereby grants authority to the Secretary of the Department of Wildlife and Fisheries to modify the commercial trip limits for greater amberjack described herein for Louisiana state waters if he is informed by NMFS that the trip limits for the commercial harvest of greater amberjack in the Federal waters of the Gulf of Mexico as set out herein have been modified, and that NMFS requests that those trip limits be modified in Louisiana state waters, or as needed to effectively implement the provisions herein upon notification to the Chairman of the Wildlife and Fisheries Commission. Such authority shall extend through January 31, 2014.

Effective with the provisions under this Emergency Rule, a vessel shall not possess on any trip, or sell, barter, trade, or exchange greater amberjack in excess of the designated 2,000 pound whole weight trip limit, regardless of where taken. Further, no person, shall purchase, barter, trade, or exchange from any person greater amberjack in excess of the 2000 pound whole weight trip limit. Greater amberjack may only be in possession during the open commercial season by legally licensed commercial fishermen.

Ann L. Taylor
Chairman

1301#030

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Reef Fish—Harvest Regulations 2013-2014 Recreational Reef Fish Seasons

The reef fish fishery in the Gulf of Mexico is cooperatively managed by the Louisiana Department of Wildlife and Fisheries (LDWF), the Wildlife and Fisheries Commission (LWFC) and the National Marine Fisheries

Service (NMFS) with advice from the Gulf of Mexico Fishery Management Council (Gulf Council). Regulations promulgated by NMFS are applicable in waters of the Exclusive Economic Zone (EEZ) of the United States. NMFS typically requests consistent regulations in order to enhance the effectiveness and enforceability of regulations for EEZ waters. However, there may be a need for state regulations to differ from regulations promulgated by NMFS at times.

Recreational season rules have been established for reef fish in the Gulf of Mexico and in Louisiana state waters and both fisheries operate under recreational quotas. If the quota is projected to be reached, NMFS is required by law to close the season to restrain fishing within the established quota for the species in water of the EEZ.

Adoption of compatible regulations for Louisiana state waters where and when feasible enhances effectiveness and enforceability of the regulations already in place for reef fishes harvested in the EEZ off of Louisiana. Unforeseen circumstances may occur which may lead to modification of the recreational seasons to restrain the fisheries within the recreational quota, requiring a modification in established regulations.

In accordance with the emergency provisions of R.S. 49:953 which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to employ emergency procedures to promulgate seasonal rules to set finfish seasons, R.S. 56:6(25) (a) and R.S. 56:326.3 which provide that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, the Wildlife and Fisheries Commission hereby declares:

The secretary of the Department of Wildlife and Fisheries is hereby authorized to modify those portions of LAC 76:VII.335 pertaining to any reef fish recreational daily harvest limits and any reef fish recreational seasons if NOAA–NMFS institutes sub-regional management for the any reef fish species, a state allocation or quota has been met, or if he deems it necessary, following notification of the chairperson of the Wildlife and Fisheries Commission.

Such authority shall extend through January 31, 2014.

Ann L. Taylor
Chairman

1301#029

Rules

RULE

Department of Children and Family Services Division of Programs Licensing Section

Penalty for the Operation of an Unlicensed Facility
(LAC 67:III.7302 and 7355; and
V.6704, 6953, 7103 and 7303)

The Department of Children and Family Services (DCFS), Division of Programs, Licensing Section in accordance with provisions of the Administrative Procedure Act, R.S. 49:953(A) has amended the Louisiana Administrative Code (LAC), Title 67, Part III, Subpart 21, Child Care Licensing, and Part V, Subpart 8, Residential Licensing, to comply with the provisions of Act 599 of the 2012 Regular Legislative Session.

Act 599 mandates that whoever operates any child care facility or child-placing agency, as defined in R.S. 46:1403, without a valid license issued by the department shall be fined not less than \$1,000 for each day of such offense. In accordance with this mandate, the department has amended Sections 7302 and 7355 of Part III, and Sections 6953, 7103, 7303 of Part V. Section 6704 has been adopted to include provisions for this penalty in Chapter 67, Maternity Home.

Title 67

SOCIAL SERVICES

Part III. Economic Stability

Subpart 21. Child Care Licensing

Chapter 73. Day Care Centers

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

§7302. Authority

A. - B.1. ...

2. As mandated by R.S. 46:1421, whoever operates any child care facility or child-placing agency as defined in R.S. 46:1403, including any child day care center, without a valid license issued by the department shall be fined not less than \$1,000 per day for each day of such offense.

C. - F.6. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:1107 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2755 (December 2007), amended LR 36:332 (February 2010), LR 36:847 (April 2010), amended by the Department of Children and Family Services, Division of Programs, LR 37:811 (March 2011), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 39:66 (January 2013).

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

§7355. Authority

A. - A.9. ...

B. Penalties. As mandated by R.S. 46:1421, whoever operates any child care facility or child-placing agency as defined in R.S. 46:1403, including any child day care center, without a valid license issued by the department shall be fined not less than \$1,000 per day for each day of such offense.

C. - F.6. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:1635 (August 2000), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2770 (December 2007), amended LR 36:333 (February 2010), LR 36:849 (April 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 39:66 (January 2013).

Part V. Child Welfare

Subpart 8. Residential Licensing

Chapter 67. Maternity Home

§6704. Authority

A. Penalties

1. All maternity homes, including facilities owned or operated by any governmental, profit, nonprofit, private, or church agency shall be licensed.

2. As mandated by R.S. 46:1421, whoever operates any child care facility or child-placing agency as defined in R.S. 46:1403, including any maternity home, without a valid license issued by the department shall be fined not less than \$1,000 per day for each day of such offense.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1421.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 39:66 (January 2013).

Chapter 69. Child Residential Care, Class B

§6953. Authority

A. - B.1. ...

2. As mandated by R.S. 46:1421, whoever operates any child care facility or child-placing agency as defined in R.S. 46:1403, including any child residential facility, without a valid license issued by the department shall be fined not less than \$1,000 for each day of such offense.

C. - C.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and 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), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 39:66 (January 2013).

Chapter 71. Child Residential Care, Class A

§7103. Authority

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

B. Penalties. As mandated by R.S. 46:1421, whoever operates any child care facility or child-placing agency as defined in R.S. 46:1403, including any child residential facility, without a valid license issued by the department shall be fined not less than \$1,000 for each day of such offense.

C. - D.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:805 (April 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 39:67 (January 2013).

Chapter 73. Child Placing Agencies—General Provisions

§7303. Authority

A. - C.2. ...

D. Penalties. As mandated by R.S. 46:1421, whoever operates any child-placing agency, as defined in R.S. 46:1403, without a valid license issued by the department shall be fined not less than \$1,000 for each day of such offense.

E. - F.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and ACT 64 of the 2010 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section LR 37:820 (March 2011), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 39:67 (January 2013).

Suzy Sonnier
Secretary

1301#077

RULE

**Department of Children and Family Services
Economic Stability Section**

**Child Welfare Emergency Assistance Services Program
(LAC 67:III.5597)**

In accordance with the provisions of R.S. 49:953(A) et seq., the Administrative Procedure Act, the Department of Children and Family Services, has amended the LAC 67:III, Subpart 15, Chapter 55, TANF Initiatives, to add Section 5597.

Section 5597 has been added to provide services for TANF-eligible children who have been removed from their parents by the courts and are in need of emergency assistance to cover the urgent situation.

This Rule was made effective by an Emergency Rule, effective September 5, 2012.

Title 67

SOCIAL SERVICES

Part III. Economic Stability

**Subpart 15. Temporary Assistance for Needy Families
(TANF) Initiatives**

Chapter 55. TANF Initiatives

**§5597. Child Welfare Emergency Assistance Services
Program**

A. The Child Welfare Emergency Assistance Services Program will provide services to children who are removed from their parents by the courts and are in foster care. These services include case management and planning as performed by DCFS' staff. The types of assistance that meet the emergency situation may include shelter care, foster family care or emergency shelter care including food, clothing and supervision.

B. TANF eligibility is limited to children in foster care who are in the first 4 months of a single placement in a 12 month period and are recipients of Family Independence Temporary Assistance Program (FITAP) and/or Supplemental Nutrition Assistance Program (SNAP) during the first month of placement.

C. These services are TANF-eligible based on inclusion in the state's approved AFDC Emergency Assistance Program that was in effect as of August 21, 1996.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; P.L. 104-193., R.S. 46:231 and R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Economic Stability Section, LR 39:67 (January 2013).

Suzy Sonnier
Secretary

1301#078

RULE

**Department of Culture, Recreation and Tourism
Office of the State Library**

Cultural Resources (LAC 25:VII.Chapters 1,
3, 5, 13, 23, 27, 31, 41, 43, 45, 51, and 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 has changed the content of LAC 25.VII.Chapters 1, 3, 5, 13, 23, 27, 31, 41, 43, 45, 51, and 53 to clarify definitions and procedures within the agency. The changes include:

1. Chapter 1 (Eligible Public) and Chapter 5 (Services)—repealing a Section in each regarding films and recordings; these Sections no longer reflect current functionality within the State Library;

2. Chapter 3 (Library Materials)—repealing a Section regarding films and recordings; also clarifying language regarding the collection of overdue and lost materials fees;

3. Chapter 13 (Louisiana Union Catalog)—repealing Sections that are no longer valid;

4. Chapter 23 (Regional Library Systems)—making the Code consistent with statute;

5. Chapter 27 (Auditorium and Conference Room Use by Public)—repealing this Chapter as the only surviving provision is present elsewhere in the code;

6. Chapter 31 (Disbursement of State Aid Grants)—clarifying definitions;

7. Chapter 41 (General Rules), regarding the Public Document Depository System—clarifying requirements of a candidate for the recorder of documents position;

8. Chapter 43 (Deposit of Publications)—more clearly defining what is and is not to be considered a public document for purposes of the depository system and clarifying the duties of agency liaisons; these changes are the result of collaboration of various librarians within the State Library, as well as input from the depository system advisory council;

9. Chapter 45 (Depository Library System)—adding the Louisiana Tech University library as a historical depository and clarifying some language;

10. Chapter 51 (Certification), regarding the Board of Library Examiners—adding a third type of certification and clarifying the two existing types of certification and adding continuing education requirements; and

11. Chapter 53 (Examination)—bringing the Code in line with current practice; repealing §5307 (Fees) which currently requires examination candidates to pay a \$5.00 fee to take the exam; moving the following Sections in Chapter 53 into Chapter 51 as follows: §5313 moved to §5111, §5315 moved to §5109, and §5317 moved to §5105; and renumbering the following Sections in Chapter 53 as follows: §5309 moved to §5305 and §5311 moved to §5307; repealing §§5313, 5315, and 5317 because these topics are covered elsewhere in the Code.

Title 25

CULTURAL RESOURCES

Part VII. State Library

Subpart 1. Readers' Services

Chapter 1. Eligible Public

§103. Information and Loan

A. ...

B. Any citizen registered for library service with his local public library shall borrow State Library materials through his local library unless the State Library receives telephone or written authorization from a patron's parish library including facsimile or electronic mail, in which case he may borrow directly with the materials being charged to the parish library.

1. Repealed.

C. Students and faculty in institutions of higher learning, and residents and staff of other state institutions may, within the library regulations of such institutions, borrow State Library materials through those libraries.

D. ...

E. Information, reference, and loan services of the State Library are available directly to:

1. - 2. ...

3. officers and employees of agencies listed in the *Louisiana State Government Telephone Directory*;

4. - 6. ...

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 36:2538 (November 2010), LR 39:68 (January 2013).

§105. Films and Recordings

Repealed.

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 Register, December 11, 1974, repealed by the Department of Culture, Recreation and Tourism, State Library, LR 39:68 (January 2013).

§107. Blind and Physically Handicapped

A. ...

B. This service is also extended to schools, hospitals, nursing homes and other agencies having one or more eligible persons with disabilities in their care.

C. ...

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 36:2538 (November 2010), LR 39:68 (January 2013).

Chapter 3. Library Materials

§301. Information and Loan of Materials

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

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 photocopied, genealogy books, rare books, and books in fragile condition;

c. the normal loan period for materials is 28 days. Materials may be renewed twice for a total loan period of 84 days. Renewals will not be made on materials with reserves;

2. - 2.b...

3. newspapers. Newspapers in print may be used in the library. Although newspapers do not circulate, photocopies can be provided at \$0.10 per exposure;

4. microfilm. All microfilm, including 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 28 days with a limitation of five rolls to patron per loan;

5. - 6. ...

7. slides. All slides may be used in the State Library;

8. ...

B. Fines and fees for library materials are outlined below.

Fines and Fees	
Fine for Overdue Materials	\$0.10 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 per item

NOTE: The state librarian may make exceptions to fees as deemed necessary.

1. ...

2. If an item has been published in the past five years, the retail price of the item will be considered replacement cost and charged 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 considered replacement cost and charged. A processing fee is assessed to each item in addition to the replacement cost.

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 replacement charges but not the processing fee. No refund is available after the end of the fiscal year.

C. - C.2. ...

3. Priority for use of library meeting facilities is:

a. - d. ...

e. non-governmental agencies or individuals (may only reserve 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 LR 36:2538 (November 2010), LR 39:68 (January 2013).

§303. Films and Recordings Materials

Repealed.

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, repealed by the Department of Culture, Recreation and Tourism, State Library, LR 39:69 (January 2013).

§305. Blind and Physically Handicapped Materials

A. Library materials available include books and magazines recorded on discs, open-reel magnetic tapes, cassettes, digital cartridges, 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. - G. ...

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 36:2539 (November 2010), LR 39:69 (January 2013).

Chapter 5. Services

§501. Information and Loan Services

A. Information and loan services include:

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

C. Charges for Service. Services are free except for photocopying and microform prints. The charge for this service is \$0.25 per exposure; a minimum of \$1 is charged for mail orders.

D. ...

* * *

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 36:2539 (November 2010), LR 39:69 (January 2013).

§503. Films and Recordings Services

Repealed.

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, repealed by the Department of Culture, Recreation and Tourism, State Library, LR 39:69 (January 2013).

Subpart 2. Library Technical Services

Chapter 13. Louisiana Union Catalog

§1307. Information Submitted by the Louisiana Library Association

Repealed.

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, repealed by the Department of Culture, Recreation and Tourism, State Library, LR 39:69 (January 2013).

§1309. Bi-Monthly Updates

Repealed.

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, repealed by the Department of Culture, Recreation and Tourism, State Library, LR 39:69 (January 2013).

Subpart 3. Library Development

Chapter 23. Regional Library Systems

§2303. Qualifying Conditions

A. - A.2.g. ...

h. The director of the system must be certified by the Louisiana State Board of Library Examiners.

2.i. - 13.b. ...

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 39:69 (January 2013).

Chapter 27. Auditorium and Conference Room-Use by Public

§2705. Patrons' Right to Privacy

Repealed.

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, repealed by the Department of Culture, Recreation and Tourism, State Library, LR 39:69 (January 2013).

Subpart 4. State Aid to Public Libraries Grant

Chapter 31. Disbursement of State Aid Grants

§3101. Definitions

A. ...

Audiovisual Materials—Repealed.

* * *

Free Basic Library Service—standard library service including the use of the principal circulating collection of the library, public access computers, standard reference and information services and electronic materials without charge.

* * *

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 36:2541 (November 2010), LR 39:69 (January 2013).

§3103. Submission of Applications

A. The state librarian shall establish a program of supplemental grants to libraries for the purchase of technology enhancement, electronic 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. - F. ...

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 36:2541 (November 2010), LR 39:70 (January 2013).

§3109. Distribution of Supplemental Grants

A. The state library shall grant funds under the provisions of this Part to any library, consolidated library system, or district library which makes application and which is eligible for such funds as provided herein. Grants shall be made on an annual basis.

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 7:407 (August 1981), LR 13:392 (July 1987), LR 24:2232 (December 1998), amended by the Department of Culture, Recreation and Tourism, State Library, LR 39:70 (January 2013).

Subpart 5. Public Document Depository System

Chapter 41. General Rules

§4103. Organization

A. The Louisiana State Public Documents Depository Program is created as a unit of the state library under the direction of the state librarian.

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 by the Department of Culture, Recreation and Tourism, State Library, LR 39:70 (January 2013).

§4105. Purpose

A. The state librarian has the duty to establish a depository system to facilitate the preservation and accessibility of state documents for public use.

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 by the Department of Culture, Recreation and Tourism, State Library, LR 39:70 (January 2013).

Chapter 43. Deposit of Publications

§4301. Agency Responsibility

A. State agencies, as defined in R.S. 25:121.1, are required to deposit copies of their public documents with the recorder of documents immediately upon publication.

1. "Deposit" shall include providing a copy of digital-only publications via PDF file.

B. Academic institutions are required to deposit copies of their public documents with the recorder of documents for

distribution to each historical depository only. They are also required to archive and provide public access to their own publications.

C. At the recorder's request, any state agency shall provide to the recorder of documents a complete list of its public 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 by the Department of Culture, Recreation and Tourism, State Library, LR 39:70 (January 2013).

§4303. Public Documents Required to be Deposited

A. ...

1. Repealed.

2. *Public Document*—informational matter for public distribution, 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.

a. 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.

b. This definition also incorporates electronic documents, which include any discrete public document published in a static digital format.

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 36:2542 (November 2010), LR 39:70 (January 2013).

§4305. Public Documents Not Required to be Deposited

A. The recorder and state librarian have exempted certain kinds of state publications from deposit requirements. A state agency is not required to deposit the following state publications:

1. advertisements;
2. agendas;
3. alumni materials;
4. announcements, bookmarks, postcards;
5. applications;
6. articles/reports published in commercial/professional literature, e.g. JAMA;
7. artwork (graphical representations without textual information);
8. bids, responses to bids, requests for bids;
9. calendars;
10. complex relational databases;
11. contracts;
12. correspondence;
13. course schedules;
14. curriculum catalogs (program-specific only);
15. drafts of plans, reports (unless historically significant or only version available);
16. event invitations, announcements, registration forms;
17. fiction, literary criticism, or poetry, except as may be included in literary journals;
18. forms and instruction manuals for their completion;

19. fundraising materials;
20. grant proposals, bids;
21. greeting cards;
22. job listings;
23. memorabilia/realia;
24. memoranda (including email);
25. minutes of internal departmental meetings (except public meeting minutes of boards/commissions/task forces and executive meeting minutes);
26. minutes of boards/commissions/task forces and executive meetings containing confidential information (unless redacted);
27. minutes of committee meetings of boards/commissions/task forces, even if public;
28. news/press releases, public service announcements;
29. newsletters and subscriber lists meant only for employee, faculty, or student use;
30. notices of sale;
31. opinions and orders issued by state courts;
32. daily or weekly periodicals (that are summarized in monthly or quarterly publications);
33. personnel manuals;
34. photographs;
35. policy handbooks intended only for internal use;
36. presentations/speeches given at conferences, meetings;
37. programs (announcements of events, training sessions);
38. recruitment materials;
39. reprints (reissued without change);
40. stationery;
41. student publications (produced by students), except for those published by the university or college;
42. telephone directories meant only for employee, faculty, or student use;
43. unedited compilations of data or information submitted via forms or other means from individuals or entities under the regulation of a state agency;
44. volunteer newsletters; and
45. websites in their entirety.

B. Repealed.

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 39:70 (January 2013).

§4307. Core Collection

A. ...

B. The needs of the public will be served best by distributing to all depositories those public documents which are the most useful and essential. Fewer copies of other state agency publications may be needed to meet the needs of the depository system. Therefore, in the interest of economy and efficiency, the recorder of documents with the aid of the advisory council will identify a core collection to be made available by all participating libraries.

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 by the Department of Culture, Recreation and Tourism, State Library, LR 39:71 (January 2013).

§4309. Number of Copies to be Deposited

A. The recorder of documents, with the aid of the advisory council, will determine the appropriate number of copies of each public document not included in the core collection which will be required to be deposited to meet the needs of the depository program in accordance with the contract between the depository and the state librarian.

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 by the Department of Culture, Recreation and Tourism, State Library, LR 39:71 (January 2013).

§4311. Liaison Officer of Agencies

A. The head of every state agency shall designate one of its staff members as the liaison officer for the agency and shall notify the recorder of documents on or before the first day of July of the identity of the liaison officer, and shall immediately notify the recorder of documents of any new liaison officer should a change occur. If a liaison officer is not appointed, the head of the agency serves as liaison by default. The liaison officer of each state agency shall have the duty to provide the recorder of documents with required copies of publications in whatever format they were originally published.

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 39:71 (January 2013).

§4317. Agency List of Publications

Repealed.

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), repealed by the Department of Culture, Recreation and Tourism, State Library, LR 39:71 (January 2013).

Chapter 45. Depository Library System

§4501. Statutory Depositories

A. The State Library of Louisiana, Middleton Library at Louisiana State University in Baton Rouge, and Prescott Memorial Library at Louisiana Tech University are legally designated complete historical depository libraries. They shall receive and permanently retain at least one copy of all paper public documents received by the recorder for distribution. The State Library of Louisiana is responsible for archiving and providing permanent public access to received documents that are issued solely in digital 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 36:2542 (November 2010), LR 39:71 (January 2013).

§4503. Other Depositories

A. Any Louisiana library wishing to receive public documents through the depository system shall submit a written application to the state librarian requesting designation as either a complete depository, or a selective depository. Special depository status is limited to the David R. Poynter Legislative Research Library.

1. Complete depositories shall receive one copy of all public documents received by the recorder of documents for distribution and shall retain one copy for a minimum of five years.

2. Selective depositories shall receive one copy of the core collection and all public documents received by the recorder for distribution in the predetermined categories they select and shall retain one copy for a minimum of five years. Those libraries selecting only the core collection shall retain the latest edition of each superseding document received.

3. ...

4. Complete and selective depositories may withdraw superseded materials based on the superseded list.

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 28:1578 (July 2002), amended by the Department of Culture, Recreation and Tourism, State Library, LR 39:71 (January 2013).

§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 by either party. 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 the 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 36:2542 (November 2010), amended by the Department of Culture, Recreation and Tourism, State Library, LR 39:72 (January 2013).

Subpart 6. Board of Library Examiners

Chapter 51. Certification

§5101. Types of Certification

A. The State Board of Library Examiners issues three types of certification:

1. executive;
2. temporary; and
3. provisional.

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 39:72 (January 2013).

§5103. Executive Certification

A. The State Board of Library Examiners will issue executive certification to individuals who have:

1. Repealed.
 2. a master's degree in library and information science granted by a library school accredited by the American Library Association;
 3. three years executive experience in a public library after receiving the library science degree; and
 4. attained a grade of at least 75 on the examination.
- B. - C. Repealed.

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 36:2543 (November 2010), amended by the Department of Culture, Recreation and Tourism, State Library, LR 39:72 (January 2013).

§5105. Temporary Certification

[Formerly §5317]

A. The State Board of Library Examiners will issue temporary certification to individuals who:

1. have a master's degree in library and information science granted by a library school accredited by the American Library Association;
2. pass the examination; but
3. do not have the three years of executive experience.

B. Individuals who have temporary certification must qualify for executive certification within three years of passing the examination.

C. Individuals must notify the State Board of Library Examiners when they complete their three years of experience to obtain their executive certification.

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 39:72 (January 2013).

§5107. Provisional Certification

A. The State Board of Library Examiners will issue provisional certification upon request to individuals who:

1. hold a master's degree in library and information science granted by a library school accredited by the American Library Association;
2. have at least five years of executive experience in a public library; but
3. have not passed the examination.

B. Individuals who have provisional certification must pass the examination within six months or the first time the examination is given after they are hired, whichever is later.

C. Individuals who do not pass the examination within the required timeframe will have provisional certification revoked.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:222-223.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, State Library, LR 39:72 (January 2013).

§5109. Duration of Certification

[Formerly §5315]

A. Executive certification is issued for five years, and is renewable if the holder completes the continuing education requirements.

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 39:72 (January 2013).

§5111. Revocation

[Formerly §5313]

A. Any certificate may be revoked for cause.

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 39:72 (January 2013).

§5113. Renewal of Executive Certification

A. In order to renew executive certification, the individual must:

1. make a written request to the State Board of Library Examiners stating professional experience since the certification was last issued or last renewed; and

2. show evidence of completing continuing education requirements as provided in LAC 25:VII.5115.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:222-223.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, State Library, LR 39:73 (January 2013).

§5115. Continuing Education

A. Fifteen continuing education points are required in the five year period between issuance or renewal of executive certification.

B. Continuing Education Events—

1. academic or professional development courses, workshops, conferences, or institutes on topics related to public library management offered by universities, associations, vendors, or consortia;

2. developing and/or presenting a full-day course, workshop, or institute on a topic related to public library management (first presentation only);

3. professional publications; that is, journal articles or books on topics related to public library management; and

4. speeches or presentations before professional library groups, not including in-house presentations that are a normal part of the candidate's job responsibilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:222-223.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, State Library, LR 39:73 (January 2013).

Chapter 53. Examination

§5303. Oral and Written Examinations

A. The examination is given both orally and written. The oral examination includes an interview with the candidate, and may be given on the same day as the written examination.

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 39:73 (January 2013).

§5305. Date of Examination

[Formerly §5309]

A. The examination is given quarterly. Announcement of examinations is made at least two months before each examination is given, and all applications for that examination must be on file with the State Library not later than a month before the date of the examination. With permission of the board, a candidate may be permitted to take the examination, if the individual's application is received after the announced date.

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 39:73 (January 2013).

§5307. Fees

Repealed.

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), repealed by the Department of Culture, Recreation and Tourism, State Library, LR 39:73 (January 2013).

§5307. Rights of Board

[Formerly §5311]

A. The board reserves the right to cancel any announced examination if fewer than three candidates signify their desire to appear.

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 39:73 (January 2013).

§5313. Revocation

Repealed.

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), repealed by the Department of Culture, Recreation and Tourism, State Library, LR 39:73 (January 2013).

§5315. Duration of Certificate

Repealed.

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), repealed by the Department of Culture, Recreation and Tourism, State Library, LR 39:73 (January 2013).

§5317. Temporary Certificate

Repealed.

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), repealed by the Department of Culture, Recreation and Tourism, State Library, LR 39:730 (January 2013).

Rebecca Hamilton
State Librarian

1301#037

RULE

Board of Elementary and Secondary Education

Bulletin 118—Statewide Assessment
Standards and Practices

(LAC 28:CXI.319, 701, 1701, 1804, 1805, 1806, 1807, 1808, 1809, 1810, 1813, 1817, 1825, 2201, 2203, 2205, 2207, 2400, 2409, 2411, 2412, 2413, and 2415)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 118—Statewide Assessment*

Standards and Practices: new test security policy language, §319. E-mail Addresses for Nonpublic School Test Coordinators (STC), §701. Overview of Assessment Programs in Louisiana, §1701. Introduction, §1805. renumbered §1804. EOCT Development and Implementation Plan, §1807. renumbered §1805. Algebra I Test Structure, §1808. renumbered §1806. Biology Test Structure, §1809. renumbered §1807. English II Test Structure, §1810. renumbered §1808. Geometry Test Structure. New assessments §1809. U. S. History Test Structure and §1810. English III Test Structure will be added. Policy language will be added to §1813. Performance Standards, §1817. EOCT Achievement Level Descriptors, and §1825. EOC Administration Rules. A new assessment and new policy language will be added: Chapter 22, ACT Program to include §2201. Background, §2203. EXPLORE, §2205. PLAN, and §2207. ACT. Updates will be added to Chapter 24, Academic Skills Assessment (ASA): §2400. Sunset Provision, §2409. Achievement Levels, §2411. Performance Standards, §2412. Introduction, §2413. ASA Mathematics Achievement Level Descriptors, and §2415. ASA LAA 2 Mathematics Achievement Level Descriptors.

This document provides new and updated statewide test information and provide easy access to that information. It was necessary to revise the bulletin at this time to incorporate new policy guidelines, edit previous policy, and revise policy language. Chapter 3, Test Security has new policy language being added to clarify that all nonpublic school test coordinators participant’s in statewide testing must provide valid e-mail addresses. Chapter 7, Assessment Program Overview testing chart was edited, revised, and updated to depict new assessment information; a revision was made to the End-Of-Course Tests (EOCT) listing to include English III and U. S. History, and updated to include EXPLORE, PLAN, and ACT as new statewide testing programs. Chapter 17, Integrated LEAP (iLEAP) policy language was updated to confirm that the spring 2010 administration of grade 9 iLEAP to grade 9 students was the last statewide administration of grade 9 iLEAP. Chapter 18, End-Of-Course Tests (EOCT) was revised and renumbered to allow for the addition of new EOCT assessments (English III and U. S. History); policy language will provide information and updates about the English III and U. S. History tests design, EOC Achievement Level Descriptors, and Scaled-Score Ranges. Policy language will be edited to reflect changes in EOCT Administration Rules related to Louisiana’s high school diploma endorsement testing. A new chapter featuring a new assessment and policy language is being added as Chapter 22, ACT Program. It will provide details about the ACT being used as a statewide assessment effective spring 2013. Chapter 24, Academic Skills Assessment (ASA) will be edited to identify its’ one time administration as a statewide assessment; information will be revised to include information from the spring 2012 administration. Policy language updates will provide ASA Achievement Levels and Performance Standards, Achievement Levels, Scaled-Score Ranges, and Achievement Level Descriptors for ASA Mathematics and ASA LAA 2 Mathematics.

Title 28

EDUCATION

Part CXI. Bulletin 118—Statewide Assessment Standards and Practices

Chapter 3. Test Security

§319. E-mail Addresses for Nonpublic School Test Coordinators

All designated school test coordinators for nonpublic schools are required to provide the department with a valid work email address. Personal email addresses (Yahoo! Hotmail, Google, etc.) will not be accepted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 39:74 (January 2013).

Chapter 7. Assessment Program Overview

§701. Overview of Assessment Programs in Louisiana

A. ...

Name of Assessment Program	Assessment Population	Administered
Kindergarten Screening		
Kindergarten Developmental Readiness Screening Program (KDRSP)	Kindergarten	fall 1987–
Norm-Referenced Tests (NRTs)		
California Achievement Test (CAT/F)	grades 4, 6, and 9	spring 1988–spring 1992 (no longer administered)
California Achievement Test (CAT/5)	grades 4 and 6 grade 8	spring 1993–spring 1997 spring 1997 only (no longer administered)
Iowa Tests of Basic Skills (ITBS) (form L) and Iowa Tests of Educational Development (ITED) (form M)	grades 4, 6, 8, 9, 10, and 11	spring 1998 (no longer administered)
ITBS ITED (form M)	grades 3, 5, 6, and 7 grade 9	spring 1999–spring 2002 (no longer administered)
ITBS ITED (form B)	grades 3, 5, 6, and 7 grade 9	spring 2003–spring 2005 (no longer administered)
Criterion-Referenced Tests (CRTs)		
National Assessment of Educational Progress (NAEP)	grades 4, 8, and 12	spring 1990–
Louisiana Educational Assessment Program (LEAP)	grades 3, 5, and 7	spring 1989–spring 1998 (no longer administered)
Graduation Exit Examination (“old” GEE)	grades 10 and 11	spring 1989—spring 2003 (state administered) fall 2003– (district administered)
Louisiana Educational Assessment Program (LEAP) (ELA and Mathematics)	grades 4 and 8	spring 1999–
LEAP (Science and Social Studies)	grades 4 and 8	spring 2000–

Name of Assessment Program	Assessment Population	Administered
Graduation Exit Examination (GEE) (ELA and Mathematics)	grade 10	spring 2001–
GEE (Science and Social Studies)	grade 11	spring 2002–
End-Of-Course Tests (EOCT)	Algebra I	fall 2007–
EOCT	English II	fall 2008–
EOCT	Geometry	fall 2009–
EOCT	Biology	fall 2010–
EOCT	Applied Algebra I form	spring 2011–
EOCT	English III	fall 2011–
EOCT	U. S. History	fall 2012–
EXPLORE	grades 8 and 9	spring 2013
PLAN	grade 10	spring 2013
ACT	grade 11	spring 2013
Integrated NRT/CRT		
Integrated Louisiana Educational Assessment Program (iLEAP)	grades 3, 5, 7, and 9	spring 2006–
iLEAP	grade 9	spring 2010 (last administration of grade 9 iLEAP)
Special Population Assessments		
Louisiana Alternate Assessment, Level 1 (LAA 1)	Students with Individualized Education Programs (IEPs) who meet participation criteria in grades 3–11	spring 2000–2007
LAA 1	ELA and Mathematics (grade spans 3–4; 5–6; 7–8; 9–10); Science (grades 4, 8, and 11)	Revised spring 2008–
LAA 1 ELA and Mathematics	grade 9	spring 2010 (last administration of grade 9 LAA 1)
Louisiana Alternate Assessment, Level 2 (LAA 2) ELA and Mathematics (Grades 4, 8, and 10) Science and Social Studies (Grade 11)	grades 4, 8, 10, and 11	spring 2006–
LAA 2 ELA and Mathematics	grades 5, 6, 7, and 9	spring 2007–
LAA 2 ELA and Mathematics	grade 9	spring 2010 (last administration of grade 9 LAA 2)
LAA 2 Science and Social Studies	grades 4 and 8	spring 2008–
Louisiana Alternate Assessment-B (LAA-B) ["out-of-level" test]	Students with Individualized Education Programs (IEPs) who met eligibility criteria in grades 3–11.	spring 1999–spring 2003 (no longer administered)

Name of Assessment Program	Assessment Population	Administered
English Language Development Assessment (ELDA)	Limited English Proficient (LEP) students in grades K–12	spring 2005–
Academic Skills Assessment (ASA) and ASA LAA 2 form	Students pursuing a State-Approved Skills Certificate (SASC) or GED	spring 2012 (one administration only, spring 2012)

B. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, Office of Student and School Performance, LR 31:1534 (July 2005), amended LR 32:235 (February 2006), LR 34:66 (January 2008), LR 34:1352 (July 2008), LR 35:218 (February 2009), LR 36:967 (May 2010), LR 37:858 (March 2011), amended LT 38:34 (January 2012), LR 39:74 (January 2013).

Chapter 17. Integrated LEAP
Subchapter A. General Provisions
§1701. Introduction

A. The NCLB Act requires the development of grade-level expectations (GLEs) or grade-level content standards at grades 3 through 8 for reading and mathematics. Louisiana has supplemented its existing content standards with grade-level expectations. To create a comprehensive system, Louisiana has developed GLEs in four content areas: English language arts, mathematics, science, and social studies, for grade levels prekindergarten through 12. NCLB further requires standards-based tests (or augmented norm-referenced tests) that measure the content standards. LEAP (grades 4 and 8) and GEE (grades 10 and 11) measure the content standards, and these tests will continue. To measure the standards and GLEs at grades 3, 5, 6, 7, and 9, however, the *Integrated* LEAP (*iLEAP*) tests were used, beginning in spring 2006. The *iLEAP* tests replaced The Iowa Tests, which were used to evaluate student performance in grades 3, 5, 6, 7, and 9 from spring 1998 to spring 2005. (Spring 2010 was the last administration of grade 9 *iLEAP*). In accordance with NCLB timelines, the *iLEAP* tests were implemented spring 2006. Beginning in 2007-2008, NCLB also requires tests in science: once in grades 3 through 5, once in grades 6 through 9, and once in grades 10 through 12. The term *integrated* refers to the integration of standards-based tests (CRTs) and norm-referenced tests (NRTs) into one program.

1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7 and R.S. 17:24.4(F)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1556 (July 2005), amended LR 32:238 (February 2006), LR 33:265 (February 2007), LR 39:75 (January 2013).

Chapter 18. End-of-Course Tests
Subchapter B. General Provisions

§1804. EOCT Development and Implementation Plan

Course	Test Administration	Year 1 2008– 2009	Year 2 2009– 2010	Year 3 2010– 2011	Year 4 2011– 2012	Year 5 2012– 2013
Algebra I	Field Test					
	Operational Test	√	√	√	√	√
English II	Field Test					
	Operational Test	√	√	√	√	√
Geometry	Field Test	√				
	Operational Test		√	√	√	√
Biology	Field Test		√			
	Operational Test			√	√	√
English III	Field Test			√		
	Operational Test				√	√
U.S. History	Field Test				√	
	Operational Test					√

NOTE: The field test in the table is the stand-alone field test for the initial item development.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 35:215 (February 2009), LR 39:76 (January 2013).

Subchapter C. EOCT Test Design

§1805. Algebra I Test Structure

A. - C. ...

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 35:215 (February 2009), LR 39:76 (January 2013).

§1806. Biology Test Structure

A. - C. ...

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 38:35 (January 2012), LR 39:76 (January 2013).

§1807. English II Test Structure

A. - D. ...

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 35:215 (February 2009), LR 39:76 (January 2013).

§1808. Geometry Test Structure

A. - C. ...

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 37:859 (March 2011), LR 39:76 (January 2013).

§1809. U.S. History Test Structure

A. The U.S. history EOC test includes three sessions, all of which will be administered online:

1. 23-item multiple-choice session;
2. 2-item short answer session; and
3. 23-item multiple-choice session.

B. Student responses to multiple-choice items will be computer-scored.

C. Student responses to the constructed-response items will be scored by the contractor.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 39:76 (January 2013).

§1810. English III Test Structure

A. The English III EOC test includes three sessions, all of which will be administered online:

1. 1 writing session, which requires a response to a prompt using the provided resources as support; and
2. 2 sessions with multiple-choice items.

B. The two multiple-choice sessions will consist of four reading passages and their related items. The passages selected will come from the following periods of American literature:

1. the Colonial Period or Revolutionary Period;
2. the National Period or the Civil War Period;
3. the Rise of Realism and Naturalism; and
4. the Early Years of the Twentieth Century.

C. The multiple-choice sessions also include discrete items. A discrete item is not passage-related but stands alone:

1. items related to using information resources; and
2. items related to writing conventions.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 39:76 (January 2013).

Subchapter D. Achievement Levels and Performance Standards

§1813. Performance Standards

A. Performance standards for EOCT Algebra I, English II, Geometry, Biology, and English III tests are finalized in scaled-score form.

B. - B.4 ...

5. English III Scaled-Score Ranges

English III	
Achievement Level	Scaled-Score Ranges
Excellent	741 – 800
Good	700 – 740
Fair	661 – 699
Needs Improvement	600 – 660

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 35:215 (February 2009), amended LR 36:478 (March 2010), LR 37:820 (March 2011), repromulgated LR 37:1123 (April 2011), LR 38:35 (January 2012), LR 39:76 (January 2013).

Subchapter E. Achievement Level Descriptors

§1817. EOCT Achievement Level Descriptors

A. - D. ...

E. English III Achievement Level Descriptors

Excellent
<p>Students at this achievement level generally have exhibited the ability to:</p> <ol style="list-style-type: none"> 1. develop essays that include relevant and accurate supporting details and reference sources; 2. produce essays that contain varied and fluent sentences; 3. revise sentences for correct use of subjunctive mood; 4. determine the main idea when it is implicit in a complex text; 5. develop conclusions based on information synthesized from the text; 6. analyze an author's use of figurative language in a complex text; 7. evaluate arguments in a complex text; 8. demonstrate an understanding of persuasive techniques; 9. evaluate claims in information resources using evidence; and 10. synthesize information from multiple information resources.
Good
<p>Students at this achievement level generally have exhibited the ability to:</p> <ol style="list-style-type: none"> 1. write essays that are focused and include a clear organizational structure; 2. write essays that incorporate appropriate word choice and demonstrate audience awareness; 3. revise phrases in a sentence for correct use of parallel structure; 4. draw conclusions based on information stated in a complex text; 5. interpret figurative language in a complex text; 6. determine overall purpose of a complex text; 7. summarize information in a complex text; 8. predict outcomes based on textual evidence; 9. evaluate the usefulness of resources; and 10. determine the reliability or objectivity of information resources.
Fair
<p>Students at this achievement level generally have exhibited the ability to:</p> <ol style="list-style-type: none"> 1. write essays that provide sufficient and relevant supporting details; 2. write essays that have a consistent voice and varied sentence structure; 3. revise sentences to avoid split infinitives; 4. select a synonym for a given vocabulary word in a text; 5. identify the main idea based on information directly stated in a text; 6. make simple inferences based on information in a text; 7. use reasoning skills to draw conclusions; 8. determine the meaning of figurative language in a text; 9. identify relevant information from a variety of resources; and 10. use information from graphic organizers.
Needs Improvement
<p>Students at this achievement level are generally working toward the ability to:</p> <ol style="list-style-type: none"> 1. write essays that provide sufficient and relevant supporting details; 2. revise sentences to avoid split infinitives; 3. identify the main idea based on information directly stated in a text; 4. use reasoning skills to draw conclusions; and 5. identify relevant information from a variety of resources.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 35:216 (February 2009), amended LR 36:478 (March 2010), LR 37:820 (March 2011), repromulgated LR 37:1123 (April 2011), LR 38:36 (January 2012), LR 39:76 (January 2013).

Subchapter F. EOCT Administrative Rules

§1825. EOC Administration Rules

A. - E. ...

F. Students who wish to retest for the Louisiana high school diploma endorsements may retest during the fall retest administration only one time for each EOC test.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 36:977 (May 2010), LR 39:77 (January 2013).

Chapter 22. ACT Program

§2201. Background

A. The American College Testing (ACT) Program also known as ACT's College and Career Readiness System provides a longitudinal approach to educational and career planning through student assessment, curriculum support, and school improvement. This research-approach based solution helps schools, districts, and states improve academic measurement, student readiness, and instructional designs.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 39:77 (January 2013).

§2203. EXPLORE

A. Designed to help 8th and 9th graders explore a broad range of options for their future, EXPLORE is a curriculum-based educational and career planning program that measures achievement in English, math, reading, and science. As an early indicator of college readiness, EXPLORE gives educators the means to structure high school planning and career exploration for students and parents.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 39:77 (January 2013).

§2205. PLAN

A. PLAN helps 10th graders build a solid foundation for future academic and career success. PLAN is a curriculum-based educational and career planning program that measures achievement in English, math, reading, and science. PLAN is designed to help 10th graders build rigorous high school course plans and identify areas of academic need so they can stay on track for college and work success.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 39:77 (January 2013).

§2207. ACT

A. The ACT is designed to assess 11th graders' general learning outcomes. The ACT is a curriculum-based educational and career planning tool that assesses mastery of state and college readiness standards. Accepted by all four-year colleges and universities, it is the college entrance test most preferred nationwide.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 39:77 (January 2013).

Chapter 24. Academic Skills Assessment (ASA)

§2400. Sunset Provision

A. For the academic year 2011-2012, ASA and ASA LAA2 tests will be administered one-time only and thereafter discontinued as a statewide assessment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7 and 17:24(F)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 39:77 (January 2013).

Subchapter E. Target Population

§2409. Achievement Levels

- A.1. Louisiana achievement levels are:
 - a. Basic (meeting the standard);
 - b. Approaching Basic (approaching the standard);
 - c. Unsatisfactory
 - d. Foundational
 - e. Pre-Foundational
- B. Achievement Level Definitions
 - 1. *Basic*—a student at this level has demonstrated only the fundamental knowledge and skills needed for the next level of schooling.
 - 2. *Approaching Basic*—a student at this level has only partially demonstrated the fundamental knowledge and skills needed for the next level of schooling.
 - 3. *Foundational*—a student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling but has demonstrated the foundational knowledge and skills that can be built upon to access the grade-level curriculum.
 - 4. *Pre-Foundational*—a student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling. However, the student may be developing the foundational knowledge and skills that can be built upon to access the grade-level curriculum.
 - 5. *Unsatisfactory*—a student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4(F)(1) and (C).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 39:78 (January 2013).

§2411. Performance Standards

- A. Performance standards for ASA English Language Arts and Mathematics are finalized in scaled-score form.
- B. ASA Mathematics Achievement Levels and Scaled Score Ranges (field tested, but not implemented)

Achievement Level	Mathematics
Basic	293 – 359
Approaching Basic	263 – 292
Unsatisfactory	100 – 262

C. ASA LAA 2 Mathematics Achievement Levels and Scaled Score Ranges

Achievement Level	Mathematics
Basic	293 – 340
Approaching Basic	263 – 292
Foundational	221 – 262
Pre-Foundational	100 – 220

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 39:78 (January 2013).

Subchapter F. Achievement Level Descriptors

§2412. Introduction

A. Achievement level descriptors for Louisiana assessments were developed by committees composed of Louisiana educators who represented the subjects and grades assessed. The descriptors define what a student should know and be able to do at each achievement level for each subject assessed at a given grade level.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.4(B).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 39:78 (January 2013).

§2413. ASA Mathematics Achievement Level Descriptors

Basic
<p>A student at this level has demonstrated only the fundamental knowledge and skills needed for the next level of schooling. Students scoring at this level generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. Simplify numerical expressions involving multiple operations, using order of operations; 2. represent numbers as exponential expressions with positive, integral exponents; 3. use proportional reasoning to solve real-life problems; 4. use algebraic expressions, equations, and inequalities to describe tables and verbal statements in real-life situations; 5. solve multi-step equations and inequalities in one variable; 6. choose appropriate common units (U.S. and metric) to make measurements; 7. demonstrate understanding of precision and accuracy; 8. solve simple problems involving indirect measurement in real-life situations; 9. recognize and graph linear equations to interpret and solve real-life problems, and use appropriate terminology to describe slope, intercept, point, intersection, etc.; 10. draw translations and line reflections in a coordinate system; 11. read, organize, construct, and interpret data presented in a variety of formats and make generalizations using these representations; and 12. demonstrate a fundamental understanding of graphical representations of functions, including the relationship of the constants and coefficients in a linear function to the graph of the function.
Approaching Basic
<p>A student at this level has only partially demonstrated the fundamental knowledge and skills needed for the next level of schooling. Students scoring at this level generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. demonstrate understanding of different number systems, including whole numbers, integers, rational numbers, and real numbers; 2. perform basic operations with positive rational numbers; 3. determine whether problems require exact or approximate solutions; 4. recognize ratios and proportions that describe real-life situations; 5. use calculators to evaluate polynomials for given values of the variables; 6. solve single-step equations and inequalities in one variable; 7. estimate, calculate, and make measurements using common units of measure; 8. locate points on a coordinate grid; 9. recognize geometric transformations on a coordinate grid; 10. match data displays to real-life situations, and vice versa; 11. follow and interpret processes expressed in flow charts; and 12. recognize and describe coordinate graphs of functions.

Unsatisfactory

A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling.

Students scoring at this level need to develop the ability to:

1. demonstrate understanding of different number systems, including whole numbers, integers, rational numbers, and real numbers;
2. perform basic operations with positive rational numbers;
3. determine whether problems require exact or approximate solutions;
4. recognize ratios and proportions that describe real-life situations;
5. use calculators to evaluate polynomials for given values of the variables;
6. solve single-step equations and inequalities in one variable;
7. estimate, calculate, and make measurements using common units of measure;
8. locate points on a coordinate grid;
9. recognize geometric transformations on a coordinate grid;
10. match data displays to real-life situations, and vice versa;
11. follow and interpret processes expressed in flow charts; and
12. recognize and describe coordinate graphs of functions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 39:78 (January 2013).

§2415. ASA LAA 2 Mathematics Achievement Level Descriptors

Basic

A student at this level has demonstrated only the fundamental knowledge and skills needed for the next level of schooling.

Students scoring at this level generally exhibit the ability to:

1. simplify numerical expressions involving multiple operations, using order of operations;
2. represent numbers as exponential expressions with positive, integral exponents;
3. use proportional reasoning to solve real-life problems;
4. use algebraic expressions, equations, and inequalities to describe tables and verbal statements in real-life situations;
5. solve multi-step equations and inequalities in one variable;
6. choose appropriate common units (U.S. and metric) to make measurements;
7. demonstrate understanding of precision and accuracy;
8. solve simple problems involving indirect measurement in real-life situations;
9. recognize and graph linear equations to interpret and solve real-life problems, and use appropriate terminology to describe slope, intercept, point, intersection, etc.;
10. draw translational and line reflections in a coordinate system;
11. read, organize, construct, and interpret data presented in a variety of formats and make generalizations using these representations; and
12. demonstrate a fundamental understanding of graphical representations of functions.

Approaching Basic

A student at this level has only partially demonstrated the fundamental knowledge and skills needed for the next level of schooling.

Students scoring at this level generally exhibit the ability to:

1. demonstrate understanding of different number systems, including whole numbers, integers, rational numbers, and real numbers;
2. perform basic operations with positive rational numbers;
3. determine whether problems require exact or approximate solutions;
4. recognize ratios and proportions that describe real-life situations;
5. use calculators to evaluate polynomials for given values of the variables;
6. solve single-step equations and inequalities in one variable;
7. estimate, calculate, and make measurements using common units of measure;
8. locate points on a coordinate grid;
9. recognize geometric transformations on a coordinate grid;
10. match data displays to real-life situations, and vice versa;
11. follow and interpret processes expressed in flow charts; and
12. recognize and describe coordinate graphs of functions.

Foundational

A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling but has demonstrated the foundational knowledge and skills that can be built upon to access the grade-level curriculum.

Students scoring at this level generally exhibit the ability to:

1. demonstrate some understanding of different number systems, including whole numbers, integers, rational numbers, and real numbers;
2. perform a few basic operations with positive rational numbers;
3. determine—with some consistency—whether problems require exact or approximate solutions;
4. recognize some ratios and proportions that describe real-life situations;
5. minimally use calculators to evaluate polynomials for given values of the variables;
6. solve some single-step equations and inequalities in one variable;
7. estimate, calculate, and make measurements—with a limited degree of accuracy—using common units of measure;
8. show limited skills in locating points on a coordinate grid;
9. recognize a limited number of geometric transformations on a coordinate grid;
10. match some data displays to real-life situations, and vice versa;
11. follow and interpret some processes expressed in flow charts; and
12. minimally recognize and describe coordinate graphs of functions.

Pre-Foundational

A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling. However, the student may be developing the foundational knowledge and skills that can be built upon to access the grade-level curriculum.

Students scoring at this level need to develop the ability to:

1. demonstrate at least some understanding of different number systems, including whole numbers, integers, rational numbers, and real numbers;
2. perform at least a few basic operations with positive rational numbers;
3. determine—with at least some consistency—whether problems require exact or approximate solutions;
4. recognize at least some ratios and proportions that describe real-life situations;
5. at least minimally use calculators to evaluate polynomials for given values of the variables;
6. solve at least some single-step equations and inequalities in one variable;
7. estimate, calculate, and make measurements—with at least a limited degree of accuracy—using common units of measure;
8. show at least limited skills in locating points on a coordinate grid;
9. recognize at least a limited number of geometric transformations on a coordinate grid;
10. match at least some data displays to real-life situations; and vice versa;
11. follow and interpret at least some processes expressed in flow charts; and
12. at least minimally recognize and describe coordinate graphs of function.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 39:79 (January 2013).

Heather Cope
Executive Director

1301#065

RULE

Board of Elementary and Secondary Education

Bulletin 119—Louisiana School Transportation Specifications and Procedures (LAC 28: CXIII.303, 307, 309, 1905, 1907, and 3101)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 119—Louisiana School Transportation Specifications and Procedures*: Chapter 3, 19 and 31. The revisions will eliminate tenure for school bus drivers hired after July 1, 2012 as required by Act 704, R.S. 17:492. In addition, R.S. 17:491 provides a clear definition of "school bus operator" in an effort to eliminate discrepancies and inconsistencies. Act 249, R.S. 17:238(C) allows a foster child to remain enrolled in the school of enrollment for the entire duration of the child's stay in the custody of the state or until the highest grade offered is completed. Act 672, R.S. 17:158(I) authorizes local school boards to provide transportation to certain students attending certain technical colleges effective August 1, 2012. The remaining changes are technical in nature.

Title 28

EDUCATION

Part CXIII. Bulletin 119—Louisiana School Transportation Specifications and Procedures

Chapter 3. Selection and Employment of School Bus Drivers and Attendants (Aides)

§303. Certification of School Bus Drivers

- A. - C.7.b. ...
- 8. Repealed.
- C.9. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:587, R.S. 17:15, R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166, R.S. 17:432, R.S. 17:491, R.S. 17:493, R.S. 17:497, R.S. 17: 691, R.S. 32:52, R.S. 32:402, R.S. 32:408, R.S. 32:417, and R.S. 40:963 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:628 (April 1999), amended LR 36:1467 (July 2010), LR 37:2122 (July 2011), LR 38:749 (March 2012), LR 39:80 (January 2013).

§307. Retaining School Bus Drivers

- A. - G. ...

H. For the purposes of this Section, *school bus operator* or *school bus driver* means any employee of a city, parish, or other local public school board or other governing authority of a public elementary or secondary school whose duty it is to transport students in any school bus or activity bus to and from a school approved by the state Board of Elementary and Secondary Education or to and from any school-related activity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166, and R.S. 17:493.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:642 (April 1999), amended LR 36:1468 (July 2010), LR 37:2122 (July 2011), LR 38:749 (March 2012), LR 39:80 (January 2013).

§309. Tenure and Termination of Bus Drivers

- A. ...

B. School bus operators starting employment with a school system on July 1, 2012, or thereafter are not eligible

for tenure and may be removed from their position as provided by the personnel policy of the employing school board.

C. Additionally, the abolition, discontinuance or consolidation of bus routes may require a reduction in force, or lay-off of one or more bus drivers. The procedure prescribed in R.S. 17:493 must be followed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166, R.S. 17:492, and 17:493.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:630 (April 1999), amended LR 36:1468 (July 2010), LR 39:80 (January 2013).

Chapter 19. Transporting Students

§1905. Transportation of Student in Foster Care

A. Each LEA shall establish a policy to ensure that a student who is in foster care pursuant to placement through the Department of Children and Family Services (DCFS) 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 for the duration of the child's stay in the custody of the state or until he completes the highest grade offered at the school, if DCFS determines that remaining in the school is in the best interest of the student.

B. If the foster care placement is outside the jurisdictional boundaries of the public school in which the student is enrolled, the governing authority of the school shall be responsible for providing free transportation for the student to and from a designated location which is within that school district and is located nearest to the student's residence.

1. The location must be determined to be appropriate by such governing authority and DCFS.

2. DCFS shall be responsible for providing the child's transportation between that location and the child's residence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166, and R.S. 17:238.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:635 (April 1999), amended LR 36:1476 (July 2010), LR 39:80 (January 2013).

§1907. Transportation of Student to a Community and Technical College System

A. In accordance with Revised Statute 17:158(I), each LEA may provide transportation to any full-time student who is twenty years of age or younger and attending a technical college campus, that is part of the Louisiana Community and Technical College System, within the jurisdictional boundaries of the local board.

1. If the closest technical college campus is located outside the jurisdictional boundaries of the local school board, the board may facilitate the transportation or coordinate with neighboring boards to facilitate transportation to the technical college campus.

B. The local public school board where the student resides may assess a fee to each student utilizing the Transportation services provided pursuant to this Subsection, not to exceed the actual cost of providing such transportation, including administrative costs.

C. The provisions of this Section shall not apply to:

1. local public school boards in a parish with a population of more than three hundred thousand persons according to the most recent federal decennial census;

2. local public school boards in any parish that operates a parish-wide public transit system that provides sufficient service to meet the transportation needs of students attending technical colleges located in the parish.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166, and R.S. 17:238, R.S. 17:158(I).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:80 (January 2013).

Chapter 31. Glossary of Definitions

§3101. Definitions

* * *

Manufacturer—any person engaged in the manufacturing or assembling of motor vehicles or items of motor vehicle equipment, including any person importing motor vehicle equipment for resale.

* * *

Tenured School Bus Driver—a full-time driver who has successfully completed the three-year probationary period prior to July 1, 2012.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:641 (April 1999), amended LR 36:1481 (July 2010), LR 37:2126 (July 2011), LR 39:81 (January 2013).

Heather Cope
Executive Director

1301#066

RULE

Board of Elementary and Secondary Education

Bulletin 126—Charter Schools—Application Process (LAC 28:CXXXIX.512)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 126—Charter Schools: §512, "Application Process for Locally Authorized Charter Schools."* The policy revision streamlines and standardizes the charter school applications process for local school boards.

Title 28 EDUCATION

Part CXXXIX. Bulletin 126—Charter Schools

Chapter 5. Charter School Application and Approval Process

§512. Application Process for Locally Authorized Charter Schools

A. Application Cycle

1. Effective January 1, 2013, local school boards shall accept charter applications from applicants beginning on the first Monday in August, with the initial application period remaining open until 5 p.m. on the last Friday in September of every year. Local school boards may request supplementary materials once the initial application has been submitted. Final decisions regarding the approval of charter

applications must be made by local school boards by 5:00 p.m. on December 31 of every year. Notifications of charter proposals denied shall include written explanation of the reasons for such denial.

2. Prior to the consideration of a charter school proposal by any local school board, each charter applicant shall be afforded the opportunity to provide a written response to the independent evaluation of the application. Such response shall be available to the independent reviewers for consideration prior to issuing a final recommendation to the chartering authority.

3. If a proposal is not approved by the local school board and then also not approved by BESE within the same approval cycle, then the proposal shall be submitted to the local school board for its consideration during the next approval cycle prior to being submitted to the state board.

B. Common Charter Application

1. Each local school board shall use a common charter application developed by the department and approved by BESE, but may request additional information from applicants as needed.

2. BESE shall approve the common application to be used by local school boards by June 30 of every year. If there are no changes to be made to the common application from a previous year, BESE will not be required to vote to approve the common charter application.

C. Appeals to State Process

1. If a charter applicant believes that a local school board has not complied with the requirements in §306 of this policy, the charter applicant may submit its proposal to the state board for its review and approval as a Type 2 charter as part of the annual request for applications.

a. Upon local receipt of the application from the local charter applicant, the department shall investigate and make a determination as to whether the local school board failed to comply with §306 of this policy.

b. If the department determines that the local school board failed to comply with §306, it shall notify the local school board of that determination within 30 days, and BESE may proceed with its own review of the charter application.

2. If the local system in which a charter group intends to apply to operate a school has received a letter grade designation of "D" or "F" or any variation thereof, then a proposal for a Type 2 charter school may be made to the state board.

D. Partnerships with the Department

1. A local school board may enter into an agreement with the Louisiana Department of Education by which the department will conduct the local school board's charter applications and evaluation process. Local school boards that have entered into such agreements shall be exempt from Subsection A of this Section, and shall instead follow timelines established by the department.

2. The department shall create the process and timeline by which such agreements can be created and implemented.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3983.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 37:869 (March 2011),

1301#067

Heather Cope
Executive Director

RULE

Board of Elementary and Secondary Education

Bulletin 129—The Recovery School District
(LAC 28:CXLV.505)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 129—The Recovery School District* §505, "Return of Schools to LEA." This revision adjusts the school performance score that schools in the recovery school district (RSD) must achieve to be eligible to seek a transfer to their original district. Current policy states that schools completing the required five years in the RSD are eligible to seek transfer to their original district if the school has received a performance score of at least 5 points above the academically unacceptable school (AUS) bar for two consecutive years. The current AUS bar is 75 out of 200. Under the new policy, the AUS bar is being changed to 50 out of 150 and schools in the RSD must score a 54 for two consecutive years to be eligible for return. If the AUS bar is raised above 50, schools will be required to score 4 points above the AUS bar. These changes were made to align these policies with the new accountability formula which rescaled the performance score range so that 100 approximates 100 percent proficiency for all students and a score of 150 represents all students demonstrating Advanced. A score of 50 is the academically unacceptable school bar.

Title 28

EDUCATION

Part CXLV. Bulletin 129—The Recovery School District Chapter 5. Failed Schools

§505. Return of Schools to LEA

A. - D.1. ...

2. The school has earned for the past two consecutive years a school performance score (SPS) of 54.0 or above. If the academically unacceptable school (AUS) bar is raised above 50.0, then the school must have earned for the past two consecutive years a school performance score that is at least 4.0 points above the AUS bar as established by BESE pursuant to the statewide school and district accountability system.

D.3. - J.4. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:878 (March 2011), amended LR 38:354 (February 2012), LR 38:1396 (June 2012), LR 39:82 (January 2013).

Heather Cope
Executive Director

1310#068

RULE

Board of Elementary and Secondary Education

Bulletin 133—Scholarship Programs
(LAC 28:CLIII.1301, 1303, and 1305)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted *Bulletin 133—Scholarship Programs*, §1301. Purpose, §1303. Participation Criteria for Nonpublic Schools, and §1305. Accountability Standards for Participating Nonpublic Schools. The policy revisions reflect the provision in Act 2 of the 2012 Regular Legislative Session requiring the Department of Education to develop criteria for participation in the Student Scholarships for Educational Excellence Program that also includes an accountability system for participating students at participating schools.

Title 28

EDUCATION

Part CLIII. Bulletin 133—Scholarship Programs

Chapter 13. Criteria for School Participation in the Student Scholarships for Educational Excellence Program

§1301. Purpose

A. The Student Scholarships for Educational Excellence Act requires the LDE to “develop criteria for [school] participation that includes an accountability system for participating students at participating schools.” In accordance with this requirement, the criteria set forth in this Chapter shall reflect the following values:

1. achievement—a common standard for student performance across the system of traditional public, charter public, and nonpublic schools;
2. autonomy—minimizing bureaucracy and complexity;
3. responsibility—upholding the public trust when public funds are involved;
4. safety—protection of children’s health and welfare.

B. The purpose of these criteria shall be to protect children while avoiding a labyrinth of policies that tie the hands of educators and families. They exist to minimize the rare harmful circumstance rather than to regulate day-to-day conditions in participating schools. In applying these criteria, the state superintendent may waive any provisions of this Chapter needed to ensure the academic welfare, health, or safety of participating students, or to address extenuating circumstances.

C. Any revisions to this Chapter shall be referred to the Nonpublic Schools Council for review and comment prior to consideration by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:6 and R.S. 17:4025.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:82 (January 2013).

§1303. Participation Criteria for Nonpublic Schools

A. To participate in the scholarship program, nonpublic schools shall satisfy the criteria within this Chapter in addition to criteria for participation already established in law. Schools that do not meet these criteria may be declared

ineligible to participate in the program. Ineligibility to participate may result in the school enrolling no new students for one or more years, enrolling no new students permanently, or ending all participation immediately.

Focus Area	Standard
Enrollment	Participating schools shall indicate the number of students they are able and willing to serve. If the increase to total student enrollment would result in total student enrollment that is greater than 125 percent of their total student enrollment in the previous school year or 50 students more than were enrolled in the previous school year, including pre-kindergarten enrollment, the LDE shall consider granting the request after a review of parent demand (demonstrated through the student application process) and the school's demonstrated capacity to effectively serve such students.
Financial Practice	Participating schools shall comply with the following rules regarding financial practice. Violations may result in a school being declared ineligible to participate.
	<i>Use of Funds—</i> Scholarship funds shall be spent only on "educational purposes," as defined in the most recently approved Minimum Foundation Program formula. Any expenditure of scholarship funds constituting gross irresponsibility or gross individual enrichment is prohibited. No officer, administrator, director, manager, or employee of a participating school shall use the authority of his office or position in connection with the school's participation in the scholarship program, directly or indirectly, in a manner intended to compel or coerce any person to provide himself or any other person with anything of economic value.
	<i>Tuition and Fees—</i> Tuition and fees received through the scholarship program for participating students shall not exceed tuition and fees charged to enrolled students not participating in the program. Tuition and fees shall be defined as the total payment charged to enrolled students not participating in the scholarship program, and paid on behalf of those students. Scholarship funds may not be used to pay tuition and fees for students not participating in the scholarship program.
	<i>Annual Independent Scholarship Audit—</i> The LDE shall publish guidance as to the contents of the annual independent scholarship audit so as to ensure compliance with the limits entailed in the law. The audit shall address rules of financial practice contained in this bulletin. Failure to correct violations of the rules contained in this bulletin, or evidence of gross fiscal irresponsibility, may result in penalties including the school being declared ineligible to participate. Schools that do not obtain an audit or do not submit the audit according to a timeline established by the LDE may incur penalties including being declared ineligible to participate.

Focus Area	Standard
Student Mobility	In participating schools, the LDE may investigate instances in which the rate of students remaining enrolled from the beginning of one school year to the next school year falls short of the average of all participating schools by a significant percentage. Schools with exaggerated, repeated, or uncorrected patterns of low relative rates of continued enrollment may be instructed to enroll no new students for one year or to fully end participation.
Health, Safety and Welfare of Students	Participating schools shall be in compliance with all federal, state, and local laws and regulations pertaining to the health, safety, and welfare of students for public or nonpublic schools, as applicable.
	Participating schools shall not have an employee, or any person having supervisory or disciplinary authority over children, who has been convicted of or pled nolo contendere to any crime listed in R.S. 15:587.1(C) except R.S. 14:74 or has been convicted under the laws of any state or of the United States or of any foreign government or country of a crime which, if committed in Louisiana, would be an R.S. 15:587.1 crime.
	The state superintendent may immediately declare a school ineligible to participate if the school's continued participation endangers the academic welfare, health, or safety of children.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:6 and R.S. 17:4025.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:82 (January 2013).

§1305. Accountability System for Participating Nonpublic Schools

A. Accountability criteria shall serve the goal of ensuring the public trust that all schools participating promote student achievement.

B. Within the accountability system, the state superintendent may adjust individual numeric performance targets and thresholds to accommodate changing policies and circumstances outside the accountability system.

C. Because some schools are larger participants than others in the program, and thus take on a larger share of the public trust, accountability criteria shall vary depending on the number of scholarship students enrolled in the school as of October 1 of each academic year, as follows.

D. As nonpublic schools approved by the board in accordance with Article 8, Section 4 of the Louisiana State Constitution, all participating schools shall continue to demonstrate a sustained curriculum of quality at least equal to that prescribed for similar public schools. In accordance with R.S. 17:11, the LDE will periodically determine whether the nonpublic school is maintaining such quality.

Number of Participating Students	Means of Academic Numeric Measurement and Reporting
Average of 0-9.9 participating students per K-12 grade in the school and fewer than 40 students enrolled in tested grades	Per state and federal law, state test scores will be reported publicly for the entirety of the scholarship program student cohort if the school has 10 or more participating students taking tests, as well as for any grade level with 10 or more participating students taking tests.
Average of ≥10 participating students per K-12 grade in the school or 40 or more students enrolled in tested grades	Per state and federal law, state test scores will be reported publicly for the entirety of the scholarship program student cohort if the school has 10 or more participating students taking tests, as well as for any grade level with 10 or more participating students taking tests.
	A Scholarship Cohort Index, calculated in a manner that is substantially similar to the school performance score outlined in Bulletin 111 and is based on state assessments of student learning, shall be produced after the school year in which assessments were taken. The scholarship Cohort Index will measure only students in the scholarship program rather than the school as a whole.

E. Nonpublic Schools that Receive Scholarship Cohort Indexes

1. There shall be two fundamental rules of the accountability system for participating nonpublic schools that receive scholarship cohort indexes. Starting with the 2012-2013 school year:

a. Scholarship cohort indexes will be released after the school year on which they are based. If the school receives a scholarship cohort index below 50 in the second year of participation or in any year thereafter (on a scale of 150), the school shall not enroll additional scholarship recipients for the next school year. Students attending a participating school that receives a score below 50 in any year shall have priority admission to attend another participating school the following year;

b. following four school years of program participation, and in any period of four school years thereafter, if the participating school has scored below 50 for the majority of years in which it received a scholarship cohort index, the school shall be able to enroll new scholarship recipients only after achieving a score greater than 50 and a satisfactory quality review by the LDE.

2 The following exceptions shall exist.

a. The state superintendent shall waive both of the provisions in Paragraph 1 of this Subsection for a given school if likely new enrollees otherwise would predominantly be enrolled in schools performing at levels lower than or equivalent to the participating school.

b. The state superintendent may waive either or both of the above provisions for a given school if the school has improved by more than 15 points on the scholarship cohort index over the last four school years, with the 2012-2013 school year being the first such year.

3. In accordance with the Louisiana Constitution, the board shall ensure that approved nonpublic schools maintain a curriculum of quality at least equal to that prescribed for similar public schools and periodically determine whether the nonpublic school is maintaining such quality. If, in the process of such a periodic review, or at any other time, a

participating school is found to have demonstrated gross or persistent lack of basic academic competence, the school may incur penalties including ineligibility to participate or ineligibility to accept new students.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:6 and R.S. 17:4025.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:83 (January 2013).

Heather Cope
Executive Director

1301#069

RULE

**Department of Education
Board of Regents**

Registration and Licensure (LAC 28:IX.103 and 105)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 17:1808, the Board of Regents has amended Chapter 1, Sections 103 and 105 to increase the license fee from \$750 to \$1,500 for institutions seeking licensure.

Title 28

EDUCATION

Part IX. Regents

Chapter 1. Rules for Registration and Licensure

§103. Registration and License Applications

A. - B. ...

C. License applications must be accompanied by a nonrefundable license application fee of \$1,500 (approved by Louisiana Legislature Act 278 of the 2012 Regular Legislative Session). The license application fee must be paid by company or institutional check or by money order, and should be made payable to the Louisiana Board of Regents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:1551 (December 1993), amended LR 21:168 (February 1995), LR 36:2839 (December 2010), LR 39:84 (January 2012).

§105. License Fees

A. The license application fee shall be \$1,500 (approved by Louisiana Legislature Act 278 of the 2012 Regular Legislative Session). Those institutions granted a license to operate will be required to pay an additional \$1,500 at the start of the second year of the two-year licensing period. However, the initial license application fee may be reduced to \$200 for those institutions seeking initial licensure in order to allow clinical practicum experiences for fewer than five Louisiana residents enrolled in nursing and other health-related programs only. In order to continue and renew their licenses, those institutions will be required to pay all subsequent fees, including renewal fees. License renewal fees are required during each subsequent two-year licensing period and are nonrefundable.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:1551 (December 1993), amended LR 21:168 (February 1995), LR 36:2839 (December 2010), LR 39:84 (January 2013).

Dr. Larry Tremblay
Deputy Commissioner

1301#022

RULE

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

Office of Environmental Assessment References
(LAC 33:VI. 803 and XI.905) (MM015)

Editor's Note: The following Sections are being repromulgated to correct typographical errors. The original Rule can be viewed in its entirety in the November 20, 2012 *Louisiana Register* on pages 2749-2765.

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, III, V, VI, IX, and XI (MM015).

This Rule will amend references to the Office of Environmental Assessment. In Act 48 of the 2010 Louisiana Legislative Regular Session, the Office of Environmental Assessment was eliminated. To meet this requirement, this Rule will remove references to the Office of Environmental Assessment and replace the references with either the Office of Environmental Services, Office of Management and Finance or the Office of Environmental Compliance.

The basis and rationale for this Rule is to promulgate regulations which meet the requirements of Act 48 of the 2010 Louisiana Legislative Regular Session.

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 VI. Inactive and Abandoned Hazardous Waste and Hazardous Substance Site Remediation

**Chapter 8. Public Information and Participation
§803. Public Participation**

A. In order to ensure that the public has an opportunity to comment on site-related decisions, the Office of Environmental Compliance, or PRPs as directed by the department, shall provide opportunities for public participation as listed in this Section. All public participation activities undertaken by PRPs shall be performed under the direction and approval of the department.

1. - 1.b. ...

2. For sites where the secretary has made a demand for remedial action in accordance with R.S. 30:2275, the department shall, upon written request, provide an opportunity for a public meeting prior to approval of a site remedial investigation plan and selection of a remedy. Additionally, if a written request is received, the department shall hold a public comment period of not more than 60 calendar days duration prior to approval of a site remedial

investigation plan and selection of a site remedy. Written requests shall be mailed to the Office of Environmental Compliance.

a. ...

b. Prior to any public comment period, the Office of Environmental Compliance, or PRPs as directed by the department, shall place a copy of the document being reviewed in a public location near the site.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2221 et seq. and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2196 (November 1999), amended LR 26:2513 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2139 (October 2007), amended by the Office of the Secretary, Legal Division, LR 38:2759 (November 2012), repromulgated LR 39:85 (January 2013).

Part XI. Underground Storage Tanks

**Chapter 9. Out-of-Service UST Systems and Closure
§905. Permanent Closure and Changes-in-Service**

A. At least 30 days before beginning either permanent closure or a change-in-service under Subsections B, C, and D of this Section, owners and operators must notify the Office of Environmental Compliance of their intent to permanently close or make the change-in-service, unless such action is in response to corrective action.

1.-1.a. ...

b. notifying the appropriate regional office of the Office of Environmental Compliance by mail or fax at least seven days prior to implementing the removal or change.

A.2. - D. ...

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 17:658 (July 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2560 (November 2000), amended by the Office of Environmental Assessment, LR 31:1074 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2173 (October 2007), amended by the Office of the Secretary, Legal Division, LR 38:2763 (November 2012), repromulgated LR 39:85 (January 2013).

Herman Robinson, CPM
Executive Counsel

1301#040

RULE

**Office of the Governor
Division of Administration
Office of Facility Planning and Control**

Capital Improvement Projects—Louisiana Building Code
(LAC 34:III.131)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the provisions of R.S. 39:121, the Division of Administration, Facility Planning and Control has amended LAC 34:III.131,

Louisiana Building Code, for state-owned buildings. These Rule changes are the result of a review by Facility Planning and Control of the editions of the codes specified by R.S. 40:1722 and the most recent editions of these codes. This review has led to the determination that new editions of these codes will provide a higher standard than the currently referenced editions. Facility Planning and Control is, therefore, establishing the appropriate editions of these codes as the standards.

Title 34

GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY CONTROL

Part III. Facility Planning and Control

Chapter 1. Capital Improvement Projects

Subchapter A. Procedure Manual

§131. Louisiana Building Code

A. - A.4. ...

5. the *NFPA 70: National Electric Code (NEC) 2011 Edition* as published by the National Fire Protection Association.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1410.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Facility Planning and Control, LR 8:473 (September 1982), amended LR 11:849 (September 1985), LR 33:2649 (December 2007), LR 37:3260 (November 2011), LR 39:86 (January 2013).

John L. Davis
Director

1302#026

RULE

Department of Health and Hospitals Board of Dentistry

Continuing Education, Licensure
Examinations and Criminal History Records
(LAC 46:XXXIII.1613, 1709, and 1809)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Dental Practice Act, R.S. 37:751 et seq., and particularly R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry amends LAC 46:XXXIII.1613, 1709, and 1809.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXXIII. Dental Profession

Chapter 16. Continuing Education Requirements

§1613. Continuing Education Requirements for

Relicensure of Dental Hygienists

A. - K. ...

L. Louisiana licensed dental hygienists shall be eligible for two hours of clinical continuing education for treating a donated dental service patient (pro bono) from a Louisiana State Board of Dentistry approved agency. The maximum number of hours will be no more than four in any two year biennial renewal period, and verification of treatment from the agency is mandatory in order to obtain these continuing education credits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and (13).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:661 (June 1994), amended LR 21:570 (June 1995), LR 22:24 (January 1996), LR 22:1217 (December 1996), LR 23:1526 (November 1997), LR 24:1118 (June 1998), LR 25:510 (March 1999), LR 26:489 (March 2000), LR 30:2307 (October 2004), LR 32:245 (February 2006), LR 35:1237 (July 2009), LR 36:2039 (September 2010), LR 39:86 (January 2013).

Chapter 17. Licensure Examinations

§1709. Examination of Dentists

A. - F. ...

G. Notwithstanding any other law to the contrary or any examination manual of any of the testing agencies listed in Subsection C of this Section, no candidate for licensure in the state of Louisiana will be granted same if said candidate has failed any clinical licensing examination for a total of three times. This number includes the accumulation of all examinations taken regardless of the testing agency. This number excludes failures of clinical examinations taken prior to an applicant's final year of dental school. A make-up examination counts as an examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(1) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1119 (June 1998), amended LR 28:2513 (December 2002), LR 33:2654 (December 2007), LR 37:1407 (May 2011), LR 37:2151 (July 2011), LR 37:3516 (December 2011), repromulgated LR 38:356 (February 2012), amended LR 38:1959 (August 2012), LR 39:86 (January 2013).

Chapter 18. Criminal History Records Information

§1809. Procedural Requirements

A. - A.1. ...

2. a check in the amount of no less than \$100 in satisfaction of the fees and costs incurred by the board to process fingerprint cards and to request and to receive criminal history record information.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(6), (8) and 37:763.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 28:1780 (August 2002), amended LR 39:86 (January 2013).

Peyton B. Burkhalter
Executive Director

1301#003

RULE

Department of Health and Hospitals Board of Dentistry

General Provisions—Evidence of Graduation, Restricted Licensees, Temporary Licenses, and Returning to Active Practice (LAC 46:XXXIII.103, 105, 120, and 124)

Editor's Note: The following Section is being repromulgated to correct an error upon submission. The original Rule may be viewed in its entirety in the November 20, 2012 *Louisiana Register* on pages 2770-2771.

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Dental Practice Act, R.S. 37:751 et seq., and particularly

R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry amends LAC 46:XXXIII.103, 105, 120, and 124.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XXXIII. Dental Health Profession

Chapter 1. General Provisions

§103. Evidence of Graduation

A.1. All applicants for a dental license shall furnish the board with satisfactory evidence of graduation from an accredited dental school, dental college, or educational program. An accredited dental school, dental college, or educational program shall be one that has been certified as accredited by the Commission on Dental Accreditation of the American Dental Association (CODA).

2. An applicant for a dental license who did not attend an accredited dental school or dental college must successfully complete a post-graduate CODA-approved program in either general dentistry or one of the board-approved specialties listed in §122.

a. An acceptable general dentistry post-graduate program shall consist of at least two complete, consecutive years of training in no more than two CODA-approved institutions or programs. The board does not accept an accumulation of incomplete programs to satisfy this requirement.

b. An acceptable specialty post-graduate program shall consist of at least two consecutive years at the same institution. The board does not accept an accumulation of programs which are less than two years in length to satisfy this requirement.

c. If granted a dental license, an applicant who fulfills his or her dental education requirement through a CODA-approved post-graduate program will be required to practice in only the field in which he or she obtained the two years of post-graduate training.

B. All applicants for a dental hygiene license shall furnish the board with satisfactory evidence of graduation from an accredited dental hygiene school, dental hygiene college, or educational program of at least two years in length.

C. The phrase *satisfactory evidence of graduation from an accredited dental school, dental college or educational program* shall mean receipt of satisfactory evidence from the dean of the applicant's school specifically stating that the applicant will indeed graduate within 90 days following the successful completion of a board-approved clinical licensing examination.

D. The president of the board shall withhold his signature on the license of the applicant pending receipt of satisfactory evidence of graduation before awarding the applicant's license to practice dentistry or dental hygiene in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Dentistry, LR 10:88 (February 1984), amended by the Department of Health and Hospitals, Board of Dentistry, LR 24:1112 (June 1998), LR 26:488

(March 2000), LR 27:1890 (November 2001), LR 38:2770 (November 2012), repromulgated LR 39:87 (January 2013).

Peyton Burkhalter
Executive Director

1301#033

RULE

**Department of Health and Hospitals
Board of Dentistry**

**Licensure by Credentials
(LAC 46:XXXIII.306, 307, 706, and 707)**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Dental Practice Act, R.S. 37:751 et seq., and particularly R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry amends LAC 46:XXXIII.306, 307, 706, and 707.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XXIII. Dental Health Profession

Chapter 3. Dentists

**§306. Requirements of Applicants for Dental
Licensure by Credentials**

A. The board may issue a license by credentials in lieu of an examination administered by a board approved clinical licensing examination agency provided that the applicant provides to the board satisfactory documentation evidencing that the applicant:

1. meets all requirements set forth in R.S. 37:761 and 37:768, and LAC 46:XXXIII.103 and 1805;

2. has satisfactorily passed an examination administered by the Louisiana State Board of Dentistry testing the applicant's knowledge of the Louisiana Dental Practice Act and the jurisprudence affecting same;

3. currently possesses a nonrestricted license in another state as defined in R.S. 37:751(A)(1);

4. has been in active practice, while possessing a nonrestricted license in another state, by:

a. working full-time as a dentist at a minimum of 1,000 hours per year for the preceding three years before applying for licensure in Louisiana; or

b. working full-time in dental education as a teacher for a minimum of three years immediately prior to applying for licensure in Louisiana; or

c. having successfully completed a two-year general dentistry residency program, and applying for a Louisiana dental license by credentials within 180 days of his completion of the program; or

d. having successfully completed a residency program in one of the board-recognized dental specialties as defined in §301, and applying for a Louisiana dental license by credentials within 180 days of his completion of the program;

5. successfully completed an initial licensure examination that included procedures on a live patient;

6. has not failed any clinical licensure examination a total of three or more times. This number includes the accumulation of all examinations taken regardless of the testing agency. This number excludes failures of clinical examinations taken prior to an applicant's final year of dental school. A make-up examination counts as an examination;

7. is endorsed as being in good standing by the state board of dentistry in the state of current practice and all prior states of licensure and practice;

8. has no pending criminal charges against him/her;

9. has paid all nonrefundable costs and fees;

10. has fully completed the required application form with all supporting data and certification of competency and good character;

11. has submitted Drug Enforcement Administration registration certificate number and state narcotics license number in all states wherein same are held or have been held;

12. has submitted one recent passport type color photograph;

13. has accounted for all units of time since graduation from dental school;

14. has furnished three affidavits of recommendation from professional associates (unrelated to the applicant) who have knowledge of the applicant's ability to practice dentistry after the applicant's graduation from dental school;

15. has no physical or psychological impairments which would, in the judgment of the board, adversely affect his/her ability to practice dentistry;

16. has completed continuing education in compliance with the rules of all states in which he is currently licensed and practicing;

17. has, if deemed necessary by the board, appeared for a personal interview before the board;

18. has shown or provided a sworn affidavit that there are no unresolved complaints against him/her;

19. has provided satisfactory explanation of any and all malpractice insurance payments made on the behalf of the applicant or any of the applicant's employers; and

20. has shown that his/her professional liability insurance has never been revoked, modified, or nonrenewed.

B. Licensure by credentials shall be granted subject to the provisions of §307.A.

C. The holder of a license issued under this section shall establish a practice location and actively practice dentistry, as defined in R.S. 37:751, in Louisiana within one year from the date the license is issued. The license issued under this section shall be void upon a finding by the board that the licensee fails to limit the licensee's practice to Louisiana or that the licensee no longer actively practices dentistry in Louisiana. However, when a dentist licensed under this section faces possible board action to void the dentist's license for failure to limit the dentist's practice to Louisiana, if the dentist demonstrates to the board that out-of-state practice actions were in connection with formal contract or employment arrangements for the dentist to provide needed clinical dental care to patients who are part of an identified ethnic or racial minority group living in a region of the other state with low access to dental care, the board, in its discretion, may waive the in-state limitations on the out-of-state practice for a maximum of 12 months.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and R.S. 37:768.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18:739 (July 1992), amended LR 21:571 (June 1995), LR 22:23 (January 1996), LR 23:1528 (November 1997), LR 24:1114 (June 1998), LR 25:513 (March 1999), LR 26:692 (April 2000), LR 26:1612 (August 2000), repromulgated LR 27:1893 (November 2001), amended LR 28:1777 (August 2002), LR 30:2305 (October 2004), LR 31:927 (April 2005), LR 32:243 (February 2006), LR 33:846 (May 2007), LR 33:2652 (December 2007), LR 34:2564 (December 2008), repromulgated LR 35:67 (January 2009), amended LR 37:1405 (May 2011), LR 37:3515 (December 2011), repromulgated LR 38:355 (February 2012), amended LR 39:87 (January 2013).

§307. Criteria to be Utilized to Determine Professional Competence, Conduct and Ethics of an Applicant Seeking Licensure by Credentials

A. - A.2. ...

3. drug testing if reasonable cause is presented;

4. background check for criminal or fraudulent activities or conduct reflecting upon one's professional conduct or ability;

5. the board reserves the right to conduct investigations into any and all information provided to satisfy statutory or regulatory requirements for licensure by credentials.

B. Regardless of the applicant's compliance with the foregoing and the requirements listed in §306, the board may refuse to issue a dental license based on the applicant's credentials for any of the following:

1. any material misrepresentation or omission in the application; or

2. any disciplinary action or sanctions taken against an applicant's license in another jurisdiction; or

3. any reason listed in R.S. 37:775 or R.S. 37:776.

C. False or fraudulent statements or material omission will result in suspension or revocation of licensure if discovered after issuance of a license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and R.S. 37:768.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18:740 (July 1992), amended LR 39:88 (January 2013).

Chapter 7. Dental Hygienists

§706. Requirements of Applicants for Licensure by Credentials (Hygienists)

A. The board may issue a license by credentials in lieu of an examination administered by a board-approved clinical licensing examination agency provided that the applicant provides to the board satisfactory documentation evidencing that the applicant:

1. meets all requirements set forth in R.S. 37:764 and 37:768, and LAC 46:XXXIII.103 and 1805;

2. has satisfactorily passed an examination administered by the Louisiana State Board of Dentistry testing the applicant's knowledge of the Louisiana Dental Practice Act and the jurisprudence affecting same;

3. currently possesses a nonrestricted license in another state as defined in R.S. 37:751(A)(1);

4. has been in active practice, while possessing a nonrestricted license in another state, by:

a. working full-time as a dental hygienist at a minimum of 1,000 hours per year for the preceding year before applying for licensure in Louisiana; or

b. working full-time in dental hygiene education as a teacher for a minimum of one year immediately prior to applying for licensure in Louisiana;

5. successfully completed an initial licensure examination that included procedures on a live patient;

6. has not failed any clinical licensure examination a total of three or more times. This number includes the accumulation of all examinations taken regardless of the testing agency. A make-up examination counts as an examination;

7. is endorsed as being in good standing by the state board of dentistry in the state of current practice and all prior states of licensure and practice;

8. has no pending criminal charges against him/her;

9. has paid all nonrefundable costs and fees;

10. has fully completed the required application form with all supporting data and certification of competency and good character;

11. has submitted one recent passport type color photograph;

12. has accounted for all units of time since graduation from dental hygiene school;

13. has furnished three affidavits of recommendation from professional associates (unrelated to the applicant) who have knowledge of the applicant's ability to practice dental hygiene after the applicant's graduation from dental hygiene school;

14. has no physical or psychological impairments which would, in the judgment of the board, adversely affect his/her ability to practice dentistry;

15. has completed continuing education in compliance with the rules of all states in which he is currently licensed and practicing;

16. has, if deemed necessary by the board, appeared for a personal interview before the board;

17. has shown or provided a sworn affidavit that there are no unresolved complaints against him/her;

18. has provided satisfactory explanation of any and all malpractice insurance payments made on the behalf of the applicant or any of the applicant's employers; and

19. has shown that his/her professional liability insurance has never been revoked, modified, or nonrenewed.

B. Licensure by credentials shall be granted subject to the provisions of §707.A.

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:760(8) and R. S. 37:768.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18:737 (July 1992), amended LR 21:570 (June 1995), LR 22:23 (January 1996), LR 24:1117 (June 1998), LR 25:513 (March 1999), LR 26:692 (April 2000), LR 26:1613 (August 2000), repromulgated LR 27:1894 (November 2001), amended LR 28:1778 (August 2002), LR 33:846 (May 2007), LR 33:2652 (December 2007), LR 34:2564 (December 2008), repromulgated LR 35:68 (January 2009), amended LR 39:88 (January 2013).

§707. Criteria to be Utilized to Determine Professional Competence, Conduct and Ethics of an Applicant Seeking Licensure by Credentials

A. - A.2. ...

3. drug testing if reasonable cause is presented;

4. background check for criminal or fraudulent activities or conduct reflecting upon one's professional conduct or ability;

5. the board reserves the right to conduct investigations into any and all information provided to satisfy statutory or regulatory requirements for licensure by credentials.

B. Regardless of the applicant's compliance with the foregoing and the requirements listed in §706, the board may refuse to issue a dental hygiene license based on the applicant's credentials for any of the following:

1. any material misrepresentation or omission in the application; or

2. any disciplinary action or sanctions taken against an applicant's license in another jurisdiction; or

3. any reason listed in R.S. 37:775 or R.S. 37:777.

C. False or fraudulent statements or material omission will result in suspension or revocation of licensure if discovered after issuance of a license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and R.S. 37:768.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18:738 (July 1992) amended LR 39:89 (January 2013).

Peyton B. Burkhalter
Executive Director

1301#005

RULE

**Department of Health and Hospitals
Board of Dentistry**

Restrictive License; Fees, Sedation,
Educational Requirements, Facilities and Exceptions
(LAC 46:XXXIII.415, 1505, 1506, 1509, 1511, and 1513)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Dental Practice Act, R.S. 37:751 et seq., and particularly R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry amends LAC 46:XXXIII.415, 1505, 1506, 1509, 1511, and 1513.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XXXIII. Dental Health Profession

Chapter 4. Fees and Costs

Subchapter C. Fees for Dentists

§415. Licenses, Permits, and Examinations (Dentists)

A. - A.2. ...

3. issuance of a restricted dental license (excluding advanced education students and dental residents)—\$200;

4. - 18. ...

19. application and permitting for enteral moderate sedation office permit—\$100;

20. application and permitting for enteral moderate sedation personal permit—\$100;

21. renewal of enteral moderate sedation permit for adult patients—\$50;

22. renewal of enteral moderate sedation permit for pediatric patients—\$50;

23. - 24. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and R.S. 37:795.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 14:792 (November 1988), amended LR 16:566 (June 1990), LR 18:741 (July 1992), LR 23:1526 (November 1997), LR 24:1115 (June 1998), LR 25:1478 (August 1999), LR 26:691 (April 2000), LR 28:1778 (August 2002), LR 32:243 (February 2006), LR 33:846 (May 2007), LR 34:2564 (December 2008), repromulgated LR 35:68 (January 2009), amended LR 37:2150 (July 2011), LR 37:3515 (December 2011) repromulgated LR 38:356 (February 2012), amended LR 39:89 (January 2013).

Chapter 15. Anesthesia/Analgesia Administration

§1505. Moderate Sedation with Parenteral Drugs

A. The board shall issue two types of moderate sedation with parenteral drugs permits.

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

2. utilization of the services of a third-party medical doctor or doctor of osteopathy, who specializes in anesthesiology, third-party certified registered nurse anesthetist, or an oral and maxillofacial surgeon who is permitted by the board to administer moderate sedation, deep sedation, and general anesthesia provided that the third-party anesthetist must remain on the premises of the dental facility until any patient given parenteral drugs is sufficiently recovered; or

B.3. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:659 (June 1994), amended LR 22:1216 (December 1996), LR 33:2653 (December 2007), LR 38:1958 (August 2012), LR 39:90 (January 2013).

§1506. Moderate Sedation with Enteral Drugs

A. In order to administer enteral moderate sedation, the dentist shall:

1. - 4. ...

B. Drugs for enteral moderate sedation must be administered in a dental office and the patient must be observed by a qualified office staff member with training and credentials to perform the specific tasks concomitant with the procedure being administered. Continuous monitoring with pulse oximetry must be initiated with early signs of moderate sedation and continued until the patient is alert. A precordial, pretracheal stethoscope must be available to assist intraoperatively in the monitoring of heart and respiratory rates. A sphygmomanometer shall be immediately available and utilized as needed throughout the procedure. Drugs for anxiolysis may be administered off premises prior to the dental procedure.

C. For those licensees who have received permits to administer pediatric enteral moderate sedation prior to the effective date of this Rule, said licensee shall satisfactorily complete a board approved course in the administration of pediatric enteral moderate sedation before the permit is renewed concurrently with the license renewal. However, a grace period of 180 days after the renewal of one's license shall be granted to the licensee if good cause can be shown that a course was not available.

D. ...

E. For adult patients, the licensee must provide proof of current certification in advanced cardiac life support as defined by the American Heart Association or its equivalent. For pediatric patients, the licensee must provide proof of current certification in pediatric life support (PALS), or its equivalent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and R.S. 37:793.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 30:2306 (October 2004), amended LR 32:244 (February 2006), LR 33:847 (May 2007), LR 33:2653 (December 2007), LR 38:1958 (August 2012), LR 39:90 (January 2013).

§1509. Minimal Educational Requirements for the Granting of Permits to Administer Nitrous Oxide Inhalation Analgesia, Moderate Sedation with Parenteral Drugs and General Anesthesia/Deep Sedation

A. - A.3. ...

B. Moderate Sedation with Parenteral Drugs

1. To be granted a moderate sedation with parenteral drugs permit, the applicant's training must be personally attended. Online or correspondence courses are not acceptable.

2. ...

3. To be granted a "full" permit, the applicant must submit verification of successful completion of formal post-doctoral training in the use of parental drugs via the intramuscular (IM), submucosal (SM), intranasal (IN), subcutaneous (SC), and moderate IV sedation routes of administration and competency to handle all emergencies relating to parenteral sedation providing such program consists of a minimum of 60 hours of instruction and 100 hours of clinical experience which includes at least 20 documented cases of parenteral sedation.

C. Moderate Sedation with Enteral Drugs

1. To be granted a moderate sedation with enteral drugs permit, the applicant's training must be personally attended. Online or correspondence courses are not acceptable.

2. To be granted an unrestricted (adults and children) permit to administer moderate sedation with enteral drugs, the applicant must submit verification of successful completion of formal post-doctoral training in the use of enteral moderate sedation on both pediatric and adult patients or satisfactory completion of a board approved course which includes a minimum of 16 hours of didactic training and a component on handling emergencies incident to the administration of moderate sedation.

3. To be granted a restricted permit (adults only) to administer moderate sedation with enteral drugs, the applicant must submit verification of successful completion of formal post-doctoral training in the use of enteral moderate sedation on adult patients or satisfactory completion of a board approved course which includes a minimum of 8 hours of didactic training and a component on

handling emergencies incident to the administration of moderate sedation.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:659 (June 1994), amended LR 22:1216 (December 1996), LR 32:244 (February 2006), LR 37:590 (February 2011), LR 37:2151 (July 2011), LR 38:1958 (August 2012), LR 39:90 (January 2013).

§1511. Required Facilities, Personnel and Equipment for Sedation Procedures

A. - A.7.d. ...

e. pulse oximeter when parenteral or enteral moderate sedation on a patient is performed.

A.8. - B. ...

1. The authorized dentist must ensure that every patient receiving nitrous oxide inhalation analgesia, moderate sedation with parenteral drugs, deep sedation or general anesthesia is constantly attended.

2. Direct supervision by the authorized dentist is required when nitrous oxide inhalation analgesia, moderate sedation with parenteral drugs, deep sedation or general anesthesia is being administered.

3. ...

4. When moderate sedation with parenteral or enteral drugs is being administered one auxiliary who is currently certified in basic life support must be available to assist the dentist in an emergency.

5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:659 (June 1994), amended LR 32:244 (February 2006), LR 37:1407 (May 2011), LR 39:91 (January 2013).

§1513. Exceptions

A. The board, based on formal application stating all particulars which would justify the granting of such anesthesia/analgesia permit, may grant a permit authorizing the utilization of nitrous oxide inhalation analgesia, moderate sedation with parenteral drugs, deep sedation or general anesthesia to those licensed dentists who have been using the requested sedation procedures in a competent and effective manner prior to the effective date of this Chapter, but who have not had the benefit of formal training as required in this Chapter or in R.S. 37:793.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:660 (June 1994), amended LR 39:91 (January 2013).

Peyton B. Burkhalter
Executive Director

1301#004

RULE

**Department of Health and Hospitals
Board of Wholesale Drug Distributors**

Policy and Procedures and Quarantine of Legend Drugs or Legend Devices (LAC 46:XCI.313 and 1101)

The Louisiana Board of Wholesale Drug Distributors has amended LAC 46:XCI.313 and adopted §1101 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. The rule amendments will support the board's ability to regulate the wholesale distribution of legend drugs and legend 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

§313. Policy and Procedures

A. - A.5. ...

6. a procedure to notify the board, in writing, within three business days of discovering, or being in a position to have acquired such knowledge, of any theft or diversion of a drug or device;

7. a procedure to notify the board, in writing, within 24 hours of discovery, or being in a position to have acquired such knowledge, of any contraband, counterfeit, or misbranded drug or device in his possession, whether actual or constructive.

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 18:384 (April 1992), amended LR 29:1480 (August 2003), LR 32:400 (March 2006), LR 39:91 (January 2013).

Chapter 11. Quarantine of Legend Drugs or Legend Devices

§1101. Order of Quarantine

A. The board's inspector or executive director may issue an order of quarantine on site.

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 39:91 (January 2013).

John Liggio
Executive Director

1301#017

RULE

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

Coordinated Care Network
Pharmacy Services Coverage
(LAC 50:1.3503, 3505, 3507, and 3509)

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 50:1.3503-3509 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 I. Administration

Subpart 3. Medicaid Coordinated Care

**Chapter 35. Coordinated Care Network Managed
Care Organization Model**

**§3503. Managed Care Organization Model
Responsibilities**

A. - N. ...

O. A CCN-P shall participate on the department’s established committees for administrative simplification and quality improvement, which will include physicians, hospitals, pharmacists, other healthcare providers as appropriate, and at least one member of the Senate and House Health and Welfare Committees or their designees.

P. - P.1.b. ...

Q. The member handbook shall include, but not be limited to:

1. - 5.i. ...

j. how to make, change and cancel medical appointments and the importance of canceling and/or rescheduling rather than being a “no show;”

k. the extent to which and how after-hour services are provided; and

l. information about the CCN’s formulary and/or preferred drug list (PDL), including where the member can access the most current information regarding pharmacy benefits.

Q.6. - S.3. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1583 (June 2011), amended LR 39:92 (January 2013).

§3505 Network Access Standards and Guidelines

A. - D. ...

E. Any pharmacy or pharmacist participating in the Medicaid Program may participate as a network provider if licensed and in good standing with the Louisiana State Board of Pharmacy and accepts the terms and conditions of the contract offered to them by the CCN-P.

1. The CCN-P shall not require its members to use mail service pharmacy.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1585 (June 2011), amended LR 39:92 (January 2013).

§3507. Benefits and Services

A. - A.2. ...

B. The CCN-P:

1. - 5.a. ...

b. no medical service limitation can be more restrictive than those that currently exist under the Title XIX Louisiana Medicaid State Plan;

6. shall provide pregnancy-related services that are necessary for the health of the pregnant woman and fetus, or that have become necessary as a result of being pregnant and includes, but is not limited to prenatal care, delivery, postpartum care, and family planning/interconception care services for pregnant women in accordance with federal regulations; and

7. shall establish a Pharmaceutical and Therapeutics (P and T) Committee or similar committee for the development of its formulary and the PDL.

C. - C.4. ...

D. The following is a summary listing of the core benefits and services that a CCN-P is required to provide:

1. - 16. ...

17. chiropractic services;

18. rehabilitation therapy services (physical, occupational, and speech therapies); and

19. pharmacy services (prescription drugs).

E. - G.1.f. ...

g. school-based individualized education plan services provided by a school district and billed through the intermediate school district, or school-based services funded with certified public expenditures;

h. home and community-based waiver services;

i. specialized behavioral health; and

j. targeted case management services.

H. - H.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, Bureau of Health Services Financing, LR 37:185 (June 2011), amended LR 39:92 (January 2013).

§3509. Reimbursement Methodology

A. - A.4.d. ...

5. PMPM payments related to pharmacy services will be adjusted to account for pharmacy rebates.

B. - K.1. ...

L. Network Provider Reimbursement

1. ...

a. The CCN-P shall pay a pharmacy dispensing fee, as defined in the contract, at a rate no less than the minimum specified in the terms of the contract.

2. - 3.a. ...

M. Out-of-Network Provider Reimbursement

1. - 2. ...

3. The CCN-P is not required to reimburse for pharmacy delivered by out-of-network providers. The CCN-P shall maintain a system that denies the claim at the point-of-sale for providers not contracted in the network.

N. - N.2.a. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1587 (June 2011), amended LR 39:92 (January 2013).

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

Bruce D. Greenstein
Secretary

1301#118

RULE

Department of Health and Hospitals Bureau of Health Services Financing and Office of Public Health

Early and Periodic Screening, Diagnosis and Treatment
Uncompensated Care Payments (LAC 50:XV.Chapter 97)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Public Health have adopted LAC 50:XV.Chapter 97 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 5. Early and Periodic Screening, Diagnoses, and Treatment

Chapter 97. Office of Public Health Uncompensated Care Payments

§9701. General Provisions

A. Effective for dates of service on or after July 1, 2012, the department shall provide the Office of Public Health (OPH) with Medicaid payment of their uncompensated care costs for child health services including hearing and speech therapy services, maternity services, and children's special health services rendered to Medicaid recipients.

B. The Office of Public Health shall certify public expenditures to the Medicaid Program in order to secure federal funding for services provided at the cost of OPH.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Public Health, LR 39:93 (January 2013).

§9703. Reimbursement Methodology

A. The OPH will submit an estimate of cost for services provided under this Chapter. The estimated cost will be calculated based on the previous fiscal year's expenditures and reduced by the estimate of payments made for services to OPH under this Chapter, which will be referred to as the net uncompensated care cost. The uncompensated care cost will be reported on a quarterly basis

B. Upon completion of the fiscal year, the Office of Public Health will submit a cost report which will be used as a settlement of cost within one year of the end of the fiscal year.

1. Any adjustments to the net uncompensated care cost for a fiscal year will be reported on the CMS Form 64 as a prior period adjustment in the quarter of settlement.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Public Health, LR 39:93 (January 2013).

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

Bruce D. Greenstein
Secretary

1301#119

RULE

Department of Health and Hospitals Bureau of Health Services Financing and Office of Public Health

Family Planning Clinics—Reimbursement Methodology
Office of Public Health Uncompensated Care Payments
(LAC 50:XI.3501)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Public Health have amended LAC 50:XI.3501 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XI. Clinic Services

Subpart 5. Family Planning

Chapter 35. Reimbursement

§3501. Reimbursement Methodology

A. - C. ...

D. Office of Public Health Uncompensated Care Payments

1. Effective for dates of service on or after July 1, 2012, the department shall provide the Office of Public Health (OPH) with Medicaid payment of their uncompensated care costs for services rendered to Medicaid recipients. The Office of Public Health shall certify public expenditures to the Medicaid Program in order to secure federal funding for services provided at the cost of OPH.

2. The OPH will submit an estimate of cost for services provided under this Chapter.

a. The estimated cost will be calculated based on the previous fiscal year's expenditures and reduced by the estimate of payments made for services to OPH under this Chapter, which will be referred to as the net uncompensated care cost. The uncompensated care cost will be reported on a quarterly basis

3. Upon completion of the fiscal year, the Office of Public Health will submit a cost report which will be used as a settlement of cost within one year of the end of the fiscal year.

a. Any adjustments to the net uncompensated care cost for a fiscal year will be reported on the CMS Form 64 as a prior period adjustment in the quarter of settlement.

AUTHORITY NOTE: Promulgated in 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 37:1600 (June 2011), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Public Health, LR 39:93 (January 2013).

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

Bruce D. Greenstein
Secretary

1301#120

RULE

Department of Health and Hospitals Bureau of Health Services Financing

Inpatient Hospital Services—Distinct Part Psychiatric Units Reimbursement Methodology (LAC 50:V.915 and 959)

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 50:V.915 and §959 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. Medical Assistance Program—Hospital Services

Subpart 1. Inpatient Hospitals

Chapter 9. Non-Rural, Non-State Hospitals

Subchapter A. General Provisions

§915. Distinct Part Psychiatric Units

A. ...

1. - 1.b. Repealed.

B. Effective for dates of service on or after February 10, 2012, a Medicaid enrolled non-state acute care hospital that enters into a cooperative endeavor agreement (CEA) with the Department of Health and Hospitals, Office of Behavioral Health to provide inpatient psychiatric hospital services to Medicaid and uninsured patients, and which also assumes the operation and management of a state-owned and formerly state-operated hospital distinct part psychiatric unit, may make a one-time increase in its number of beds with a one-time opening of a new distinct part psychiatric unit.

1. This expansion or opening of a new unit will not be recognized, for Medicare purposes, until the beginning of the next cost reporting period. At the next cost reporting period, the hospital must meet the Medicare Prospective Payment System (PPS) exemption criteria and enroll as a Medicare PPS excluded distinct part psychiatric unit.

2. At the time of any expansion or opening of a new distinct part psychiatric unit, the provider must provide a written attestation that they meet all Medicare PPS rate exemption criteria.

3. Admissions to this expanded or new distinct part psychiatric unit may not be based on payer source.

C. Changes in the Status of Hospital Units. The status of each hospital unit is determined at the beginning of each cost reporting period and is effective for the entire cost reporting period. Any changes in the status of a unit are made only at the start of a cost reporting period.

1. 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 20:49 (January 1994), amended LR 34:1913 (September 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:94 (January 2013).

Subchapter B. Reimbursement Methodology §959. Inpatient Psychiatric Hospital Services

A. - K.2.b. ...

L. Effective for dates of service on or after February 10, 2012, a Medicaid-enrolled non-state acute care hospital that enters into a cooperative endeavor agreement (CEA) with the Department of Health and Hospitals, Office of Behavioral Health to provide inpatient psychiatric hospital services to Medicaid and uninsured patients, and which also assumes the operation and management of formerly state-owned and operated psychiatric hospitals/visits, shall be paid a per diem rate of \$581.11 per day.

AUTHORITY NOTE: Promulgated in 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), repromulgated LR 35:2183 (October 2009), amended LR 36:1554 (July 2010), LR 36:2562 (November, 2010), LR 37:2162 (July 2011), LR 39:94 (January 2013).

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

Bruce D. Greenstein
Secretary

1301#121

RULE

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

Inpatient Hospital Services
Non-Rural, Non-State Public Hospitals
Reimbursement Methodology (LAC 50:V.963)

Editor's Note: This Rule is being repromulgated to correct a typographical error. The original Rule can be viewed in the December 20, 2012 edition of the *Louisiana Register* on page 3181.

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 50:V.963 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 1. Inpatient Hospital Services

Chapter 9. Non-Rural, Non-State Hospitals

Subchapter B. Reimbursement Methodology

§963. Public Hospitals

A. Effective for dates of service on or after May 15, 2011, non-rural, non-state public hospitals shall be reimbursed up to the Medicare inpatient upper payment limits as determined in accordance with 42 CFR §447.272.

B. - D.2. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3181 (December 2012), repromulgated LR 39:95 (January 2013).

Bruce D. Greenstein
Secretary

1301#125

RULE

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

and

Office of Public Health

Laboratory Services
Office of Public Health Uncompensated Care Payments
(LAC 50:XIX.4329)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Public Health have amended LAC 50:XIX.4329 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 XIX. Other Services

Subpart 3. Laboratory and Radiology

Chapter 43. Billing and Reimbursement

§4329. Laboratory Services (Physicians and Independent Laboratories)

A. - K. ...

L. Office of Public Health Uncompensated Care Payments

1. Effective for dates of service on or after July 1, 2012, the department shall provide the Office of Public Health (OPH) with Medicaid payment of their uncompensated care costs for services rendered to Medicaid recipients. The Office of Public Health shall certify public expenditures to the Medicaid Program in order to secure federal funding for services provided at the cost of OPH.

2. The OPH will submit an estimate of cost for services provided under this Chapter.

a. The estimated cost will be calculated based on the previous fiscal year's expenditures and reduced by the estimate of payments made for services to OPH under this Chapter, which will be referred to as the net uncompensated care cost. The uncompensated care cost will be reported on a quarterly basis

3. Upon completion of the fiscal year, the Office of Public Health will submit a cost report which will be used as a settlement of cost within one year of the end of the fiscal year.

a. Any adjustments to the net uncompensated care cost for a fiscal year will be reported on the CMS Form 64 as a prior period adjustment in the quarter of settlement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153, R.S. 49:1008(A), P.L. 98-369, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1025 (May 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1897 (September 2009), LR 36:1248 (June 2010), LR 36:2563 (November 2010), LR 37:3028 (October 2011), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Public Health, LR 39:95 (January 2013).

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

Bruce D. Greenstein
Secretary

1301#122

RULE

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

Professional Services Program—Family Planning Services
Office of Public Health Uncompensated Care Payments
(LAC 50:IX.15143)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Public Health have amended LAC 50:IX.15143 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 E. Family Planning Services

§15143. Reimbursement

A. - D. ...

E. Office of Public Health Uncompensated Care Payments

1. Effective for dates of service on or after July 1, 2012, the department shall provide the Office of Public Health (OPH) with Medicaid payment of their uncompensated care costs for services rendered to Medicaid recipients. The Office of Public Health shall certify public expenditures to the Medicaid Program in order to secure federal funding for services provided at the cost of OPH.

2. The OPH will submit an estimate of cost for services provided under this Chapter.

a. The estimated cost will be calculated based on the previous fiscal year's expenditures and reduced by the estimate of payments made for services to OPH under this Chapter, which will be referred to as the net uncompensated care cost. The uncompensated care cost will be reported on a quarterly basis.

3. Upon completion of the fiscal year, the Office of Public Health will submit a cost report which will be used as a settlement of cost within one year of the end of the fiscal year.

a. Any adjustments to the net uncompensated care cost for a fiscal year will be reported on the CMS Form 64 as a prior period adjustment in the quarter of settlement.

AUTHORITY NOTE: Promulgated in 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 36:2566 (November 2010), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Public Health, LR 39:96 (January 2013).

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and

Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Bruce D. Greenstein
Secretary

1301#123

RULE

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

Professional Services Program—Immunizations
Office of Public Health Uncompensated Care Payments
(LAC 50:IX.8305, 8505 and 8701)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Public Health have amended LAC 50:XV.8305, adopted §8505, and repealed §8701 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 7. Immunizations

Chapter 83. Children's Immunizations

§8305. Reimbursement Methodology

A. - B. ...

C. Office of Public Health Uncompensated Care Payments

1. Effective for dates of service on or after July 1, 2012, the department shall provide the Office of Public Health (OPH) with Medicaid payment of their uncompensated care costs for immunization services rendered to Medicaid recipients. The Office of Public Health shall certify public expenditures to the Medicaid Program in order to secure federal funding for services provided at the cost of OPH.

2. The OPH will submit an estimate of cost for services provided under this Chapter.

a. The estimated cost will be calculated based on the previous fiscal year's expenditures and reduced by the estimate of payments made for services to OPH under this Chapter, which will be referred to as the net uncompensated care cost. The uncompensated care cost will be reported on a quarterly basis

3. Upon completion of the fiscal year, the Office of Public Health will submit a cost report which will be used as a settlement of cost within one year of the end of the fiscal year.

a. Any adjustments to the net uncompensated care cost for a fiscal year will be reported on the CMS Form 64 as a prior period adjustment in the quarter of settlement.

AUTHORITY NOTE: Promulgated in 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 35:71 (January 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Public Health, LR 39:96 (January 2013).

Chapter 85. Adult Immunizations

§8505. Reimbursement Methodology

A. Providers shall be reimbursed according to the established fee schedule for the vaccine and the administration of the vaccine.

B. Office of Public Health Uncompensated Care Payments

1. Effective for dates of service on or after July 1, 2012, the department shall provide the Office of Public Health (OPH) with Medicaid payment of their uncompensated care costs for immunization services rendered to Medicaid recipients. The Office of Public Health shall certify public expenditures to the Medicaid Program in order to secure federal funding for services provided at the cost of OPH.

2. The OPH will submit an estimate of cost for services provided under this Chapter.

a. The estimated cost will be calculated based on the previous fiscal year's expenditures and reduced by the estimate of payments made for services to OPH under this Chapter, which will be referred to as the net uncompensated care cost. The uncompensated care cost will be reported on a quarterly basis

3. Upon completion of the fiscal year, the Office of Public Health will submit a cost report which will be used as a settlement of cost within one year of the end of the fiscal year.

a. Any adjustments to the net uncompensated care cost for a fiscal year will be reported on the CMS Form 64 as a prior period adjustment in the quarter of settlement.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Public Health, LR 39:97 (January 2013).

Chapter 87. Reimbursement

§8701. Reimbursement Methodology

A. 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 34:1035 (June 2008), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Public Health, LR 39:97 (January 2013).

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

Bruce D. Greenstein
Secretary

1301#126

RULE

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

Targeted Case Management—Nurse Family Partnership Program—Uncompensated Care Payments (LAC 50:XV.10701)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Public Health have amended LAC 50:XV.10701 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 7. Targeted Case Management

Chapter 107. Reimbursement

§10701. Reimbursement

A. - G.4.

H. Office of Public Health Uncompensated Care Payments

1. Effective for dates of service on or after July 1, 2012, the department shall provide the Office of Public Health (OPH) with Medicaid payment of their uncompensated care costs for services rendered to Medicaid recipients in the Nurse Family Partnership Program. The Office of Public Health shall certify public expenditures to the Medicaid Program in order to secure federal funding for services provided at the cost of OPH.

2. The OPH will submit an estimate of cost for services provided under this Chapter.

a. The estimated cost will be calculated based on the previous fiscal year's expenditures and reduced by the estimate of payments made for services to OPH under this Chapter, which will be referred to as the net uncompensated care cost. The uncompensated care cost will be reported on a quarterly basis.

3. Upon completion of the fiscal year, the Office of Public Health will submit a cost report which will be used as a settlement of cost within one year of the end of the fiscal year.

a. Any adjustments to the net uncompensated care cost for a fiscal year will be reported on the CMS Form 64 as a prior period adjustment in the quarter of settlement.

AUTHORITY NOTE: Promulgated in 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 35:1903 (September 2009), LR 36:1783 (August 2010), amended by the Department of Health and Hospitals,

Bureau of Health Services Financing and the Office of Public Health, LR 39:97 (January 2013).

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

Bruce D. Greenstein
Secretary

1301#124

RULE

Department of Public Safety and Corrections Office of Motor Vehicles

Driver Education (LAC 55:III.155)

Editor's Note: The following Sections are being repromulgated to correct typographical errors. The original Rule can be viewed in its entirety in the December 20, 2012 *Louisiana Register* on pages 3234-3235.

Under the authority of R.S. 37:3270 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Office of Motor Vehicles, hereby amends Sections 143, 149, 154, 155, 157 and adopts Section 159 under Chapter 1 to implement Act 275 of the 2012 Regular Session which increased the age that first time driver's license applicants have to take the 30-hour classroom course and an 8-hour behind-the-wheel course to be licensed from 17 to 18 years of age. Furthermore, Act 275 limited the 8-hour behind-the-wheel instruction to four hours per day per student and added a requirement that those over the age of 18 must have eight hours of behind-the-wheel training in addition to the existing 6-hour classroom instruction. Furthermore, the Office of Motor Vehicles is adding a military exemption to allow for active duty military status persons to submit proof of successful completion of military driver training in lieu of the completion certificate currently required for third party testers. The Office of Motor Vehicles amends these rules to provide for an affidavit from secondary/alternative schools to submit in substitution for taking an additional criminal background check when they have already taken one as a result of their employment at the school when applying for a driving school instructor license for a secondary/alternative school. In addition, the Office of Motor Vehicles amends articles to provide further clarification to the third party tester requirement as mandated by Act 307 of the 2011 Regular Session.

Title 55

PUBLIC SAFETY

Part III. Motor Vehicles

Chapter 1. Driver's License

Subchapter A. General Requirements

§155. Third Party Tester/Examiner Requirements

A. Act 307 of the 2011 Legislative Session amended R.S. 32:408 to require all driver education providers to become certified as third party testers by June 30, 2012.

Driver education providers must become certified as third party testers but may opt not to perform as third party testers.

B. - C.1.a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:402.1(A)(1) and R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 38:1989 (August 2012), amended LR 38:3235 (December 2012), repromulgated LR 39:98 (January 2013).

Jill P. Boudreaux
Undersecretary

1301#050

RULE

Department of Transportation and Development Office of Operations and Department of Public Safety and Corrections Office of State Police

Special Permit for Vehicles Hauling Sugarcane (LAC 73:1.303)

In accordance with the applicable provisions Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Louisiana Department of Transportation and Development, Office of Operations, in cooperation with the Department of Public Safety and Corrections, Office of State Police, and by the authority granted in R.S. 32:387.7(A), amends Title 73, Part I, Chapter 3 to clarify the requirements relative to an additional sixth axle required on vehicles hauling sugarcane up to 100,000 pounds.

Title 73

WEIGHTS, MEASURES AND STANDARDS

Part I. Weights and Standards

Chapter 3. Oversize and Overweight Permit

§303. Types of Permits

A. - J. ...

K. Vehicles Hauling Sugarcane. These permits are issued annually for vehicles hauling sugarcane at a gross weight not to exceed 100,000 pounds. The vehicle and trailer combination must meet all other Louisiana legal requirements and shall have an additional single axle on the sugarcane trailer for a total of six axles for the vehicle and trailer combination. The additional axle must be equipped with dual mounted tires lowered to the ground and functioning as a load bearing axle when hauling sugarcane. The fee for these permits is \$100 per permit per year. (The legal requirements can be found in a manual entitled *Louisiana Regulations for Trucks, Vehicles and Loads 2012* available on the internet at <https://perba.dotd.louisiana.gov/welcome.nsf/RegBook2012>)

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 5:36

(February 1979), amended by the Department of Transportation and Development, Office of Operations and the Department of Public Safety and Corrections, Office of State Police, LR 39:98 (January 2013).

Sherri H. LeBas, P.E.
Secretary

1301#063

RULE

**Department of Revenue
Policy Services Division**

**Corporation Income and Franchise Tax Filing Extensions
(LAC 61:III.2503)**

Under the authority of R.S. 47:287.614(D), 1511, 1514, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, amends LAC 61:III.2503, to mandate the electronic filing of a request for an extension to file a corporation income and franchise tax return.

The secretary of revenue is authorized, but not required, to grant a reasonable extension of time to file a Louisiana corporation income and franchise tax return. Beginning with returns due on April 15, 2013, corporate taxpayers needing additional time to file a corporation income and franchise tax return must electronically submit a request for an extension of time to file on or before the return due date.

Corporate income and franchise tax returns for 2012 will be due April 15, 2013.

Title 61

REVENUE AND TAXATION

**Part III. Administrative Provisions and Miscellaneous
Chapter 25. Returns**

**§2503. Corporation Income and Franchise Tax Filing
Extensions**

A. *Louisiana Revised Statute* Title 47, Section 287.614(D) provides that the secretary may grant a reasonable extension of time to file a state corporation income and franchise tax return, not to exceed seven months, from the date the return is due.

1. To obtain a filing extension, the taxpayer must make the request on or before the tax return's due date.
2. A taxpayer must request a state filing extension by submitting an electronic application.
3. An electronic application may be submitted via:
 - a. the Department of Revenue's web site at www.revenue.louisiana.gov/extensions;
 - b. tax preparation software; or
 - c. any other electronic method authorized by the secretary.

B. Filing Extension Does Not Extend Time to Pay Tax

1. A filing extension granted by the secretary only allows for an extension of time to file the tax return. The extension does not allow an extension of time to pay the tax due.
2. To avoid interest and penalty assessments, income and franchise taxes due must be prepaid on or before the original due date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:287.614(D) and 1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 36:552 (March 2010), amended LR 39:99 (January 2013).

Tim Barfield
Executive Counsel

1301#059

RULE

**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, has amended LAC 61:I.1907 relative to income tax credits for wind or solar energy systems.

This amendment to the Rule clarifies 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 a 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 30 days. All eligible residences must be located in Louisiana.

Residential Rental Apartment Complex—a multi-family dwelling composed of multiple units in which the physical properties of each separate unit provides the basic elements of a home, including appropriate and customary appliances and facilities. To be considered a residential rental apartment complex, the taxpayer occupant or occupant(s) of the unit(s) must use the facilities as a home with the intent to remain for a period exceeding 30 days. All eligible residential rental apartment complexes 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. Multiple system components working in tandem to connect, store and process the electrical energy needs for each residence or dwelling unit in a residential rental apartment complex shall constitute a single system for purposes of the tax credit.

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. Multiple system components working in tandem to connect, store and process the electrical energy needs for each residence or dwelling unit in a residential rental apartment complex shall constitute a single system for purposes of the tax credit.

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. Multiple system components working in tandem to connect, store and process the electrical energy needs for each residence or dwelling unit in a residential rental apartment complex shall constitute a single system for purposes of the tax credit.

C. Eligibility for Wind and/or Solar Energy Systems Tax Credits

1. Regardless of the number of system components installed on each qualifying residence or residential apartment complex, such components shall constitute a

single system for each residence or dwelling unit in a residential rental apartment complex for purposes of the tax credit.

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. Any equipment added at a later date cannot use existing system components and has to have every element of a complete system in order to qualify for the credit.

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.

2. Wind Energy Systems. Eligible wind energy systems under the tax credit include systems designed to produce electrical energy and systems designed to produce mechanical energy through blades, sails, or turbines and may include the following.

System Type	Eligible System Components
DC Wind Electric Generation Systems	DC output wind turbine, controllers, towers & supports, charge controllers, inverters, batteries, battery boxes, DC & AC disconnects, junction boxes, monitors, display meters, lightning and ground fault protection, and wiring and related electrical devices and supplies from generator to residence or electrical load
AC Wind Electric Generation Systems	AC output wind turbine, controllers, towers & supports, charge controllers, power conditioners/grid interconnection devices, batteries, battery boxes, AC disconnects, junction boxes, monitors, display meters, lightning and ground fault protection, and wiring and related electrical devices and supplies from generator to residence or electrical load
Mechanical Wind Systems	mechanical output wind turbine, towers & supports, mechanical interconnection between turbine and mechanical load

3. Solar Electric Systems. Eligible solar electric systems under the tax credit include grid-connected net metering systems, grid-connected net metering systems with battery backup, stand alone alternating current (AC) systems and stand alone direct current (DC) systems, designed to produce electrical energy and may include the following.

System Type	Eligible System Components
Grid-Connected, Net Metering Solar Electric Systems	photovoltaic panels, mounting systems, inverters, AC & DC disconnects, lightning and ground fault protection, junction boxes, remote metering display devices and related electrical wiring materials from the photovoltaic panels to point of interconnection with the residence or electrical load
Grid-Connected, Net Metering Solar Electric Systems with Battery Backup	photovoltaic panels, mounting systems, inverters, charge controllers, batteries, battery cases, AC & DC disconnects, lightning and ground fault protection, junction boxes, remote metering display devices and related electrical wiring materials from the photovoltaic panels to point of interconnection with the residence or electrical load
Stand Alone Solar Electric AC Systems	photovoltaic panels, mounting systems, inverters, charge controllers, batteries, battery cases, AC & DC disconnects, lightning and ground fault protection, junction boxes, remote metering display devices and related electrical wiring materials from the photovoltaic panels to point of interconnection with the residence or electrical load
Stand Alone Solar Electric DC Systems	photovoltaic panels, mounting systems, charge controllers, batteries, battery cases, DC disconnects, lightning and ground fault protection, junction boxes, remote metering display devices and related electrical wiring materials from the photovoltaic panels to point of interconnection with the residence or electrical load

4. Solar Thermal Systems. Solar thermal systems eligible under the tax credit include systems designed to

produce domestic hot water, systems designed to produce thermal energy for use in heating and cooling systems and 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

5. Solar energy systems not installed on the rooftop of the residence or multifamily apartment project but installed on the qualifying property shall constitute a free standing ground mounted system. Ground mounted solar energy systems include but are not limited to single pole mounted structures, multiple pole mounted structures utilizing a foundation if necessary. Additional walls, interior finishes, foundations, roofing structures not directly related to the solar energy system, or any other addition not directly related to the solar energy structure are not eligible system costs. Ground mounted systems must be no more than 8' feet in height at its lowest point if titled unless specific building codes and/or flood plain restrictions apply. Each qualifying free standing ground mounted system must be separately itemized from any and all other energy systems included in a taxpayer's submitted Form R-1086.

6. 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.

7. All photovoltaic panels, wind turbines, inverters and other electrical apparatus claiming the tax credit must be tested and certified by a Federal Occupational Safety and Health Administration (OSHA) nationally recognized testing laboratory and must be installed in compliance with manufacturer specifications and all applicable building and electrical codes.

8. All photovoltaic systems installed at a tilt angle greater than 5 degrees shall have an azimuth greater than 80 degrees E and no more than 280 degrees W. North facing solar panels generally do not conform to industry best practices unless criteria above is satisfied.

9. 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.

10. 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 in an itemized list 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;
- i. conveyance certificate, deed or other legal document which evidences the owner of the residence or residential rental apartment complex;
- j. when a system is installed by a third party owner, a complete and signed fourth page of Form R-1086.

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.

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. For purposes of this Paragraph, "individuals" shall mean natural persons as defined in Civil Code Article 24. For all other taxpayers, labor costs, including, but not limited to tree trimming and tree removal are not eligible under the tax credit. Supplemental heating and cooling (HVAC) equipment costs used with solar collectors are not eligible for inclusion under the tax credit. Other items ineligible for wind and/or solar

energy systems tax credits include, but are not limited to the following: stand alone solar powered attic fans or ventilation systems, solar powered lights, solar powered air conditioning or heating units, solar day lighting apparatuses, solar powered pool pumps, solar pool heating systems, and all other stand-alone wind or solar device(s).

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, energy efficiency improvements not directed related to wind or solar energy installation, including, but not limited to spray foam insulation, radiant barrier, window sealing and/or caulking, heating and air conditioning improvements, blower door testing, thermostat upgrades which are not an integral part of the solar energy monitoring system, domestic hot system upgrades not related to solar hot water system insulation, or any other thing of value given by the installer or manufacturer 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.

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 36:2048 (September 2010), amended by the Department of Revenue, Policy Services Division, LR 37:3532 (December 2011), LR 39:99 (January 2013).

Tim Barfield
Executive Counsel

1301#057

RULE

**Department of Revenue
Policy Services Division**

Individual Income Tax Filing Extensions
(LAC 61:III.2501)

Under the authority of R.S. 47:103(D), 1511, 1514, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, amends LAC 61:III.2501 to mandate the electronic filing of a request for an extension to file an individual income tax return.

The secretary of revenue is authorized, but not required, to grant a reasonable extension of time to file a Louisiana individual income tax return. Beginning with returns due on or after May 15, 2013, individuals needing additional time to file their income tax returns must electronically request an extension of time to file on or before the return due date. Individual income tax returns for 2012 will be due May 15, 2013.

Title 61
REVENUE AND TAXATION

Part III. Administrative Provisions and Miscellaneous

Chapter 25. Returns

§2501. Individual Income Tax Filing Extensions

A. *Louisiana Revised Statute* Title 47, Section 103(D) provides that the secretary may grant a reasonable extension of time to file a state individual income tax return, not to exceed six months from the date the return is due.

1. To obtain a filing extension, the taxpayer must make the request on or before the tax return's due date.

2. A taxpayer must request a state filing extension by submitting an electronic application.

3. An electronic application may be submitted via:
a. the Department of Revenue's web site at www.revenue.louisiana.gov/extensions;
b. tax preparation software; or
c. any other electronic method authorized by the secretary.

B. Filing Extension Does Not Extend Time to Pay Tax

1. A filing extension granted by the secretary only allows for an extension of time to file the tax return. The extension does not allow an extension of time to pay the tax due.

2. To avoid interest and penalty assessments, estimated taxes due must be paid on or before the original due date.

C. The secretary may waive the electronic filing of an extension if it is determined that complying with the requirement would cause an undue hardship.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:287.614(D) and 1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 35:1137 (June 2009), amended LR 36:73 (January 2010), LR 39:103 (January 2013).

Tim Barfield
Executive Counsel

1301#058

RULE

Department of Revenue
Policy Services Division

Payment (LAC 61:I.1516)

Under the authority of R.S.47:1511, R.S.47:1519, and R.S.47:114 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.I.1516.

Pursuant to Act 107 of the 2012 Regular Legislative Session relative to Returns and Payment of tax, this Rule provides for payment and due dates for payment of tax by every employer or person who deducts and withholds any amount from any wage as required by Louisiana law.

Title 61

REVENUE AND TAXATION

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

Chapter 15. Income—Withholding Tax

§1516. Payment

A. All employers or persons who deduct and withhold any amount from any wage pursuant to R.S. 47:114 shall remit payment on a quarterly basis.

B. The due dates for quarterly payments are:

1. first quarter—April 30;
2. second quarter—July 31;
3. third quarter—October 31;
4. fourth quarter—January 31.

C. Exceptions

1. When the amount deducted or withheld within any calendar month from the combined wages of all employees is an amount equal to or greater than \$500.00 but less than \$5,000, the taxes withheld shall be paid monthly. Payment is due on the last day of the month following the close of the monthly period.

2. When the amount deducted or withheld within any calendar month from the combined wages of all employees is an amount equal to or greater than \$5,000, the taxes withheld shall be paid semimonthly. For wages paid during the first 15 days of a calendar month, the due date is the last calendar day of that month. For wages paid between the sixteenth day and the last day of a calendar month, the due date is the fifteenth day of the following month.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:114, R.S. 47:1511, R.S. 47:1519, and R.S. 47:1520.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Revenue, Policy Services Division, LR 39:103 (January 2013).

Tim Barfield
Executive Counsel

1301#055

RULE

Department of Revenue
Policy Services Division

Withholding by Professional Athletic Teams
(LAC 61:I.1520)

Under the authority of R.S.47:1511, R.S.47:164(D) R.S.47:295 and R.S.47:114 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division amends LAC 61.I.1520.

Pursuant to Act 107 of the 2012 Regular Legislative Session relative to Returns and Payment of tax, this

proposed amendment makes the regulation consistent with statute which provides that withholding returns are to be filed on a quarterly basis.

Title 61

REVENUE AND TAXATION

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

Chapter 15. Income: Withholding Tax

§1520. Withholding by Professional Athletic Teams

A. - C. ...

D. Due Date of Withholding Return and Payment. A withholding payment must be submitted for each game played in Louisiana. The payment must be submitted on or before the last day of the month following the month in which the game was played. A withholding return must be submitted for each quarter in which a game was played in Louisiana to reconcile all payments made within that quarter. The withholding return must be submitted quarterly on or before the last day of the month following the quarter in which the game was played.

E. - F. ...

AUTHORITY NOTE: Adopted in accordance with R.S. 39:100.1, R.S. 47:164(D), R.S. 47:295, R.S. 47:1511, R.S. 47: 114 and R.S. 47:1602.1.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 30:91 (January 2004), amended LR 39:104 (January 2013).

Tim Barfield
Executive Counsel

1301#056

RULE

Department of Transportation and Development Aviation Section

Aviation Program Needs and Project Priority Process (LAC 70:IX.Chapters 3 and 9)

In accordance with R.S. 2:6, the applicable provisions of the Administrative Procedure Act, and R.S. 49:950 et seq., notice is hereby given that the Department of Transportation and Development, Aviation Section, hereby amends Chapter 9, Part IX of Title 70, entitled "Intermodal Transportation" and moves and renumbers Chapter 9 and all Sections contained therein.

The Rule change consists of re-numbering and re-naming Chapter 9, "Aviation Program Needs and Project Priority Process" to Chapter 3, "Airport Construction and Development Priority Program Process." Each Section within Chapter 9 will be renumbered to begin with the number 3 to be consistent with the re-numbering the chapter. There is currently no Chapter 3 in Part IX of Title 70.

Additionally, §313, (formerly §913) is amended to increase project fiscal year programmed funding limits and to reflect internal department position name changes. Further, §313 (formerly §913) is amended to replace the word "funding" with the word "fiscal" and the words "more than" with the word "over." The substitution of these words is not intended to change the substance of the Rule; and §315, (formerly §915) is amended to update terminology,

and to update the administration of airport grants and basic airport project application procedures; and §301 (formerly §901) is amended to correct the name of the Department of Transportation and Development and to reference its acronym.

Title 70

TRANSPORTATION

Part IX. Intermodal Transportation

Chapter 3. Airport Construction and Development Priority Program Process

[Formerly Chapter 9]

§301. Introduction

[Formerly §901]

A. The Louisiana Department of Transportation and Development (DOTD), Aviation Section is responsible for the development of public aviation facilities in the state. Assistance with the planning, design, and construction of facilities is provided to local governments which own the public airports. In addition, state funding is used in many cases to provide all or a portion of the local match requirement if the improvement is federally funded, receives 90 percent or more of project funds from sources other than state funds, or if most or all of the total funding is previously approved by the Legislature. The aviation portion of the Louisiana Transportation Trust Fund is known as the Aviation Trust Fund (ATF), which is funded by the collection of sales tax solely on aviation fuels, and is the only source of state funds for airport capital improvements or matching funds for federal airport improvement grants.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997, R.S. 2:803(B) and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1504 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:519 (March 2007), amended by the Department of Transportation and Development, Aviation Section, LR 39:104 (January 2013).

§303. Federal Aviation Administration (FAA) Airport Improvement Program (AIP) Grants [Formerly §903]

A. Federal funding for projects is received through grants from the Federal Aviation Administration directly to the recipient airport. Under the Airport Improvement Program (AIP) a minimum of 90 percent of project funds are federal. Occasionally, the FAA may offer a grant requiring a local match of more than 10 percent. For example, terminal building projects at commercial service airports are offered as 75 percent federal, 25 percent local match. Terminal buildings at commercial service airports may have a percentage of the project not eligible to receive funding. In most instances, the FAA determines what portion is or is not eligible. When the local sponsor requests state funding assistance for the local share, the project is evaluated through the priority system because of the use of state dollars. The local sponsor must coordinate the development of the project with the Aviation Section and the FAA in order to receive the matching funds through the priority system. When the required match is greater than 10 percent, the state will participate in no more than 10 percent of the project cost and the local sponsor must provide the additional matching funds. The FAA provides the AIP grants directly to the

airport sponsor who is responsible for administering the grant.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997, R.S. 2:803(B) and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1504 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:519 (March 2007), repromulgated by the Department of Transportation and Development, Aviation Section, LR 39:104 (January 2013).

§305. Project Identification and Development **[Formerly §905]**

A. The primary objective of the priority system is to prioritize airport improvement projects. Nonprioritized projects are not included in the priority system as individual projects, but are funded through approved amounts for each category of project. Differences in the criteria for assessing these types of projects and the relatively small amount of state funding available make them impractical to include in the same process with airport improvement projects.

B. Potential projects for inclusion in the priority system are initiated by the airport sponsor or by the state Aviation Section. The need for the project may be identified in a master plan, action plan, system planning document, or as a result of a change in conditions or facilities at the airport.

C. Only airport development projects are subject to prioritization. Airport administration and operations are not included since they are the responsibility of the airport owner and are not within the purview of the prioritization process.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1505 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:519 (March 2007), repromulgated by the Department of Transportation and Development, Aviation Section, LR 39:105 (January 2013).

§307. Project Prioritization Process **[Formerly §907]**

A. The prioritization of a project is a two-step process. The first step is to determine whether the project should be included in the priority process. The second step is to determine whether the information necessary for prioritization is available. Support documentation may include a project resolution from the local airport owner or sponsor requesting state assistance for that project, project scope and estimated cost, justification of the project, any environmental clearance documentation (if necessary), and information from the local sponsor necessary for prioritization of the project. Height limitation and land use zoning ordinances, operations manual, documentation that part 139 and 5010 inspection discrepancies have been corrected, pavement maintenance plan, and a certified copy of the legal document creating the airport district or authority may also be requested before the process can continue. If any pertinent documentation is missing, the review process may cease and not continue until all information is made available to the Aviation Section. If all of the necessary documents are not received by the Aviation Section by November 1, the proposed project may not be allowed to compete for funding for that fiscal year being

prioritized but may be considered for the following fiscal year.

B. Those projects which qualify for prioritization are then assigned point values to determine their relative priority. Those with insufficient information may be returned to the airport owner until required information can be provided. Once it has been determined that the project is eligible and all documentation has been provided, the next step is the assignment of point values. When point values are finalized, the project is placed into the priority system where it is ranked in relation to all other projects in the system.

C. The project components are also reviewed to determine if the project can be prioritized as one project or requires restructuring into more than one project. The project will be restructured into usable units if necessary. An example is a request to lengthen a runway and to extend the corresponding taxiway. The runway can be lengthened and is usable without the extension of the taxiway so these may be considered as two projects in the priority system. On the other hand, the extension of the runway's lighting system would be included with the runway extension as one project because the additional runway length cannot be used at night without the extended lighting. See §915.B for further details.

D. The structure of the priority rating system is based on an evaluation of four categories:

1. Category I—project type;
2. Category II—facility usage;
3. Category III—sponsor compliance;
4. Category IV—special considerations.

E. Points are awarded to a project based on evaluation criteria in each category and the total evaluation score for the project is the sum of points in each category. Based on priority ratings of projects, a prioritized program of projects is developed by the Aviation Section and submitted to the Joint Legislative Committee for Transportation, Highways and Public Works. This committee approves the program of projects which becomes the capital improvement projects that will be implemented by the Aviation Section in the next fiscal year. A project submitted after this approval with a ranking high enough to place the project on the program of projects cannot be added until a new program of projects is submitted to the committee the following year. However, a project receiving other than state funds may receive a state match in accordance with R.S. 2:803(B), if funds are available as determined by the Aviation Section.

F. The Transportation Trust Fund legislation requires a priority system to prioritize projects in some logical order for addressing documented needs in the state's public airport system. The priority system is a process that has been developed to allocate state aviation funding to address these needs. The system reflects the state's development policy for the airport system, assigning higher values to projects which are consistent with the policy.

G. The only projects that should appear on the prioritization list are those that have a chance of being implemented in the foreseeable future. Ideally, this would be within a three-year period from the time the project appears on the priority list. Prioritized projects which have been approved for state funding but which, for lack of federal matching funds or other reasons, do not have a signed construction contract within three fiscal years may be deleted from the program. Funds which had been approved

for a deleted project will be reallocated to any other prioritized project as needed. Normally such funds will be used to cover project overruns, "up front" engineering costs (FAA reimbursable engineering costs incurred by the airport owner prior to the issuance of a federal grant in aid), or "up front" land purchase costs (FAA reimbursable costs associated with survey, real estate and title fees, and purchase of land by the airport owner prior to the issuance of a federal grant-in-aid).

H. These funds may also be used to fund the next-in-line project on the four-year unfunded portion of the priority list if that project has received funding or for projects funded by other than state funds not covered by the Future FAA Obligations funds. As a general rule, funds originally allocated to commercial service airports will, whenever practical, be used to fund projects on the commercial service airport four-year unfunded list. Funds allocated to general aviation airports will likewise be used to fund projects on the general aviation airport four-year unfunded list. In the event there are insufficient projects on either four-year unfunded list, funds originally allocated to one class of airport may be reallocated to the other class of airport.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997, R.S. 2:803(B) and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1505 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:520 (March 2007), repromulgated by the Department of Transportation and Development, Aviation Section, LR 39:105 (January 2013).

§309. Nonprioritized Programs [Formerly §909]

A. Through the legislative approval process for the Priority Program, the Aviation Section may specify on the Priority Program, nonprioritized programs as needed. Such statewide programs may include, but are not limited to Planning, Navigational Aids, Discretionary Projects, Maintenance Reimbursement, Obstruction Removal Safety programs, Future FAA Obligations, Statewide Marking Program, and Statewide Sealcoat Program. These programs are an integral element of the state's aviation program. Projects cannot reach the facility improvement stage without going through the planning phase. Navigational aid projects enhance use of the overall state system. Discretionary projects provide the Aviation Section with the latitude to fund emergency or safety related projects on a real-time basis and to undertake projects which are too small to be eligible for funding through the priority program. The state's airport system would be stagnated without these types of projects. The Maintenance Reimbursement Program assists the general aviation airports in the high cost of maintaining an airport and allows the airport to maintain a safe and operational status. The Obstruction Removal Safety Program is needed to keep the state's airports safe from obstructions that penetrate the airports approach slopes, runway protection zones, FAR Part 77 and transitional surfaces. The Future FAA Obligations are needed to meet the funding requirements for the projects the Federal Aviation Administration (FAA) has funded after the priority program has been approved. This phenomenon is caused by the state's fiscal year being out of synchronization with the federal fiscal year by approximately three months. This special

program precludes the loss of federal funds and improves the state's timely response. The Statewide Marking Program assists airports statewide in maintaining a safe visual marking aid environment on the airfield. The Statewide Sealcoat Program assists airports statewide in maintaining their pavement in good condition.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1505 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:521 (March 2007), repromulgated by the Department of Transportation and Development, Aviation Section, LR 39:106 (January 2013).

§311. Commercial Service versus General Aviation Airports [Formerly §911]

A. One of the basic objectives of a priority process is to identify projects that benefit the highest number of aviation system users, however, it primarily identifies projects that have the greater need, even if the airport serves less users than another airport. When airports are compared on the basis of persons served, airports offering scheduled or unscheduled commercial air service to the public serve more persons than airports that support general aviation activity. Differences in the size, revenue generation capability, and usage of commercial service airports (those airports which enplane 2,500 or more passengers annually) as compared to general aviation airports make it difficult to compare the need for projects between the commercial service and general aviation airports.

B. Because of aircraft size, weight, speed, operational characteristics, and FAA design standards, facilities at commercial service airports have more demanding standards and thus more costly engineering and construction. Because of the significant differences between commercial service and general aviation airports project standards, each group's projects are prioritized separately.

C. The commercial service airports priority projects must have an established funding level, just as the general aviation priority projects must have an established funding level. To accomplish this, the total funds available for airport improvement projects in a given year are allocated between commercial service and general aviation airport projects in a ratio of 65 percent for commercial service airports and 35 percent for general aviation airports. This balance is adjusted, however, if there are insufficient projects in either category to fully utilize available funding. This 65 percent/35 percent allocation is based on past experience in the state's aviation program and the levels of state funding allocated to each type of airport. It also reflects the fact that commercial service airports have a far greater capability of generating revenue through means unavailable to general aviation airports such as: vendor leases, landing fees, airline contracts, passenger facility charges, and rental car lease agreements. Passenger facility charges (PFC) are charges passed on to a commercial service passenger, which can be collected by the airport to fund projects not otherwise funded. These projects are eligible to be approved by the FAA for 100 percent funding through the PFC collection. Therefore, PFC funds are not normally eligible to receive matching funds from the state.

D. The division of projects by commercial service or general aviation airport categories results in two project priority lists, one for each of the two types of airports. Each step of the prioritization process is identical for both commercial service and general aviation airport projects.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997, R.S. 2:802 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1507 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:521 (March 2007), repromulgated by the Department of Transportation and Development, Aviation Section, LR 39:106 (January 2013).

§313. Preliminary Evaluation **[Formerly §913]**

A. The preliminary evaluation is used to screen potential projects and determine those which can realistically be implemented, assuming available funding.

1. The first step is to determine whether the project should be included in the priority process. There are three basic criteria:

- a. project type;
- b. project size;
- c. eligibility for federal matching funds.

2. The second step is to determine whether the information necessary for prioritization is available.

B. A review committee consisting of, at a minimum, the aviation director, assistant aviation director, and the aviation program manager, for the airport concerned will make an initial determination of whether there is sufficient information to prioritize a project when a project request is received. Some of the information considered by the committee is required by either Title 2 of the *Louisiana Revised Statutes*, the Louisiana Aviation Needs and Project Priority System, or DOTD and Aviation Section policy.

C. The DOTD Aviation Section is responsible for assigning priority values to projects and determining if they are consistent with development plans in the master plan or action plan for the airport. If insufficient data is sent to the Aviation Section, correct prioritization of the project will not be possible. When insufficient data is provided, a request will be made for the additional information needed. Therefore, project applications and necessary documentation should be sent to the Aviation Section early enough to allow time for processing and possible return for additional information before the program can be presented to the legislature for approval. Any document package not meeting all requirements or not in Aviation Section hands by the deadline may not be prioritized or included in the upcoming fiscal year's program.

D. Project Type. Generally, only airport improvement or preservation projects are included in the priority program. Some exceptions are:

1. land acquisition for obstruction removal or airport expansion;
2. aircraft rescue and firefighting (ARFF) vehicles and equipment;
3. airport noise studies; and
4. FAA AIP eligible projects when FAA is providing funding.

E. Some projects may be of a type in which the Aviation Section might not participate. For example, construction of roads and utilities for an air industrial park development and other such land side projects are not undertaken by the priority system and will not be funded by the Aviation Trust Fund.

F. Project Size. To be included in the priority system, a project must require the use of \$25,000 (other than discretionary funds) or more in state funding. The \$25,000 requirement only applies to projects which receive no federal funding. Some projects may be too costly to be funded from a single year's budget without denying funding to other needed projects at other airports. Therefore, no more than \$3,000,000 in 100 percent state funding may be programmed to a single commercial service airport and no more than \$1,000,000 in 100 percent state funding may be programmed to a single general aviation airport through the aviation priority program per fiscal year. Projects in excess of these amounts may be funded over two or more fiscal years. For example, a project for a commercial service airport may have a total cost of \$9,000,000. The project may be prioritized in the upcoming budget cycle for no more than \$3,000,000 but the remaining \$6,000,000 will receive top priority in the following two yearly budgets to insure project completion. The same is true for a general aviation airport project except that the project maximum cost is \$1,000,000 per budget year. This does not include projects that are prioritized as an FAA AIP grant unless it is known that the FAA will use a multi-year funding approach. Regardless of the project size, if the FAA uses multi-year funding, the state will also use a multi-year approach.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997, R.S. 2:802 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1507 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:522 (March 2007), amended by the Department of Transportation and Development, Aviation Section, LR 39:107 (January 2013).

§315. Project Support Documentation **[Formerly §915]**

A. Once it has been determined that a project is of the type and size to be considered in the priority system, an evaluation of required supporting documentation will be made. The project support documentation is a combination of documents and information necessary for the Aviation Section to determine if the project is developed sufficiently for inclusion in the priority listing. Documentation may include the following items:

1. Project Resolution. The initial document the Aviation Section needs for consideration of any project is a resolution from the public body operating the airport requesting assistance in the development of the project. Generally, the assistance requested would be for both funding and technical assistance. Any commitment from the local owner to participate in the cost of the project is also documented in the resolution. The resolution from the owner of the airport initiates an agreement between the two parties for joint sponsorship of the project and authorizes state participation in a local project pursuant to applicable

provisions of state law. It is also a written commitment of support for the project by the owner. The Aviation Section requires a resolution (except from state-owned and operated airports) from the airport sponsor or owner before a project can receive state funds.

2. Funding Sources. Since available state funding historically falls far short of the requested airport needs, it is especially important to use every opportunity to take advantage of the FAA/AIP program which provides funding grants for eligible projects at eligible airports. A request for 100 percent state funding may be processed for a project that is eligible for AIP funding. Those projects that are requested as FAA/state matching funds will remain on the program as FAA/state matching funds until the airport requests the project be converted or the airport submits a new project request with resolution prior to November 1 of each year to have the project prioritized as a 100 percent state funded project. An airport may request in writing to the aviation section to have the project converted from a FAA matching funds project to a 100 percent state funded project.

B. Project Components. In the priority system, projects are prioritized on a generic basis. For example, projects that affect the primary runway are all considered under the heading "primary runway." This could include lengthening, widening, lighting, grooving, etc., of the primary runway. Projects are defined on a usable basis or unit. This means that, if a runway is widened, the relocation of runway lighting and striping are all included in the project. Another example is a request to lengthen a runway and to extend the corresponding taxiway. The runway can be lengthened and is usable without the extension of the taxiway, so these may be considered as two projects in the priority system. Development of projects as a usable unit prevents projects of a lower priority being tagged onto a high priority project so they will be ranked higher. This focuses the priority system on those projects with the highest priority ranking, maximizing the effectiveness of aviation program funds. However, it is sometimes advantageous in terms of safety, operational effectiveness, and fiscal responsibility to include lower ranking projects along with otherwise unrelated higher projects. For instance, if there is a high priority project to overlay a runway, it may be appropriate to include a stub taxiway leading from the runway to a parking apron, or the apron itself if it is in especially poor condition. This can prevent damage to aircraft, provide a safe operational area for the necessary movement of aircraft, and take advantage of significant cost reductions for the lesser priority projects. This blending of otherwise nonrelated projects, is an exception which will be authorized only in exceptional cases. The aviation director is responsible for the organization of projects into usable units when projects are developed and for determining if special circumstances exist which would warrant combining unrelated projects.

C. Planning Data. The priority process depends heavily on planning data to evaluate the relative merits of a project. Usually the justification for a project is found in the master plan or action plan for the airport, but there are exceptions. Engineering inspections may identify the need for reconstruction of a runway, or a 5010 inspection may reveal a safety problem. Regardless of the means by which a project is identified, written documentation describing the

need for the project and the justification for the action to be taken must be provided. The justification for the project should be brief and to the point.

1. Submitting a master plan or action plan document as sole justification is unacceptable. The pertinent section of the master plan or action plan should be submitted with a narrative to explain the project and demonstrate that it is consistent with the master plan or action plan recommendations.

2. The planning data for a project, at a minimum, must:

- a. document the need for the project;
- b. explain how the project meets the need;
- c. give the estimated cost; and
- d. include a sketch of the project on the airport's approved layout plan.

3. The documentation need not be lengthy but should focus on what is generating the need. For example, if an aircraft parking apron is to be expanded, the number of existing parking spaces versus the number of aircraft that need to be parked on the apron would be adequate documentation. A description of how large an apron expansion is proposed and how many additional parking spaces the expansion would create should be submitted. The expansion should also be shown on the airport's approved layout plan to illustrate how it fits in the overall master plan or action plan development recommended for the airport. If the expansion of the apron is not consistent with that shown in the master plan or action plan, an explanation for the proposed deviation is necessary.

D. Environmental Requirements. Some proposed projects, because of their potential environmental impact, may require environmental clearance before they can be constructed. During the preliminary evaluation of a project, a determination should be made whether or not environmental clearance is required. If the FAA Airports District Office or DOTD Aviation Section indicates environmental clearance is required, any documents that are available to show that environmental requirements have been met should be provided. If some type of environmental document needs to be developed for the project, this should be done before the project is placed in the priority system unless the environmental delineation and/or mitigation is part of or included in the project to be funded. Environmental clearance of projects can be a lengthy process and allowing a project to be dormant in the priority system while waiting for clearance could preclude another project or projects from being implemented.

E. Local Sponsor Requirements. The priority system recognizes the responsibility of the local government owners of the airport to operate the airport in a safe, professional manner. A category is included in the rating system that assigns a value for sponsor responsibility. To be able to assign this value, certain information is required from the owner of the airport.

1. Two of the evaluation criteria in the "sponsor responsibility" category are whether the airport has height limitation zoning and land use zoning in effect at the airport. If the Aviation Section does not have a copy of the airport's zoning ordinances on file, the local owner is required to provide this. The lack of zoning at the airport will cause a lower ranking of the proposed project.

2. No airport may receive state funding from the DOTD, Aviation Section if officially declared in noncompliance with federal or state laws, regulations, rules, or policies by the FAA or DOTD, Aviation Section.

3. The presence of zoning ordinances, an implemented pavement maintenance plan, compliance with the airport operations manual, and adequate airport maintenance are evaluated in the preliminary evaluation of a project because if they are not being done at an airport, the local sponsor should be given an opportunity to rectify the situation before the project is prioritized. The airport owner will be advised of the corrective actions that can be taken to improve the project score. If the owner does not initiate and document corrective action that clearly shows that action is being taken to address these items and correct deficiencies in these areas, the project will not receive points in this category.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997, R.S. 2:802 and R.S.2.6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1508 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:522 (March 2007), amended by the Department of Transportation and Development, Aviation Section, LR 39:107 (January 2013).

§317. Project priority Rating System [Formerly §917]

A. There are four categories of evaluation, each addressing one of the general areas in §925.A.1-4. The categories are as follows:

1. Category I—project type;
2. Category II—facility usage;
3. Category III—sponsor compliance;
4. Category IV—special considerations.

B. Points are awarded to a project based on evaluation criteria in each category, and the total evaluation score for the project is the sum of the points in each category. The point values are designed to award points in a weighted manner. Each area of evaluation receives points in proportion to the relative importance as determined by Aviation Section policy.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1510 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:524 (March 2007), repromulgated by the Department of Transportation and Development, Aviation Section, LR 39:109 (January 2013).

§319. Category I—Project Type (see Exhibit 1) [Formerly §919]

A. This category is designed to segregate projects by type defined by the primary purpose of the project. To accomplish this, four subcategories have been designated for project type. These subcategories are:

1. safety;
2. airside preservation;
3. airside improvements;
4. landside improvements.

B. The subcategories are listed in order of descending importance and point values have been assigned accordingly. Development of projects directly related to safety of aircraft

operations is considered the highest priority because of the potential for loss of life and property should safety needs not be addressed. Preserving the existing airport system is next in importance because the existing facilities represent an investment of public dollars and there is a commitment to maintain those facilities that are in use. The airside improvement type of project is the next project priority and reflects a policy by the Aviation Section to develop facilities to the design standards established by DOTD and FAA to accommodate existing aviation activity at an airport. Projects for landside improvements at an airport are last in the project type priority because safety, airside preservation and airside improvements are all types of projects that need to be addressed in order to maintain a safe and operational airport.

C. Except for the "safety" subcategory, the general approach to assigning points to projects within these subcategories is to give highest priority to addressing needs of the primary runway first and then decreasing priorities the farther the project is removed from the primary airside facilities. As an example, a project on a primary runway has a higher priority than an apron project, but the apron project has a higher priority than a vehicle parking lot project. Safety projects, because of their importance, are addressed equally regardless of what area of the airport they impact.

D. It should be noted that project types listed are generic. For example, any project dealing with the primary runway that is designed to preserve its integrity falls under the "preservation of existing system" subcategory. This means that overlaying of the primary runway receives the same number of points as reconstructing the primary runway because both are designed to preserve the integrity of the runway. The subcategories in the "project type" category are shown in Exhibit 1. The type of project within each subcategory and its corresponding point value are displayed.

E. The Aviation Section may participate in revenue-generating projects such as fueling systems and hangars. Such projects are usually done after all other airside projects or issues have been completed. Certain areas of terminal buildings at general aviation airports may be eligible. Areas such as the airport manager's office, flight planning area, pilot's lounge, and a small conference room would be considered eligible for funding. Areas such as a location for rental car agencies, restaurants, and fixed base operators (FBO's) would not be considered eligible for funding. The size of the terminal building eligible for funding would also be limited to the needs for the size airport in which it would be located.

F. Safety (see Exhibit 1.A). Projects in this subcategory are limited to those that only affect aircraft operational safety. These are projects such as obstruction removal, runway grooving, aircraft rescue and firefighting (ARFF) equipment, and lighting. It can be argued that most aviation improvement projects increase safety at an airport, but caution is used to place only those projects in this subcategory that specifically affect the safety of aircraft using the airport. For example, lengthening of a runway improves safety, but its primary purpose is to allow utilization by larger or faster aircraft. Projects in the "safety" category are those developed specifically to address an unsafe condition and thus receive the highest evaluation points possible.

G. Airside Preservation (see Exhibit 1.B). Projects that are required to maintain the functional integrity of existing facilities are evaluated in this subcategory. Projects such as reconstruction of a runway or taxiway or rehabilitation of an existing lighting system are the types of projects included under this subcategory. The point values are assigned with the highest value to projects that maintain the integrity of the primary runway and decrease in value as the facility being maintained moves from preservation of existing facilities toward making improvements to airside facilities.

H. Airside Improvements (see Exhibit 1.C). Projects evaluated in this category are those the purpose of which is to upgrade a facility to a design standard based on current needs. The required design standards for facilities are determined by the role the airport plays in the state airport system and the Aviation Section facility development standards. The airport role and standards are found in the Louisiana Airport System Plan and in appropriate FAA and state airport design manuals and advisories.

I. Landside Improvements (see Exhibit 1.D). Projects in this subcategory are those that are designed to facilitate the handling of issues dealing strictly with landside improvements. These projects receive the least amount of points in the prioritization process due to the fact that emphasis must be put on airside needs in order to maintain a safe and operational airport. Projects in this subcategory may be addressed once the major airside issues have been addressed and resolved.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1510 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:524 (March 2007), repromulgated by the Department of Transportation and Development, Aviation Section, LR 39:109 (January 2013).

§321. Category II—Facility Usage (see Exhibit 2)

[Formerly §921]

A. This category weighs the use of an airport relative to the use of other airports in the system. The basic objective is to support projects that serve the most aviation users. This objective has to be balanced, however, with the Aviation Section's goal of maintaining a viable statewide system of public use airports and maintaining aviation and public safety.

B. As previously discussed, for this reason commercial service and general aviation airports are prioritized separately.

C. Points are awarded based on the number of aircraft based at the airport and/or the number of commercial enplanements. The point values have been developed to attempt to recognize higher use of an airport while not eliminating a low use airport from consideration for projects. Exhibit 2 shows the point rating structure for this category.

D. The number of based aircraft at an airport, as indicated in the latest 5010 inspection report, is used to determine the relative level of use at an airport by general aviation interests. There are some drawbacks to this approach. The number of operations for each based aircraft is not accounted for by using only the based aircraft numbers. Itinerant operations, which are very important to an airport, are not recognized by counting based aircraft.

Other operations by aircraft not based on the field, such as agricultural and military aircraft, are also missed. All of these factors affect the overall number of operations at an airport which is a much more accurate measure of airport use than based aircraft, but reliable operations counts at all nontowered airports are not available for general aviation airports. Should the Aviation Section develop a systematic program for counting operations at nontowered airports, the relative number of operations at an airport may replace based aircraft as the indicator of facility use. Until such a system is developed, counts of based aircraft are the only consistent way to measure general aviation use at the airports.

E. For commercial service airports, points are also awarded in this category for the number of commercial service enplanements. The number of enplanements is taken from the FAA's annual enplanement data.

F. Airports that do not have enplanements, but are designated as reliever airports, receive points in this category also. Reliever airports are important in the system for diverting general aviation operations from commercial service airports with operational capacity problems and thus receive points in the category. The sum of points awarded for general aviation-based aircraft, commercial service passenger enplanements (commercial service airports), and reliever airports status constitutes an airport's score for the "facility usage" category of the priority rating system.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1511 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:525 (March 2007), repromulgated by the Department of Transportation and Development, Aviation Section, LR 39:110 (January 2013).

§323. Category III—Sponsor Compliance (see Exhibit 3)

[Formerly §923]

A. The "sponsor compliance" category evaluates how effectively the airport owners are operating the airport with respect to established standards and good management practices. Several areas are evaluated in this category that are critical to providing safe and efficient public services. Exhibit 3 shows the evaluation criteria and point values for this category.

B. Airports are affected by the use of the land surrounding them. Certain land uses in the vicinity of an airport can result in restrictions on use of the airport and, in extreme cases, in the total closure of the airport. Restrictions to prevent the penetration of tall objects into the approach surfaces for aircraft at an airport are very important. Generally referred to as "height hazard zoning," this type of zoning prevents tall objects that affect the safety of aircraft operations from being built around the airport. Tall objects can cause the displacement of thresholds and the raising of "minimums" for instrument approaches at an airport, thus decreasing the utilization of the airport. The airport represents a substantial public investment and implementation of height hazard zoning by the appropriate local governing body protects the investment by allowing the airport to be used to its full capacity. Points are awarded

in this category for having height hazard zoning ordinances in effect at an airport.

C. A related area evaluated in this category is compatible land use zoning. Height hazard zoning controls the height of objects but has no impact on the actual use of the land. Certain land uses around an airport are incompatible with airport operations because of safety considerations or impacts on landside activities. Noncompatible uses can create conflicts between the community and the airport which may create pressures to restrict use of the airport. Compatible land use zoning is necessary to protect the airport from restrictions placed on it when aviation uses conflict with surrounding land uses. For this reason, the presence of land use zoning is evaluated in this category.

D. The final evaluation area in the "sponsor responsibility" category is maintenance. The local owners of the airport are responsible for routine maintenance such as cutting the grass, changing light bulbs, maintaining proper drainage, sealing or filling pavement cracks, and refurbishing marking and painting stripes. If regular maintenance is not done, the airport will not receive full points in this category. If maintenance is cited as a problem, the airport will be notified by letter of the problem and the corrective action to be taken. Until the airport corrects the problem, all projects evaluated in the priority system for the airport will lose points.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1512 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:525 (March 2007), repromulgated by the Department of Transportation and Development, Aviation Section, LR 39:110 (January 2013).

§325. Category IV—Special Considerations (see Exhibit 4) [Formerly §925]

A. The first three evaluation categories cover those evaluation areas (project type, facility use, and sponsor compliance) for which all projects prioritized will receive an evaluation score. The "special considerations" category allows projects of special significance to receive additional evaluation points when being prioritized. The items evaluated in this category bear no relationship to one another and thus each project is evaluated with respect to each item to determine if it should receive bonus points in its prioritization score. Exhibit 4 shows the criteria and point values for bonus point evaluation.

B. The first area of evaluation is "special programs." At times, certain improvements at an airport may be mandated by federal or state law and thus require a higher prioritization. Also, as a matter of policy, the Aviation Section may determine that special emphasis should be placed on a certain type of project. All projects of the designated type will receive additional bonus points under these evaluation criteria. An example of this type of project would be a phased project. Additional points will be awarded to assure that a consecutive phase of a project receive a higher priority than a project that is not phased.

C. Economic development potential is another evaluation area under the "special considerations" category. While it is acknowledged that any construction project

generates economic development, there are some projects that are designed to address a specific economic need at the airport or in the community. To receive points in this area, the economic development aspects of the project must to be well documented and clearly demonstrate the potential economic impact of the project. Facilities developed to accommodate the aviation needs of a business moving to the community is an example of an economic development type of project. The facilities would have to constitute a major factor in the business' decision to locate in the community. To receive bonus points in this area may require an economic impact study, the cost of which is the responsibility of the airport owner. Another example is a taxiway to open industrial airpark access would get bonus points, but a taxiway to a T-Hangar area would not. A runway project to accommodate corporate aircraft would need to be thoroughly documented that it was a major factor in the location of the business.

D. Commercial air service to a community is an important element in the community's overall economic development. Under the "special considerations" category, projects are evaluated to determine if their primary justification is to maintain or attract commercial air service to the airport. For a project to receive points under this category, it must be directly responsible for affecting commercial air service at the airport. Documentation of the project justification is essential for prioritization rating points to be awarded under this evaluation criteria.

E. Another "special considerations" category is the provision of local matching funds in excess of Aviation Section match requirements. Any project for which at least \$5,000 in local funds are provided will receive bonus points in this category. For every \$5,000 contributed by the airport owner, 5 bonus points will be awarded, up to a total to 20 bonus points for \$20,000 contributed. Any amount above \$20,000 contributed by the sponsor will only receive a maximum of 20 bonus points. This is designed to give higher preference to projects that are financially supported by the local owner in excess of that which is required; therefore, no matching funds from other state sources will qualify for bonus points. Commitment for local funding support should be included in the resolution submitted by the local owner requesting assistance from the Aviation Section for the project.

F. The last evaluation criterion under the "special considerations" category is the GA Entitlement Loan Program. Under this category a NPIAS GA airport may receive special program bonus points for a project by loaning their Non-Primary Entitlement (NPE) funds to another NPIAS GA airport. The airport receiving the loan will in turn, loan their future NPE funds to the airport which gave them the loan. The participating airport loaning the funds will be awarded additional bonus points for their next priority project.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1513 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:526 (March 2007), repromulgated by the Department of Transportation and Development, Aviation Section, LR 39:111 (January 2013).

§327. New Airports
[Formerly §927]

A. An airport that is constructed on a new site presents some different prioritization issues than improvements to existing airports. Generally, a new airport will fall into either of two categories.

1. The first is an airport that is proposed for an area of the state not served by a public airport.

2. The second is a new airport proposed to replace an existing public airport which, for any number of reasons, is not considered a suitable public airport.

B. Prioritization of projects for the development of a new airport requires a process slightly different than that for an existing airport. There are some special considerations that must be made in each of the four prioritization categories.

C. Initially, it must be determined if the project under consideration is for a "new" airport. At some point during its development, a new airport becomes an existing airport. For purposes of the priority process, an airport is considered "new" until land is purchased for the airport, a primary runway is constructed, and an apron for aircraft parking is constructed. This includes clearing of runway approaches. The completion of these elements allows aircraft to operate at the airport and thus, at this point, the airport is no longer considered "new" and future projects are prioritized using the standard prioritization process. Before this point is reached, however, the land acquisition, runway, and apron construction will be prioritized using the following special considerations in each category.

D. Under the "project type" category, new airport projects will be categorized in either of two project type categories. Those new airports that are replacing an existing airport are categorized as upgrade to standards type projects. This type of new airport allows construction of an airport that meets all DOTD design standards and allows for future expansion to meet these standards. It should be noted that land purchased for a new airport is often funded with state funds, but when the FAA begins funding other improvements such as the primary runway, the state is reimbursed for land acquisition costs. If this is the case, land acquisition should be treated as a federally-funded project and prioritized accordingly.

E. New airports constructed in areas of the state not being served by a public airport should be prioritized under the project type "capacity increases" subcategory. These airports are primarily to increase the capacity of the Louisiana public airports system and thus are prioritized in the "capacity increases" subcategory. As previously discussed, land acquisition costs are usually reimbursed by the FAA and these projects should be prioritized accordingly.

F. For the "facility usage" category, the based aircraft and enplanements numbers that determine the points awarded for the new airport project will be those cited in the supporting planning document for the first planning phase. This will usually be the numbers cited for the first year of operation.

G. Under the "sponsor responsibility" category, there are two areas that can be included in the prioritization process. The presence of height limitation zoning and land use zoning should be determined and points assigned accordingly. Most new airports will not have developed an operations manual for the airport. In cases where the airport has not developed

an operations manual, the airport will be awarded five points based on the assumption that the elements of an operations manual will be in place when the airport is opened for operations.

H. In the "special considerations" category, a new airport can be assigned points in the same manner as an existing airport. If an airport is the first public airport in an area, a strong case can be made that the airport should receive bonus points for its economic development potential. The airport represents a totally new mode to the local transportation system and thus should have a significant long-term economic impact on the area served. The remaining bonus point areas can be assigned in the same manner they are assigned for existing airports.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1513 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:526 (March 2007), repromulgated by the Department of Transportation and Development, Aviation Section, LR 39:112 (January 2013).

§329. Prioritization of Projects
[Formerly §929]

A. Once a determination has been made by the Aviation Section that a project is eligible to be included in the prioritization system, the project will be prioritized using the rating system. The preliminary evaluation of the project should provide the information necessary to complete the process. If adequate information is not available, it will be requested before the project is prioritized. Prioritizing a project without sufficient information may cause a project to receive a higher or lower ranking than it deserves. Subsequent questions about why the project received the evaluation score may be difficult to answer without the documentation to support the points assigned in each category.

B. Point values are assigned in each category using the worksheet that is included as Exhibit 5. The worksheet follows the priority rating system and provides the documentation of how the total score for a project was derived. The worksheet is maintained with the project file so that documentation of the value assigned in each category is available.

C. Occasionally, a change in a project or at the airport might occur requiring the point values for a project to be modified. The new values are put on the same worksheet with a note explaining the reasons for the change.

D. As part of the evaluation of the project, the eligibility of the project for federal funding is noted on the worksheet. If federal funds are already committed, this is also included on the worksheet. When the project is entered in the automated priority system, the eligibility or commitment of federal funding for the project is noted.

E. Some projects will have equal scores after they are evaluated. If these projects fall at a point in the ranking list where a break is necessary (funded program versus four-year unfunded program), projects with the same score will be ranked based on the highest score in Category I. The project with the higher score in Category I will be ranked higher. If the projects are tied in Category I, Category III is used to break the tie and, if still tied, Category II is used, etc. Should

the projects still be tied after examining all four categories, the project at the airport with the largest number of based aircraft will be ranked higher.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1514 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:527 (March 2007), repromulgated by the Department of Transportation and Development, Aviation Section, LR 39:112 (January 2013).

§331. Priority Ranking System
[Formerly §931]

A. After the total evaluation score for a project is determined, it is entered into a priority ranking system and its relative ranking is determined. This system ranks projects by descending score in the commercial service airport or general aviation airport priority program as appropriate.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1514 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:527 (March 2007), repromulgated by the Department of Transportation and Development, Aviation Section, LR 39:113 (January 2013).

§333. Program of Projects
[Formerly §933]

A. The lists of projects for commercial service and general aviation airports prioritized by evaluation score represent the program of projects that the Aviation Section will seek to implement through its development program. The actual number of projects from each list that will ultimately be constructed is primarily dependent upon the level of funding that the Aviation Section receives each year.

B. The priority system has been designed to allow inclusion of a cost estimate for each project. The estimate is broken down by federal share, state share, and local sponsor share. Since the system is designed to prioritize the use of state monies, the state funds required for a project are the key to developing a program of projects.

C. Most projects will require more than one year to design, acquire land (if necessary), and construct. When a project that is programmed to be funded over two or more fiscal years is included in the program, the phase of work (design, construction phase I, construction phase II, etc.) will be noted along with the cost of that phase. Subsequent phases may be shown at the top of the four-year unfunded list. As projects are constructed and more funding becomes available, remaining projects with the highest scores will be placed in the construction program to the extent that funding is available. This group of projects for which funding is available will not be changed until more funds become available. However, projects on the four-year unfunded list do not automatically move up to the funded list in the succeeding fiscal year. Rather, unfunded projects recompile for funding each fiscal year until they are either funded or dropped from the list after three years. Because needs, cost estimates, airport situation, and other data change regularly, after three years all projects which have not been started may be dropped from the program. If projects are dropped from the program, they must be resubmitted with updated

information. They will then be reviewed and re-entered into the priority system.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997, R.S. 2:802 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1514 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:528 (March 2007), repromulgated by the Department of Transportation and Development, Aviation Section, LR 39:113 (January 2013).

§335. Project Available for FAA Funding
[Formerly §935]

A. Special consideration for projects that will receive FAA funding is included in the priority system. The priority system is a listing of the projects in the order that the state considers implementation desirable based on the state's overall aviation development policies. Utilization of the FAA's priorities to set state priorities is sometimes inconsistent with a state prioritization process. This does not mean that the state should ignore potential FAA funding in its development program.

B. There are two decisions that the Aviation Section makes when seeking FAA funding for its program. Projects that are planned at National Plan of Integrated Airport Systems (NPIAS) airports and that are types in which FAA will participate are noted. This enables the Aviation Section to present a proposed program of projects to the FAA that are eligible for FAA funding and that reflect state priorities. The Aviation Section then negotiates with the FAA to secure federal funding for top ranked projects. The second consideration for FAA funding is that there will be projects the FAA will fund that do not appear in the implementation program based on priority rankings. Realistically, the Aviation Section cannot reject a project that will receive funding from the FAA. In these cases, a project that has received a commitment for federal funds is to be automatically included in the list of projects for implementation in the current year. If the current year program is already developed, the project is given top priority in the next year program or may be funded by future FAA obligation funds or funds available from cost underruns. Therefore, it is important that airports seeking federal funding for projects that are eligible for matching funds from the aviation program coordinate their application with both the FAA and the Aviation Section.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1515 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:528 (March 2007), repromulgated by the Department of Transportation and Development, Aviation Section, LR 39:113 (January 2013).

§337. Exhibits
[Formerly §937]

A. Exhibit 1

Exhibit 1	
Category I—Project Type	
A. Safety—Projects Directly Affecting Operational Safety	
Points	
50	Correction of runway failures severe enough to be an obvious safety problem. Runway friction surface or grooving or other

Exhibit 1	
Category I—Project Type	
	action directly related to safety.
49	Repair of primary runway lighting system or approach lighting system which is not functional and is deemed to be a safety hazard.
48	Obstruction removal which is requiring the displacement of the runway threshold and relocation of runway lighting.
47	Obstruction removal to meet FAA Part 152 clear zone and FAR Part 77 imaginary surface requirements.
46	ARFF vehicles and equipment required at commercial service airports or minimum safety equipment at GA airports. Security fencing to correct a specific safety problem (does not include general perimeter fencing).
45	Safety condition identified by professional evaluation or accident statistics.
B. Airside Preservation—Preserving the Infrastructure of the Airport Dealing with Air Operations. Examples are preserving and maintaining the infrastructure of the runways, taxiways, aircraft aprons, airfield lighting, NAVAIDs, Fuel Farms, T-Hangars, etc.	
20	Primary runway
19	Taxiway serving primary runway
18	Apron
17	Secondary runway
16	Taxiway serving secondary runway
15	Stub taxiways and taxilanes
C. Airside Improvements—Improving the Infrastructure of the Airport Dealing with Air Operations. Examples are improving and upgrading the infrastructure of the runways, taxiways, aircraft aprons, airfield lighting, NAVAIDs, Fuel Farms, T-Hangars, etc.	
14	Primary runway
13	Primary taxiway
12	Apron
11	Perimeter fencing
10	Navigational Aids (NAVAIDs)
9	Secondary runway
8	Secondary taxiway
7	Agricultural loading area
6	Noise Mitigation / Terminal Building for Commercial Service Airports
5	New airport construction including runway, taxiway, and apron / Terminal Building for General Aviation Airports.
D. Land Side Improvements—Improvements That Enhance an Airport's Infrastructure Not Related to the Air Side.	
4	Land acquisition for future expansion
3	Primary vehicle access road
2	Primary vehicle nonrevenue-generating parking.
1	Other Land Side Improvements

B. Exhibit 2

Exhibit 2	
Category II—Facility Usage	
Based Aircraft*	Points
91 or More	20
81 to 90	18
71 to 80	16
61 to 70	14
51 to 60	12
41 to 50	10
31 to 40	8
21 to 30	6
11 to 20	4
1 to 10	2
Additional Points for Air Commercial Service Enplanements**	Points
500,000 or more	20
250,000 to 499,999	15
50,000 to 249,999	10
2,500 to 49,999 ***	5
If noncommercial reliever airport	10

Exhibit 2	
Category II—Facility Usage	
*Taken from latest 5010 Inspection	
**Taken from Annual FAA Enplanement Data	
***Less than 2,500 enplanement do not receive points	

C. Exhibit 3

Exhibit 3	
Category III—Sponsor Compliance	Points
Height Limitation Zoning	10
Land Use Zoning	5
5010 / Safety Inspection***	0 - 30
***Points are not awarded based solely on the number of deficiencies. Also taken into consideration are the timeliness and appropriateness of corrective actions. Points may be awarded on a sliding scale relative to the progress toward correcting deficiencies.	

D. Exhibit 4

Exhibit 4	
Category IV—Special Considerations	Points
Designated as Special Program*	15
Economic Development Potential**	10
Maintain or Attract Commercial Service	10
Local Funding in Excess of Requirements***	5-20
GA Entitlement Loan Program****	25
*Special Program—Certain types of projects mandated by Federal or State law or identified in a policy decision by DOTD. For example, if the EPA requires a certain kind of wash down facility, it could be given added priority with bonus points. If DOTD wishes to place emphasis on a particular type of project, e.g., hazard removal around the state, subsequent phase of a project continuation, these types of projects could receive Special Program points.	
**Economic Development—Clearly demonstrated impact on economic development in an industrial airpark or around the airport locale. For example, a taxiway to open industrial airpark access would get bonus points, but a taxiway to a T-Hangar area would not. A runway project to accommodate corporate aircraft would need to be thoroughly documented that it was a major factor in the location of the business. To receive bonus points in this category an economic impact study may be required, the cost of which is the responsibility of the airport owner.	
***Five points will be awarded for each \$5,000 of matching funds provided by the airport owner up to a maximum of 20 points for \$20,000. Any amount above \$20,000 will only receive the maximum of 20 points. Funds may not come from other state sources.	
****GA Entitlement Loan Program—A NPIAS GA airport may receive special program bonus points for a project by loaning their Non-Primary Entitlement funds to another NPIAS GA airport.	

E. Exhibit 5

Project Priority Evaluation Worksheet	
Project Number*	Date Evaluated
Airport Name	
Description of Work	
Category I: Project Type	Score
Safety	
Airside Preservation	
Airside Preservation	
Airside Improvements	
Landside Improvements	
	Total
Category II: Facility Usage	
Based Aircraft	
Enplanements	
Reliever Airport	
	Total
Category III: Sponsor Responsibility	
Height Limitation Zoning	
Land Use Zoning	

Project Priority Evaluation Worksheet	
5010 / Safety Inspection	
	Total
Category IV: Special Considerations	
Special Program	
Economic Development	
Commercial Service	
Local Funding	
GA Entitlement Loan Program	
	Total
Project Total Evaluation Score	Total

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1515 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:528 (March 2007), repromulgated by the Department of Transportation and Development, Aviation Section, LR 39:113 (January 2013).

Chapter 9. Aviation Program Needs and Project Priority Process

§901. Introduction

Repealed.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997, R.S. 2:803(B) and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1504 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:519 (March 2007), repealed by the Department of Transportation and Development, Aviation Section, LR 39:115 (January 2013).

§903. Federal Aviation Administration (FAA) Airport Improvement Program (AIP) Grants

Repealed.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997, R.S. 2:803(B) and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1504 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:519 (March 2007), repealed by the Department of Transportation and Development, Aviation Section, LR 39:115 (January 2013).

§905. Project Identification and Development

Repealed.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1505 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:519 (March 2007), repealed by the Department of Transportation and Development, Aviation Section, LR 39:115 (January 2013).

§907. Project Prioritization Process

Repealed.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997, R.S. 2:803(B) and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1505 (August 1998), amended by the

Department of Transportation and Development, Intermodal Transportation Division, LR 33:520 (March 2007), repealed by the Department of Transportation and Development, Aviation Section, LR 39:115 (January 2013).

§909. Nonprioritized Programs

Repealed.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1505 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:521 (March 2007), repealed by the Department of Transportation and Development, Aviation Section, LR 39:115 (January 2013).

§911. Commercial Service versus General Aviation Airports (Formerly §919)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997, R.S. 2:802 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1507 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:521 (March 2007), repealed by the Department of Transportation and Development, Aviation Section, LR 39:115 (January 2013).

§913. Preliminary Evaluation (Formerly §921)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997, R.S. 2:802 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1507 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:522 (March 2007), repealed by the Department of Transportation and Development, Aviation Section, LR 39:115 (January 2013).

§915. Project Support Documentation (Formerly §923)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997, R.S. 2:802 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1508 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:522 (March 2007), repealed by the Department of Transportation and Development, Aviation Section, LR 39:115 (January 2013).

§917. Project Priority Rating System (Formerly §925)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1510 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:524 (March 2007), repealed by the Department of Transportation and Development, Aviation Section, LR 39:115 (January 2013).

**§919. Category I—Project Type
(Formerly §927) (see Exhibit 1)**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1510 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:524 (March 2007), repealed by the Department of Transportation and Development, Aviation Section, LR 39:116 (January 2013).

**§921. Category II—Facility Usage
(Formerly §929) (see Exhibit 2)**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1511 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:525 (March 2007), repealed by the Department of Transportation and Development, Aviation Section, LR 39:116 (January 2013).

**§923. Category III—Sponsor Compliance
(Formerly §931) (see Exhibit 3)**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1512 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:525 (March 2007), repealed by the Department of Transportation and Development, Aviation Section, LR 39:116 (January 2013).

**§925. Category IV—Special Considerations
(Formerly §933) (see Exhibit 4)**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1513 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:526 (March 2007), repealed by the Department of Transportation and Development, Aviation Section, LR 39:116 (January 2013).

**§927. New Airports
(Formerly §935)**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1513 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:526 (March 2007), repealed by the Department of Transportation and Development, Aviation Section, LR 39:116 (January 2013).

**§929. Prioritization of Projects
(Formerly §937)**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1514 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:527 (March 2007), repealed by the Department of Transportation and Development, Aviation Section, LR 39:116 (January 2013).

**§931. Priority Ranking System
(Formerly §939)**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1514 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:527 (March 2007), repealed by the Department of Transportation and Development, Aviation Section, LR 39:116 (January 2013).

**§933. Program of Projects
(Formerly §941)**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997, R.S. 2:802 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1514 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:528 (March 2007), repealed by the Department of Transportation and Development, Aviation Section, LR 39:116 (January 2013).

**§935. Projects Eligible for FAA Funding
(Formerly §943)**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1515 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:528 (March 2007), repealed by the Department of Transportation and Development, Aviation Section, LR 39:116 (January 2013).

**§937. Exhibits
(Formerly §945)**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1515 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:528 (March 2007), repealed by the Department of Transportation and Development, Aviation Section, LR 39:116 (January 2013).

Eric I. Kalivoda
Deputy Secretary

1301#060

RULE

**Department of Transportation and Development
Office of Highways/Engineering**

**Design-Build Pilot Program Repeal
(LAC 70:I.Chapter 7)**

In accordance with the applicable provisions of the Administrative Procedure Act and R.S. 49:950 et seq., notice is hereby given that the Department of Transportation and Development repeals Title 70, Part I, Chapter 7 of the *Louisiana Administrative Code*. Chapter 7 was adopted in accordance with R.S. 48:250.2(B) which required the Department of Transportation and Development to promulgate rules in accordance with the Administrative Procedure Act for the administration of a pilot program for design-build contracts.

Subsequently, the Louisiana Legislature repealed Subsection B of R.S. 48:250.2 (Act 2004, No. 81, §2) which contained the department's rule making authority. The Louisiana Legislature additionally enacted R.S. 48:250.3 (Act 2004, No. 81, §1) to provide for the design build procedures and rules to be utilized by the department for the administration of the department design-build program. With the repeal of R.S. 48:250.2(B) and the enactment of R.S. 48:250.3, the department no longer has the authority or need to promulgate rules for the administration of its design-build program.

**Title 70
TRANSPORTATION**

Part I. Highway Construction

Chapter 7. DOTD Design-Build Contracting Pilot Program

§701. Purpose

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:250.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 26:790 (April 2000), repealed LR 39:117 (January 2013).

§703. Qualification Requirements for Bidders

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:250.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 26:791 (April 2000), repealed LR 39:117 (January 2013).

§705. Public Announcement Procedures

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:250.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 26:791 (April 2000), repealed LR 39:117 (January 2013).

§707. Requirements of Letters of Interest by Competitors for the Design-Build Contract

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:250.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 26:791 (April 2000), repealed LR 39:117 (January 2013).

§709. Criteria and Procedures for Choosing a Short List from Responding Firms

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:250.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 26:791 (April 2000), repealed LR 39:117 (January 2013).

§710. Requirements for Bid Proposals by Competitors for Design-Build Contracts

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:250.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 26:791 (April 2000), repealed LR 39:117 (January 2013).

§711. Composition and Appointment by the Secretary to the Technical Review Committee Grading and Judging the Technical Proposals for Ranking and Recommendation to the Chief Engineer

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:250.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 26:792 (April 2000), repealed LR 39:117 (January 2013).

§713. Selection and Process of Award by the Chief Engineer and Execution of the Design-Build Contract by the Secretary for a Stipulated Sum

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:250.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 26:792 (April 2000), repealed LR 39:117 (January 2013).

Sherri LeBas, P.E.
Secretary

1301#061

RULE

**Department of Transportation and Development
Office of Multimodal Planning**

**Port Design-Build Pilot Program
(LAC 56:III.Chapter 23)**

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 34:3523(I) and R.S. 34:3460, that the Department of Transportation and Development, Office of Multimodal Planning adopts Chapter 23 to facilitate the implementation of the port design-build pilot program.

**Title 56
PUBLIC WORKS**

**Part III. Flood Control and Water Management
Subpart 2. Port Construction and Development Priority Program**

Chapter 23. Port Design-Build Pilot Program

§2301. Purpose

A. A port design-build pilot program was authorized by Act 755 of the 2012 Regular Session of the Louisiana State Legislature. The purpose of this Rule is to establish

procedures and guidelines for the implementation of the pilot program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3523.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Multimodal Planning, LR 39:117 (January 2013).

§2303. Applicability

A. Any port may use the design build method, pursuant to the pilot program as specified and limited by R.S. 34:2523, on any non-architectural project where the project involves the transport, production, storage, or manufacturing of port cargos and where 60 percent or more of the construction cost estimate in the design criteria package, as determined by the port's retained design professional, consists of engineered products and components and services, fabrication, and installation for such products and components.

B. A port may utilize the design-build method on projects funded by any manner for any port project in which a notice of intent is advertised in accordance with R.S. 34:3523 prior to December 31, 2015.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3523.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Multimodal Planning, LR 39:118 (January 2013).

§2305. Approval Process

A. The proposed design-build projects shall be processed for approval on a first-come first-served basis.

B. A port seeking to participate in the design-build pilot program shall retain a design professional for each proposed project. The design professional shall prepare a design criteria package for each proposed project. The design professional and the design criteria package shall meet all requirements set forth in R.S. 34:3523

C. If the port is seeking approval for the project pursuant to the Port Priority Program, the port shall comply with all applicable rules relative to Port Priority Program projects.

D. If the port is not seeking participation in the Port Priority Program, the following rules shall apply.

1. A completed design criteria package must be submitted to the department prior to submission to the joint legislative committee for approval, along with a resolution from the governing authority for the port verifying its commitment to complete the design-build project and which contains a statement that the port has the funding necessary to do so.

2. The department is responsible for ensuring the design package contains all of the elements required by R.S. 34:3523. The department will not recommend approval for the design-build project, nor will the department be responsible for making findings relative to the accuracy of the information provided in the design criteria package.

3. If the department determines that the design criteria package is complete and the resolution from the governing authority for port is sufficient, it shall issue a letter to the port stating same. The letter shall serve as authorization for

the port to submit the design criteria package and the resolution to the joint legislative committee for approval. The design criteria package and resolution shall be submitted to the joint legislative committee within 30 days of publishing the notice of intent as required by R.S. 34:3523(c).

4. The port shall notify the department of the outcome of the joint legislative committee.

a. If the project is approved or if the joint legislative committee fails to act within 60 days from receipt of the proposed project, the port so shall notify the department and may proceed with implementation of the project.

b. All aspects of the project must comply with all applicable laws, rules and regulations relative to the design-build pilot program including, but not limited to, R.S. 34:3523.

D. Unless the design-build project is also a Port Priority Program project, the department shall not participate in or monitor the project beyond the application and approval processes.

E. Procedures for Withdrawal of Projects

1. If after receiving approval for the proposed project, the port elects not to proceed with the construction of the project, the governing authority for the port shall provide the joint legislative committee and the department with written notice that it is withdrawing its project from the pilot program.

2. Once the project is withdrawn by the port, the project is no longer eligible for the design-build pilot program without resubmitting the design criteria package to the department and the joint legislative committee for approval. Any such resubmitted project shall be placed in line behind all other pending project approvals received by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3523.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Multimodal Planning, LR 39:118 (January 2013).

§2307. Project Limits

A. Once the department receives notice that ten projects have been approved by the joint legislative committee, the department will cease processing any further projects. If however a project has been withdrawn from the pilot program, the department will process applications in the order of their submission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3523.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Multimodal Planning, LR 39:118 (January 2013).

Sherri H. LeBas, P.E.
Secretary

1301#062

RULE

Department of Treasury Board of Trustees of the Louisiana State Employees' Retirement System

Election to the Board of Trustees
(LAC 58:I.401, 405, and 407)

The Department of the Treasury, Board of Trustees of the Louisiana State Employees' Retirement System ("LASERS") has amended LAC 58:I.401, 405, and 407. These rule amendments change LAC 58:I.401 regarding certain dates in the election process as well as clarifies certain language in the rule. The amendments also change LAC 58:I.405 regarding the definition of retired member in reference to the election process as well as clarifying certain language pertaining to the schedule of tallying votes. Further, these rule amendments add language to LAC 58:I.407 regarding winning candidates in LASERS' Board of Trustees elections for active and retired members in situations where candidates run unopposed.

Title 58 RETIREMENT

Part I. Louisiana State Employees' Retirement System Chapter 4. Rules Common to the Election of Both Active and Retired Member Trustees

§401. General Schedule of Elections [Formerly §§301 and 501.B]

- A. - A.2. ...
- B. The schedule for elections shall be as follows:
1. first day in March: nominations shall be opened;
 2. second Tuesday in July: nominations shall be closed. All nominating petitions must be received by the close of business (4:30 p.m. Central time);
 3. Monday following second Tuesday in July: a drawing shall be held to determine candidate positions on a ballot;
 4. fourth Friday in September: the final day that information on candidates and ballots may be mailed;
 5. fourth Friday in October: all ballots or electronic votes must be received by the close of business (4:30 p.m. Central time). No faxed ballots shall be accepted;
 6. Wednesday following fourth Friday in October: all ballots and electronic votes shall be tallied and verified by this date;
 7. regular November meeting: the board shall be presented with the certified ballot count, and if it is accepted, shall authorize publication of results;
 8. January following election: newly elected members receive orientation; oaths shall be taken prior to the regular January meeting.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 23:996, 997 (August

1997), LR 25:1278 (July 1999), LR 26:2633 (November 2000), LR 33:1151 (June 2007), LR 34:446, 447 (March 2008), LR 37:1615 (June 2011), LR 39:119 (January 2013).

§405. Election Process

[Formerly §§303.C-I and 503.C-J]

A. ...

B. Retired Members—ballots or election brochures shall be distributed to each retired member by the fourth Friday in September. A member who is deemed by LASERS to be retired before July 1 of the year in which the election is to take place shall be considered a retired member for the purposes of this Section.

C. - F. ...

G. Votes shall be tallied in accordance with the general schedule of elections.

H. - I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 23:996, 997 (August 1997), LR 25:1278 (July 1999), LR 26:1490 (July 2000), LR 26:2633 (November 2000), LR 31:946, 947 (April 2005), LR 34:446, 447 (March 2008), LR 37:1616 (June 2011), LR 39:119 (January 2013).

§407. Winning Candidates

[Formerly §§303.B & G; 501.A and 503.H]

A.1. - C. ...

D. If, after the conclusion of the nomination process, the number of candidates does not exceed or is fewer than the number of open positions for which election is being held, no election shall be held for those positions, and those candidates that are nominated and are qualified shall be deemed successful candidates and presented to the board.

1. Active Member Trustees' Elections—any remaining open positions shall be filled in accordance with Title 58, Part I, Chapter 3, §305 of the *Louisiana Administrative Code*.

2. Retired Member Trustees' Elections—any remaining open positions shall be filled in accordance with Title 58, Part I, Chapter 5, §505 of the *Louisiana Administrative Code*.

E. Subsection D shall apply to both active member trustee elections and retired member trustee elections.

F. For all relevant purposes, those candidates elected under Subsection D shall be considered to have received the maximum number of votes possible.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 23:996, 997 (August 1997), LR 25:1278 (July 1999), LR 26:1490 (July 2000), LR 26:2633 (November 2000), LR 31:946, 947 (April 2005), LR 34:446, 447 (March 2008), LR 37:1616 (June 2011), LR 39:119 (January 2013).

Maris E. LeBlanc
Deputy Director

1301#023

RULE

**Department of Treasury
Board of Trustees of the Louisiana
State Employees' Retirement System**

Plan Year; Limitations Year (LAC 58:I.115 and 117)

The Department of the Treasury, Board of Trustees of the Louisiana State Employees' Retirement System ("LASERS") has added LAC 58:I.115 and 117, which establish a plan year and a limitations year for LASERS. These additions codify the current practices of LASERS with regards to plan year and limitations year which follow IRS guidelines.

Title 58

RETIREMENT

Part I. Louisiana State Employees' Retirement System

Chapter 1. General Provisions

§115. Plan Year

A. The plan year for LASERS shall be July 1-June 30.

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 39:120 (January 2013).

§117. Limitations Year

A. The limitations year for LASERS shall be January-December 31.

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 39:120 (January 2013).

Cindy Rougeou
Executive Director

1301#024

RULE

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

Designation and Taking of Exotic Fish (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. Exotic Fish that may be Sold Commercially

1. For the purposes of this Section, the following species of nonindigenous fish are designated as exotic fish:

- a. grass carp (*Ctenopharyngodon idella*);
- b. silver carp (*Hypophthalmichthys molitrix*);
- c. bighead carp (*Hypophthalmichthys nobilis*);
- d. black carp (*Mylopharyngodon piceus*).

2. 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.

3. 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.

B. Exotic Fish that may not be Sold Commercially

1. For the purposes of this Section, the following species of nonindigenous fish are designated as exotic fish:

- a. apple snails (*Pomacea spp*);
- b. Rio Grande Cichlid (*Herichthys cyanoguttatum*, formerly *Cichlasoma cyanoguttatum*).

2. In order to promote the removal of the exotic species identified in this rule, it shall be lawful to retain all such designated exotic species of fish taken by any legal method, provided that such action as necessary is taken to kill the species immediately upon capture.

3. Such exotic fish shall not be maintained, sold, bartered, traded, or exchanged.

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), amended LR 39:120 (January 2013).

Ann L. Taylor
Chairman

1301#021

RULE

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

Falconry (LAC 76:V.301)

The Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission do hereby promulgate rules for use of snares and amend the rules relative to falconry.

Title 76

WILDLIFE AND FISHERIES

Part V. Wild Quadrupeds and Wild Birds

Chapter 3. Wild Birds

§301. Falconry

A. The Louisiana falconry regulations pertain to the use of native raptors (Accipitriformes—vultures, osprey, kites, harriers, accipiters, buteos, and eagles; Falconiformes—caracaras and falcons; and Strigiformes—owls) that are protected under the Migratory Bird Treaty Act, and exotic raptors, for purposes of falconry. No person may possess wild or captive bred raptors for the purpose of falconry without a valid permit as provided in these regulations.

B. Definitions

Aerie—the nest of an eagle or other bird of prey, built in a high inaccessible place such as a cliff face.

Department—Louisiana Department of Wildlife and Fisheries.

Eyass—a young raptor that is still in the nest.

Falconer—a person with a valid Louisiana game breeder’s license for falconry or a person with a valid falconry license/permit from another state.

Hack—temporary release of a falconry raptor to the wild for purposes of conditioning and training.

Hybrid—offspring produced from the cross-breeding of two or more species of raptors or offspring of cross-bred raptors.

Imping—using a feather to repair or replace a broken feather of a raptor.

Imprinted Raptor—a raptor that was hand-raised from two weeks of age, or younger, until it has fledged; it is considered an imprint for the duration of its life.

Molting Weight—the heavier, non-hunting weight of a raptor, when the weight is not reduced for training and hunting.

Passage Bird—a raptor that has left the nest and is less than one year of age.

Permit—Louisiana game breeder’s license for falconry.

Sponsor—a general or master falconer with a valid Louisiana falconry license who is at least 18 years old and has at least 2 years of experience at the general falconer level who agrees to supervise the training of an apprentice falconer.

Take—to trap or capture a wild raptor, including removal of a nestling from a nest or aerie.

USFWS—U.S. Fish and Wildlife Service.

Wild Raptor—a species of native raptor that originated in the wild. No matter how long the bird is held in captivity, or whether it was transferred to another licensee, it remains a wild bird. However, for purposes of wild take restrictions, the department does not consider the raptor to be taken from the wild by any subsequent licensee to whom it is legally transferred.

C. Types of Permits, Requirements and Responsibilities

1. Apprentice Permit

a. Apprentice falconers must be at least 16 years of age.

b. An apprentice falconer under 18 years of age must have a parent or legal guardian sign the application, attesting that he or she is legally responsible for the permittee’s activities.

c. An apprentice falconry applicant must have a letter from a sponsor, stating that he or she will assist the apprentice with learning about the husbandry and training of raptors held for falconry, relevant laws and regulations and deciding what species of raptor is appropriate for the apprentice.

d. Apprentice falconry applicants must correctly answer at least 80 percent of the questions on the falconry exam to qualify for a license. The applicant’s facilities and equipment must pass an inspection before obtaining a bird.

e. Apprentice falconers may possess no more than one raptor for use in falconry, even if the permittee has a falconry permit issued in another state.

f. Apprentice falconers may take a wild raptor of any species except, a bald eagle (*Haliaeetus leucocephalus*), a white-tailed eagle (*Haliaeetus albicilla*), a Steller’s sea-eagle (*Haliaeetus pelagicus*), a golden eagle (*Aquila*

chrysaetos), a swallow-tailed kite (*Elanoides forficatus*), a Swainson’s hawk (*Buteo swainsoni*), a peregrine falcon (*Falco peregrinus*), a flammulated owl (*Otus flammeolus*), an elf owl (*Micrathene whitneyi*), a short-eared owl (*Asio flammeus*) or any federally listed endangered or threatened species.

g. Apprentice falconers may possess any Accipitriform, Falconiform, or Strigiform raptor species, including wild, captive-bred, or hybrid individuals, except a federally listed threatened or endangered species or a bald eagle, a white-tailed eagle, a Steller’s sea-eagle, a golden eagle, or a swallow-tailed kite.

h. Apprentice falconers do not need to capture their own wild raptor; a raptor can be transferred to an apprentice falconer by another falconer.

i. Apprentice falconers may only take raptors less than one year old, except nestlings may not be taken.

j. Apprentice falconers may not possess a raptor taken from the wild as a nestling.

k. Apprentice falconers may not possess a raptor that is imprinted on humans.

1. Apprentice falconers may take passage birds from September 1-February 28 only.

2. General Permit

a. General falconers must be at least 16 years of age.

b. A general permit applicant under 18 years of age must have a parent or legal guardian sign the application, attesting that he or she is legally responsible for the permittee’s activities.

c. General permit applicants must submit a document from a general falconer or master falconer (preferably the applicant’s sponsor) stating that the applicant has practiced falconry at the apprentice level or equivalent for at least two years, including maintaining, training, flying, and hunting the raptor(s) for at least four months in each year. That practice may include capture and release of falconry raptors.

d. General permit falconry applicants may not substitute any falconry school or education program to shorten the period of two years at the apprentice level.

e. General falconers may take and possess any Accipitriform, Falconiform, or Strigiform raptor except a bald eagle, a white-tailed eagle, a Steller’s sea-eagle, a golden eagle, a swallow-tailed kite. Except peregrine falcons may only be taken by general falconers in possession of a valid peregrine falcon trapping permit.

NOTE: The number of peregrine falcon trapping permits is very limited. Additional regulations apply to the take and possession of federally listed threatened and endangered species.

f. General falconers may use captive-bred individuals and hybrids of the species authorized for possession.

g. General falconers may possess no more than three raptors, even if the licensee has falconry permit issued in another state.

h. General falconers may remove nestlings from a nest or aerie, provided at least one nestling is left inside the nest or aerie.

i. General falconers may take passage birds, except peregrine falcons, from September 1-February 28 only and eyasses year-round. General falconers may take an American

kestrel (*Falco sparverius*) or a great horned owl (*Bubo virginianus*) of any age from the wild from September 1-February 28 only. Peregrine falcons (passage birds only) may be taken by general falconers in possession of a valid peregrine falcon trapping permit from September 20-October 20 only.

3. Master Permit

a. Master permit applicants must have practiced falconry with his or her raptor(s) at the general falconer level for at least five years.

b. Master falconers may take and possess any Accipitriform, Falconiform, or Strigiform raptor except a bald eagle or a swallow-tailed kite. Except peregrine falcons may only be taken by master falconers in possession of a valid peregrine falcon trapping permit.

NOTE: The number of peregrine falcon trapping permits is very limited. Additional regulations apply to take and possession of federally listed endangered and threatened species.

c. Master falconers may take and possess a golden eagle, a white-tailed eagle, or a Steller's sea-eagle after obtaining authorization for eagles and sea-eagles from the department.

d. Master falconers may possess captive-bred individuals or hybrids of species authorized for possession.

e. Master falconers may possess no more than five wild raptors even if the licensee has a falconry permit issued in another state.

f. Master falconers may possess any number of captive-bred raptors, but must train them in the pursuit of wild game and use them in hunting.

g. Master falconers may remove nestlings from a nest or aerie provided at least one nestling is left inside the nest or aerie.

h. Master falconers may take passage birds, except peregrine falcons, from September 1-February 28 only and eyasses year-round. Master falconers may take an American kestrel or a great horned owl of any age from the wild from September 1-February 28 only. Peregrine falcons (passage birds only) may be taken by master falconers in possession of a valid peregrine falcon trapping permit from September 20-October 20 only.

4. Nonresident Permit

a. A non-resident falconer who resides in Louisiana for more than 120 consecutive days but who does not intend to establish residency must obtain a nonresident falconry license.

b. Non-resident falconers shall possess a valid falconry permit or license from his or her state of residence. A copy of this permit or license shall be submitted with the non-resident falconry permit application.

c. Non-resident falconers may not import or possess more raptors than allowed by their state of residence.

d. Non-resident falconers may not take more than two raptors in Louisiana during the calendar year.

e. Raptors taken from the wild in Louisiana must be species the non-resident falconer is authorized to possess in their state of residence, except peregrine falcons may not be taken in Louisiana by non-resident falconers.

f. While in Louisiana, non-resident falconers must keep their raptors in facilities that have passed the Louisiana falconry facility inspection.

g. Non-resident falconers may take passage birds, except peregrine falcons, from September 1-February 28 only.

h. Non-resident falconers at the general or master level may take eyasses year-round, provided at least one nestling is left in the nest or aerie.

5. Raptor Propagator Permit. A Louisiana game breeder's license for falconry and a USFWS raptor propagation permit must be obtained to legally propagate raptors in Louisiana. Properly permitted propagators:

a. shall comply with federal raptor propagation regulations and reporting requirements;

b. shall obtain written authorization from the department before taking wild raptors or eggs;

c. shall submit a Louisiana raptor harvest report form (available on the department website) to the department within 10 days of taking a raptor or raptor egg in Louisiana;

d. may take and possess any Accipitriform, Falconiform or Strigiform raptor except a bald eagle, a golden eagle, or a swallow-tailed kite. Except peregrine falcons may only be taken by general or master falconers in possession of a valid peregrine falcon trapping permit;

NOTE: The number of peregrine falcon trapping permits is very limited. Additional regulations apply to take and possession of federally listed endangered and threatened species.

e. may possess captive-bred individuals or hybrids of species authorized for possession;

f. may possess any number of wild or captive-bred raptors;

g. may remove eggs or nestlings from a nest or aerie provided at least one egg or nestling is left;

h. may take passage birds, except peregrine falcons, from September 1-February 28 and eggs and eyasses year-round. May take an American kestrel or a great horned owl of any age from the wild from September 1-February 28 only. Peregrine falcons (passage birds only) may be taken September 20-October 20 only by general or master falconers in possession of a valid peregrine falcon trapping permit;

i. may take no more than two raptors or eggs from the wild in the calendar year;

j. may possess and propagate federally threatened or endangered raptor species only if authorized by the USFWS Regional Migratory Bird Permit Office to do so;

k. may take a raptor listed by the USFWS as endangered or threatened from the wild for propagation purposes only if authorized by the department and in possession of a USFWS endangered species permit authorizing this activity;

l. may use falconry training or conditioning practices such as, but not limited to, creance (tethered) flying, lures, balloons, or kites in training or conditioning captive-bred progeny of raptors legally possessed;

m. may use captive-bred offspring less than one year old for falconry as a means of training progeny of raptors legally possessed.

6. Temporary Permit

a. Non-U.S. residents with experience in falconry must correctly answer at least 80 percent of the questions on the Louisiana falconry exam to qualify for a permit. The

department will review the applicant's documented experience and issue a falconry permit consistent with that experience. The falconer's facilities and equipment must pass an inspection before the falconer obtains a bird.

b. Temporary permit holders may fly legally imported falconry raptors provided the raptors are exported when the falconer leaves the U.S., and that two functioning radio transmitters are attached when the raptors are flown free.

c. Temporary permit holders may not take a raptor from the wild for use in falconry.

7. Taking Falconry Raptors to Another Country to use in Falconry Activities

a. A Louisiana falconry permittee may export legally possessed falconry birds to another country to use in falconry in accordance with the regulations of the destination country and all state and federal regulations governing import/export.

8. Updating a Falconry Permit after a Move

a. A falconer who moves to a new state, tribe or territory with falconry birds must inform the falconry regulatory authorities in each jurisdiction of the address change within 30 days.

b. A falconer moving from another state to Louisiana with the intent to establish residency must obtain a Louisiana falconry permit within 120 days. The falconer may bring his or her lawfully possessed birds into the state in the interim.

9. Reinstatement of a Lapsed Falconry Permit

a. If a falconer's permit has lapsed for fewer than five years, it may be reinstated at the level the falconer held previously if he or she provides proof of certification at that level.

b. If a permit has lapsed for five years or longer, it may be reinstated at the level previously held if the applicant correctly answers at least 80 percent of the questions on the falconry test and the applicant's facilities and equipment pass an inspection before the permit is reinstated and before possessing a bird.

10. Permit to practice falconry at an appropriate level for experienced falconers who are new residents in the United States.

a. U.S. residents with falconry experience in another country may be issued a falconry permit commensurate with documented experience if appropriate documentation is provided detailing the applicant's experience, the applicant correctly answers at least 80 percent of the questions on the Louisiana falconry test, and the applicant's facilities and equipment pass an inspection before a permit is issued.

D. Facilities for Housing Raptors

1. Raptors held under falconry permit shall be kept in humane and healthful conditions. Housing facilities shall provide protection from adverse weather, predators and domestic animals.

2. All raptor housing facilities must pass an inspection by department personnel or others authorized by the department before a license will be issued.

3. Each facility must have at least one suitable perch for each raptor and at least one opening for sunlight.

4. Untethered raptors may be held in the same facility if they are at molting weight and compatible with each other.

5. Raptor housing facilities must provide enough room for the raptor to fly if untethered or, if tethered, to fully extend its wings or bate without damaging its feathers or contacting other raptors.

6. Facilities must contain a suitable water container, and fresh, clean water shall be provided unless weather, a medical condition, or other circumstance requires the temporary denial of water.

7. A single facility that meets the requirements of both indoor and outdoor facilities is acceptable.

8. An indoor facility must be large enough to allow easy access for the care and feeding of raptors housed therein. If raptors are free-lofted, all walls that are not solid must be protected on the inside. Suitable materials may include vertical bars spaced narrower than the width of the body of the smallest raptor housed in the enclosure. However, heavy-duty netting or other such materials may be used to cover the walls or roof of the enclosure. Acceptable indoor facilities include shelf perch enclosures where raptors are tethered side by side. Other innovative housing systems are acceptable if they provide the enclosed raptors with protection and maintain healthy feathers. If falconry raptors are housed inside the home, the falconer does not need to modify windows or other openings of the structure provided the raptor is kept tethered.

9. An outdoor facility must be totally enclosed, and may be made of heavy-gauge wire, chain-link fencing, heavy-duty plastic mesh, slats, pipe, wood, or other suitable material. It must be covered and have at least a covered perch to protect a raptor held in it from predators and weather. The facility must be large enough that the bird cannot strike the enclosure when flying from the perch.

10. A falconer shall notify the department within five business days of relocating a raptor housing facility to a new location.

11. A falconer shall allow department personnel to inspect the facilities and/or raptors without advance notice.

E. Falconry Facilities on Property not owned by the Licensee

1. Falconry facilities may be on property owned by another person. Regardless of location, falconry facilities must meet the requirements described in this Rule.

2. If the facilities are on property owned by another person, the licensee must submit a signed and dated statement from the property owner authorizing department personnel to inspect the facilities and/or raptors without advance notice.

F. Equipment

1. At the time of the facility inspection, each applicant shall have in possession the following equipment:

a. at least one pair of jesses constructed of pliable, high-quality leather or suitable synthetic material, or materials and equipment to make them;

b. at least one flexible, weather-resistant leash and one strong swivel of acceptable falconry design;

c. at least one weathering-area perch of acceptable design for each raptor;

d. a suitable bath container;

e. a reliable scale or balance suitable for weighing the raptors, graduated in increments of not more than 1/5 ounce or 5 grams.

2. When being transported, a falconry raptor must have a suitable perch and protection from extreme temperatures, wind and excessive disturbance.

G. Care of Falconry Raptors by another Falconry Licensee. Any falconer may care for the birds of another falconer at either falconer's facilities. The falconer providing the care must be given a signed and dated statement from the owner of the birds describing the time period of temporary care and what activities are authorized. The falconer providing the care must also be given a copy of the USFWS Form 3-186A showing that the absent owner is the possessor of the raptors. Temporary care may not exceed 120 consecutive calendar days. Under extenuating circumstances such as illness, military service or family emergency, the department may authorize indefinite extension of temporary care.

H. Care of Falconry Raptors by Someone without a Falconry License

1. A person without a falconry permit may care for a licensed falconer's raptors at the licensee's facilities for up to 45 consecutive days. The raptors must remain in the facilities and the caretaker may not fly them for any reason. Care may be extended indefinitely under extenuating circumstances such as illness, military service or family emergency if authorized in writing by the department.

I. Transfer of Falconry Raptors if a Licensee Dies

1. A surviving spouse, executor, administrator, or other legal representative of a deceased falconer may transfer any bird held by the deceased falconer to another falconer within 90 days of the death of the falconer. After 90 days, disposition is at the discretion of the department.

J. Banding or Tagging Raptors used in Falconry

1. If a falconer takes a northern goshawk (*Accipiter gentilis*), Harris's hawk (*Parabuteo unicinctus*), peregrine falcon, or gyrfalcon (*Falco rusticolus*) from the wild or acquires one from a rehabilitator, the raptor must be banded with a permanent, non-reusable, numbered USFWS leg band provided by the department upon request. Falconers may purchase and implant an ISO (International Organization for Standardization) compliant (134.2 kHz) microchip in addition to the band. The falconer must report the band number when reporting acquisition of the bird. Within 10 days from the day on which the bird is taken from the wild, it must be reported by entering the required information, including band number, in the electronic database on the appropriate USFWS website. A falconer may request an appropriate band in advance of any effort to capture a raptor. A raptor captured from the wild may not be banded with a seamless numbered band.

2. A raptor bred in captivity must be banded with a seamless metal band. If a seamless band is lost or removed from a captive bred bird, it must be reported within 10 days and a request made for a non-reusable USFWS replacement band. Immediately upon re-banding the bird, the required information, including the band number, must be entered into the electronic database on the appropriate USFWS website.

3. If a band must be removed or is lost from a wild raptor, the falconer must report this removal or loss to the department within 5 days and request a non-reusable replacement band. The falconer must file an electronic report within 10 days of re-banding at the USFWS website.

4. Birds with documented health or injury problems caused by bands may be exempted in writing from banding by the department once documentation is reviewed. If an exemption is issued, the falconer must keep the written exemption in his/her possession when flying or transporting the exempted bird. If that bird is a wild northern goshawk, Harris's hawk, peregrine falcon, or gyrfalcon, the band must be replaced with an ISO-compliant (134 kHz) microchip obtained from the department.

5. Raptor bands shall not be altered, defaced or counterfeited except that a falconer may remove the rear tab and smooth the surface without affecting the integrity or numbering of the band.

K. Additional Regulations on Taking, Transporting and Possessing of Raptors for Falconry

1. A falconer who resides in another state may take raptors from the wild in Louisiana if he or she has in possession a valid falconry permit/license from his or her state of residence and if the falconer abides by all Louisiana and federal falconry regulations. If a raptor is taken in Louisiana, the non-resident falconer must complete a Louisiana raptor harvest report form (available on the department web site) and submit it to the department within 10 days of acquiring the raptor. Non-resident falconers may not take peregrine falcons, bald eagles or swallow-tailed kites in Louisiana.

2. A falconer shall not intentionally capture a raptor that he or she is not authorized to possess. Any bird captured that is not authorized for possession shall be released immediately at the site of capture.

3. Falconers who capture raptors that are wearing research bands, research markings or transmitters shall report all band numbers and other markings to the USGS Bird Banding Laboratory.

4. Any falconer is authorized to capture a raptor trapped inside a building. The bird shall be released immediately into the wild unless it is sick or injured, in which case it shall be transferred to a licensed rehabilitator within 24 hours.

5. A falconer may recapture any raptor wearing falconry equipment and return it to the proper owner. A captured raptor that is wearing falconry equipment must be reported to the department within five days. It does not count against the permittee's take or possession limit while temporarily in possession.

6. Take of raptors from the wild shall be reported electronically within 10 days by entering the required information into the electronic database via the appropriate USFWS website.

7. Falconers must abide by state, tribal, territorial, and federal laws and restrictions regarding take, possession, and transfer or loss of any wild raptor.

8. No permittee may take more than two raptors from the wild per calendar year for use in falconry.

9. General and master falconers may take no more than one bird of a federally threatened species from the wild each year. A valid federal endangered species permit must be obtained prior to taking a threatened bird.

10. If a permittee is present at the capture site for the taking of a raptor from the wild, even if another person actually captures the bird, the permittee is considered the person who removes the bird from the wild and must report

the take by entering the required information into the electronic database via the appropriate USFWS website, within 10 days of the capture of the bird. This will count as one of the two wild raptors the permittee is allowed to take within the calendar year.

11. A general or master falconer may take a raptor from the wild for another licensee who is not present during the taking, report the acquisition, and then transfer it to the other licensee. The general or master falconer who removed the raptor from the wild must report the take within 10 days, even if it was promptly transferred to another permittee. This will count as one of the two wild raptors that the falconer who took the bird is allowed during that calendar year.

12. A falconer may acquire a raptor from a licensed rehabilitator if the falconer is authorized to possess that species of bird. A raptor acquired from a rehabilitator will count as a raptor taken from the wild and shall be reported within five days of acquisition.

13. A raptor injured during capture may be kept and properly reported as a falconry acquisition within 10 days of capture and treated by a veterinarian or licensed wildlife rehabilitator. Alternatively, the raptor may be turned over to a veterinarian, wildlife rehabilitator or department biologist if he or she agrees to accept it, in which case it will not count against the falconer's take or possession limit. In either case, the falconer who captured the bird is responsible for the costs of care and rehabilitation of the bird.

14. Any time a permittee acquires, transfers, re-bands or microchips a raptor or has a raptor stolen or loses a raptor to the wild and does not recapture it within 30 days, or a raptor dies, the change must be properly reported via the USFWS website within 10 days.

15. Falconers may transfer, sell, purchase or barter captive bred raptors that are marked with seamless bands to other licensees who are authorized to possess them. Falconers may not purchase, sell, trade or barter wild raptors or captive bred raptors not marked with seamless bands, but they may transfer them to other permittees.

16. Falconers may transfer wild raptors to other falconers authorized to possess them.

17. A falconer may transfer a wild raptor to other permit types after the bird has been used in falconry for two years (or one year for a sharp-shinned hawk—*Accipiter striatus*), a Cooper's hawk (*Accipiter cooperii*), a merlin (*Falco columbarius*), or an American kestrel. The falconer must provide a copy of the 3-186-A form documenting the transfer to the federal migratory bird permit office that administers the other permit type in addition to filing an electronic report. Falconers may transfer a wild raptor to another permit type in less time, provided the bird has been injured, is no longer suitable for use in falconry, and the case is documented in writing by a veterinarian or properly permitted wildlife rehabilitator. Copies of the 3-186-A and the letter from the veterinarian or rehabilitator must be submitted to the federal office that administers that permit type in addition to filing an electronic report.

18. Falconry raptors may be used for captive propagation without transferring them to a federal raptor propagation permit provided the birds are banded and used for this purpose fewer than eight months in a year and that the person propagating the raptors possesses a federal raptor propagation permit.

19. The theft of a raptor from a permittee must be reported to the department and to the USFWS regional law enforcement office within 48 hours of discovery of the theft of the bird.

20. Falconers must keep copies of all electronic database submissions documenting take, transfer, loss, re-banding or microchipping of each falconry raptor for five years after the bird was transferred, lost or died.

21. Falconers must carry legible copies of their falconry permits with them whenever conducting falconry activities away from their falconry facilities. This includes trapping, transporting, flying, working or hunting with raptors and traveling through other states, tribal lands, or territories. Falconers from other states may transport their raptors through Louisiana without any additional permits as long as they have legible copies of their falconry permits/licenses in their possession. Falconers residing in other states may bring their raptors to Louisiana for educational purposes without any additional permits as long as they are in Louisiana less than 120 consecutive days and have a valid falconry permit/license in their possession.

22. Falconers hunting with raptors in Louisiana must abide by applicable hunting regulations including possession of hunting licenses, stamps, and permits.

L. Hybrids. When flown free, including when at hack, a hybrid raptor must have attached at least two functioning radio transmitters for use in locating the bird.

M. Use of Eagles in Falconry

1. With authorization for eagles from the department, master falconers may possess up to a total of three eagles of the following species: golden eagle, white-tailed eagle, or Steller's sea-eagle. A golden eagle, white-tailed eagle, or Steller's sea-eagle counts as a bird to be included under the falconer's possession limit. Master falconers who wish to possess native eagles or sea-eagles for use in falconry must request and receive written authorization for eagles or sea-eagles prior to obtaining one and must submit the following documentation:

a. a letter detailing experience in handling large raptors, including information about the species handled and the type and duration of the activity;

b. at least two letters of reference from people with experience handling and/or flying large raptors such as eagles, sea-eagles, ferruginous hawks (*Buteo regalis*), northern goshawks, or great horned owls. Each must contain a concise history of the author's experience with large raptors, which can include, but is not limited to, handling of raptors held by zoos, rehabilitating large raptors, or scientific studies involving large raptors. Each letter must also assess the falconer's ability to care for eagles or sea-eagles and fly them in falconry.

2. A master falconer authorized by the department to possess a golden eagle may capture one under the provisions in 50 CFR 21.29 and 50 CFR 22 for taking a golden eagle for falconry.

N. Releasing Raptors into the Wild

1. Wild raptors may be permanently released at any time.

2. No hybrids or exotics of any kind may be permanently released in Louisiana.

3. Captive-bred raptors may be permanently released to the wild only with written authorization from the

department and only after a suitable hacking period in a suitable location and at an appropriate time of year. The seamless band must be left on the bird. The release must be properly reported to the department and to the USFWS within 10 days of the permanent release.

O. Hacking. General and master falconers may hack falconry raptors. Hacking is not allowed near a nesting area of a federally threatened or endangered animal or in any location where the raptor is likely to harm a federally listed threatened or endangered animal. Falconers may contact the department for information on nesting locations of federal listed species prior to hacking any falconry raptor.

P. Use of Native Raptors in Conservation Education Programs

1. General and master falconers may use their birds in conservation education programs presented in public venues. Apprentice falconers may do so only when supervised by a general or master falconer.

2. Fees may be charged for such educational programs but only to the extent necessary to recover costs for participating.

3. Education programs must relate to the biology, ecological roles and conservation needs of raptors and other migratory birds.

Q. Other Educational uses of Native Raptors

1. Falconers may allow their birds to be photographed or filmed to make movies or other sources of information on the practice of falconry or on the biology, ecological roles and conservation needs of raptors and other migratory birds but may not be paid for doing so.

2. Falconers may not use their birds to make movies, commercials or engage in other commercial ventures that are not related to falconry.

3. Falconers may use their birds to promote or endorse products or endeavors related to falconry provided the falconer is not paid or otherwise compensated for such usage.

R. Assisting in the Rehabilitation of Raptors. General and master falconers may assist properly licensed migratory bird rehabilitators in preparing rehabilitated raptors for permanent release to the wild. While doing so, the falconer may keep the bird in his or her facility while the bird remains on the rehabilitator's permit. The rehabilitator must provide the falconer with a document that identifies the bird and states that the falconer is assisting in the bird's rehabilitation. All rehabilitation raptors shall be released or returned to the rehabilitator within 180 days, unless written authorization is obtained from the department to condition them for a longer period.

S. Abatement Activities. Master falconers must have a valid federal abatement permit to use raptors in abatement activities. General falconers may do so only as a sub-permittee of the holder of the abatement permit.

T. Additional Falconry Practices

1. Falconry practices, such as, but not limited to, the use of creance flying, lures, balloons, or kites in training or conditioning falconry raptors is permissible.

2. Falconry birds may be used to take any bird species for which a depredation order is in place in accordance with the conditions of the applicable depredation order. The falconer must not be paid or otherwise compensated for doing so.

U. Accidental Take of Prey. If a prey item is killed by a falconry bird unintentionally, including an animal taken outside of a regular hunting season, the falconer may allow the raptor to feed on the kill in the field, but the animal may not be taken into possession. Accidental take of any federally listed threatened or endangered species must be reported to the USFWS Ecological Services field office and the department.

V. Possession and Disposition of Molted Feathers

1. Falconers may possess flight feathers for each raptor species in possession or previously held.

2. Falconers may receive flight feathers from other falconers, wildlife rehabilitators or propagators in the United States and may give feathers to them or to other permittees allowed to possess them. Feathers may not be bought, sold or bartered. When the licensee's permit expires or is revoked, all remaining feathers shall be donated to someone authorized to possess feathers or destroyed. Molted primaries, secondaries and rectrices from golden eagles must be collected and either retained or sent to the National Eagle Repository.

W. Disposition of Carcasses. The carcass of a falconry bird may be donated to someone authorized to possess it. If the bird was banded or microchipped prior to its death, the bird may be kept so the feathers are available for imping. The carcass may be mounted by a taxidermist for use in conservation programs. The band or microchip must remain in place. Carcasses not kept or donated shall be burned, buried or otherwise destroyed. Golden eagle carcasses must be sent to the National Eagle Repository.

X. Penalties. Violation of this rule constitutes a class 2 violation as provided in R.S. 56:115. Additionally, a person who is convicted of a violation of these rules may be ineligible for a falconry permit for a period of up to three years from the date of the conviction.

Y. Falconers are also responsible for conducting their activities in accordance with federal regulations that apply to falconry and are found in 50 CFR 21.29.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 4:299 (August 1978), amended LR 39:120 (January 2013).

Ann L. Taylor
Chairman

1301#020

Notices of Intent

NOTICE OF INTENT

Department of Children and Family Services Division of Programs

Juvenile Detention Facilities Fees, Fines, Penalties, and State Central Registry Disclosure (LAC 67:V.Chapter 75)

The Department of Children and Family Services (DCFS), Division of Programs, Licensing Section in accordance with provisions of the Administrative Procedure Act, R.S. 49:953(A) proposes to amend LAC 67:V, Subpart 8, Residential Licensing, Chapter 75, Juvenile Detention Facilities to comply with the provisions of Act 814 which was enacted during the 2012 Regular Legislative Session.

In accordance with Act 814 all juvenile detention facilities (JDF) licensed by DCFS shall be assessed with an annual licensing fee. Whoever operates any juvenile detention facility without a valid license issued by the department shall be fined \$1,000 for each day of operation without a valid license. State central registry disclosure shall be required for any owner, operator, current or prospective employee, or volunteer of a juvenile detention facility.

Title 67

SOCIAL SERVICES

Part V. Child Welfare

Subpart 8. Residential Licensing

Chapter 75. Juvenile Detention Facilities

§7503. Authority

- A. ...
- B. Penalties

1. Whoever operates a juvenile detention facility without a valid license issued by the department shall be fined \$1,000 per day for each day of such unlicensed operation in accordance with R.S. 15:1110.1. Such fines may be assessed by the department separately or in conjunction with a proceeding for injunctive relief as provided in Section 7503.B.2.

2. In addition to the civil fines, the department may file suit in the district court in the parish in which the facility is located for injunctive relief, including a temporary restraining order, to restrain the institution, society, agency, corporation, person or persons, or any other group operating the facility, from continuing the violation.

- C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1110.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:1559 (July 2012), amended by the Department of Children and Family Services, Division of Programs, LR 39:

§7505. Definitions

* * *

Reasonable Suspicion—suspicion based on specific and articulable facts which indicate that an owner, operator, or current or potential employee or volunteer has been investigated and determined to be the perpetrator of abuse or

neglect against a minor resulting in a justified and/or valid finding currently recorded on the state central registry.

* * *

State Central Registry—repository that identifies any individual reported to have a justified (valid) finding of abuse and/or neglect of a child or children by DCFS.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1110.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:1559 (July 2012), amended by the Department of Children and Family Services, Division of Programs, LR 39:

§7507. Licensing Requirements

- A. - B.1. ...
 - a. application and non-refundable fee as established by R.S. 15:1110(F);
 - b. - o. ...
 - p. copy of grievance process;
 - q. a floor sketch or drawing of the premises to be licensed; and
 - r. documentation of completed state central registry disclosure forms noting no justified (valid) finding of abuse and/or neglect for all staff including owners, operators and administrators or documentation from the Risk Assessment Panel or Division of Administrative Law noting that the individual does not pose a risk to youth.

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

- D. Fees

1. An annual fee as established by R.S. 15:1110(F), shall be payable to DCFS prior to the date of expiration of the current license by certified check, or money order. Non-payment of fee prior to the date of expiration of the current license shall result in the non renewal of the license. The licensee is responsible for ensuring receipt of the annual fee by the Licensing Section.

6 or fewer youth	7 to 15 youth	16 or More youth
\$400	\$500	\$600

- 2. Other license fees include:

a. a \$25 processing fee shall be submitted to the department for replacing a license when changes are requested by the provider, i.e., name change, age range, etc. No processing fee shall be incurred when the request coincides with the regular renewal of a license;

b. a \$5 processing fee shall be submitted to the department for issuing a duplicate license with no changes.

- E. - G.1.m. ...

n. permit an individual with a justified (valid) finding of child/abuse and/or neglect, who has disclosed that their name appears with a justified (valid) finding on the state central registry but who does not have a determination by the Risk Evaluation Panel or Division of Administrative Law that the individual does not pose a risk to youth, to be on the premises without being directly supervised by another paid employee of the facility; or to knowingly permit an individual with such a justified (valid) finding of child abuse

and/or neglect but who has not disclosed that their name appears on the state central registry, to be on the premises at any time, whether supervised or not supervised;

o. permit an individual, whether supervised or not supervised to be on the juvenile detention facility premises with a ruling by the Risk Evaluation Panel that the individual poses a risk to youth and the individual has not requested an appeal hearing by the Division of Administrative Law within the required time frame.

H. - I.7 ...

J. State Central Registry

1. All owners shall complete, sign, and date the state central registry disclosure form (SCR 1) as required by R.S. 15:1110.2. This information shall be reported on or before July 1, 2013 and/or prior to the individual being on the premises of the juvenile detention facility and shall be updated annually, at any time upon the request of DCFS, and within 24 hours or no later than the next business day, whichever is sooner, of any owner receiving notice of a justified (valid) finding of child abuse or neglect.

a. Within 24 hours or no later than the next business day, whichever is sooner, of current owners receiving notice of a justified (valid) finding of child abuse and/or neglect, an updated state central registry disclosure form (SCR 1) shall be completed by the owner as required by R.S. 15:1110.2 and submitted to the Licensing Section management staff. The owner will have 10 calendar days from completion of the state central registry disclosure form to request a risk assessment evaluation in accordance with LAC 67:I.305. If on-site at the facility and immediately upon the knowledge that a justified (valid) finding has been issued by DCFS, the owner shall be directly supervised by a paid staff (employee) of the facility. The employee responsible for supervising the owner must have on file a completed state central registry disclosure form indicating that the employee's name does not appear on the state central registry with a justified (valid) finding of abuse and/or neglect. An owner supervised by an employee who does not have a satisfactory disclosure form on file as provided in this sub-Section shall be deemed to be alone and unsupervised. Under no circumstances may the owner with the justified finding be left alone and unsupervised with the youth pending the disposition of the Risk Evaluation Panel or the Division of Administrative Law. If not on site at the juvenile detention facility, owner shall submit a signed, dated statement that he or she will not be on the premises of the facility at any time.

i. If the Risk Evaluation Panel finds the owner poses a risk to youth and the individual does not appeal the finding within the required timeframe, the owner may close the facility or the license shall be revoked.

ii. If the Risk Evaluation Panel finds the owner poses a risk to youth and the individual appeals the finding to the Division of Administrative Law within the required timeframe, the owner shall continue to be under direct supervision at all times by a paid staff (employee) of the facility until a ruling is made by the Division of Administrative Law that they do not pose a risk to youth. Supervision must continue until receipt of a ruling from the Division of Administrative Law that the owner does not pose a risk to youth.

iii. If the Division of Administrative Law upholds the Risk Evaluation Panel finding that the individual does pose a risk to youth, the owner may close the facility or the license shall be revoked.

2. State central registry disclosure forms, documentation of any disposition of the Risk Evaluation Panel and, when applicable, the Division of Administrative Law ruling shall be available for review by DCFS personnel during the facility's hours of operation. This information shall be kept on file for a minimum of one year from termination of the employee or volunteer from the facility.

3. Any information received or knowledge acquired that a current or prospective owner, operator, volunteer, employee, prospective volunteer, or prospective employee has falsified a state central registry disclosure form stating that they are not currently recorded as a perpetrator with a justified (valid) finding of abuse or neglect shall be reported in writing to Licensing Section management staff as soon as possible, but no later than the close of business on the next business day.

4. Any state central registry disclosure form, Risk Evaluation Panel finding, and Division of Administrative Law ruling that is maintained in a juvenile detention facility licensing file shall be confidential and subject to the confidentiality provisions of R.S. 46:56(F) pertaining to the investigations of abuse and/or neglect.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1110.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:01561000 (July 2012), amended by the Department of Children and Family Services, Division of Programs, LR 39:

§7509. Administration

A. - E.5.d. ...

F. Other Jurisdictional Approvals. The provider shall comply and show proof of compliance with all relevant standards, regulations, and requirements established by federal, state, local, and municipal regulatory bodies including annual approval by the following:

1. Office of Public Health, Sanitarian Services;
2. Office of the State Fire Marshal;
3. city fire department, if applicable; and
4. Department of Education, if applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1110.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:1564 (July 2012), amended by the Department of Children and Family Services, Division of Programs, LR 39:

§7511. Facility Responsibilities

A. - A.3.d.i. ...

e. Providers that utilize volunteers shall have on each volunteer a completed state central registry disclosure form (SCR 1) noting whether or not his/her name is currently recorded on the state central registry for a justified finding of abuse and/or neglect and he/she is the named perpetrator as required in R.S. 15:1110.2;

i. this information shall be reported prior to the individual being on the premises of the juvenile detention facility and shall be updated annually, at any time upon the request of DCFS, and within 24 hours or no later than the

next business day, whichever is sooner, of any volunteer receiving notice of a justified (valid) finding of child abuse and/or neglect;

ii. the current or prospective volunteer shall complete, sign, and date the state central registry disclosure form and submit the disclosure form to the owner or operator of the facility;

(a). if the current or prospective volunteer discloses that his or her name is currently recorded as a perpetrator on the state central registry, the administrator shall inform the individual that he may not continue with volunteer duties or that they will not be considered for volunteer duties at that time due to the state central registry disclosure. The administrator will provide the prospective volunteer with the risk evaluation panel form (SCR 2) so that a risk assessment evaluation may be requested;

(b). individuals are eligible for volunteer services if and when they provide written documentation from the Risk Evaluation Panel or the Division of Administrative Law noting that they do not pose a risk to youth;

iii. current volunteers receiving notice of a justified (valid) finding of child abuse and/or neglect shall complete an updated state central registry disclosure form (SCR 1) noting the existence of the justified (valid) finding as required by R.S. 15:1110.2. This updated SCR 1 shall be submitted to the Licensing Section management staff upon being on the juvenile detention facility premises. Volunteers will have 10 calendar days from the date of required completion of the state central registry disclosure form to request a risk assessment evaluation in accordance with LAC 67:I.305 or shall be informed that he shall not continue with volunteer duties or be on the juvenile detention facility premises;

(a). if the volunteer will no longer provide volunteer services at the facility, the provider shall submit a signed, dated statement indicating that the volunteer will not be on the premises of the facility at any time;

(b). immediately upon the receipt of the knowledge that a justified (valid) finding has been issued by DCFS and as a condition of continued volunteer services, the volunteer shall be directly supervised by a paid staff (employee) of the facility who has not disclosed that their name appears with a justified (valid) finding on the state central registry. Provider shall submit a written statement to Licensing Section management staff acknowledging that the volunteer is under continuous direct supervision by a paid staff who has completed the required state central registry disclosure form and who has indicated on that form that the employee's name does not appear on the state central registry with a justified (valid) finding on the state central registry. Under no circumstances may the volunteer with the justified finding be left alone and unsupervised with the youth pending the disposition by the Risk Evaluation Panel or the Division of Administrative Law that the staff person does not pose a risk to youth. Any volunteer or employee supervised by an employee who does not have a satisfactory disclosure form on file as provided above shall be deemed to be alone and unsupervised;

(c). if the Risk Evaluation Panel finds the individual does pose a risk to youth and the individual fails to file an appeal within the required timeframe the volunteer

shall be informed that he shall not continue with volunteer duties or be on the juvenile detention facility premises;

(d). if the Risk Evaluation Panel finds the individual does pose a risk to youth and the individual appeals the finding to the Division of Administrative Law within the required timeframe, the volunteer shall continue to be under direct supervision at all times by a paid employee of the facility until a ruling is made by the Division of Administrative Law that they do not pose a risk to youth. Supervision must continue until receipt of a ruling from the Division of Administrative Law that they do not pose a risk to youth;

(e). if the Division of Administrative Law upholds the Risk Evaluation Panel finding that the individual poses a risk to youth, the individual may not continue with volunteer duties or be on the juvenile detention facility premises;

iv. any owner, operator, current or prospective employee, or volunteer of a juvenile detention facility requesting licensure by DCFS and/or a juvenile detention facility licensed by DCFS is prohibited from working in a juvenile detention facility if the individual discloses, or information is known or received by DCFS, that the individual's name is recorded on the state central registry (SCR) as a perpetrator for a justified (valid) finding of abuse or neglect of a child, unless there is a finding by the Risk Evaluation Panel or a ruling by the Division of Administrative Law that the individual does not pose a risk to youth.

B. Background Clearance

1. - 3. ...

4. Prior to employment, each prospective employee shall complete a state central registry disclosure form prepared by the department as required in R.S. 15:1110.2. This information shall be reported prior to the individual being on the premises of the juvenile detention facility and shall be updated annually, at any time upon the request of DCFS, and within 24 hours or no later than the next business day, whichever is sooner, of any staff receiving notice of a justified (valid) finding of child abuse or neglect.

a. The prospective paid staff (employee) shall complete, sign, and date the state central registry disclosure form and submit the disclosure form to the owner or operator of the facility.

i. If a prospective staff (employee) discloses that his or her name is currently recorded as a perpetrator on the state central registry, the administrator shall inform the applicant they will not be considered for employment at that time due to the state central registry disclosure. The administrator will provide the prospective employee with the risk evaluation panel form (SCR 2) so that a risk assessment evaluation may be requested.

ii. Individuals are not eligible for employment unless and until they provide written documentation from the Risk Evaluation Panel or the Division of Administrative Law expressly stating that they do not pose a risk to youth.

b. Current staff receiving notice of a justified (valid) finding of child abuse and/or neglect shall complete an updated state central registry disclosure form (SCR 1) noting the existence of the justified (valid) finding as required by R.S. 15:1110.2. This updated SCR 1 shall be

submitted to the Licensing Section management staff within 24 hours or no later than the next business day, whichever is sooner, or upon being on the juvenile detention facility premises, whichever is sooner. Staff will have 10 calendar days from the date of required completion of the state central registry disclosure form to request a risk assessment evaluation in accordance with LAC 67:I.305 or shall be terminated immediately.

i. If the staff person will no longer be employed at the facility, the provider shall submit a signed, dated statement indicating that the staff will not be on the premises of the facility at any time.

ii. Immediately upon the receipt of the knowledge that a justified (valid) finding has been issued by DCFS and as a condition of continued employment the staff person shall be directly supervised by a paid staff (employee) of the facility who has completed the required state central registry disclosure form and who has indicated on that form that the employee's name does not appear on the state central registry with a justified (valid) finding on the state central registry. Provider shall submit a written statement to Licensing Section management staff acknowledging that the staff is under continuous direct supervision by a paid staff as provided above. When these conditions are met, the staff (employee) may be counted in staff to youth ratio. Under no circumstances may the staff person with the justified finding be left alone and unsupervised with the youth pending the disposition by the Risk Evaluation Panel or the Division of Administrative Law that the staff person does not pose a risk to youth.

iii. If the Risk Evaluation Panel finds the individual does pose a risk to youth and the individual fails to appeal the decision within the required timeframe, the staff (employee) shall be terminated immediately.

iv. If the Risk Evaluation Panel finds the individual poses a risk to youth and the individual appeals the finding to the Division of Administrative Law within the required timeframe, the staff (employee) shall continue to be under direct supervision at all times by another paid employee of the facility who has completed the required state central registry disclosure form and who has indicated on that form that the employee's name does not appear on the state central registry with a justified (valid) finding on the state central registry until a ruling is made by the Division of Administrative Law that they do not pose a risk to youth. Supervision must continue until receipt of a ruling from the Division of Administrative Law that they do not pose a risk to youth.

v. If the Division of Administrative Law upholds the Risk Evaluation Panel finding that the individual does pose a risk to youth, the individual shall be terminated immediately.

c. Any owner, operator, current or prospective employee, or volunteer of a juvenile detention facility requesting licensure by DCFS and/or a juvenile detention facility licensed by DCFS is prohibited from working in a juvenile detention facility if the individual discloses, or information is known or received by DCFS, that the individual's name is recorded on the state central registry (SCR) as a perpetrator for a justified (valid) finding of abuse and/or neglect of a child, unless there is a finding by the Risk Evaluation Panel or a ruling by the Division of

Administrative Law that the individual does not pose a risk to youth.

C. - G.7 ...

H. Record Keeping

1. Personnel Files

a. The provider shall maintain a current, accurate, confidential personnel file on each staff. This file shall contain, at a minimum, the following:

i. - v. ...

vi. annual performance evaluations;

vii. any other information, reports, and notes relating to the individual's employment with the facility; and

viii. annual state central registry disclosure form noting whether or not his/her name is currently recorded on the state central registry for a justified (valid) finding of abuse and/or neglect and he/she is the named perpetrator.

H.2. - L.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1110.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:1564 (July 2012), amended by the Department of Children and Family Services, Division of Programs, LR 39:

Family Impact Statement

1. What effect will this Rule have on the stability of the family? There will be no effect on the stability of the family.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? There will be no effect on the authority and rights of persons regarding the education and supervision of their children

3. What effect will this have on the functioning of the family? There will be no effect on the functioning of the family.

4. What effect will this have on family earnings and family budget? There will be no effect on family earnings and the family budget.

5. What effect will this have on the behavior and personal responsibility of children? This Rule will have no effect on the behavior and personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed Rule? No, this is strictly an agency function.

Poverty Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Small Business Statement

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The department, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed rule on small businesses.

Public Comments

All interested persons may submit written comments through, February 28, 2013, to Sammy Guillory, Deputy Assistant Secretary of Programs, Department of Children

and Family Services, P.O. Box 94065, Baton Rouge, Louisiana, 70821-9065.

Public Hearing

A public hearing on the proposed Rule will be held on February 28, 2013 at the Department of Children and Family Services, Iberville Building, 627 N. Fourth Street, Seminar Room 1-129, Baton Rouge, beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call Area Code 225-342-4120 (Voice and TDD).

Suzu Sonnier
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **Juvenile Detention Facilities Fees, Fines, Penalties, and State Central Registry Disclosure**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This Rule proposes to amend Louisiana Administrative Code (LAC) 67, Part V, Subpart 8, Residential Licensing, Chapter 75 Juvenile Detention Facilities, to comply with the provisions of Act 814 of the 2012 Regular Legislative Session.

Act 814 mandates a penalty for operating any juvenile detention facility without a valid license issued by the Department of Children and Family Services (DCFS). This penalty shall be a fine of \$1,000 for each day of operation without a valid license. Act 814 also mandates the assessment of an annual licensing fee for all juvenile detention facilities and requires state central registry disclosure for any owner, operator, current or prospective employee, or volunteer of a juvenile detention facility.

The only cost associated with this proposed rule is the cost of publishing rulemaking which is estimated to be approximately \$2,460 in FY 13. This is a one-time cost that is routinely included in the department's annual operating budget.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Currently there are approximately 15 juvenile detention facilities in the state. Act 814 mandates an annual licensure fee of \$400 to be assessed for any license issued to a detention facility authorized to care for six or fewer juveniles; \$500 for any license issued to a detention facility authorized to care for at least 7 but no more than 15 juveniles; and \$600 for any license issued to a detention facility authorized to care for 16 or more juveniles. The department anticipates licensing and inspection fees of \$8,800 in FY 14 and subsequent fiscal years.

The department is unable to estimate the number of individuals or entities that will choose to operate in violation of the law or estimate the amount of fines (\$1,000 a day for each day of offense), which will be collected on a local level as the result of the illegal operation. The fines, if ordered by the court system, are paid to the court.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The approximately 15 juvenile detention facilities in the state will have additional costs of obtaining an initial license as well as annual costs of maintaining their licensure.

Any person or entity operating a facility as defined in R.S. 15:1110 without a valid license issued by the department could be fined \$1,000 a day for each day of the offense. The department is unable to estimate the number of individuals or entities operating illegally or the number of days the individual or entity would choose to violate the law. The department will seek injunctive relief including the request for fines through the court system.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated impact on competition and employment.

Sammy Guillory
Deputy Assistant Secretary
1301#079

John D. Carpenter
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Economic Development Office of Business Development

Competitive Projects Tax Exemption Program (LAC 13:I.Chapter 47)

The Department of Economic Development, Office of Business Development, as authorized by and pursuant to the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 36:104 hereby proposes to enact Sections 4701 through 4711 for the administration of the newly created Competitive Projects Tax Exemption Program as LAC 13:I.Chapter 47.

Title 13

ECONOMIC DEVELOPMENT

Part I. Financial Incentive Programs

Chapter 47. Competitive Projects Tax Exemption Program

§4701. General

A. The competitive projects tax exemption program provides an ad valorem property tax exemption for the facility of an eligible business. The secretary of the department economic development ("LED") or a local governmental entity listed in R.S. 47:4353 may invite targeted non-manufacturing businesses who meet the eligibility requirements to participate in the program.

B. Only property on which ad valorem taxes have not previously been paid will be eligible for the exemption. The applicant shall provide documentation to LED that property taxes have not previously been paid on the property for which it seeks the exemption.

C. Definitions

Facility—the land, buildings, infrastructure, and equipment necessary or beneficial to the project, and any additions, expansion and improvements thereto.

Program—the competitive projects tax exemption program.

Secretary—secretary of the Louisiana Department of Economic Development.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:4351, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 39:

§4703. Parish Participation in the Program

A. A contract for the program is available for projects located in parishes which have agreed to participate in the program.

B. A parish is eligible to participate in the program upon approval by all of the following local governmental entities:

1. the parish governing authority;
2. all municipalities in the parish which levy an ad valorem tax;
3. all school boards in the parish which levy an ad valorem tax;
4. the parish law enforcement district; and
5. the parish assessor.

C. The parish governing authority shall provide the secretary with written notification of the parish’s agreement to participate in the program, together with copies of resolutions or other written evidence of each local governmental entity’s agreement to participate.

D. Any of the entities listed in Subsection B of this Section may revoke its approval of participation in the program, by providing the secretary with written notification thereof, together with a copy of the resolution or other written evidence of the revocation action.

E. The parish will be deemed to have withdrawn from the program, effective 90 days after the secretary’s receipt of written notice of revocation as provided in Subsection D of this Section. The parish’s withdrawal shall not affect contracts executed prior to the effective date of the withdrawal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:4351, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 39:

§4705. Eligibility Requirements; Invitation to Participate; Application

A. At the invitation of the secretary or a local governmental entity of a participating parish, a business may apply for participation in the program by submitting certified statements and substantiating documents as required by LED.

B. The secretary or a local governmental entity of a participating parish may invite a business to participate in the program, upon the secretary’s determination that the business meets all of the following criteria:

1. at least 50 percent of the total annual sales of the business from its Louisiana site or sites is to out-of-state customers or buyers, or to in-state customers or buyers who resell the product or service to an out-of-state customer or buyer for ultimate use, or to the federal government, or any combination thereof;
2. the business will primarily engage in one of the following activities at the project site:
 - a. corporate headquarters;
 - b. distribution facilities;
 - c. data service centers;
 - d. research and development operations; or
 - e. digital media and software development centers;
 and
3. the business shall make capital expenditures of at least \$25,000,000 for the facility and create and maintain at least 50 new direct jobs during the contract period;

4. except for a business providing at least 50 new headquarters jobs or shared service center jobs, a business primarily engaged in the following types of businesses shall not be eligible for participation in the program:

- a. retail sales;
- b. real estate;
- c. professional services;
- d. natural resource extraction or exploration;
- e. financial services; or
- c. venture capital funds;

5. no business engaged in gaming or gambling operations shall be eligible for participation in this program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:4351, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Business Incentives Services, LR 39:

§4707. Contract Approval

A. Contract. The secretary shall determine the terms and conditions of the contract, including the term, performance obligations, monitoring by the department, reporting by the business, auditing of contract performance and the consequences of any failure to perform such obligations.

B. Approval

1. The secretary may request approval of the contract by the board of commerce and industry upon determining that:

- a. the business meets all eligibility requirements;
- b. participation in the program is needed in a highly competitive site selection situation to encourage the business to locate the project in the state; and
- c. securing the project will result in significant positive economic benefit to the state.

2. Following approval by the board of commerce and industry, the contract shall be executed by the secretary.

3. LED shall submit a copy of the executed contract to the assessor and the parish governing authority of the affected parish.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:4351, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Business Incentives Services, LR 39:

§4709. Annual Certification of Eligibility; Suspension or Termination

A. The qualified business must submit certification (signed by a key employee of the business) that it continues to meet all eligibility requirements of the program as well as all performance obligations of the contract by April 1 of each year. A company’s failure to submit the annual certification of eligibility by the deadline provided for in this section shall result in the forfeiture of benefits for the previous tax year and the secretary, in his discretion, may terminate the contract. LED may require an audit of any annual certification at the expense of the qualified business.

B. Annually, LED will verify that a participating company continues to meet the eligibility requirements of the program as well as performance obligations.

C. If a business fails to maintain the eligibility requirements for participation in the program or fails to meet the performance objectives in the contract, the secretary may, at his discretion, suspend or terminate the contract.

1. A contract suspension shall remove the exemption for the year in which the failure occurred, but the secretary may lift the suspension following a year in which eligibility requirements and performance obligations are met, and the exemption shall then be restored effective for that year.

2. A contract cancellation shall remove the exemption for the calendar year in which the failure occurred and all future years.

D. Upon receipt of notification from the secretary that a contract is suspended or cancelled, the assessor shall adjust the property assessment in the manner provided by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:4351, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 39:

Family Impact Statement

The proposed Rule changes have no impact on family formation, stability or autonomy, as described in R.S. 49:972.

Poverty Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Public Comments

Interested persons may submit written comments to Danielle Clapinski, Department of Economic Development, P.O. Box 94185, Baton Rouge, LA 70804-9185; or physically delivered to Capitol Annex Building, Office of the Secretary, 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 danielle.clapinski@la.gov. All comments must be received no later than 10 a.m., on February 25, 2013.

Public Hearing

A public hearing to receive comments on the Notice of Intent will be held on February 25, 2013 at 10 a.m. at the Department of Economic Development, 1051 North Third Street, Baton Rouge, LA 70802.

Anne G. Villa
Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Competitive Projects Tax Exemption Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule will have minimal cost to state and local governments as a result of implementing the Competitive Projects Tax Exemption Program as enacted by Act 499 of the 2012 Regular Session of the Louisiana Legislature. LED is required by statute to make the determination of what businesses qualify for participation in the program and to monitor that businesses continue to comply with program requirements. LED intends to administer the program with existing personnel and currently available equipment and supplies and local governments are already administering a similar program, the Industrial Tax Exemption Program.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will result in an indeterminable revenue decrease for local governments. Act 499 of the 2012 legislative session creates the Competitive Projects Tax Exemption

Program. This bill expands the exemption to various non-manufacturing business activities and industries (no gambling) with more than half their sales out-of-state, and any other business sector as stated in statute for projects of at least \$25 million in capital expenditures with 50 new direct jobs. All local authorities must opt into the program and may opt out of the program, but existing contracts and renewals are not affected. Contract terms are 10 years. The exemption requires the invitation of LED or impacted local authorities, project eligibility determined by LED secretary, and approval of the Board of Commerce and Industry (BC&I). The LED Secretary executes the contract on behalf of the BC&I. Local governmental units will have indeterminable revenue decreases due to the exemption of ad valorem taxes on the property of participating businesses in these same fiscal years.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The income of businesses participating in the program will increase by the amount of benefits received.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Companies receiving benefits under this program will gain competitively over companies that do not receive the program's benefits. While employment may increase in participating businesses, employment may be lessened in other competing businesses that do not participate in the program.

Anne G. Villa
Undersecretary
1301#064

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

Department of Economic Development Office of Business Development Office of Entertainment Industry Development

Entertainment Industry Tax Credit
Programs—Digital Media and Software Act
(LAC 61:I.1661-1671)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Economic Development has initiated rulemaking procedures to make amendments to the Rules for the Digital Media and Software Tax Credit Program to bring the rules into compliance with current statutory provisions and administrative practices.

Title 61

REVENUE AND TAXATION

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

Chapter 16. Louisiana Entertainment Industry Tax Credit Programs

Subchapter D. Louisiana Digital Media Act

§1661. Purpose

A. The purpose of this Chapter is to administer the Louisiana Digital Media and Software Act as established by R.S. 47:6022.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6022.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Office of Entertainment Industry Development, LR 35:632 (April 2009), amended LR 36:1981 (September 2010), LR 39:

§1663. General Description

A. - C. ...

D. For expenditures incurred prior to January 1, 2012, credits are non-refundable, transferable credits with a 10 year carryover period. For expenditures incurred on or after January 1, 2012, credits are refundable, contain no transferability or carryover provisions, and a company may elect, on a one time basis, to receive an 85 percent rebate instead of the refundable credit.

E. These rules shall be subject to oversight by the House Committee on Ways and Means and the Senate Committee on Revenue and Fiscal Affairs, in accordance with the Administrative Procedure Act.

F. Applicants may apply for more than one tax credit program administered by the Department of Economic Development, provided that:

- 1. separate applications are submitted per program;
- 2. expenditures shall only qualify for one specified program; and
- 3. multiple applications shall not result in any duplication of tax credits.

G. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6022.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Office of Entertainment Industry Development, LR 35:632 (April 2009), amended LR 36:1981 (September 2010), LR 39:

§1665. Definitions

A. - B. ...

Commercial Distribution—distribution of digital content from producer to consumer. Examples may include but not be limited to physical distribution of DVD’s from a store front retailer or digital distribution of content, streamed or downloaded via the internet.

Commercial Release—the date when the product is first commercially available for sale to or use by the general public, typically after beta testing or similar quality control testing by a limited number of users.

Company—an entity authorized to do business in the state of Louisiana, engaged in the business of producing digital interactive media as defined in this section. Company shall not mean or include any company owned, affiliated, or controlled, in whole or in part, by any company or person which is in default on a loan made by the state or a loan guaranteed by the state, nor with any company or person who has ever declared bankruptcy under which an obligation of the company or person to pay or repay public funds or monies was discharged as part of such bankruptcy.

Component Parts—all elements that are integral to the functioning or development of such products and platforms. Some examples may be, but are not limited to; software, computer code, image files, music files, audio files, scripts and plays, concept mock-ups, software tools, and testing procedures. Shall also include, but not be limited to: computer servers, workstations, server racks, hard drives, optical drives, monitors, keyboards, integrated video and audio equipment, networking routers, switches, network cabling, and any other computer-related hardware necessary to create or operate a digital interactive media product or platform. Create or operate refers to the creation or operation

of the digital platform or product and does not refer to the creation or operation of the parent company.

Digital Content—intellectual property that is published or distributed via a digital media platform or product, including but not limited to software, computer code, image files, music files, audio files, video files, text, data, and streaming video.

Digital Interactive Media—products or platforms that are:

- a. intended for commercial production, use or distribution;
- b. contain at least two of the following types of data: text, sound, fixed images, video, or 3D geometry; and
- c. that have all of the following three characteristics:
 - i. digital—a system that uses discrete (discontinuous) values ordinarily symbolized numerically to represent information for input, processing, transmission and storage. A digital system would be contrasted with an analog system which uses a continuous range of values to represent information. The term digital includes, but is not limited to information input, processed, transmitted and stored via the internet.
 - ii. interactive—a digital media system for inputting, processing, transmitting or storing information or data in which users of the system are able to respond to the digital media system by inputting, transmitting, processing or storing information or data in response to the information or data provided to them through the digital media system. (Digital media system means communication delivered via electronic energy where the information stored, transmitted, or received is in digital form.
 - iii. media—communication tools used to store, transmit, distribute and deliver information and data. It includes methods and mechanisms for information distribution through, but not limited to distributed networks, such as the Internet, and through compact disc, CD-ROM, various types of DVD, and other removable storage drives and devices;
 - d. digital interactive media may include, but not be limited to:
 - i. video or interactive games;
 - ii. simulation software;
 - iii. interactive educational or training products;
 - iv. internet sites designed and developed as social media;
 - v. software applications that provide connectivity; and communications between mobile devices and digital interactive media web platforms; and
 - vi. technology designed to stream live or pre-recorded video content over the internet to large simultaneous audiences;
 - e. digital interactive media shall not include:
 - i. software development primarily designed and developed for institutional, private or internal purposes;
 - ii. largely static internet sites designed to provide information about a person, business, or firm;
 - iii. Repealed.
 - iv. products regulated under the Louisiana Gaming Control Law or the Indian Gaming Regulatory Act; or

v. largely static retail websites. When determining eligibility, LED will consider amount of proposed programming work versus use of pre-built templates and any other factors it deems most appropriate under the circumstances.

Digital Interactive Media Company—Repealed.

Digital Media Products or Platforms—the basic infrastructure that allows various media file types to coexist in an integrated, customized content loop.

a. product—any audiovisual work embodied in software or other digital electronic form that are only capable of being used with a platform. Examples may include, but not be limited to software games.

b. platform—a software architecture that serves as a foundation or base upon which other products, processes or technologies are developed. Software platforms should provide base functionality and communicate back and forth with other software products.

* * *

Expenditure—actual payment of cash or cash equivalent for goods or services, as evidenced by an invoice, receipt or other such document. Cash or cash equivalent transactions may include but not be limited to: commercial or bank financed loans, actual physical transfer of coins and banknotes, other forms of transmission that will turn into cash very quickly, including written checks, credit cards, bank debit cards, and bank wire transfers. However, the receipt of a promissory note, the creation of an account receivable, or the sending of a customer invoice are not, by themselves, evidence of an expenditure. Owner financed transactions will only qualify as an expenditure when actual cash or cash equivalent payments are made.

* * *

Payroll—includes all salary, wages and other compensation sourced or apportioned to Louisiana, and federal payroll taxes such as the employer's portion of FICA/FUTA and workers' compensation insurance costs to the extent purchased from a source within the state. Fringe Benefits including health care costs, 401K contributions, dental plans, and life insurance will be considered if these costs are paid by the employer and costs are apportioned to services performed in Louisiana on a certified project.

* * *

Production Expenses—preproduction and production expenditures in the state directly relating to and proportionate with work performed in Louisiana on a state-certified production. See §1668 for detailed illustrative examples of eligible and ineligible expenditures commonly associated with digital interactive media projects.

* * *

Tax Credit—digital interactive media and software development tax credit.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6022.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Office of Entertainment Industry Development, LR 35:633 (April 2009), amended LR 36:1981 (September 2010), LR 39:

§1667. Certification Procedures

A. - A.1.d. ...

B. Qualification

1. The office shall determine whether a production or project qualifies, by meeting all requirements of R.S. 47:6022 and these regulations, and taking the following factors into consideration.

a. The contribution of the production or project to the goal of creating an independent, self-supporting digital interactive media industry.

b. The impact of the production or project on the employment of Louisiana residents.

c. The impact of the production or project on the overall economy of the state.

2. Duration of Tax Credits

a. Tax credits may be granted under R.S. 47:6022 until such statute is amended, modified or repealed.

3. Amount of Tax Credits. Tax credits are earned per calendar year at the time funds are expended in Louisiana on a state certified production

a. For applications for state-certified productions submitted to the office prior to July 1, 2009 and subsequently approved by the office and the secretary, a tax credit shall be earned by producers as follows.

i. The producer shall earn tax credits at the rate of 20 percent of the base investment for the first and second years following certification of the project as a state certified production.

ii. The producer shall earn tax credits at the rate of 15 percent of the base investment for the third and fourth years following certification of the project as a state certified production.

iii. The producer shall earn tax credits at the rate of 10 percent of the base investment for the fifth and sixth years following certification of the project as a state certified production.

iv. No tax credits may be earned after the sixth year following certification of the project as a state certified production.

b. For applications for state-certified productions submitted to the Office on or after July 1, 2009 but before July 11, 2011, and subsequently approved by the office and the secretary, a tax credit shall be earned by a digital interactive media company as follows.

i. Expenditures made on or after July 1, 2009 shall earn tax credits at the rate of 25 percent of the base investment;

(a) to the extent that base investment is expended on payroll for Louisiana residents employed in connection with a state-certified production, a digital interactive media company shall earn additional tax credits at the rate of 10 percent of payroll;

(b) the initial certification shall be effective for expenditures made prior to the date of initial certification and shall be valid until the production is completed.

(i). The production shall be considered complete when it receives its first commercial release, or other appropriate benchmark as agreed to between the parties and outlined in the initial certification.

ii. Expenditures made prior to July 1, 2009 may qualify for tax credits as follows.

(a). The initial certification shall indicate a beginning date for qualifying expenditures to earn tax credits, (hereafter known as “start date”) which shall be no earlier than June 30, 2005, the effective date of the original LA Digital Media Act, R.S. 47:6022.

(b). Tax credits shall be earned when expenditures are made, at the following rates.

(i). For each of the first and second years following the start date, the producer shall earn tax credits at the rate of 20 percent of the base investment.

(ii). For each of the third and fourth years following the start date, the producer shall earn tax credits at the rate of 15 percent of the base investment.

(iii). For each of the fifth and sixth years following the start date, the producer shall earn tax credits at the rate of 10 percent of the base investment.

(c). As an illustrative example, if a company applies on August 1, 2009, but indicates that it may have qualifying expenditures dating back to August 1, 2007, the producer would earn tax credits at the following rates:

(i). expenditures made from August 1, 2007 – June 30, 2009 would earn tax credits at the rate of 20 percent for the first and second years after the Start Date.

(ii). expenditures made July 1, 2009 onwards would earn at the flat rate of 25 percent, with the possibility of an additional 10 percent for payroll expenditures.

(d). The initial certification letter shall specifically state the applicable tax credit rates for each state certified production.

c. For applications for state-certified productions submitted to the Office on or after July 11, 2011, and subsequently approved by the office and the secretary, tax credits shall be earned by an approved digital media company as follows.

i. Expenditures made after July 1, 2009 shall earn tax credits at the rate of 25 percent of the base investment;

(a). to the extent that base investment is expended on payroll for Louisiana residents employed in connection with a state-certified production, a company shall earn additional tax credits at the rate of 10 percent of payroll.

(b). the initial certification shall be effective for expenditures made no more than six months prior to the date of initial certification and shall be valid until the project is completed.

(c). the production shall be considered complete when it receives its first commercial release, or other appropriate benchmark as agreed to between the parties and outlined in the initial certification.

C. - C.5. ...

D. Final Certification and Accounting Requirements

1. Prior to final certification of tax credits of a state-certified production or any portion thereof, the producer or digital interactive media company shall submit to the office:

a. a cost report of production expenditures.

i. the cost report of expenditures shall be subject to an agreed-upon procedures engagement conducted by a certified public accountant in accordance with statements on

standards for attestation engagements established by the American Institute of Certified Public Accountants;

ii. the accountant shall issue a report in the form of procedures and findings. The accountant shall be a certified public accountant licensed in the state of Louisiana and shall be an independent third party unrelated to the digital interactive media company;

iii. the agreed upon procedures have been established by the office and the secretary, with assistance from the Society of Louisiana Certified Public Accountants, as promulgated in accordance with the Administrative Procedure Act;

b. any additional information as requested by the office and/or the secretary, reasonably necessary to determine eligibility for tax credits, including but not limited to a request for an additional audit at the applicants expense;

i. incorrect reporting—if an applicant submits a cost report required by the provisions of this Chapter and the report made and filed contains material misstatements, including but not limited to misrepresentation in or intentional omission from the cost report of events, transactions, or other significant information there may be cause for an additional audit;

ii. related party transactions—if an audit contains related party transactions in excess of 20 percent of the total expenditures reported in the submitted audit there may be cause for an additional audit;

iii. reimbursement of audit costs—the department may undertake additional audit at the applicant’s expense, to be performed by a state certified public accountant also certified in financial forensics or also certified as a fraud examiner. Audit fees will be assessed at the department’s contracted fee, with a minimum of \$2,000 and a maximum of \$15,000 fee per audit.

2. Upon completion of all or a portion of a state-certified production, the office shall review the production expenses and upon a determination of qualification the office and the secretary will issue a final tax credit certification letter including

i. the amount of tax credits;

ii. the unique identifying number for the state certified production.

3. - 3.c. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6022.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Office of Entertainment Industry Development, LR 35:633 (April 2009), amended LR 36:1983 (September 2010), LR 39:

§1668. Illustrative Examples of Production Expenses

A. Eligible—

1. salary expenses directly relating to the development of a state certified production, with position titles including but not limited to programmer, game designer, industrial designer, and quality assurance/tester. When determining eligibility, LED will consider job title, job description, staff resumes and any other factors it deems most appropriate under the circumstances;

2. preproduction stage expenses such as design documents, mock-ups and prototypes;

3. testing software, source code development, patches, updates, sprites, three-dimensional models and level design;

a. testing software—activities entirely devoted to quality assurance of a product;

b. three-dimensional models—electronic media representations, three dimensional representations of geometric data for the purpose of rendering 2D images and performing calculations.

c. updates—activities directly relating to recalibrating or revising a product;

4. costs associated with photography and sound synchronization, lighting and related services;

a. lighting and related services—includes but not limited to, the use of motion capture technology or green screen technology;

5. rental of Louisiana facilities and equipment, that are directly related to production. If production facility hosts both qualifying and non-qualifying work areas, rent should be pro rated accordingly;

6. purchase of prepackaged audio files, video files, photographic, or libraries;

7. purchase of license to use pre-recorded audio files, video or photographic files;

8. development costs associated with producing audio files and video files to be used in the production of the end product under development;

9. purchase of game engines or content management platforms produced for general sale.

B. Ineligible—

1. salary expenses not directly related to the development of a state certified production, including but not limited to staff in the following departments: customer service, IT, clerical, sales and marketing, human resources, accounting, janitorial service. When determining eligibility, LED will consider job title, job description, staff resumes and any other factors it deems most appropriate under the circumstances;

2. salary expenses for C-level positions are not an eligible expenditure, unless applicant can demonstrate that services performed in Louisiana were directly related to the development of a state certified production. When determining eligibility, LED will consider size and nature of company, resumes and any other factors it deems most appropriate under the circumstances;

3. expenditures made prior to preproduction, such as research and development, workforce recruitment or intellectual property research;

4. expenditures for or related to marketing, promotion and distribution;

5. administrative, payroll, and management services which are not directly related to management of the state-certified production;

6. amounts that are later reimbursed by the state or any other governmental agency;

7. costs related to the transfer of tax credits;

8. amounts that are paid to persons or entities as a result of their participation in profits from the exploitation of the production;

9. application fee;

10. state or local taxes;

11. food, entertainment and lodging expenses;

12. cost of customization or custom development of a product is not an eligible production expense, *unless* the customization services are performed in Louisiana.

13. automobile expenditures such as mileage, purchase or maintenance costs;

14. parking fees;

15. furniture and fixture expenses;

16. digital content generated by the end user;

17. digital content comprised primarily of local news, events, weather, local market reports or public service content;

18. digital content expenses occurring after the state-certified production's commercial release;

19. audio/video content streamed through the internet or mobile platform is not an eligible production expense, unless it includes value added interactive functionality, as verified and approved by the director;

20. expenditures relating to the creation of standalone digital content simply transmitted through digital distribution methods, such as the original filming costs of a web based television series streamed through the internet;

21. maintenance services of existing software applications or products, generally performed by I.T. employees after commercial release, such as installation of security patches or modifications to debug or fix minor programming errors;

22. configuration services of existing software applications or products, generally performed by I.T. employees after commercial release, such as choosing from a number of defined options or modifying default capabilities to allow users different levels of access;

23. Data migration services, generally performed by I.T. employees after commercial release, such as the transfer of data from one back up tape to another, or costs with upgrading to a new version of a database system.

C. Limitations for Certain Transactions

1. Gamemaster positions are considered hybrid positions, involving both programmer and customer service functions. LED establishes a customary ratio of 50 percent programmer duties to 50 percent customer service. Salary expenses may therefore qualify on an allocated basis, proportionate with proven programmer duties. When determining eligibility, LED will consider size and nature of company, resumes and any other factors it deems most appropriate under the circumstances.

2. Soft costs such as finance fees and producer fees may be capped as deemed appropriate by LED.

3. Hard costs for component parts, licenses and equipment may not exceed labor costs. LED establishes a customary expense ratio of 20 percent equipment versus 80 percent labor costs. When determining eligibility, LED will consider number of jobs to be created, proposed cost of component parts, licenses and equipment, company history and any other factors it deems most appropriate under the circumstances.

4. Project management fees may be limited to 20 percent of base investment.

5. Where goods are provided by a related party, qualifying expenditures are limited to fair market value, as established through the related party's historic dealings with unrelated parties, or actual transactions between other unrelated parties, for substantially similar goods. The comparable transactions must be substantially similar, considering the type of goods, the geographic market, and other pertinent variables.

For Example: The production company has recently acquired the same type of goods in Louisiana at the same price from an unrelated third party. If FMV cannot be established, qualifying expenditures will be limited to the internal cost recovery rate, consisting of actual documented acquisition cost, plus ongoing maintenance and upgrade cost, divided by anticipated utilization over the real useful life.

6. Where services are provided by a related party, qualifying expenditures are limited to the actual compensation paid by the related party to its employee actually performing the service (including employer-paid benefits), allocated to the production on an hourly basis. Related party transactions must be supported by an audit and documentation as requested by LED, which may include (but is not limited to) third-party contracts, notarized affidavits, tax records, and cancelled checks.

7. Sub-contractor development labor is limited to the actual compensation paid by the sub-contractor to its employee actually performing the service (including employer-paid benefits), allocated to the production on an hourly basis. Applicants must provide detailed accounting and verification of sub-contractor expenditures, including submission of agreements reflecting the scope of services provided in Louisiana and upon request allow the state to audit the sub-contractor's accounting records directly relating to any expenses claimed for tax credits.

8. Any expenses made on behalf of a state certified production, by an entity other than the applicant approved by LED and being claimed for tax credits, (such as payments made by a sub-contractor) must be submitted with additional supporting documentation as requested by LED.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6022.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Office of Entertainment Industry Development, LR 39:

§1669. Use of Tax Credits

A. For tax credits earned by expenditures made on or before December 31, 2011:

1. prior to claiming a tax credit on any tax return, or transferring any tax credit, a person must apply for and obtain final certification;

2. after receiving final certification, a tax credit may be applied as follows:

a. the credit shall be allowed against the income tax due for applications submitted prior to July 1, 2009, and against the income or franchise tax due for applications submitted on or after July 1, 2009. The credit shall be allowed against the income or franchise tax due from a taxpayer for the taxable period in which the credit is earned as well as the immediately preceding period. If the tax credit allowed exceeds the amount of such taxes due from a taxpayer, then any unused credit may be carried forward by the taxpayer as a credit against subsequent tax liability for a period not to exceed ten years. However, in no event shall the amount of the tax credit applied in a taxable period exceed the amount of such taxes due from the taxpayer for that taxable year;

b. all entities taxed as corporations for Louisiana income tax purposes shall claim any credit allowed under this section on their corporation income tax return, or in the case of applications submitted after July 1, 2009, their income and franchise tax returns;

c. individuals shall claim any credit allowed under this section on their individual income tax return;

d. entities not taxed as corporations shall claim any credits allowed under this Section on the returns of the partners or members as follows:

i. corporate partners or members shall claim their share of the credit on their corporation income tax returns;

ii. individual partners or members shall claim their share of the credit on their individual income tax returns;

iii. partners or members that are estates or trusts shall claim their share of the credit on their fiduciary income tax returns;

3. after receiving final certification, a tax credit may be transferred as follows:

a. any tax credits allocated to a person and not previously claimed by any taxpayer against his Louisiana state income or franchise tax may be transferred or sold by such person to another person, subject to the following conditions;

i. a single transfer may involve one or more transferees;

ii. transferors and transferees shall submit to the office and the Department of Revenue in writing, a notification of any transfer or sale of tax credits within thirty days after the transfer or sale of such tax credits. The notification shall include the transferor's tax credit balance prior to transfer, the state-certified production number, the name of the stat-certified production, the transferor's remaining tax credit balance after transfer, all tax identification numbers for both transferor and transferee, the date of the transfer, the amount transferred, a copy of the tax credit certificate, and any other information required by the office or the Department of Revenue;

iii. failure to comply with this paragraph will result in disallowance of the tax credit until the taxpayers are in full compliance;

iv. the transfer or sale of this credit does not extend the time in which the credit can be used. The carry forward period for credit that is transferred or sold begins on the date on which the credit was originally earned;

v. the transferee shall apply such credits in the same manner and against the same taxes as the taxpayer originally awarded the credit.

B. For tax credits earned for expenditures made on or after January 1, 2012:

1. Prior to claiming a tax credit on any tax return, a person must apply for and obtain final certification.

2. After receiving final certification, a company may elect to use a tax credit as follows:

a. refund—the tax credits shall be refundable and allowed against the individual or corporate income tax liability of the companies or financiers of the project in accordance with their share of the credit as provided for in the application for certification for the project. The credit shall be allowed for the taxable period in which expenditures eligible for a credit are expended as set forth in the final tax credit certification letter. Any excess of the credit over the income tax liability against which the credit may be applied shall constitute an overpayment, as defined in R.S. 47:1621(A), and the secretary of the Department of Revenue

shall make a refund of such overpayment from the current collections of the taxes imposed by Chapter 1 of Subtitle II of Title 47, as amended. The right to a refund of any such overpayment shall not be subject to the requirements of R.S. 47:1621(B); or

b. rebate—at the time of final certification of tax credits, a company may elect, on a one-time basis, to receive a rebate of the credits. The amount of the rebate shall be 85 percent of the face value of the credits. Upon receipt of the final tax credit certification letter and any necessary additional information, the secretary of the Department of Revenue shall make payment to the company, or its irrevocable designee, which may include but not be limited to a bank or other lender, in the amount to which he is entitled from the current collections of the taxes collected pursuant to Chapter 1 of Subtitle II of Title 47, as amended.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6022.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Office of Entertainment Industry Development, LR 35:634 (April 2009), amended LR 36:1984 (September 2010), LR 39:

§1673. Agreed upon Accounting Procedures

A. The agreed upon accounting procedures shall be available to the public as follows:

1. posted on LouisianaEntertainment.gov;
2. available for viewing during regular business hours in the office;
3. sent to the applicant and incorporated into the initial certification letter; and
4. available upon written request to the director.

B. - B.8.d. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6022.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Office of Entertainment Industry Development, LR 36:1985 (September 2010), LR 39:

Family Impact Statement

It is anticipated that the proposed Rule amendment will have no significant effect on the: stability of the family, authority and rights of parents regarding the education and supervision of their children, functioning of the family, family earnings and family budget, behavior and personal responsibility of children, ability of the family or a local government to perform the function as contained in the proposed Rule.

Poverty Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Small Business Statement

It is anticipated that the proposed Rule will not have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act. The agency, consistent with health, safety, environmental and economic factors has considered and, where possible, utilized regulatory methods in drafting the proposed rule to accomplish the objectives of applicable statutes while minimizing any anticipated adverse impact on small businesses.

Public Comments

Interested persons should submit written comments on the proposed Rules to Heath Williams through the close of business on February 26, 2013 at P.O. Box 94185, Baton

Rouge, LA 70804-9185 or via email to Heath.Williams@la.gov.

Public Hearing

A meeting for the purpose of receiving the presentation of oral comments will be held at 10 a.m. on February 27, 2013 at the Department of Economic Development, 1301 N. Third St., Baton Rouge, LA.

Jason El Koubi
Assistant Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Entertainment Industry Tax Credit Programs—Digital Media and Software Act

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change could increase the need for contract auditors at the Department of Economic Development (LED). One or more state certified public accountants also certified in financial forensics or also certified as a fraud examiner will be on contract with the Department of Economic Development (LED) to conduct any audits on an as needed basis. It is anticipated that only a few audits will be required per year, which may increase over time in proportion to the increasing program applications received annually. However, the applicant will be charged for the cost of the audit so this expenditure will be offset by self-generated revenue, so the net effect to the departmental budget should be neutral. Any other administrative duties brought about by the proposed rule will be handled by existing departmental staff funded by the existing LED budget.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Established in 2005, to date approximately 314 applications have been received, and \$18.6 million issued in total credits certified as follows: \$40,372 in FY07, \$507,912 in FY08, \$707,733 in FY09, \$1.4M in FY10, \$4.4M in FY11 and \$7.7M in FY12 with \$3.8M certified to date in FY13. The digital media and software program does not have an annual or per project cap. To the extent that these changes more clearly establish parameters of the program and preclude eligibility that would otherwise occur, state general fund revenue may increase. It is anticipated that the more precise definitions of digital content and interactive media may lead to the largest increase in state general fund revenue as they are expected to restrict the program in ways it has not been limited in the past.

Overall, the proposed rule revisions provide further guidance on project and expenditure eligibility to program applicants, through the addition of various definitions and illustrative examples of eligible projects and expenditures. In addition, there are three revisions addressing administrative matters as follows:

- 1). Additional audit fee: While La. R.S. 47:6022 already authorizes LED to conduct an audit at the applicant's expense, the proposed amendment clarifies when such an audit may be required and establishes a fee structure of \$2,000 minimum and \$15,000 maximum fee per audit, and aligns with current administrative requirements for other programs administered by the Office of Entertainment Industry Development (OEID). It is anticipated that only a few audits will be required per year, which may increase over time in proportion to the increasing program applications received annually. To the extent the fees are assessed, they will increase self-generated revenue to the state and be used to pay contract auditors as described in Section I.

2). Nature of credit changed from transferable to refundable: The proposed rule also incorporates changes from Act 415 of the 2011 Regular Session, the most significant being the change in the nature of credits earned per calendar year. For expenditures incurred prior to January 1, 2012, credits are non-refundable, transferable credits with a 10 year carryover period. For expenditures incurred on or after January 1, 2012, credits are refundable, contain no transferability or carryover provisions, and a company may elect, on a one time basis, to receive an 85 percent rebate instead of the refundable credit.

3). Definitions: The proposed rule defines and/or provides examples of many terms related to the credit, including digital content and digital interactive media. To the extent that these terms limit eligibility that would otherwise occur, state general fund revenue may increase. An estimate of this impact is indeterminate but is expected to restrict the program in ways it has not been limited in the past.

There is no impact to local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

In cases of incorrect reporting or high percentage of related party transactions, in order for LED to verify the amount, if any, of qualifying expenditures, an applicant may have to reimburse LED for the cost of an additional audit. Should the content of the proposed rule allow for decreased eligibility, fewer credits will be obtained.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated impact on competition and employment due specifically to this rule as all program participants are under the same guidelines.

Jason El Koubi
Assistant Secretary
1301#051

Gregory Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

Department of Economic Development Office of Business Development Office of Entertainment Industry Development

Musical and Theatrical Production Income Tax Credit Program (LAC 61.I.1690-1699)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Economic Development has initiated rulemaking procedures to make amendments to the Rules for the Musical and Theatrical Production Income Tax Credit Program to bring the rules into compliance with current statutory provisions and administrative practices.

Title 61

REVENUE AND TAXATION

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

Chapter 16. Louisiana Entertainment Industry Tax Credit Programs

Subchapter E. Musical and Theatrical Production Income Tax Credit Program

§1692. Definitions

A. - B. ...

* * *

Base Investment—actual investment made and expended in this state by a state-certified musical or theatrical production:

- a. as production-related costs directly related to in state production; or
- b. as capital costs of a state-certified musical or theatrical facility infrastructure project.

* * *

Expenditure—actual payment of cash or cash equivalent, paid by or on behalf of a state certified production or state certified infrastructure project, exchanged for goods or services, as evidenced by an invoice, receipt or other such document. Cash or cash equivalent transactions may include but not be limited to: commercial or bank financed loans, actual physical transfer of coins and banknotes, other forms of transmission that will turn into cash very quickly, including written checks, credit cards, bank debit cards, and bank wire transfers. However, the receipt of a promissory note, the creation of an account receivable, or the sending of a customer invoice are not, by themselves, evidence of an expenditure. Owner financed transactions will only qualify as an expenditure when actual cash or cash equivalent payments are made.

* * *

Infrastructure Expenditures—expenditures directly related to the state certified infrastructure project, shall include but not be limited to: land and acquisition costs, constructions costs, design fees, furniture, fixtures, equipment purchased subject to a sale agreement or capital lease. Infrastructure expenditures shall not include indirect costs such as general administrative costs, insurance, or any costs related to the transfer or allocation of tax credits. Soft costs such as finance fees, developer fees and management fees may be capped as deemed appropriate by LED.

* * *

Multi-Purpose Facility—a building or building complex that is capable of more than one use. Examples may include, but not be limited to; a building complex containing a theatre and a restaurant; one building that can be configured in a variety of ways, such as the ability to host either a live performance stage production or a live sporting event.

* * *

Originate—shall include, but not be limited to, state-certified musical or theatrical productions which are:

- a. pre-Broadway engagement or remounts;
- b. tour or resident production remounts;
- b. resident or regional productions;
- c. national touring companies producing their first public performance in Louisiana; or
- d. concert tours producing their first public performance in Louisiana.

Payroll—all salary, wages, and other compensation, fringe benefits taxed, sourced or apportioned to Louisiana, and federal payroll taxes such as the employer's portion of FICA/FUTA and workers' compensation insurance costs to the extent purchased from a source within the state. Fringe Benefits including health care costs, 401K contributions, dental plans, and life insurance will be considered if these costs are paid by the employer and costs are apportioned to services performed in Louisiana on a certified project.

Production Expenditures—a contemporaneous exchange of cash or cash equivalent for goods or services related to development, production, or operating expenditures in this state for a state-certified production performed in Louisiana. (See §1694 for detailed illustrative examples of eligible and ineligible expenditures commonly associated with musical or theatrical production projects.)

* * *

Series of Productions—a new musical or theatrical production with multiple Louisiana performances in a 12 month period. Simply rebranding or renaming a series, without substantive creative changes, will make a series ineligible for recertification in subsequent years.

* * *

State-Certified Musical or Theatrical Production—a concert, musical or theatrical production, or a series of productions occurring over the course of a 12-month period, and the recording or filming of such production, which originate, are developed, or have their initial public performance before a paying audience within Louisiana, or which have their United States debut within Louisiana, and the production expenditures, expenditures for the payroll of residents, transportation expenditures, and expenditures for employing college and vocational-technical students related to such production or productions, that are certified, verified, and approved as provided for in this Section. Non-qualifying projects include, but are not limited to non-touring music and cultural festivals, industry seminars, trade shows, and any production activity taking place outside the state of Louisiana.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6034(E).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development, LR 35:2173 (October 2009), repromulgated LR 36:2237 (October 2010), LR 39:

§1693. Certification Procedures

A. - C.3.c.i. ...

D. Final Certification and Audit Requirements

1. After review and upon a determination of qualification and initial certification, an applicant may obtain final certification as follows.

a. A cost report shall be submitted by the applicant, certified by an independent certified public accountant and complying with the minimum standards as required by R.S. 47:6034.

b. The cost report may be subject to additional audit at the applicant's expense. The department shall select the auditor and determine the audit standards.

i. Incorrect Reporting. If an applicant submits a cost report required by the provisions of this Chapter and the report made and filed contains material misstatements, including but not limited to misrepresentation in or intentional omission from the cost report of events, transactions, or other significant information there may be cause for an additional audit.

ii. Related Party Transactions. If an audit contains related party transactions in excess of 20 percent of the total expenditures reported in the submitted audit there may be cause for an additional audit.

iii. Reimbursement of Audit Costs. The department may undertake additional audit at the applicant's expense, to be performed by a state certified public accountant also certified in financial forensics or also certified as a fraud examiner. Audit fees will be assessed at the department's contracted fee, with a minimum of \$2,000 and a maximum of \$15,000 fee per audit.

c. Additional information may be requested in order to make a determination of eligibility.

d. The department shall review the cost report and supporting information, and following verification of qualifying expenditures, shall issue a final tax credit certification letter.

e. Multiple requests for final certification may be submitted.

i. Each submission must be accompanied by an audited cost report indicating expenditures.

ii. Two submissions shall be certified at no additional fee by the department.

iii. Additional charges may apply for three or more certification requests.

E. - E.1.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6034(E).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development, LR 35:2175 (October 2009), repromulgated LR 36:2238 (October 2010), LR 39:

§1694. Illustrative Examples of Production Expenses

A. Eligible

1. salary expenses directly relating to the development of a state certified production, with position titles including but not limited to: stagehands, crew, electricians. When determining eligibility, LED will consider job title, job description, staff resumes and any other factors it deems most appropriate under the circumstances;

2. artist compensation directly relating to performance days in Louisiana;

3. set construction and operation expenses;

4. special and visual effects expenses;

5. costumes, wardrobes and make-up accessories expenses;

6. costs associated with sound, lighting and staging.

B. Ineligible—

1.a. salary expenses not directly related to the development of a state certified production, including but not limited to staff in the following departments:

i. IT;

ii. clerical;

iii. human resources;

iv. janitorial service;

b. when determining eligibility, LED will consider job title, job description, staff resumes and any other factors it deems most appropriate under the circumstances;

2. state and local taxes;

3. any expenditures related to out of state production;

4. any costs later reimbursed by a third party;

5. any costs related to the transfer of tax credits.

C. Limitations for Certain Transactions—

1. artist compensation for non-performance days, such as rehearsals, shall be limited to no more than 20 percent of total base investment for performances in Louisiana;

2. soft costs such as finance fees and producer fees may be capped as deemed appropriate by LED;

3. where goods are provided by a related party, qualifying expenditures are limited to fair market value, as established through the related party's historic dealings with unrelated parties, or actual transactions between other unrelated parties, for substantially similar goods. The comparable transactions must be substantially similar, considering the type of goods, the geographic market, and other pertinent variables;

For Example: The production company has recently acquired the same type of goods in Louisiana at the same price from an unrelated third party. If FMV cannot be established, qualifying expenditures will be limited to the internal cost recovery rate, consisting of actual documented acquisition cost, plus ongoing maintenance and upgrade cost, divided by anticipated utilization over the real useful life.

4. where services are provided by a related party, qualifying expenditures are limited to the actual compensation paid by the related party to its employee actually performing the service (including employer-paid benefits), allocated to the production on an hourly basis. Related party transactions must be supported by an audit and documentation as requested by LED, which may include (but is not limited to) third-party contracts, notarized affidavits, tax records, and cancelled checks;

5. any expenses made on behalf of a state certified production, by an entity other than the applicant approved by LED and being claimed for tax credits, must be submitted with additional supporting documentation as requested by LED.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6034(E).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development, LR 39:

§1695. Additional Program Procedures—Production

A. - A.3.b.iii. ...

c. For Limited State-Certified Musical or Theatrical Productions

i. For applications received on or before January 1, 2013, a tax credit may be granted for base investments made by non-profit community theaters for each of the 2009 and 2010 calendar years.

ii. If the total base investment is more than \$25,000 but less than \$300,000, a tax credit of 10 percent of the base investment applies.

iii. Applicants shall be limited to a maximum of two applications per year, for the 2009 and 2010 calendar years.

iv. The total amount of tax credits eligible to be issued shall not exceed \$250,000 for each of the calendar years 2009 and 2010.

A.4. - D.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6034(E).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development, LR 35:2175 (October 2009), repromulgated LR 36:2239 (October 2010), LR 39:

§1697. Certification Procedures—Infrastructure

A. Qualification of the Infrastructure Project

1. - 2 ...

3. The department shall determine whether a facility "supports" or is a "necessary component" of a state certified infrastructure project. Examples of qualifying facilities would be a parking garage, gift shop or costume storage. Examples of non-qualifying facilities would be restaurants, bars, hotels, golf courses and shopping centers.

4. The department shall determine whether a facility is a "multi-purpose" infrastructure project, taking into consideration relevant factors such as the frequency of musical or theatrical productions; the configurations and permanence of stage and seating; the percentage of square footage allocated to live performance versus total building square footage; the booking agent or management company's professional experience; applicant's ability to document ticket sales through an on-line event ticketing site or on-site box office and any other factors deemed relevant by LED.

a. Upon a determination of qualification as a multi-purpose infrastructure project, the applicant may be subject to the following additional restrictions, which shall be set forth in the initial certification.

i. Only expenditures directly related to a live musical or theatrical performance in Louisiana are eligible for tax credits and any expenditures unrelated to such productions shall be excluded. In calculating the estimated amount of qualifying versus non-qualifying expenditures, LED will select the methodology it deems most appropriate under the circumstances.

ii. Tax credits may be subject to a structured release over the course of two to five years.

iii. State certification of a multi-purpose facility project is conditioned upon continued primary use for live performance productions for a period of at least two calendar years from date of project completion.

(a). Evidence of Compliance. Applicant shall provide annual reports to LED for two calendar years, verifying continued use primarily as a live performance production facility, which may include but not be limited to financial statements reflecting total ticket sales, food and beverage revenue, alcohol sales, and a detailed report of live performance productions held.

(b). Default. In the event applicant fails to comply with the continued use requirements during any of the specified years, applicant shall forfeit all unreleased tax credits (for the year in which it failed to comply and all future years).

iv. For the purposes of this section, entertainment typically performed in bars subject to a "cover charge" and non-traditional entertainment such as balloon artists, quiz shows and casting calls will not be considered a qualifying live performance production.

B. Duration of Tax Credit

1. Tax credits may be granted under R.S. 47:6034 until January 1, 2014.

C. Amount of and Limitations upon Tax Credit

- 1. If the total base investment is more than \$100,000, but less than \$300,000, a tax credit of 10 percent applies.
- 2. If the total base investment is more than \$300,000, but less than \$1,000,000, a tax credit of 20 percent applies.
- 3. If the total base investment is more than \$1,000,000, a tax credit of 25 percent applies.
- 4. No more than \$10,000,000 may be granted per state certified infrastructure project.
- 5. No more than \$60,000,000 may be granted, per year, for all state certified infrastructure projects.
 - a. Tax credits shall be available on a first come, first served basis, based upon date of final certification and qualification of expenditures. If the total amount of credits applied for in any particular year exceeds the aggregate amount of tax credits allowed for that year, the excess shall be treated as having been applied for on the first day of the subsequent year.

b. Fifty percent of the tax credits annually granted for infrastructure projects shall be reserved for projects located outside of Jefferson and Orleans parishes, provided that the availability of tax credits for infrastructure projects in Jefferson and Orleans parishes shall not be conditioned upon the granting of infrastructure tax credits for projects outside of those parishes.

D. - D.4. ...

E. Infrastructure Program Sunset Limitations

- 1. The final day that LED may grant tax credits under the infrastructure program is January 1, 2014.
- 2. In order to allow LED staff time to verify project completion requirements and validate qualifying expenditures, state-certified infrastructure project applicants shall submit any requests for final certification of tax credits, with required cost report, to LED no later than August 1, 2013.
- 3. In the event that either the program caps or geographic caps listed above are met for the calendar year 2013, LED shall publish notice on its website www.LouisianaEntertainment.gov and send out written notice to infrastructure applicants, advising them of cap fulfillment. Whereas excess expenditures are treated as having been applied on the first day of the subsequent year, and tax credits may not be awarded for 2014 expenditures, any 2013 excess expenditures will be considered non-qualifying.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6034(E).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development, LR 35:2177 (October 2009), repromulgated LR 36:2240 (October 2010), LR 39:

Family Impact Statement

It is anticipated that the proposed Rule amendment will have no significant effect on the: stability of the family, authority and rights of parents regarding the education and supervision of their children, functioning of the family, family earnings and family budget, behavior and personal responsibility of children, ability of the family or a local government to perform the function as contained in the proposed Rule.

Poverty Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Small Business Statement

It is anticipated that the proposed Rule will not have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act. The agency, consistent with health, safety, environmental and economic factors has considered and, where possible, utilized regulatory methods in drafting the proposed Rule to accomplish the objectives of applicable statutes while minimizing any anticipated adverse impact on small businesses.

Public Comments

Interested persons should submit written comments on the proposed Rules to Philip Mann through the close of business on February 27, 2013 at P.O. Box 94185, Baton Rouge, LA 70804-9185 or via email to philip.mann@la.gov.

Public Hearing

A meeting for the purpose of receiving the presentation of oral comments will be held at 10 a.m. on February 28, 2013 at the Department of Economic Development, 1301 N. Third St., Baton Rouge, LA.

Jason El Koubi
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Musical and Theatrical Production
Income Tax Credit Program**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change could increase the need for contract auditors at the Department of Economic Development (LED). One or more state certified public accountants also certified in financial forensics or also certified as a fraud examiner will be on contract with the Department of Economic Development (LED) to conduct any audits on an as needed basis. It is anticipated that only a few audits will be required per year, which may increase over time in proportion to the increasing program applications received annually. However, the applicant will be charged for the cost of the audit so this expenditure will be offset by self-generated revenue, so the net effect to the departmental budget should be neutral. Any other administrative duties brought about by the proposed rule will be handled by existing departmental staff funded by the existing LED budget.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Overall, the proposed rule revisions provide further guidance on project and expenditure eligibility to program applicants, through the addition of various definitions and illustrative examples of eligible projects and expenditures.

Established in 2007, only 51 applications have been received under the live performance production and infrastructure programs, and \$10.2M has been certified in credits as follows: \$0.0 M in 2007; \$0.0M in 2008; \$0.0M in 2009; \$0.0 M in 2010; \$4.2M in 2011, \$2.4M in 2012 and 3.6M in 2013. Unlike infrastructure, the live performance production program does not have an annual or per project cap. All of these credits have not been claimed. To the extent that these changes preclude credits that would have otherwise obtained certification, state revenue may increase.

In addition, there are three revisions addressing administrative matters as follows:

- 1). Additional audit fee: While La. R.S. 47:6034 already authorizes LED to conduct an audit at the applicant's expense, the proposed amendment clarifies when such an audit may be

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 118—Statewide Assessment Standards and Practices (LAC 28:CXI.305, 701 and 1817)

required and establishes a fee structure of \$2,000 minimum and \$15,000 maximum fee per audit, and aligns with current administrative requirements for other programs administered by the Office of Entertainment Industry Development (OEID). It is anticipated that only a few audits will be required per year, which may increase over time in proportion to the increasing program applications received annually. To the extent the fees are assessed, they will increase self-generated revenue to the state and be used to pay contract auditors as described in Section I.

2). Application deadline for limited purpose program: Whereas tax credits were available for qualifying limited state certified productions occurring within calendar years 2009 and 2010, La R.S. 47:6034 (C) (1) (f) does not establish a deadline for applications. To provide for administrative efficiencies in closing this aspect of the program, the proposed rules establish January 1, 2013 as a deadline for receipt of such applications. Since most eligible expenditures made in 2009 and 2010 are likely to be included in current applications or certifications, this change is not expected to significantly impact state revenue.

3). Cost report submission deadline for infrastructure program: Whereas La. R.S. 47:6034 establishes a sunset date of January 1, 2014 for the granting of infrastructure tax credits, the language creates administrative challenges for both LED and applicants. As a practical matter, LED must have a reasonable amount of time to conduct project site inspections and verify qualifying expenditures prior to issuance of credits on the sunset date. Therefore the proposed rule requires applicants to submit any requests for final certification of credits, with accompanying costs reports to LED no later than August 1, 2013. This may shorten the time available for applicants to complete their projects. As the infrastructure program cost is limited to \$60 million per year (a per project cap of \$10 million and an annual program cap of \$60 million), these changes could lower the credits available to the extent that projects may have had qualifying expenditures between August 1, 2013 and January 1, 2014, though it is uncertain whether those expenditures would have timely completed the certification process even without the new filing deadline.

There is no anticipated impact on local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

In cases of incorrect reporting or high percentage of related party transactions, in order for LED to verify the amount, if any, of qualifying expenditures, an applicant may have to reimburse LED for the cost of an additional audit. Accelerated project completion and cost report deadlines may increase project costs for infrastructure project applicants in order to comply or in credits that may no longer be available for scheduled expenditures. Clarifications of eligible expenditures could make fewer credits available.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated impact on competition and employment due specifically to this rule as all program participants are under the same guidelines.

Jason El Koubi
Assistant Secretary
1301#052

Gregory Albrecht
Chief Economist
Legislative Fiscal Office

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 118—Statewide Assessment Standards and Practices*: new and edited policy language in §305. Test Security Policy; the new statewide grade 2 assessment will be added to chart in §701. Overview of Assessment Programs in Louisiana; and new revised and edited achievement level descriptors are added to §1817. End-of-Course Tests.

This document will provide new and updated statewide test information and provide easy access to that information. It was necessary to revise the bulletin at this time to incorporate new policy guidelines, edit previous policy, and revise policy language. Chapter 3, Test Security, has new policy language being added to clarify the addition of EXPLORE and PLAN as new statewide assessments. In Chapter 7, Assessment Program Overview, the testing chart was updated to include the new statewide assessment for grade 2, Iowa Test of Basic Skills (ITBS). The achievement level descriptors in Chapter 18, End-of-Course Tests, were revised for Algebra I, Geometry, English I, and English II to align with new academic standards. As a result of the revisions and edits, the achievement level descriptors in Chapter 18 were renumbered.

Title 28

EDUCATION

Part CXI. Bulletin 118—Statewide Assessment Standards and Practices

Chapter 3. Test Security

§305. Test Security Policy

A. - A.3.f.iv. ...

g. administer published parallel, previously administered, or current forms of any statewide assessment (e.g., Louisiana Educational Assessment Program [LEAP]; *Integrated* LEAP [*i*LEAP]; Graduation Exit Examination [GEE]; Graduation Exit Examination ["old" GEE]; LEAP Alternate Assessment, Level 1 [LAA 1]; LEAP Alternate Assessment, Level 2 [LAA 2]; the English Language Development Assessment [ELDA]; End-of-Course Tests (EOCT) online assessments; forms K, L, M, A, and B and all new forms of The Iowa Tests; or EXPLORE and PLAN as a practice test or study guide.

3.h. - 17. ...

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1528 (July 2005), amended LR 32:233 (February 2006), LR 33:255 (February 2007), LR 33:424 (March 2007), LR 33:2033 (October 2007), LR 34:65 (January 2008), LR 34:431 (March

2008), LR 34:1351 (July 2008), LR 35:217 (February 2009), LR 37:858 (March 2011), repromulgated LR 37:1123 (April 2011), amended LR 39:

Chapter 7. Assessment Program Overview
§701. Overview of Assessment Programs in Louisiana

A. ...

Name of Assessment Program	Assessment Population	Administered
Kindergarten Screening		
Kindergarten Developmental Readiness Screening Program (KDRSP)	Kindergarten	fall 1987–
Norm-Referenced Tests (NRTs)		
California Achievement Test (CAT/F)	grades 4, 6, and 9	spring 1988–spring 1992 (no longer administered)
California Achievement Test (CAT/5)	grades 4 and 6 grade 8	spring 1993–spring 1997 spring 1997 only (no longer administered)
Iowa Tests of Basic Skills (ITBS) (form L) and Iowa Tests of Educational Development (ITED) (form M)	grades 4, 6, 8, 9, 10, and 11	spring 1998 (no longer administered)
ITBS ITED (form M)	grades 3, 5, 6, and 7 grade 9	spring 1999–spring 2002 (no longer administered)
ITBS ITED (form B)	grades 3, 5, 6, and 7 grade 9	spring 2003–spring 2005 (no longer administered)
ITBS	grade 2	spring 2012–
Criterion-Referenced Tests (CRTs)		
National Assessment of Educational Progress (NAEP)	grades 4, 8, and 12	spring 1990–
Louisiana Educational Assessment Program (LEAP)	grades 3, 5, and 7	spring 1989–spring 1998 (no longer administered)
Graduation Exit Examination ("old" GEE)	grades 10 and 11	spring 1989–spring 2003 (state administered) fall 2003–(district administered)
Louisiana Educational Assessment Program (LEAP) (ELA and Mathematics)	grades 4 and 8	spring 1999–
LEAP (Science and Social Studies)	grades 4 and 8	spring 2000–
Graduation Exit Examination (GEE) (ELA and Mathematics)	grade 10	spring 2001–
GEE (Science and Social Studies)	grade 11	spring 2002–
End-Of-Course Tests (EOCT)	Algebra I	fall 2007–

Name of Assessment Program	Assessment Population	Administered
EOCT	English II	fall 2008–
EOCT	Geometry	fall 2009–
EOCT	Biology	fall 2010–
EOCT	Applied Algebra I form	spring 2011–
EOCT	English III	fall 2011–
EOCT	U. S. History	fall 2012–
EXPLORE	grades 8 and 9	spring 2013
PLAN	grade 10	spring 2013
ACT	grade 11	spring 2013
Integrated NRT/CRT		
Integrated Louisiana Educational Assessment Program (iLEAP)	grades 3, 5, 7, and 9	spring 2006–
iLEAP	grade 9	spring 2010 (last administration of grade 9 iLEAP)
Special Population Assessments		
Louisiana Alternate Assessment, Level 1 (LAA 1)	Students with Individualized Education Programs (IEPs) who meet participation criteria in grades 3–11	spring 2000–2007
LAA 1	ELA and Mathematics (grade spans 3–4; 5–6; 7–8; 9–10); Science (grades 4, 8, and 11)	Revised spring 2008–
LAA 1 ELA and Mathematics	grade 9	spring 2010 (last administration of grade 9 LAA 1)
Louisiana Alternate Assessment, Level 2 (LAA 2) ELA and Mathematics (Grades 4, 8, and 10) Science and Social Studies (Grade 11)	grades 4, 8, 10, and 11	spring 2006–
LAA 2 ELA and Mathematics	grades 5, 6, 7, and 9	spring 2007–
LAA 2 ELA and Mathematics	grade 9	spring 2010 (last administration of grade 9 LAA 2)
LAA 2 Science and Social Studies	grades 4 and 8	spring 2008–
Louisiana Alternate Assessment-B (LAA-B) ["out-of-level" test]	Students with Individualized Education Programs (IEPs) who met eligibility criteria in grades 3–11.	spring 1999–spring 2003 (no longer administered)
English Language Development Assessment (ELDA)	Limited English Proficient (LEP) students in grades K–12	spring 2005–
Academic Skills Assessment (ASA) and ASA LAA 2 form	Students pursuing a State-Approved Skills Certificate (SASC) or GED	spring 2012 (one administration only, spring 2012)

B. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, Office of Student and

School Performance, LR 31:1534 (July 2005), amended LR 32:235 (February 2006), LR 34:66 (January 2008), LR 34:1352 (July 2008), LR 35:218 (February 2009), LR 36:967 (May 2010), LR 37:858 (March 2011), amended LR 38:34 (January 2012), LR 39:

Chapter 18. End-of-Course Tests

Subchapter E. Achievement Level Descriptors

§1817. EOCT Achievement Level Descriptors

A. Algebra I Achievement Level Descriptors

Excellent
<p>Students at this achievement level generally have exhibited the ability to:</p> <ol style="list-style-type: none"> 1. identify the common characteristics of families of linear functions; 2. recognize a linear or nonlinear relationship for data organized in charts or tables; 3. determine whether two linear equations have parallel or perpendicular graphs; 4. solve systems of inequalities; 5. determine geometric probabilities based on the areas of figures; and 6. compare and contrast linear functions algebraically in terms of their rates of change.
Good
<p>Students at this achievement level generally have exhibited the ability to:</p> <ol style="list-style-type: none"> 1. translate between tabular and algebraic representations of real-life situations; 2. compute simple probabilities; 3. select and use appropriate units of measurement in the metric system; 4. analyze real-life relationships that can be modeled by tables representing linear functions; 5. translate among tabular, algebraic, and function notation in real-life situations; 6. make appropriate translations between verbal and symbolic representations; 7. describe characteristics of parallel lines; 8. calculate combinations and permutations to solve problems; and 9. recognize differences among number systems (e.g., whole numbers and irrational numbers).
Fair
<p>Students at this achievement level generally have exhibited the ability to:</p> <ol style="list-style-type: none"> 1. represent and use linear functions to solve real-life problems; 2. select and use appropriate units of measurement to solve problems; 3. translate between tabular and graphical representations of real-life situations; 4. use appropriate function notation when given a verbal statement; 5. use the graph of a linear equation to describe and interpret slope, intercept, point; and 6. evaluate numerical expressions involving positive exponents.
Needs Improvement
<p>Students at this achievement level are generally working toward the ability to:</p> <ol style="list-style-type: none"> 1. use linear functions to solve real-life problems; 2. select and use appropriate units of measurement to solve problems; and 3. translate between tabular and graphical representations of real-life situations.

B. English II Achievement Level Descriptors

Excellent
<p>Students at this achievement level generally have exhibited the ability to:</p> <ol style="list-style-type: none"> 1. evenly develop and elaborate ideas in written compositions using well-chosen evidence to support the central idea; 2. develop written compositions that demonstrate evidence of planning and a logical progression of ideas; 3. use precise and effective language to establish voice in written compositions; 4. differentiate formal adverb use from colloquial use; 5. determine effects of complex literary elements and devices; 6. interpret literary images to make inferences about meaning; 7. analyze elements of humor and purposes of rhetorical devices; 8. compare literary elements and devices across texts; 9. synthesize information within and across texts to draw conclusions; and 10. evaluate usefulness, relevance, and objectivity of information resources.
Good
<p>Students at this achievement level generally have exhibited the ability to:</p> <ol style="list-style-type: none"> 1. include a clear central idea and use relevant evidence and elaboration in written compositions; 2. use varied vocabulary when writing compositions; 3. include sentences that vary in length and structure when writing compositions; 4. recognize errors in verb tense; 5. derive word meanings from roots, prefixes, and suffixes; 6. recognize how an author's word choice relates to tone and purpose; 7. analyze literary devices to identify recurring themes; 8. make inferences about character motivation based on passage details; 9. examine a sequence of information to determine meaning; 10. make predictions based on information or details provided; and 11. determine appropriateness of research sources.
Fair
<p>Students at this achievement level generally have exhibited the ability to:</p> <ol style="list-style-type: none"> 1. develop written compositions with evidence of conscious organization; 2. include some relevant information when writing compositions; 3. use sentences with some varied beginnings when writing compositions; 4. identify fragments and run-on sentences; 5. recognize basic literary elements and devices; 6. summarize information from grade-appropriate texts; 7. extend ideas in texts by making simple inferences; 8. recognize uses of various research sources; and 9. evaluate results of an online search.
Needs Improvement
<p>Students at this achievement level are generally working toward the ability to:</p> <ol style="list-style-type: none"> 1. develop written compositions with evidence of conscious organization; 2. use sentences with some varied beginnings when writing compositions; 3. summarize information from grade-appropriate texts; 4. extend ideas in texts by making simple inferences; and 5. evaluate results of an online search.

C. Geometry Achievement Level Descriptors

Excellent
Students at this achievement level generally have exhibited the ability to: <ol style="list-style-type: none"> define and use trigonometric ratios to solve problems involving right triangles; understand and apply the Pythagorean Theorem in multi-step problems; solve problems in coordinate geometry involving distances; write equations of parallel lines; and find arc lengths of circles.
Good
Students at this achievement level generally have exhibited the ability to: <ol style="list-style-type: none"> solve multi-step problems using properties of radii, chords, secants, and tangents of a circle; write an equation of a line of best fit; calculate the probability of a simple, conditional event; solve real-world and mathematical problems involving volume and surface area of spheres; build a function that models a relationship between two quantities; perform and/or analyze dilations of geometric figures; use similarity criteria for triangles to solve multi-step problems; and analyze and use proportional relationships to solve real-world and mathematical problems.
Fair
Students at this achievement level generally have exhibited the ability to: <ol style="list-style-type: none"> calculate the volume of a solid when given a diagram; calculate a missing side length using similar triangles; identify a geometric solid when given a set of attributes; describe or interpret patterns in measurement data; derive a rule for a pattern in a number sequence; solve one-step, real-world problems using proportional reasoning; identify the type of transformation performed on a geometric figure; use discrete math (elections, fair games, flow maps, color maps, etc.) and a given set of conditions to determine possible outcomes; and identify a correct informal proof.
Needs Improvement
Students at this achievement level are generally working toward the ability to: <ol style="list-style-type: none"> solve one-step, real-world problems using proportional reasoning; identify the type of transformation performed on a geometric figure; use discrete math (elections, fair games, flow maps, color maps, etc.) and a given set of conditions to determine possible outcomes; and identify a correct informal proof.

D. ...

* * *

E. English III Achievement Level Descriptors

Excellent
Students at this achievement level generally have exhibited the ability to: <ol style="list-style-type: none"> develop essays that integrate well-chosen evidence to support the central idea; produce essays that contain varied and fluent sentences; revise sentences for correct use of subjunctive mood ; determine the main idea when it is implicit in a complex text ; develop conclusions based on information synthesized from the text ; analyze an author’s use of complex literary elements in a text ; evaluate arguments in a complex text; demonstrate an understanding of persuasive techniques; evaluate claims in information resources using evidence; and synthesize information from multiple information resources.

Good
Students at this achievement level generally have exhibited the ability to: <ol style="list-style-type: none"> write essays that are focused and include appropriate elaboration; write essays that include a clear organizational structure and incorporate appropriate vocabulary; revise phrases in a sentence for correct use of parallel structure; draw conclusions based on information stated in a complex text; interpret the author’s use of language in a complex text; determine overall purpose of a complex text; summarize information in a complex text; predict outcomes based on textual evidence; evaluate the usefulness of resources; and determine the reliability or objectivity of information resources.
Fair
Students at this achievement level generally have exhibited the ability to: <ol style="list-style-type: none"> write essays that provide sufficient and relevant evidence and supporting details; write essays that have a consistent voice and varied sentence structure; revise sentences to avoid split infinitives; select a synonym for a given vocabulary word in a text; identify the main idea based on information stated in a text; make simple inferences based on information in a text; use reasoning skills to draw conclusions; determine the meaning of figurative language in a text; identify relevant information from a variety of resources; and use information from graphic organizers.
Needs Improvement
Students at this achievement level are generally working toward the ability to: <ol style="list-style-type: none"> write essays that provide sufficient and relevant evidence and supporting details; revise sentences to avoid split infinitives; identify the main idea based on information stated in a text; use reasoning skills to draw conclusions; and identify relevant information from a variety of resources.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 35:216 (February 2009), amended LR 36:478 (March 2010), LR 37:820 (March 2011), repromulgated LR 37:1123 (April 2011), amended LR 38:36 (January 2012), LR 39:

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.

- Will the proposed Rule affect the stability of the family? No.
- Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.
- Will the proposed Rule affect the functioning of the family? No.
- Will the proposed Rule affect family earnings and family budget? No.
- Will the proposed Rule affect the behavior and personal responsibility of children? No.
- Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Poverty Statement

In accordance with Section 973 of Title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this Section, the word “poverty” means living at or below one hundred percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.
2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? No.
3. Will the proposed Rule affect employment and workforce development? No.
4. Will the proposed Rule affect taxes and tax credits? No.
5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Statement

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental, and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Public Comments

Interested persons may submit written comments via the U. S. Mail until 4:30 p.m., February 8, 2013, to Heather Cope, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Heather Cope
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: **Bulletin 118—Statewide Assessment Standards and Practices**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
The proposed Rule change will have no implementation cost to state or local governmental units. The proposed policy changes edit, revise and update language in the *Statewide Assessment Standards and Practices Bulletin, Bulletin 118*. The new grade 2 statewide assessment was added to Louisiana’s assessment programs’ chart and all achievement level descriptors (ALDs) were revised and edited for English II, English III, Algebra I, and Geometry.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections at the state or local governmental levels.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There should be no effect on costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no impact on competition and employment.

Beth Scioneaux
Deputy Superintendent
1301#071

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 126—Charter Schools
(LAC 28:CXXXIX.2709 and 2711)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 126—Charter Schools: §2709. Enrollment of Students, Lottery, and Waitlist and §2711. Lottery Exemptions*. The policy clarifies enrollment policies provides rules to clarify the enrollment process for families of students in charter schools.

Title 28

EDUCATION

Part CXXXIX. Bulletin 126—Charter Schools

Charter 27. Charter School Recruitment and Enrollment

§2709. Enrollment of Students, Lottery, and Waitlist

A. - J. ...

K. Beginning with the enrollment process to place students for the 2014-2015 school year, all BESE-authorized charter schools (Type 2, Type 4, and Type 5 charter schools) and Type 1B charter schools physically located in Orleans Parish shall participate in the unified enrollment system and expulsion process established by the recovery school district for Orleans Parish, with the exception of virtual charter schools. The department of education shall have discretion to determine on an individual basis whether to require virtual charter schools physically located in Orleans Parish to participate in the unified enrollment system and expulsion process. BESE-authorized charter schools and Type 1B charter schools participating in the unified enrollment system and expulsion process may retain admission requirements, geographic preferences, sibling preferences, and disciplinary regulations unrelated to expulsions, if authorized by law or BESE policy. BESE shall retain authority over the approval of amendments to charter contracts for such Type 2 and Type 4 charter schools for adjustments to grade levels served and enrollment projections. Schools participating in the unified enrollment and expulsion process shall not be permitted to maintain student waitlists.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1374 (July 2008),

amended LR 38:753 (March 2012), repromulgated LR 38:1395 (June 2012), amended LR 38:3120 (December 2012), LR 39:

§2711. Lottery Exemptions

A. ...

B. Students previously enrolled in the charter school and their siblings shall be exempt from a lottery, and shall maintain enrollment or be automatically admitted following the charter school's application period. Students attending a pre-kindergarten or early childhood program operated by a charter school may be considered to have been previously enrolled at the charter school for the purpose of lottery exemptions. Requests by charter schools to apply this lottery exemption for students who attend a publicly-funded program at no cost to the student shall be automatically approved by the LDE for BESE-authorized charter schools, or the charter school's authorizer for other types of charter schools. For a charter school that requests to apply this lottery exemption for students who were admitted to a pre-kindergarten or early childhood program that utilizes admission requirements and/or charges tuition for some or all of its students, the use of the lottery exemption shall be subject to the approval of the LDE for BESE-authorized charter schools, or the charter school's authorizer for other types of charter schools. In such a case, the LDE or the charter school's authorizer, as applicable, shall require the charter school to set enrollment targets that ensure the charter school provides equity of access for at-risk applicants to its kindergarten classes.

C. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1375 (July 2008), amended LR 37:875 (March 2011), LR 39:

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.

Poverty Statement

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact

Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this Section, the word "poverty" means living at or below one hundred percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Statement

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., February 8, 2013, to Heather Cope, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Heather Cope
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Bulletin 126—Charter Schools

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that it will cost approximately \$300 to print and disseminate the proposed action.

The Recovery School District (RSD) established a unified enrollment and expulsion process and is currently operating and managing the process for all Type 5 charter schools in New Orleans. The RSD will be able to manage the process for the small number of additional BESE-authorized charter schools and Type 1B charter schools anticipated in the next few years without any additional cost.

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)

No costs and/or economic benefits are anticipated for 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.

Ting-ting Liang
RSD Executive Director of Finance
1301#072

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 129—The Recovery School District
(LAC 28:CXLV.505)

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 the revision of *Bulletin 129—The Recovery School District: §505. Return of Schools to LEA*. The proposed policy clarifies the process for schools to return to their former local educational agency or an alternate governing authority from the Recovery School District.

**Title 28
EDUCATION**

**Part CXLV. Bulletin 129—The Recovery School District
Chapter 5. Failed Schools**

§505. Return of Schools to LEA

A. - C. ...

D. A non-failing school is eligible for transfer from the jurisdiction of the recovery school district provided it meets all of the following.

1. The school will have been under the jurisdiction of the recovery school district for a minimum of five years as either a direct-run RSD school or a Type-5 charter school. A school shall be considered to have been under the jurisdiction of the RSD for five years when five complete school years have passed since the approval of the transfer to the RSD by BESE, regardless of changing operators or site codes for the school since that time. The decision to transfer will be considered at the earliest during the school's fifth year under the jurisdiction of the RSD, with the proposed transfer occurring at the conclusion of that same school year.

2. The school has earned for the past two consecutive years a school performance score (SPS) of 54.0 or above. If the academically unacceptable school (AUS) bar is raised above 50.0, then the school must have earned for the past two consecutive years a school performance score that is at least 4.0 points above the AUS bar as established by BESE pursuant to the statewide school and district accountability system.

a. Beginning with the return eligibility process beginning in the 2013-14 school year, in order to be eligible to choose to transfer from the jurisdiction of the RSD, schools comprised entirely of grades below ninth grade shall have two consecutive school performance scores based on test data from students actually attending that school, rather than test data from a paired school. For schools comprised entirely of grades above eighth grade, both consecutive school performance scores shall include act data for students actually attending the school, and at least one of the school

performance scores shall include graduation index and graduation rate data for students actually attending the school.

3. The school elects to transfer from the RSD and has notified BESE in writing, no later than December 1 of the year preceding the effective date of the proposed transfer.

a. Type 5 Charter School. The charter school's governing authority, shall take official board action based on a vote of its membership, in accordance with its by-laws, to notify BESE in writing of its desire to transfer from the jurisdiction of the RSD.

b. Direct-Run RSD School. The superintendent of the RSD, in consultation with the parents of students attending the school, and the school's staff, shall make a recommendation to BESE seeking transfer from the jurisdiction of the RSD.

4. No later than January 1 of the school year preceding the effective date of the proposed transfer, BESE shall make a determination whether or not to allow an eligible non-failing school to seek transfer to its former LEA or an AGA. At that time, BESE may require the school to agree to comply with certain requirements prior to the effective date of the proposed transfer.

5. If BESE approves the transfer, the former LEA or the AGA must notify BESE, in writing, whether it has agreed to accept jurisdiction of the transferring school no later than March 1 of the school year prior to the effective date of the proposed transfer.

6. The following parties must agree to the transfer no later than April 1 of the school year preceding the effective date of such transfer:

a. the governing authority of a charter school, if a charter school; or

b. the superintendent of the RSD, if a direct-run RSD school; and

c. BESE; and

d. the recipient LEA or AGA.

E. A direct-run RSD school that is deemed a failing school may be eligible for transfer from the jurisdiction of the recovery school district provided it meets all of the following.

1. The school will have been under the jurisdiction of the recovery school district for a minimum of five years at the conclusion of the school year preceding the effective date of the proposed transfer. A school shall be considered to have been under the jurisdiction of the RSD for five years when five complete school years have passed since the approval of the transfer to the RSD by BESE, regardless of changing operators or site codes for the school since that time. The decision to transfer will be considered at the earliest during the school's fifth year under the jurisdiction of the RSD, with the proposed transfer occurring at the conclusion of that same school year.

2. The school is labeled as in AUS status as defined by the statewide school and district accountability system during its fifth year, or any subsequent year the school remains within the RSD.

3. The school is not undergoing a charter conversion or phase-out, as defined in Subsection J below.

4. The recipient LEA or AGA has agreed to accept the school and has developed a proposal for the school's turnaround.

5. BESE has approved the recipient authority's turnaround proposal for the school.

6. The following parties have agreed to such transfer from the RSD:

- a. the superintendent of the RSD; and
- b. BESE; and
- c. the recipient LEA or AGA.

F. Type 5 Charter Schools. The transfer of a Type 5 charter school from the RSD shall become effective on July 1 of the year following BESE's approval of such transfer.

1. The charter school must negotiate a new charter contract agreement with the recipient authority to become either a Type 3 or Type 4 charter school. A copy of the signed negotiated charter contract agreement must be provided to BESE no later than April 1 preceding the effective date of the proposed transfer. The new charter contract agreement must:

- a. be effective on the date of transfer (July 1);
- b. be consistent with all state and federal laws governing charter school authorization;
- c. contain academic performance standards and other requirements for extension and renewal that are equal to or greater than Type 5 charter school performance standards as enumerated in BESE Bulletin 126;
- d. comply with any transfer conditions previously specified by BESE at the time BESE made the determination to allow the transfer (prior to January 1); and
- e. require any school that participated as a Type 5 charter school in a unified enrollment system and expulsion process established by the Recovery School District pursuant to Bulletin 126 to continue to participate in the unified enrollment system and expulsion process as a Type 3 or Type 4 charter school.

2. Transfer to a Type 3 Charter School. If the charter school elects to become a Type 3 charter school, the non-profit charter organization shall apply to the recipient authority to operate the school. The charter contract agreement must conform to all the laws and requirements governing Type 3 charter schools.

3. Transfer to a Type 4 Charter School. If the charter school elects to become a Type 4 charter school, the recipient authority must apply to BESE to operate the charter school, with the approval from the charter operator. The charter contract agreement must conform to all the laws and requirements governing Type 4 charter schools.

G. - J.4 ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:878 (March 2011), amended LR 38:354 (February 2012), LR 38:1396 (June 2012), LR 39:

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.

Poverty Statement

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this Section, the word "poverty" means living at or below one hundred percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Statement

The impact of the proposed Rule on small businesses as defined in the regulatory flexibility act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., February 8, 2013, to Heather Cope, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Heather Cope
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 129
The Recovery School District**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
The policy revisions serve to clarify and slightly alter the process and eligibility requirements for schools currently under the jurisdiction of the Recovery School District to return to their former local educational agency or an alternate governing authority. Since these revisions are merely changes to the process, the revisions will not result in any additional cost.
- 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)
No costs and/or economic benefits are anticipated for 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
1301#073

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 134—Tuition Donation Rebate Program
(LAC 28:CLV.Chapters 1-13)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement the creation of *Bulletin 134—Tuition Donation Rebate Program*: §101. Purpose, Scope, and Effect, §103. Definitions, §301. Establishment of a School Tuition Organization, §303. Awarding of Scholarships, §307. Prohibition on Claiming Scholarship Payments for Tax Purposes, §309. Amount of Scholarships, §311. Scholarship and Tuition Payments, §313. Refund of Donations, §501. Donations; Qualifications, §503. Donations; Time, §505. Rebates, §701. Financial Information Report; §703. School Tuition Organization Advertising; §705. Annual Report, §707. Budgeting, §901. General Audits and Financial Reviews, §1101. Background Checks, §1103. Enrollment of Scholarship Recipients, §1105. Tuition; §1107. Transfer/Withdrawal of Scholarship Students, §1109. Testing of Scholarship Students, §1111. Surety Bond, and §1301. Required Participation in the State Testing Program. The proposed policy provides Rules to govern the implementation of the Tuition Donation Rebate Program in accordance with R.S. 17:6301. This policy establishes the requirements for Student Tuition Organizations, donors, qualifying nonpublic schools, and families receiving tuition assistance through the program.

**Title 28
EDUCATION**

Part CLV. Tuition Donation Rebate Program

Chapter 1. General Provisions

§101. Purpose, Scope, and Effect

A. The purpose of this policy Rule is to set forth the Rules and regulations necessary to implement the provisions of R.S. 47:6301, which allows rebates for donations a taxpayer makes to a school tuition organization which provides scholarships to qualified students that attend a qualified school.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6301.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:

§103. Definitions

A. The words defined in this Section shall have the meanings set forth below whenever they appear in this policy, unless:

1. the context in which they are used clearly requires a different meaning; or
2. a different definition is prescribed for a particular provision.

Administrative Costs—all costs and expenses associated with the operation of a school tuition organization, including promotional costs and the costs associated with administering state testing, other than scholarship awards. Administrative costs shall not exceed 5 percent of any donation.

Donor—a taxpayer who files a Louisiana income tax return, and who makes a donation to a school tuition organization.

Fiscal Year—the fiscal year for the State of Louisiana.

LDE—Louisiana Department of Education

MFP—Minimum Foundation Program

Parent—a parent, guardian, custodian, or other person with authority to act on behalf of the child.

Qualified School—a nonpublic elementary or secondary school in Louisiana which is approved by the Board of Elementary and Secondary Education (BESE) and which complies with the criteria set forth in *Brumfield, et al. v. Dodd, et al.*, 425 F. Supp 528.

Qualified Student—a child who is a member of a family that resides in Louisiana with a total household income that does not exceed an amount equal to 250 percent of the federal poverty level based on the federal poverty guidelines established by the Federal Office of Management and Budget and is a student who:

1. is entering kindergarten for the first time;
2. was enrolled in a public school in Louisiana on October 1 and February of the most recent school year; or
3. received a scholarship from a school tuition organization for the previous school year.

School Tuition Organization—a tax exempt organization organized under Section 501(c)(3) of the Internal Revenue Code which provides scholarships to qualified students to attend a qualified school, in adherence with the provisions of this Rule and R.S. 47:6301.

Student with a Disability—a student shall be considered to have a disability if such student has been evaluated by a local education agency (LEA) as defined in R.S. 17:1942, is deemed to have a mental disability, hearing impairment (including deafness), multiple disabilities, deaf-blindness, speech or language impairment, visual impairment (including blindness), emotional disturbance, orthopedic impairment, other health impairment, specific learning disability, traumatic brain injury, dyslexia and related disorders, or autism, and as a result requires special education and related services according to an Individualized Education Program (IEP) or a services plan in accordance with Title 34 of the Code of Federal Regulations Part 300.37.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6301.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:

Chapter 3. School Tuition Organizations

§301. Establishment of a School Tuition Organization

A. Each school tuition organization shall notify the Louisiana Department of Education (LDE) of its intent to provide educational scholarships to qualified students attending qualified schools.

B. Each school tuition organization shall provide documentary evidence to the LDE that it has been granted an exemption from federal income tax and is established as an organization described in Section 501(c)(3) of the Internal Revenue Code.

C. No school tuition organization shall employ, or allow as a board member, any person who has been convicted of or has entered a plea of nolo contendere to a crime listed in R.S. 15:587.1.

D. Each school tuition organization shall develop and implement a written policy, consistent with the provisions of R.S. 15:587.1, through which the organization shall determine whether any applicant for employment, employee, or board member, has been arrested for or convicted of or pled nolo contendere to any criminal offense

1. The written policy shall include:

a. the requirement to perform criminal background checks on all applicants for employment, employees and board members according to the provisions of R.S. 15:587.1.;

b. a procedure for the submission of a person's fingerprints, in a form acceptable to the Louisiana Bureau of Criminal Identification and Information (bureau), prior to employment of such person or the appointment of such person as a member of the board.

2. Persons who have submitted fingerprints to the bureau may be temporarily hired pending receipt of the reports from the bureau.

3. Each school tuition organization shall maintain proof of such record checks for the duration of a person's employment and/or membership on the board, and shall be able to provide such records upon request of the LDE.

E. The LDE may bar a school tuition organization from participating in the rebate program if the school tuition organization fails to comply with the requirements of this section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6301.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:

§303. Awarding of Scholarships

A. No scholarship shall be designated, referred to, or in any way named after a private entity, nor shall any donation be earmarked by a donor to provide a scholarship for a particular qualified student or a particular qualified school or group of schools; however, this Paragraph shall not prohibit a donation being earmarked for a student with a disability, students with a particular type of disability, or students with any disability.

B. School tuition organizations shall only use applications approved by the LDE in awarding scholarships to qualified students.

C. School tuition organizations shall award scholarships to qualified students on a first-come, first-serve basis, with priority given to students who received a scholarship in the previous year.

D. School tuition organizations shall provide educational scholarships to students without limiting available scholarships to students of only one qualified school or group of schools.

E. School tuition organizations shall document the eligibility of each qualified student for each year that a qualified student receives a scholarship.

F. School tuition organizations shall provide certification to the LDE that scholarships have been issued within 30 days of issuing the scholarships. This certification shall include:

1. information pertaining to students whom the scholarships were awarded;

2. the nonpublic school these students will use the scholarship for;

3. a list of the taxpayers whose donations to the school tuition organization funded the scholarships; and

4. the amount of each taxpayer's donation used to fund a scholarship.

G. Scholarships granted to qualified students shall be portable during the school year and can be used at any qualifying school that accepts a qualified student. If the parent of a qualified student who is receiving a scholarship desires the student to move to a new qualified school during a school year, the scholarship amount may be prorated.

H. Any qualified student receiving a scholarship from a school tuition organization shall be prohibited from receiving any other publicly funded scholarship, voucher, or other form of financial assistance specific to that student for purposes of attending a nonpublic school.

I. A qualified student may receive scholarships from multiple school tuition organizations the total amount of which may not exceed the lesser of actual tuition or:

1. 80 percent of the state average MFP per pupil funding amount for the previous year in the case of a qualified student enrolled in kindergarten through eighth grade; or

2. 90 percent of the state average MFP per pupil funding amount for the previous year in the case of a qualified student enrolled in ninth through twelfth grade.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6301.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 39:

§307. Prohibition on Claiming Scholarship Payments for Tax Purposes

A. Any parent who receives scholarship payments in accordance with the provisions of this Rule or R.S. 47:6301 shall not be allowed to claim the amount received as any other credit, deduction, exemption, or rebate under Title 47 of the Louisiana Revised Statutes of 1950.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6301.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:

§309. Amount of Scholarships

A. The amount of scholarships awarded by a school tuition organization shall equal the amount of donations the organization receives from taxpayers, minus allowable administrative or promotional costs. No less than 95 percent of the monies received by the school tuition organization from taxpayer donations for scholarships shall be used to provide scholarships to students for attendance at a qualified nonpublic school of their parent's choice.

B. The maximum amount for a scholarship provided by the school tuition organization to a qualified student in kindergarten through eighth grade shall not exceed actual tuition and mandatory fees or 80 percent of the state average MFP per pupil funding amount for the previous year, whichever is less.

C. The maximum amount for a scholarship for a qualified student in ninth through twelfth grades shall not exceed actual tuition and mandatory fees or 90 percent of the state average MFP per pupil funding amount for the previous year, whichever is less.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6301

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:

§311. Scholarship and Tuition Payments

A. School tuition organizations shall distribute scholarship payments in September, December, February, and May of each year as checks made out to a parent of a qualified student that are mailed to the qualifying school where the student is enrolled. The parent shall restrictively endorse each check for deposit into the account of the school. The parent shall not designate any entity or individual associated with the school as the parent's attorney to endorse a scholarship check.

B. Upon receipt of notification from a qualified school that a student who has received a scholarship has ceased to be enrolled in the school, the student tuition organization shall cease making payments to the school for that student.

C. The LDE shall verify that each qualified student has received scholarships not to exceed the lesser of actual tuition and fees at the qualified school or 80 percent of the state average MFP per pupil funding amount for the previous year in the case of a qualified student enrolled in kindergarten through eighth grade, or 90 percent of the state average MFP per pupil funding amount for the previous year in the case of a qualified student enrolled in ninth through twelfth grade. If the total amount of scholarships received by a qualified student has exceeded one of these amounts, as applicable, the school tuition organization that awarded the scholarship that caused the student's total scholarship amount to exceed this amount shall refund the state the difference.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6301.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Education, LR 39:

§313. Refund of Donations

A. If, at the end of the State's fiscal year, a donor requests a refund of unexpended funds from his donation, the school tuition organization shall reimburse the donor the full amount of unexpended funds otherwise available to be used on scholarships, exclusive of funds available for administrative costs. If the donor does not elect to receive a refund, the school tuition organization may retain and carry forward the funds indefinitely or for a shorter period of time if so indicated by the donor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6301.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:

Chapter 5. Donations to School Tuition Organizations and Rebates

§501. Donations; Qualifications

A. There shall be a rebate allowed for donations made by taxpayer during a taxable year to a school tuition organization which provides scholarships to qualified students to attend a qualified school.

B. To qualify for a rebate pursuant to R.S. 47:6301, the donor must be a taxpayer who files a Louisiana income tax return.

C. The LDE shall certify and issue a receipt to a taxpayer indicating the actual amount of the taxpayer's donation to a school tuition organization which was used to fund a scholarship after all of the requirements of this Rule have been satisfied.

D. The Department of Revenue shall provide a standardized format for the receipt to be issued by the LDE to a school tuition organization. The Department of Revenue shall require a taxpayer to provide a copy of the receipt when claiming the rebate authorized by this Rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6301.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Education, LR 39:

§503. Donations; Time

A. Upon making a donation to a school tuition organization, the donor shall indicate the duration of time which the school tuition organization may retain and carry forward the donation. The time may be indicated as being in perpetuity or for a stated period of time coinciding with a fiscal year of the state of Louisiana, the minimum of which shall not be less than 12 months or one fiscal year, whichever occurs later.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6301.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:

§505. Rebates

A. In order for a donation to qualify for the rebate, the donation shall be used by the school tuition organization to provide scholarships for tuition and fees for students to attend a qualified school in accordance with the provisions of this Rule and R.S. 47:6301.

B. The amount of the rebate to the donor shall be equal to the actual amount of the taxpayer's donation used by a

school tuition organization to fund a scholarship to a qualified student, which shall not include administrative costs.

C. The rebate may be paid only after the conclusion of the school year and only when all of the following requirements have been satisfied:

1. The school tuition organization certifies to the LDE that the donation made by the taxpayer has funded a scholarship for a qualified student.

2. The LDE verifies that the student was not enrolled in a public school in Louisiana on 1 or February 1 of that school year. If the qualified student is enrolled in public school on February 1 of that school year, the amount of the rebate shall be equal to the actual amount expended by the school tuition organization on scholarships, which shall not include administrative costs and shall be prorated as applicable.

3. The LDE transmits an electronic file to the Department of Revenue verifying that the LDE has issued taxpayer receipts. The electronic file should include the following information for each receipt:

- a. the date the LDE issued the receipt;
- b. the name and social security number or Louisiana taxpayer identification number of each taxpayer; and
- c. the amount of each taxpayer's donation that funded student scholarships for the previous school year.

4. The taxpayer completes a rebate form, provided by the Department of Revenue, and submits both that form and the LDE-issued receipt to the Department of Revenue.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6301.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:

Chapter 7. School Tuition Organization Fiscal and Advertising Responsibilities

§701. Financial Information Report

A. Each school tuition organization shall prepare a financial information report that complies with uniform financial accounting standards, to be submitted to the LDE by the deadline set by the LDE each year. The report shall be prepared by a certified public accountant and shall be submitted to the LDE. The report shall contain a certification from an auditor that the report is free of material misstatements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6301.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:

§703. School Tuition Organization Advertising

A. Each school tuition organization shall adequately advertise the availability of scholarships to the public, with an emphasis on notifying parents of students in public schools that received a letter grade of "D" or "F."

B. School tuition organizations must perform at least the following activities to adequately advertise the availability of scholarships to the public, with an emphasis on notifying parents of students in public schools that received a letter grade of "D" or "F":

1. advertise scholarship availability on the school tuition organization's website;
2. host at least one public information session regarding scholarship availability in proximity to a "D" or "F" public school; and

3. on a per parish basis, advertise scholarship availability to parents of students of "D" and "F" school at least equally to parents of students of "A", "B", and "C" schools.

C. For school tuition organization to adequately advertise the availability of scholarships to the public, all school tuition organization advertisements must:

1. specify the monetary amount of student scholarships;
2. indicate scholarship availability on a first-come, first-serve basis, with priority given to students who received a scholarship in the previous year;
3. provide scholarship application instructions and deadlines;
4. provide the school tuition organization's contact information; and
5. indicate student eligibility requirements.

D. For school tuition organization to adequately advertise the availability of scholarships to the public, all school tuition organization advertisements must not:

1. discriminate against students for any reason, including, but not limited to, race or ethnicity, religion, academic performance, students with a disability, or gender;
2. guarantee enrollment to any nonpublic school;
3. indicate preference for any nonpublic school;
4. indicate that a school tuition organization's student application directly affects the status of a student's application for participation in the Student Scholarships for Educational Excellence Program; or
5. contradict any other requirement listed in R.S. 47:6301 or this policy Rule.

F. School tuition organizations are required to submit all advertisements intended to communicate with external stakeholders, including donors, families, and nonpublic schools, to the LDE within thirty working days of when the advertisement was first used. The LDE will review the advertisement for conformity with policy and statute. Such review will include but not be limited to the completeness and accuracy of any information regarding the timeframes and tax implications of making a donation. If the advertisement presents information that does not conform with policy and statute, then the LDE may require the school tuition organization to make appropriate changes to the advertisement.

G. The LDE may bar a school tuition organization from participating in the rebate authorized under this Rule if the school tuition organization fails to comply with the advertising Rules and regulations promulgated by the LDE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6301.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:

§705. Annual Report

A. Each school tuition organization shall annually provide a public report to the LDE that contains information regarding all scholarships awarded or granted in the previous fiscal year. The report shall be prepared by a certified public accountant and shall be submitted to the department no later than the first day of January each year. The report shall contain:

1. the name and address of the school tuition organization;

2. the total number and total dollar amount of donations received during the previous fiscal year;

3. the total number and total dollar amount of educational scholarships awarded to qualified students;

4. the total amount expended on administrative costs;

5. the percentage breakdown of donations expended on scholarship and administrative costs during the previous fiscal year;

6. the actual tuition and fee amounts published by the qualifying schools which enrolled a student with a scholarship from that school tuition organization;

7. the total amount of donations received by the school tuition organization;

8. the total amount of donations made by each donor during the previous calendar year;

9. the amount of each taxpayer's donations expended on scholarships during the previous school year; and

10. the social security number or Louisiana taxpayer identification number of each donor.

B. Each school tuition organization and the LDE shall redact all social security numbers before publicly releasing any annual report.

C. The LDE shall provide the Department of Revenue with copies of all such reports by February 1 of each year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6301.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:

§707. Budgeting

A. No more than 5 percent of any donation shall be used by the school tuition organization for administrative or promotional costs.

B. Each school tuition organization shall provide for the administration of the state tests associated with the school and district accountability system to those participating students to whom it has awarded scholarships in grades that require testing under the state's accountability and testing laws for public schools. Such costs shall not be included as part of any scholarship award.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6301.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:

Chapter 9. Review of School Tuition Organizations

§901. General Audits and Financial Reviews

A. The LDE may conduct a general or specific audit or a financial review or audit of a school tuition organization as deemed necessary by the LDE. The LDE may bar a school tuition organization from participating in the rebate authorized under this Section if the school tuition organization intentionally or substantially fails to comply with the requirements of this Rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6301.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:

Chapter 11. Qualified Schools

§1101. Background Checks

A. Each qualified school must conduct criminal background checks on its employees in compliance with La. R.S. 17:15 and exclude from employment any person not permitted by state law to work in a nonpublic school. The LDE may bar an otherwise qualified school from

participating in the rebate authorized under this Rule if the otherwise qualified school fails to comply with the requirements of R.S. 17:15.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6301.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:

§1103. Enrollment of Scholarship Recipients

A. Qualified schools shall admit qualified students for enrollment based on the letter grade of the public school for which the qualified student was attending or would have attended. Qualified students from public schools that received a letter grade "F" or "D," or any variation thereof, shall be given the first priority.

B. If more first-time qualified students who are otherwise eligible apply than there are seats available, the school shall conduct a random selection process that ensures all qualified and otherwise eligible students an equal chance for admission; however, the qualified school may give preference for the following:

1. siblings of students already enrolled in the qualified school; and

2. qualifying students who had previously enrolled at a different qualified school and who are otherwise eligible.

C. Enrollment of scholarship recipients in a school qualified under the provisions of this chapter and under the provisions of the Student Scholarships for Educational Excellence Program that has been approved for less than two years shall not exceed 20 percent of such school's total student enrollment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6301.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:

§1105. Tuition

A. Qualified schools enrolling participating students shall not charge a higher total tuition and fee amount to a qualified student than is charged to all students enrolled at the school.

B. Each qualified school enrolling participating students shall annually provide to each school tuition organization that has provided a scholarship to a student enrolled in that school, the actual tuition and fee amounts charged to all students.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6301.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:

§1107. Transfer/Withdrawal of Scholarship Students

A. If a student who has received a scholarship ceases to be enrolled in a qualified school, the school shall immediately notify the respective student tuition organization and the LDE that the student is no longer enrolled.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6301.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:

§1109. Testing of Scholarship Students

A. Using funds retained for administrative costs by the school tuition organization, schools enrolling participating students shall annually administer the state test associated with the school and district accountability system to measure

learning gains in math and language arts to such students in grades that require testing under the state's accountability and testing laws for public schools.

B. The LDE shall not incur any expense for the administration of the state tests to students applying for tuition scholarships from a school tuition organization.

C. The qualified school shall provide the parents of each student who was tested a copy of the student's test results on an annual basis, beginning with the first year the student is tested.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6301.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:

§1111. Surety Bonds

A. Any qualified school that receives more than \$50,000 in scholarship donations from a school tuition organization shall demonstrate its financial viability by filing, prior to the start of a school year, a surety bond payable to the school tuition organization in an amount equal to the aggregate amount of donations expected to be received during the school year or by filing, prior to the start of a school year, financial information with the qualified school tuition organization demonstrating its financial viability. However, a qualified school that has been in business for more than five years shall not be required to post a surety bond.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6301.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:

Chapter 13. Testing

§1301. Required Participation in the State Testing Program

A. Nonpublic schools that enroll scholarship recipients in grade levels with mandatory state accountability testing in math or English shall:

1. develop and submit annually to the LDE a test security policy approved by its board in compliance with Bulletin 118, Chapter 3;
2. follow BESE's test security policy as stated in Bulletin 118;
3. name a school test coordinator and provide contact information to the LDE;
4. be responsible for all required accountability and demographic coding of testing documents; and
5. investigate and report any testing irregularities and/or violations of test security to the department.

B. The school test coordinator for the participating nonpublic school shall attend the pretest workshop designed for the participating nonpublic schools as well as any additional training required to administer the state tests.

1. The school test coordinator shall provide to the LDE with a valid work email address. Personal email addresses (Yahoo, Hotmail, Google, etc.) will not be accepted.

2. When the school test coordinator changes, the participating nonpublic school shall provide the name and contact information of the new school test coordinator to the LDE on school letterhead within 15 days of the change in appointment;

C. The LDE staff shall have the authority to:

1. monitor the implementation of the state testing;
2. require changes to the test security policy as it deems necessary;
3. require changes to the testing plan as it deems necessary;
4. conduct site visits during testing; and
5. conduct an investigation into testing irregularities and/or violations, and void any scores deemed to be invalid.

D. The LDE staff shall:

1. notify participating nonpublic schools of any new requirements in state testing; and
2. evaluate annually the testing plan to ensure full compliance with policies and procedures

E. The LEA shall not test any students enrolled in participating nonpublic schools unless there is a written agreement between the LEA and the participating nonpublic school to this effect. No LEA shall ever be required to test students attending the participating nonpublic schools under the Tuition Donation Rebate program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6301.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:

§1303. Annual Report on Program Implementation

A. The LDE shall compile a public report which lists the name of all qualified schools receiving scholarship recipients pursuant to the provisions of this Rule, the number of scholarship recipients attending each qualified school, and the results of the state's accountability and testing laws for scholarship recipients in each grade.

B. The LDE shall release the public report on the LDE's website the same time the LDE traditionally releases reports regarding individual school performance on state tests.

C. State test scores will be reported publicly for the entirety of the students participating in the tuition donation rebate program in accordance with the federal FERPA statute (20 U.S.C. 1232g) and regulations (34 C.F.R. 99.1 et seq.). The LDE shall not include the name or any other identifying information for individual students.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6301.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:

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.

Poverty Statement

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this Section, the word "poverty" means living at or below one hundred percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Statement

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., February 8, 2013, to Heather Cope, State Board of Elementary and Secondary Education, P. O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Heather Cope
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **Bulletin 134** **Tuition Donation Rebate Program**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed policy revision will establish the framework by which the tuition donation rebate program will be implemented and operate. The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy. In addition, the Department of Education and Department of Revenue will incur administrative costs related to the program. The costs will depend upon the magnitude of the program and will likely

increase when the program is fully implemented which will increase the workload of current department employees.

To the extent students choose to participate in the program and receive a scholarship through the Tuition Donation Rebate Program, Minimum Foundation Program (MFP) student counts and therefore expenditures (average per pupil expenditure is \$5,031) will be lower than they would otherwise be.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

To the extent that individuals or businesses make contributions to school tuition organizations and claim reimbursement, payments will be made by the Department of Revenue before deposit of tax collections into the state treasury and charged against gross state tax collections. Net collections available for deposit in the state treasury will be reduced. The degree of contributions and reimbursement claims is speculative at this point, but could be several million dollars when the program is fully implemented.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Students from families with a household income under 250 percent of the federal poverty level are eligible to receive tuition assistance to attend nonpublic schools through the Tuition Donation Rebate program of up to 80 percent of state MFP per pupil funding for students in elementary and middle school and 90 percent of state MFP per pupil funding for students in high school.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1301#074

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 135—Health and Safety
(LAC 28:CLVII.Chapters 1 and 3)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement *Bulletin 135—Health and Safety*. Policies relating to student health and safety were removed from *Bulletin 741—Louisiana Handbook for School Administrators* to create *Bulletin 135—Health and Safety*. The creation of this bulletin will assist educators and health professionals in providing for the health and safety of students. Pursuant to R.S. 17:436.3, Sections 305 and 307 of this proposed Rule are being jointly promulgated by the Board of Nursing and the Board of Elementary and Secondary Education.

Title 28 EDUCATION

Part CLVII. Bulletin 135—Health and Safety

Chapter 1. Foreword

§101. Purpose

A. This bulletin contains policies passed by the Board of Elementary and Secondary Education (BESE) regarding the health and safety of students while at school, traveling on school transportation, and at school sponsored events.

B. Sections of this bulletin have been jointly promulgated by the Louisiana State Board of Nursing (LSBN) and BESE. Any waivers, deletions, additions, amendments, or alterations to policies within those sections shall be approved by both BESE and LSBN.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:

Chapter 3. Health

§301. Health Screening

A. Every LEA, during the first semester of the school year or within 30 days after the admission of any students entering the school late in the session, shall test the sight, including color screening, for all first grade students, and hearing of each and all students under their charge, except those students whose parent or tutor objects to such examination. Such testing shall be conducted by appropriately trained personnel, and shall be completed in accordance with the schedule established by the American Academy of Pediatrics.

B. Upon the request of a parent, student, school nurse, classroom teacher, or other school personnel who has reason to believe that a student has a need to be tested for dyslexia, that student shall be referred to the school building level committee for additional testing. Local school systems may provide for additional training for school nurses to aid in identifying dyslexic students. Refer to §1123 in *Bulletin 741—Louisiana Handbook for School Administrators*.

C. The LEA shall keep a record of such examination, shall be required to follow up on the deficiencies within 60, and shall notify in writing the parent or tutor of every student found to have any defect of sight or hearing. A written report of all such examinations shall be made to the state superintendent of education but shall not be made available to the public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:2112.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:

§303. Immunizations

A. Each student entering any school within the state for the first time, at the time of registration or entry, shall present satisfactory evidence of immunity to or immunization against vaccine-preventable diseases according to a schedule approved by the Office of Public Health (OPH), Department of Health and Hospitals (DHH), or shall present evidence of an immunization program in progress. Each person entering the sixth grade in any school within the setate shall present satisfactory evidence of immunity to or immunization against vaccine preventable diseases according to a schedule approved by the Office of Public Health, Department of Health and Hospitals, or shall present evidence of an immunization program in progress.

1. The schedule shall include, but not be limited to measles, mumps, rubella, diphtheria, tetanus, whooping cough, poliomyelitis, and hemophilus influenzae Type B invasive infections.

2. The schedule may provide specific requirements based on age, grade in school, or type of school. At its own discretion and with the approval of the OPH, an educational institution or licensed day care center may require immunizations or proof of immunity more extensive than

required by the schedule approved by the office of public health.

B. A student transferring from another LEA in or out of the state shall submit either a certificate of immunization or a letter from his personal physician or a public health clinic indicating immunizations against the diseases in the schedule approved by the office of public health having been performed, or a statement that such immunizations are in progress.

C. If booster immunizations for the diseases enumerated in the schedule approved by the office of public health are advised by that office, such booster immunizations shall be administered before the student enters a school system within the state.

D. School administrators shall be responsible for checking students' records to see that the provisions of this Section are enforced and electronically transmit immunization compliance reports to the OPH through the Louisiana Immunization Network for Kids Statewide (LINKS) when the school operates an existing student-specific electronic data system.

E. No student seeking to enter any school shall be required to comply with the provisions of this Section if the student or the student's parent or guardian submits either a written statement from a physician stating that the procedure is contraindicated for medical reasons, or a written dissent from the student or his parent or guardian is presented.

F. In the event of an outbreak of a vaccine-preventable disease at the location of a school, the principal is empowered, upon the recommendation of the, OPH to exclude from attendance unimmunized students until the appropriate disease incubation period has expired or the unimmunized person presents evidence of immunization.

G. Meningococcal Disease; Information; Immunization

1. LEAs that provide information relative to immunizations are required to provide parents and/or guardians with information relative to the risks associated with meningococcal disease. The information shall include the availability, effectiveness and known contraindications of immunization against this disease, causes and symptoms of the disease, how the disease is spread, and places where a student may be immunized and where parents may obtain additional information. Information shall be updated annually if new information is available.

2. Students entering sixth grade shall provide evidence of current immunization against meningococcal disease as a condition of entry into the sixth grade at any school in the state.

3. A student who is eleven years old and is entering a grade other than the sixth grade shall provide satisfactory evidence of current immunization against meningococcal disease as a condition of entry into such grade at any school in the state.

4. A student who is eleven years old and is participating in an approved home study program pursuant to R.S. 17:236.1 shall provide satisfactory evidence of current immunization against meningococcal disease to BESE, as required.

5. The provisions of Paragraphs 2-4 of this Subsection shall not apply to students whose parent or legal guardian have submitted either a signed waiver stating that the student shall not be immunized against meningococcal disease for

personal reasons, a written statement from a physician stating that the immunization is contraindicated for medical reasons, or a written explanation indicating the student is unable to comply due to a shortage of available vaccines against meningococcal disease.

6. The administrator of each school is responsible for checking students' records to ensure that the provisions of this Section are enforced.

H. Human Papillomavirus

1. Each LEA that provides information relative to immunizations shall provide to the parent or legal guardian of each student in grades six through twelve information relative to the risks associated with human papillomavirus and the availability, effectiveness, and known contraindications of immunizations against human papillomavirus.

2. This information will be provided by the LDE and updated annually if new information on human papillomavirus becomes available.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:170, R.S. 17:170.2, R.S. 17:170.2, and R.S. 17:170.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:

§305. Administration of Medication

A. Administration of Medication

1. Each local educational governing authority shall establish guidelines based upon the joint policy of BESE and the Louisiana State Board of Nursing for the administration of medications which shall include but not be limited to the following provisions.

2. Any waivers, deletions, additions, amendments, or alterations to this joint policy shall be approved by both boards.

B. Written Orders, Appropriate Containers, Labels and Information

1. Medication shall not be administered to any student without an order from a Louisiana, or adjacent state, licensed physician or dentist, and it shall include the following information:

- a. the student's name;
- b. the name and signature of the physician/dentist;
- c. the physician/dentist's business address, office phone number, and emergency phone numbers;
- d. the frequency and time of the medication;
- e. the route and dosage of the medication; and
- f. a written statement of the desired effects and the child specific potential of adverse effects.

2. Medication shall be provided to the school by the parent or guardian in the container that meets acceptable pharmaceutical standards and shall include the following information:

- a. name of pharmacy;
- b. address and telephone number of pharmacy;
- c. prescription number;
- d. date dispensed;
- e. name of student;
- f. clear directions for use, including the route, frequency, and other as indicated;
- g. drug name and strength;
- h. last name and initial of pharmacist;
- i. cautionary auxiliary labels, if applicable; and
- j. physician's or dentist's name.

3. Labels of prepackaged medications, when dispensed, shall contain the following information in addition to the regular pharmacy label:

- a. drug name;
- b. dosage form;
- c. strength;
- d. quantity;
- e. name of manufacturer and/or distributor; and
- f. manufacturer's lot or batch number.

C. Administration of Medication—General Provisions

1. During the period when the medication is administered, the person administering the medication shall be relieved of all other duties. This requirement does not include the observation period required in Paragraph C.5.

2. Except in the case of a trained unlicensed diabetes care assistant administering diabetes medications or in life threatening situations, trained unlicensed school employees may not administer injectable medications.

3. All medications shall be stored in a secured locked area or locked drawer with limited access except by authorized personnel.

4. Only oral medications, inhalants, topical ointments for diaper rash, and emergency medications shall be administered at school by unlicensed personnel.

5. Each student shall be observed by a school employee for a period of 45 minutes following the administration of medication. This observation may occur during instruction time.

6. School medication orders shall be limited to medication which cannot be administered before or after school hours.

D. Principal

1. The principal shall designate at least two employees to receive training and administer medications in each school.

E. Teacher

1. The classroom teacher who is not otherwise previously contractually required shall not be assigned to administer medications to students.

2. A teacher may request in writing to volunteer to administer medications to his/her own students.

3. The administration of medications shall not be a condition of employment of teachers employed subsequent to July 1, 1994.

4. A regular education teacher who is assigned an exceptional student shall not be required to administer medications.

F. School Nurse

1. The school nurse, in collaboration with the principal, shall supervise the implementation of the school policies for the administration of medications in schools to insure the safety, health, and welfare of the students.

2. The school nurse shall be responsible for the training of non-medical personnel who have been designated by each principal to administer medications in each school. The training shall be at least six hours and include but not be limited to the following provisions:

- a. proper procedures for administration of medications including controlled substances;
- b. storage and disposal of medications;
- c. appropriate and correct record keeping;

d. appropriate actions when unusual circumstances or medication reactions occur; and

e. appropriate use of resources.

3. No employee other than a registered nurse, licensed medical physician, an appropriate licensed health professional, or hired and trained unlicensed nursing personnel or unlicensed assistive personnel as defined by the Louisiana State Board of Nursing shall be required to perform an outside tracheotomy suctioning procedure on any child in an education setting. However, nothing shall prohibit an employee who volunteers to perform such procedure and who complies with the training and demonstration requirement from being allowed to perform such procedure on a child in an educational setting.

G. Parent/Guardian

1. The parent/guardian who wishes medication administered to his/her student shall provide the following.

a. A letter of request and authorization that contains the following information:

- i. name of the student;
- ii. clear instructions;
- iii. prescription number, if any;
- iv. current date;
- v. name, degree, frequency, and route of medication;
- vi. name of physician or dentist;
- vii. printed name and signature of parent or guardian;
- viii. emergency phone number of parent or guardian; and
- ix. statement granting or withholding release of medical information.

b. Written orders for all medications to be given at school, including annual renewals at the beginning of the school year.

c. A prescription for all medications to be administered at school, including medications that might ordinarily be available over the counter.

d. A list of all medications that the student is currently receiving at home and school, if that listing is not a violation of confidentiality or contrary to the request of the parent/guardian or student.

e. A list of names and telephone numbers of persons to be notified in case of medication emergency in addition to the parent or guardian and licensed prescriber.

f. Arrangements for the safe delivery of the medication to and from school in the original labeled container as dispensed by the pharmacist; the medication shall be delivered by a responsible adult.

g. Unit dose packaging shall be used whenever possible.

2. All aerosol medications shall be delivered to the school in premeasured dosage.

3. No more than a 35 school day supply of medication shall be kept at school.

4. The initial dose of a medication shall be administered by the student's parent/guardian outside the school jurisdiction with sufficient time for observation for adverse reactions.

5. The parent/guardian shall also work with those personnel designated to administer medication as follows:

a. cooperate in counting the medication with the designation school personnel who receives it and sign a drug receipt form;

b. cooperate with school staff to provide for safe, appropriate administration of medications to students, such as positioning, and suggestions for liquids or foods to be given with the medication;

c. assist in the development of the emergency plan for each student;

d. comply with written and verbal communication regarding school policies;

e. grant permission for school nurse/physician consultation; and

f. remove or give permission to destroy unused, contaminated, discontinued, or out-of-date medications according to the school guidelines.

H. Student Confidentiality

1. All student information shall be kept confidential.

NOTE: There is a set of guidelines developed by an Administration of Medication Task Force and approved by the State Board of Nursing, which may be used by LEAs in developing their local administration of medication guidelines. These guidelines are available upon request in the BESE office.

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

a. written authorization for the student to carry and self-administer such prescribed medications;

b. written certification from a licensed medical physician or other authorized prescriber that the student:

- i. has asthma or is at risk of having anaphylaxis;
- ii. has received instruction in the proper method of self administration of the student's prescribed medications to treat asthma or anaphylaxis;

c. written treatment plan from the student's licensed medical physician or authorized prescriber for managing asthma or anaphylactic episodes. The treatment plan must be signed by the student, the student's parent or other legal guardian, and the student's licensed medical physician or other authorized prescriber and shall also contain the following information:

i. the name, purpose, and prescribed dosage of the medications to be self-administered;

ii. the time or times the medications are to be regularly administered and under what additional special circumstances the medications are to be administered;

iii. the length of time for which the medications are prescribed;

d. any other documentation required by the governing authority of the public elementary or secondary school.

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

3. The governing authority of the public elementary and secondary school shall inform the parent or other legal

guardian of the student in writing that the school and its employees shall incur no liability as a result of any injury sustained by the student from the self-administration of medication used to treat asthma or anaphylaxis. The parent or legal guardian of the student shall sign a statement acknowledging that the school shall incur no liability and that the parent or other legal guardian shall indemnify and hold harmless the school and its employees against any claims that may arise relating to the self-administration of medications used to treat asthma or anaphylaxis.

4. For the purposes of the Subsection:

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

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

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

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

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

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

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education and the Louisiana State Board of Nursing, LR 39:

§307. Diabetes Management and Treatment

NOTE: This Rule was developed in coordination with the Louisiana State Board of Nursing (LSBN). Any waivers, deletions, additions, amendments, or alterations to this policy shall be approved by both BESE and LSBN.

A. Diabetes Treatment Plans

1. Any public elementary or secondary school student who seeks care for his diabetes while at school or participating in a school related activity shall submit a diabetes management and treatment plan on an annual basis.

2. Such plan shall be developed by a physician licensed in Louisiana or adjacent state, or other authorized health care prescriber licensed in Louisiana who is selected by the parent or guardian to be responsible for such student's diabetes treatment.

3. The diabetes management plan shall be kept on file in the school in which the child is enrolled and shall include:

a. an evaluation of the student's level of understanding of his condition and his ability to manage his diabetes;

b. the diabetes-related healthcare services the student may receive or self-administer at school or during a school-related activity;

c. a timetable, including dosage instructions, of any diabetes medications to be administered to the student or self-administered by the student; and

d. the signature of the student (if age appropriate), the student's parent or legal guardian, and the physician or other authorized health care prescriber responsible for the student's diabetes treatment.

4. The plan shall be submitted annually to the principal or appropriately designated school personnel:

a. prior to or within five school days after the beginning of each school year;

b. upon enrollment, if the student enrolls in the school after the beginning of the school year;

c. as soon as practicable following the student's receipt of a diagnosis of diabetes; or

d. as warranted by changes in the student's medical condition;

5. The school nurse will be given not less than five school days to develop the Individualized Healthcare Plan (IHP) and shall implement the IHP within 10 school days upon receipt of the diabetes treatment plan.

a. The school nurse must assess the stability of the student's diabetes both at home and in the school setting prior to the development of the IHP for care in the school setting.

6. The parent or legal guardian shall be responsible for all care related to the student's diabetes management and treatment plan until:

a. the IHP is developed;

b. the parents or legal guardian have agreed and signed; and

c. the diabetes management and treatment plan is put into place by the school nurse.

7. The school nurse shall be responsible for implementing and/or supervising the diabetes management and treatment plan for the student on campus, during school related activities, and during school related transportation of the student for the current year.

B. Provision of Care—General Information

1. Upon receipt of the diabetes management and treatment plan, the school nurse shall conduct a nursing assessment of the student in his educational environment and develop the IHP.

2. The school nurse shall provide care to a student with diabetes, or assist a student with the self-care of his diabetes, in accordance with the student's diabetes management and treatment plan and IHP.

3. Diabetes management and treatment shall be provided to a student with diabetes during the school day and any school related activity. School related activities include but are not limited to extra curricular activities and sports.

4. No physician, nurse, school employee, school, or school district shall be liable for civil damages or subject to disciplinary action under professional licensing regulation or

school disciplinary policies as a result of the activities of an unlicensed diabetes care assistant.

a. Exception: If a professional licensing board has cause to believe that a licensee, within its jurisdiction, improperly trained an unlicensed diabetes care assistant or improperly assessed the ability of an unlicensed diabetes care assistant to perform his or her designated functions, then the professional licensing board may bring disciplinary action against the licensee.

5. With written permission from a student's parent or legal guardian, a school may provide a school employee with responsibility for providing transportation or supervision of a student with diabetes during an off-campus activity with an information sheet that provides the following information:

- a. the identity of the student;
- b. a description of potential emergencies that may occur as a result of the student's diabetes and the appropriate responses to such emergencies; and
- c. the telephone number of the person(s) to be contacted in case of an emergency.

C. Unlicensed Diabetes Care Assistants—General Information

1. The use of unlicensed diabetes care assistants is optional. Schools shall not be required to utilize unlicensed diabetes care assistants.

2. An unlicensed diabetes care assistant is defined as a school employee who is not a healthcare professional, who is willing to complete training requirements established by this rule, and is determined competent by the school nurse to provide care and treatment to students with diabetes.

3. A school employee shall not be subject to any penalty or disciplinary action for refusing to volunteer or serve as an unlicensed diabetes care assistant.

4. If a school chooses to use unlicensed diabetes care assistants to provide care for students with diabetes at school or during a school-related activity, all of the rules of this section shall be followed.

5. Supervision requirements for unlicensed diabetes care assistants shall be as follows:

a. Unlicensed diabetes care assistants may serve under the supervision of the school nurse or school principal for diabetes management care.

b. Unlicensed diabetes care assistants shall serve under the supervision of a school nurse for medication administration.

i. Where a school nurse is not physically present, he or she must be available by phone and within a reasonable mile radius for immediate access to the school.

6. Protocols for administration of medication for the treatment of diabetes shall be consistent with Bulletin 741, §1129.

D. Role of Unlicensed Diabetes Care Assistants

1. An unlicensed diabetes care assistant may provide diabetes care to a student only in accordance with the student's diabetes management and treatment plan.

a. The student's parent or legal guardian must sign an agreement authorizing such care.

b. The agreement must be on file with the school.

2. An unlicensed diabetes care assistant, in accordance with the diabetes management and treatment plan on file for a student, may provide diabetes care to a student, or assist a student in the self-care of his diabetes by:

a. checking and recording blood glucose and ketone levels;

b. responding to blood glucose and ketone levels;

c. administering emergency treatment as prescribed in the student's diabetes treatment plan and/or IHP;

d. following carbohydrate counting guidelines established by the school district or school; and

e. following medication administration protocols established by the school district or school.

3. Methods for training unlicensed diabetes care assistants include:

a. at least six hours of diabetes management and treatment instruction;

b. at least five return demonstrations of 100% skill competency; and

c. annual skill competency demonstration.

4. The unlicensed diabetes care assistant must be monitored by the school nurse for compliance of treatment plan and skill level.

5. The unlicensed diabetes care assistant must notify the school nurse of any changes in the status of the student.

6. During the specific time spent on management and/or treatment of the student with diabetes, the unlicensed diabetes care assistant shall be relieved of all other duties.

7. In performance of their duties, unlicensed diabetes care assistants shall be exempt from any applicable state law or rule that restricts the activities that may be performed by a person who is not a healthcare professional.

E. The Role of the School Nurse

1. The school nurse, in collaboration with the principal, shall supervise the implementation of the school policies for diabetes management and treatment and for the administration of medications in the schools to ensure the safety, health, and welfare of the students.

2. The school nurse or other healthcare professional with expertise in caring for persons with diabetes, in accordance with their authorized scope of practice, shall be responsible for the training and competency evaluation of non-medical personnel who have volunteered to serve as a diabetes care assistant.

3. The curriculum for training the unlicensed diabetes care assistants shall include, but not be limited to the following topics:

a. recognize the signs and symptoms of hyperglycemia and hypoglycemia;

b. understand the details of the student's diabetes management treatment plan and when to contact the school nurse for additional directions on how to treat the student's change in condition;

c. understand the proper action to take if student's blood glucose levels are outside the target ranges specified in his diabetes management and treatment plan;

d. perform finger sticks to check blood glucose levels, check urine ketones levels, properly record the results, and notify the school nurse;

e. administration of medication as ordered by physician in accordance with school policies, procedures and the student's diabetes management treatment plan;

f. recognize complications which require emergency assistance;

g. understand carbohydrate counting, the recommended schedules and food intake for meals and snacks for a student with diabetes, the effect of physical activity on blood glucose levels, and the proper actions to be taken if a student's schedule is disrupted during school or any school related activity;

h. review of school or school district policies related to confidentiality and blood borne pathogens.

F. The Role of the Student with Diabetes in Self Care

1. In accordance with a student's diabetes management and treatment plan the school shall permit the student to attend to the self-management, administration of medications, treatment and documentation as outlined in his diabetes management plan.

H. The Role of the Principal

1. In consultation with the school nurse, if one is available, the principal may:

a. receive diabetes management and treatment plan;

b. seek school employee who is willing to be trained to serve as the unlicensed diabetes care assistant;

c. ensure the school has at least one unlicensed diabetes care assistant, if the school has a full time nurse, or at least three unlicensed diabetes care assistants if the school has no full time nurse;

d. require the school to develop carbohydrate count standard guides for those students who eat school provided lunches;

e. supervise the implementation of the school policies for diabetes management and treatment and for the administration of medications in the schools to ensure the safety, health, and welfare of the students;

f. ensure appropriate supervision of the unlicensed diabetes care assistant.

I. The Role of the Parent/Legal Guardian

1. Annually submit a copy of the student's diabetes management and treatment plan to the principal of the school in which in student is enrolled.

2. Give consent to implementation of the diabetes management and treatment plan.

3. Work with appropriate school personnel in development of the individualized healthcare plan and provision of care for the student until the individualized healthcare plan and diabetes management and treatment plan can be implemented.

4. Provide written calculation of carbohydrates in meals when lunch is provided from home.

5. Provide necessary supplies and equipment to deliver diabetes management and treatment plan.

6. Follow protocols for administration of medication consistent with Bulletin 741, §1129.G

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:436.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education and the Louisiana State Board of Nursing, LR 39:

§309. Communicable Disease Control

A. The LDE will work cooperatively with the Louisiana Department of Health and Hospitals for the prevention, control and containment of communicable diseases in schools.

B. Students are expected to be in compliance with the required immunization schedule.

1. The principal is required under R.S. 17:170 to exclude children from school attendance who are out of compliance with the immunizations required by this statute.

2. School personnel will cooperate with public health personnel in completing and coordinating all immunization data, waivers and exclusions, including the necessary Vaccine Preventable Disease Section's school ionization report forms (EPI-11, 11/84) to provide for preventable communicable disease control.

C. The superintendent may exclude a student or staff member for not more than five days from school or employment when reliable evidence or information from a public health officer or physician confirms him/her of having a communicable disease or infestation that is known to be spread by any form of casual contact and is considered a health threat to the school population. Such a student or staff member may be excluded unless the public health or determines the condition is no longer considered contagious.

D. Mandatory screening for communicable diseases that are known not to be spread by casual contact shall not be required as a condition for school entry or for employment or continued employment.

E. Irrespective of the disease presence, routine procedures shall be used and adequate sanitation facilities shall be available for handling blood or bodily fluids within the school setting or on school buses. School personnel shall be trained in the proper procedures for handling blood and bodily fluids and these procedures shall be strictly adhered to by all school personnel

F. Any medical information that pertains to students or staff members, proceedings, discussions and documents shall be confidential information. Before any medical information is shared with anyone in the school setting, a "need-to-know" review shall be made which includes the parent/guardian, student if age 18, employee or his/her representative unless the information is required to meet the mandates of federal or state law or regulation, or BESE policy.

G. Age-appropriate instruction on the principal modes by which communicable diseases are spread and the best methods for the restriction and prevention of these diseases shall be taught to students and inservice education provided to all staff members.

H. A local superintendent may only exclude a student or employee from a school or employment setting when reliable evidence or information from a public health officer or physician confirms that a student/staff member is known to have a communicable disease or infection that is known not to be spread by casual contact if a review panel is held to ensure due process.

I. Due Process Procedures

1. The Review Panel

a. Communicable diseases that are known not to be spread by casual contact (e.g., AIDS, Hepatitis B and other

like diseases) will be addressed on a case-by-case basis by a review panel.

b. Panel membership:

- i. the physician treating the individual;
 - ii. a health official from the local parish health department;
 - iii. a child/employee advocate (e.g., nurse, counselor, child advocate, social worker, employee representative, etc., from in or outside the school setting) approved by the infected person or parent/guardian;
 - iv. a school representative familiar with the student's behavior in the school setting or the employee's work situation (in most cases the building principal or in the case of a special education student, a representative may be more appropriate);
 - v. either the parent/guardian of a child, a student if 18, employee, or their representative; and
 - vi. the school system superintendent.
- c. The superintendent will assign a stenographer to record the proceedings.
- d. The superintendent will designate the chair of the panel.
- e. The chair of the review panel will designate the panel member who will write the proposal for decision.

2. Case Review Process

a. Upon learning of a student/staff member with the LEA who has been identified as having a communicable disease that is known not to be spread by casual contact, the superintendent shall:

i. immediately consult with the physician of the student/staff member or public health officer who has evidence of a present or temporary condition that could be transmitted by casual contact in the school setting:

(a). if the public health officer indicates the student/staff member is well enough to remain in the school setting and poses no immediate health threat through casual contact to the school population because of their illness, the student/staff member shall be allowed to remain in the school setting while the review panel meets;

(b). if the public health officer indicates the student/staff member is currently not well enough to remain in the school setting and/or the affected individual currently has evidence of an illness or infection that poses a potential health threat through casual contact to the school population because of the illness, the student/staff member shall be excluded from the school setting while the review panel meets;

(c). if the public health officer recommends exclusion because a public health threat exists, the review panel will discuss the conditions under which the individual may return to school;

ii. immediately contact the review panel members to convene a meeting to explore aspects of the individual's case;

iii. submit to the parent/guardian or infected person if 18 or older, a copy of the Communicable Disease Control Policy;

iv. observe all federal and state statutes, federal and state regulations, and all BESE policies pertaining to provision of special educational services.

3. The Review Panel Process

a. The review panel shall meet within 24-48 hours to review the case. The following aspects should be considered in that review:

i. the circumstances in which the disease is contagious to others;

ii. any infections or illnesses the student/staff member could have as a result of the disease that would be contagious through casual contact in the school situation;

iii. the age, behavior, and neurologic development of the student;

iv. the expected type of interaction with others in the school setting and the implications to the health and safety of others involved;

v. the psychological aspects for both the infected individual remaining in the school setting;

vi. consideration of the existence of contagious disease occurring within the school population while the infected person is in attendance;

vii. consideration of a potential request by the person with the disease to be excused from attendance in school or on the job;

viii. the method of protecting the student/staff member's right to privacy, including maintaining confidential records;

ix. recommendations as to whether the student/staff member should continue in the school setting or if currently not attending school, under what circumstances he/she may return;

x. recommendations as to whether a restrictive setting or alternative delivery of school programs is advisable;

xi. determination of whether an employee would be at risk of infection through casual contact when delivering an alternative educational program;

xii. determination of when the case should be reviewed again by the panel; and

xiii. any other relevant information.

b. Proposal for Decision

i. Within three operational days (i.e., a day when the school board central office is open for business) after the panel convenes, the superintendent shall provide a written decision to the affected party based on the information brought out in the review panel process and will include the rationale for the decision concerning school attendance for the student or continuation of employment for staff member.

ii. If the decision is to exclude the affected person from the school setting because of the existence of a temporary or present condition that is known to be spread by casual contact and is considered a health threat, the written decision shall include the conditions under which the exclusion will be reconsidered.

iii. If the affected person is a special education student, an individualized education program conference must be convened to determine the appropriateness of the program and services for the student.

4. Appeal Process

a. Rehearing Request

i. The parent, guardian or affected person who considers the proposal for decision unjust may request a rehearing, in writing, directed to the superintendent within

three days of the date of the decision. Grounds for requesting a rehearing are limited to:

(a) new evidence or information that is important to the decision; or

(b) substantial error of fact.

ii. The superintendent, within 48 hours from the date of receipt of the request for rehearing, shall either grant or deny the request for rehearing. If the request for rehearing is granted, the chair shall reconvene the same panel that originally heard the matter within five business days of the date the hearing is granted.

iii. Within three operational days (a day when the school system's central office is open for business) after the rehearing, the superintendent shall submit the decision to the parent/guardian or affected person.

b. Request for a Local Board Decision

i. The parent/guardian, affected person or their representative, may make a final written appeal to the president of the local board of education within five operational days after the superintendent's decision. The board shall meet within three operational days and hear the student/staff member's appeal along with the proposal for decision and superintendent's decision. Within two business days of the hearing, the board shall render its decision in writing with copies sent to the superintendent, health department official, and parent/guardian or affected person.

ii. Should the superintendent deny the request for rehearing, the appellant may appeal to the local board of education by exercising the process in Subparagraph b.

iii. Review Panel Request for Appeal. If the proposal for decision or the superintendent's decision is contrary to the majority opinion of the review panel, a majority of the panel has the right to appeal either decision in the same manner stated in the appeal process.

5. General

a. If the affected student cannot attend school, the LEA will provide an alternative education setting.

i. If the public health officer determines there is a risk of infection to an employee through casual contact while delivering this program, the employee will not be required to provide educational services.

ii. If the public health officer determines there is no risk of infection to an employee, the employee will be expected to participate in the delivery of educational services.

b. The review panel member who is serving as the advocate for the infected individual (or another person designated by the panel and approved by the parent/guardian, or the infected person) will serve as the liaison between the student/staff member, family and attending physician as it relates to the school setting.

c. These procedures in no way limit or supersede the procedural due process requirements established in 29 USC 706(7), R.S. 17:1941, 7946, and 20 USC 1400-1485, et seq.

6. Confidentiality

a. All persons involved in these procedures shall be required to treat all proceedings, deliberations, and documents as confidential information. Records of the proceedings and the decisions will be kept by the superintendent in a sealed envelope with access limited to only those persons receiving the consent of the

parent/guardian or infected person as provided in 20 USC 1232(g).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10)(15); R.S. 17:170; R.S. 17:437; R.S. 17:1941; 20 USCS 1232.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:

§311. School Health Forms

A. LEAs may implement the use of the standardized school health forms to eliminate the duplication of information submitted to schools and school nurses relative to health information and screenings, allergies, illnesses, sports physicals, medication administration, and prescribed procedures.

B. These forms will be made available for download via the Internet on the LDE website and on the Louisiana Department of Health and Hospitals web site.

AUTHORITY NOTE: Promulgated in accordance with R.S.40:5.12.; 20 USCS 6301, et seq. and 20 USCS 1232.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:

§313. Non-Complex Health Procedures

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

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

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

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

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

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

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

3.a. Following the training provided for in Paragraph 2, no noncomplex health procedure, except screenings and activities of daily living such as toileting/diapering, toilet training, oral/dental hygiene, oral feeding, lifting, and positioning may be performed unless prescribed in writing

by a physician licensed to practice medicine in the state of Louisiana or an adjacent state.

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

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

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

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

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

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

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

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:

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.

Poverty Statement

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this Section, the word "poverty" means living at or below one hundred percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? Yes.

Small Business Statement

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., February 8, 2013, to Heather Cope, Executive Director, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Heather Cope
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Bulletin 135—Health and Safety

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed policy will not result in an increase in costs or savings to state or local governmental units. Policies relating to student health and safety were removed from *Bulletin 741—Louisiana Handbook for School Administrators* to create *Bulletin 135—Health and Safety*. The creation of this bulletin will assist educators and health professionals in providing for the health and safety of students.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no costs or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1301#075

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

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

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—The Louisiana Handbook for School Administrators*: §2317. High Schools. The proposed policy establishes a voluntary community service diploma endorsement program for students who complete an exemplary number of community service hours during their high school career as authorized by Act 295 of the 2012 Regular Session of the Legislature. The proposed policy provides for rules and guidelines for the implementation such program.

Title 28

EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 23. Curriculum and Instruction

§2317. High Schools

A. - I.1. ...

J. Community Service Diploma Endorsement

1. LEAs may allow students to earn a community service diploma endorsement.

2. Entering freshmen in 2013-2014 and beyond may earn the community service diploma endorsement by completing documented community service according to the following schedule:

- a. ninth grade—10 hours;
- b. tenth grade—20 hours;
- c. eleventh grade—25 hours;
- d. twelfth grade—25 hours;
- e. total—80 hours.

3. The LEAs shall collect documentation of community service hours on forms provided on the LDE website.

4. Students transferring into a participating LEA after the ninth grade or students graduating early may receive an endorsement provided that the minimum requirement for each year they attend a participating LEA is met and a total of 80 community service hours are completed prior to graduation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:154; R.S. 17:1944; R.S. 17:1945, and R.S. 17:264.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1291 (June 2005), amended LR 36:1485 (July 2010), LR 37:1137 (April 2011), LR 38:754 (March 2012), LR 39:

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.

Poverty Statement

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this Section, the word “poverty” means living at or below one hundred percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? No.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Statement

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., February 8, 2013, to Heather Cope, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Heather Cope
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 741—Louisiana Handbook for
School Administrators—High Schools**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed policy could potentially increase costs to school districts choosing to implement the community service diploma endorsement. Districts might incur costs for tracking student community service hours. It is not possible to estimate these expenses.

The proposed policy establishes a voluntary community service diploma endorsement program for students as authorized by Act 295 of the 2012 Regular Session of the Legislature. The program, intended to encourage volunteerism/community service, is optional for LEAs and for students.

**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 will be no estimated cost and/or economic benefit 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
1301#076

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

**Control Facilities to be Installed When Feasible
(LAC 33:III.905)(AQ338)**

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.905 (AQ338).

This Rule allows the department to provide an exemption to the requirements of LAC 33:III.905.A in limited circumstances. When the Environmental Protection Agency (EPA) promulgates a new Rule, the administrator generally provides several years for owners or operators of affected facilities to install the necessary control equipment or otherwise modify their processes or work practices to comply with the rule's requirements. For example, Section 112(i)(3)(A) of the Clean Air Act states that "the Administrator shall establish a compliance date or dates ... which shall provide for compliance as expeditiously as practicable, but in no event later than 3 years after the effective date of such standard ..." Owners or operators of affected facilities commence construction and sometimes operation of the requisite control equipment in this period between the effective date and compliance date of the Rule.

Currently, LAC 33:III.905.A requires air pollution control facilities to "be used and diligently maintained in proper working order whenever any emissions are being made which can be controlled by the facilities," regardless of the circumstances. Thus, even if a court subsequently vacates and remands the rule for which the control equipment was required to comply, rendering it legally void (such as in the case of the Cross-State Air Pollution Rule), LAC 33:III.905.A mandates the use or continued use of any "air pollution control facilities" installed. There are often considerable costs associated with the operation and maintenance of control equipment (e.g., the ammonia required for selective catalytic reduction; the ammonia or urea required for selective non-catalytic reduction; efficiency losses due to parasitic load). These costs must be borne by the owner or operator of the affected facility or passed along to its customers.

Therefore, this Rule will provide a narrow exemption to LAC 33:III.905.A. It will allow the department to grant an exemption to the owner or operator of an air pollution control facility installed solely to comply with a proposed federal or state regulation that fails to be promulgated or a final federal or state regulation that is vacated and remanded, provided the owner or operator can comply with all

emissions limitations prescribed by the stationary source's air permit without use of the air pollution control facility in question.

The basis and rationale for this Rule is to provide an exemption to the requirements of LAC 33:III.905.A.

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 9. General Regulations on Control of Emissions and Emission Standards

§905. Control Facilities to be Installed When Feasible

A. Except as provided in Subsection B of this Section, to aid in controlling the overall levels of air contaminants into the atmosphere, air pollution control facilities should be installed whenever practically, economically, and technologically feasible. When facilities have been installed on a property, they shall be used and diligently maintained in proper working order whenever any emissions are being made which can be controlled by the facilities, even though the ambient air quality standards in affected areas are not exceeded.

B. Exemptions

1. The provisions of Subsection A of this Section shall not apply when the controls are installed to comply with a regulation that explicitly limits the required use of the controls to specific circumstances or times.

2. The administrative authority may grant a written exemption to the owner or operator of the air pollution control facility.

a. An exemption may be granted when the air pollution control facility has been installed, but not operated solely to comply with:

- i. a proposed federal or state regulation that has not been adopted and promulgated; or
- ii. a final federal or state regulation that has been vacated and remanded by a court of proper jurisdiction and is no longer effective.

b. An exemption shall not authorize:

- i. the noncompliance with any limit, standard, or requirement otherwise provided in a permit or other regulation; or
- ii. a physical change or change in the method of operation of the facility that increases emissions.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of the Secretary, Legal Division, LR 39:

Family Impact Statement

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Statement

This Rule has no known impact on poverty as described in R.S. 49:973.

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ338. Such

comments must be received no later than March 6, 2013, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal Division, P.O. Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-4068 or by e-mail to deidra.johnson@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 AQ338. These proposed regulations are available on the internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

Public Hearing

A public hearing will be held on February 27, 2013, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 North 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 Deidra Johnson at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

These proposed regulations are available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 North 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; and 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 Facilities to be
Installed When Feasible**

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 as a result of the proposed rule. Currently, the regulation requires air pollution control facilities to "be used and diligently maintained in proper working order whenever any emissions are being made which can be controlled by the facilities," regardless of the circumstances. The proposed regulation will allow the Department of Environmental Quality to grant certain exceptions to the owner or operator of an air pollution control facility.

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 as a result of the proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no costs to directly affected persons or nongovernmental groups as a result of the proposed rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition or employment in the public or private sector because of the proposed rule. There is no estimated effect on competition or employment in

the public or private sector because of the proposed rule. There is no estimated effect on competition or employment in the public or private sector because of the proposed rule. There is no estimated effect on competition or employment in the public or private sector because of the proposed rule. There is no estimated effect on competition or employment in the public or private sector because of the proposed rule. There is no estimated effect on competition or employment in the public or private sector because of the proposed rule. There is no estimated effect on competition or employment in the public or private sector because of the proposed rule.

Herman Robinson, CPM
Executive Counsel
1301#048

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality Office of the Secretary Legal Division

Incorporation by Reference of 40 CFR 60 (LAC 33:III.3003)(AQ339ft)

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.3003 (Log #AQ339ft).

This Rule is identical to federal regulations found in 40 CFR 60 and 77 FR 159, pages 49490-49600, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3985 or P.O. 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 Rule updates the references to July 1, 2012, for Standard Performance for New Stationary Sources, 40 CFR Part 60, Subpart AAA. In addition, this Rule incorporates by reference the provisions of 40 CFR 60 Subpart OOOO into Louisiana's air quality regulations. Subpart OOOO establishes new source performance standards for the crude oil and natural gas production, transmission, and distribution industry. Section 111(c)(1) of the Clean Air Act (CAA) authorizes EPA to delegate its authority to implement and enforce new source performance standards to any state which submits adequate regulatory procedures.

“(c) State implementation and enforcement of standards of performance.

(1) Each State may develop and submit to the Administrator a procedure for implementing and enforcing standards of performance for new sources located in such State. If the Administrator finds the State procedure is adequate, he shall delegate to such State any authority he has under this chapter to implement and enforce such standards.”

LDEQ seeks delegation of 40 CFR 60 Subpart OOOO—Standards of Performance for Crude Oil and Natural Gas Production, Transmission and Distribution. Therefore, this subpart will be incorporated by reference at LAC 33:III.3003.

The basis and rationale for this Rule are to incorporate by reference the provisions of 40 CFR 60 Subpart OOOO.

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 30. Standards of Performance for New Stationary Sources (NSPS)

Subchapter A. Incorporation by Reference

§3003. Incorporation by Reference of 40 Code of Federal Regulations (CFR) Part 60

A. Except for 40 CFR Part 60, Subpart AAA, and as modified in this Section, standards of performance for new stationary sources, published in the *Code of Federal Regulations* at 40 CFR Part 60, July 1, 2012, are hereby incorporated by reference as they apply to the state of Louisiana. Also incorporated by reference are the following revisions to 40 CFR Part 60: Subpart OOOO as promulgated on August 16, 2012, in the *Federal Register*, 77 FR 49490-49600.

B. - C. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 22:1212 (December 1996), amended LR 23:1681 (December 1997), LR 24:1287 (July 1998), LR 24:2238 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1239 (July 1999), LR 25:1797 (October 1999), LR 26:1607 (August 2000), LR 26:2460, 2608 (November 2000), LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 28:2179 (October 2002), LR 29:316 (March 2003), LR 29:698 (May 2003), LR 30:1009 (May 2004), amended by the Office of Environmental Assessment, LR 31:1568 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2446 (October 2005), LR 32:809 (May 2006), LR 32:1596 (September 2006), LR 33:1620 (August 2007), LR 33:2092 (October 2007), LR 33:2626 (December 2007), LR 34:1391 (July 2008), LR 35:1107 (June 2009), LR 36:2273 (October 2010), LR 37:2990 (October 2011), LR 38:1230 (May 2012), amended by the Office of the Secretary, Legal Division, 38:2754 (November 2012), LR 39:

Family Impact Statement

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Statement

This Rule has no known impact on poverty as described in R.S. 49:973.

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ339ft. Such comments must be received no later than February 27, 2013, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal Division, P.O. Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-4068 or by e-mail to deidra.johnson@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 AQ339ft. This regulation is available on the internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

Public Hearing

A public hearing will be held on February 27, 2013, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 North 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 Deidra Johnson at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 North 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; and 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Herman Robinson, CPM
Executive Counsel

1301#046

NOTICE OF INTENT

Office of the Governor

Board of Examiners of Certified Shorthand Reporters

Continuing Education (LAC 46:XXI.603 and 607)

In accordance with the Administrative Procedures Act, R. S. 49:950 et seq. Notice is hereby given that the Louisiana Board of Examiners of Certified Shorthand Reporters, proposes to adopt changes made to the continuing education Rule.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXI. Certified Shorthand Reporters

Chapter 6. Continuing Education

§603. Continuing Education Credits

A. Beginning January 1, 1991, and thereafter, each certificate holder shall be required to obtain at least 12 continuing education credits during each two-year continuing education cycle. Each continuing education cycle shall consist of two consecutive years beginning January 1 of the odd-numbered year and ending December 31 of the even-numbered year, inclusive. The board shall award one continuing education credit for each half hour of instruction time. For the two-year cycle beginning January 1, 2013 and each two-year cycle thereafter, four of the required 12 continuing education credits shall be instructions pertaining to Louisiana court reporting ethics and CSR Board Rules and Regulations.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2554 and 2557.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Certified Shorthand Reporters, LR 17:32 (January 1991), amended LR 20:412 (April 1994), amended by the office of the Governor, Board of Examiners of Certified Shorthand Reporters, LR 33:2419 (November 2007), LR 35:1881 (September 2009), LR 39:

§607. Maintenance of Record

A. ...

B. On or before December 31 of each even-numbered calendar year, each reporter issued a certificate by the board shall submit or cause to be submitted to the board in written record or continuing education credits earned by the reporter for the preceding two calendar years.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2554.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Certified Shorthand Reporters, LR 17:33 (January 1991), amended LR 17:578 (June 1991), LR 19:1539 (December 1993), amended by the Office of the Governor, Board of Certified Shorthand Reporters, LR 33:2419 9 (November 2007), LR 35:1881 (September 2009), LR 39:

Family Impact Statement

The proposed Rule changes have no known impact on family formation, stability, and autonomy as described in R. S. 49:972.

Poverty Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the impact of the proposed Rule changes have been considered. It is not anticipated that these proposed Rule changes will have any impact on poverty, as described in R.S. 49:973.

Public Comments

Interested persons may submit comments in writing through February 10, 2013, to Vincent P. Borrello, Jr., Louisiana Board of Examiners of Certified Shorthand Reporters, P.O. Box 1840, Walker, LA 70785-1840.

Vincent P. Borrello, Jr.
Chair

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Continuing Education

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will have no impact on state or local governmental unit expenditures other than those one-time costs directly associated with the publication of this rule. The proposed rule change updates the credits and corrects the submission calendar for these credits.

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 associated with the proposed rule changes.

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 associated with the proposed rule changes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no direct significant effect on competition and employment. All Court Reporters will be subject to the proposed continuing education rule changes.

Vincent P. Borrello, Jr.
Chair
1301#031

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Commission on Law Enforcement and
Administration of Criminal Justice**

Innocence Compensation Fund (LAC 22:III.Chapters 81-87)

In accordance with the provision of R.S. 15:1204, R.S. 15:1207, and R.S. 49:950 et seq., the Administrative Procedure Act, the Commission on Law Enforcement and Administration of Criminal Justice hereby adopts Rules and regulations relative to the innocence compensation fund. There will be no impact on family earnings or the family budget as set forth in R.S. 49:972.

Title 22

**CORRECTIONS, CRIMINAL JUSTICE AND LAW
ENFORCEMENT**

**Part III. Commission on Law Enforcement and
Administration of Criminal Justice
Subpart 8. Innocence Compensation**

Chapter 81. Authority and Definitions

§8101. Authority

A. Rules and regulations are hereby established by the Louisiana Commission on Law Enforcement and Administration of Criminal Justice for the administration of the Innocence Compensation Fund by order of Act 696 of the 2012 Louisiana Legislature, R.S. 15:572.8(N), (R), and (S).

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.8(S) et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 39:

§8103. 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.

Commission—the Louisiana Commission on Law Enforcement.

Court—the court ordering payment pursuant to R.S. 15:592.8.

Factual Innocence—means that the petitioner did not commit the crime for which he was convicted and incarcerated nor did he commit any crime based upon the same set of facts used in his original conviction.

Fund—the Innocence Compensation Fund.

Petitioner—one who has been convicted of and imprisoned for crimes of which they are factually innocent as determined by a court.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.8(S) et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 39:

Chapter 83. Eligibility and Application Process

§8301. Eligibility

A. To be eligible for payments from the Innocence Compensation Fund pursuant to the provisions of R.S. 15:572.8, a petitioner must have been awarded compensation by the district court in which the original conviction was obtained, and the parties have exhausted their ability to have the judgment reviewed by the appellate courts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.8(S) et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 39:

§8303. Application Process

A. Petitioners wishing to receive payments from the Innocence Compensation Fund shall file an application with the Commission. (Application available online at www.lcle.la.gov.)

B. Applications must be signed and dated by the petitioner and, if applicable, his legal representative. Only original signatures, no copies, will be accepted.

C. Unless the court awarding compensation has served a copy of the judgment upon the Commission, the petitioner must attach a certified copy of the court judgment to the application or order awarding compensation pursuant to R.S. 15:572.8.

D. If a court enters a judgment or order that a petitioner is entitled to additional compensation, the petitioner must file a new application attaching a certified copy of the new court order or judgment awarding the additional compensation.

E. If a petitioner becomes eligible for additional compensation, the petitioner may file a new application with the Commission for the additional compensation to which he is entitled. If the amount of additional compensation to which the petitioner is entitled is clear from the previous court judgment or order awarding compensation, the petitioner need not obtain a new court judgment or order for the additional compensation. The petitioner must attach a certified copy of the previous court judgment or order awarding compensation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.8(S) et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 39:

Chapter 85. Payments

§8501. Payments from the Innocence Compensation Fund

A. The commission will only make payments in amounts and at times specifically ordered by a court judgment or order pursuant to R.S. 15:572.8.

B. Supplemental payments will be made by the commission in accordance with the provisions of the judgment after verification of petitioner's current mailing address.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.8(S) et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 39:

Chapter 87. Administration and Annual Report

§8701. Administration

A. In accordance with R.S. 15:572.8(N)(1), the Innocence Compensation Fund is administered by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.8(S) et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 39:

§8703. Annual Report

A. In accordance with R.S. 15:572.8(R), the commission will submit an annual report on the Innocence Compensation Fund to the governor and the legislature on or before April 1 of each year.

B. The annual report will include the number of awards and the total amount of funds distributed during the preceding year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.8(S) et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 39:

Family Impact Statement

There will be no impact on family earnings or the family budget as set forth in R.S. 49:972.

Poverty Statement

The proposed rulemaking will have no impact as described in R.S. 49:973.

Public Comments

Interested persons may submit written comments on this proposed Rule no later than February 20, 2013, at 5 p.m. to the attention of Bob Wertz, Criminal Justice Policy Planner, Louisiana Commission on Law Enforcement and Administration of Criminal Justice, P.O. Box 3133, Baton Rouge, LA 70821.

Public Hearing

A hearing will be held in conjunction with the quarterly meeting of the Louisiana Commission on Law Enforcement on Thursday, February 21, 2013, at 10 a.m. at the Marriott Hotel of Baton Rouge, 5500 Hilton Avenue, Baton Rouge, LA 70808, (225) 924-5000.

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Innocence Compensation Fund

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no estimated implementation costs or savings to state or local governmental units as a result of the proposed Rule change. The Rules are submitted to comply with Act 696 of the 2012 Legislative Session which requires the Louisiana Commission on Law Enforcement to adopt Rules providing the methods and procedures for applying for compensation from the Innocence Compensation Fund. These provisions establish

an expedited process for petitioners declared by a court to have been wrongly convicted and imprisoned to apply for payments from the Innocence Compensation Fund. Implementation of the proposed Rules will eliminate the need for each petitioner to file a separate bill seeking an appropriation for payment during the legislative process.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of the proposed Rule will not increase revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is no anticipated effect on costs and/or economic benefits to directly affected persons or non-governmental groups as a result of the adoption of this Rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition or employment in the public or private sector as a result of this proposal.

Joseph A. Watson
Executive Director
1301#128

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor Crime Victims Reparations Board

Limits on Awards (LAC 22:XIII.503)

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and R.S. 46:1801 et seq., the Crime Victims Reparations Board hereby gives notice of its intent to promulgate Rules and regulations regarding the awarding of compensation to applicants.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part XIII. Crime Victims Reparations Board

Chapter 5. Awards

§503. Limits on Awards

A. - D.3.b. ...

4. The board may reimburse lost wages/earnings as follows:

a. 80 percent of the gross weekly wage of the victim. For seasonal or part time wages, the amount shall be calculated at 80 percent of the average weekly wage;

b. for loss of income from work by the parent or legal guardian of a minor victim who must miss work to obtain or provide the medically indicated services or care for the personal injury.

5. ...

6. If the victim cannot return to work, the lost wage period may include future lost wages.

D.7. - K.2. ...

L. Child Care Expenses

1. Pre-existing child care costs are not reimbursable if those same costs were being incurred prior to the crime.

2. - 3. Repealed.

M. - O.3.b....

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1801 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Crime Victims Reparations Board, LR 20:539 (May 1994), amended LR 22:710 (August 1996), LR 24:328 (February 1998), LR 25:26 (January 1999), LR 26:1019 (May 2000), LR 29:577 (April 2003), LR 31:1330 (June 2005), LR 32:242 (February 2006), LR 35:65 (January 2009), LR:37:1605 (June 2011), LR 39:

Family Impact Statement

There will be no impact on family earnings or the family budget as set forth in R.S. 49:972.

Poverty Statement

The proposed rulemaking will have no impact as set forth in R.S. 49:973.

Public Comments

Interested persons may submit written comments on this proposed Rule no later than February 20, 2013, at 5 p.m. to the attention of Bob Wertz, Criminal Justice Policy Planner, Louisiana Commission on Law Enforcement and Administration of Criminal Justice, P.O. Box 3133, Baton Rouge, LA 70821.

Public Hearing

A hearing will be held in conjunction with the quarterly meeting of the Louisiana Commission on Law Enforcement on Thursday, February 21, 2013 at 10 a.m. at the Marriott of Baton Rouge, 5500 Hilton Avenue, Baton Rouge, LA 70808, (225) 924-5000.

Lamarr Davis
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Limits on Awards

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed administrative Rule change will result in an indeterminable increase in state expenditures. The indeterminable increase is due to the new provision providing for reimbursement of lost wages/earnings by the parent or legal guardian of a minor victim when the parent/guardian must miss work to obtain medical services for the minor child who is a victim.

In addition, while maintaining the \$25,000 limit for crime victims who become totally and permanently disabled as a result of a crime and a \$10,000 limit for all other victims, the Rule changes how the Crime Victims Reparations Board calculates reimbursements of victims for lost wages/earnings. The Rule deletes references to calculations "based on net, after-tax, or take home pay." The Rule also deletes the \$400 per week cap for gross income. The Rule provides that a victim may receive reimbursement for 80 percent of his/her gross weekly wage or 80 percent of the average weekly wage if the victim was a part-time or seasonal worker. The Rule also removes the limitation of a one-year payment period for future lost wages for a victim that cannot return to work.

Also, claim benefits for child-care expenses have been clarified, excluding reimbursement for pre-existing child-care costs that were incurred prior to the crime.

No increase to local governmental units is anticipated.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated effect on revenue collections of state or local governmental units as a result of this Rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of the proposed Rule will impact the parent of a minor who is a crime victim by allowing the parent/guardian to file a claim for reimbursement of lost wages if the parent/guardian must miss work to obtain medical services for the minor child.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition or employment in the public or private sector as a result of the proposed Rule change.

Joseph Watson
Executive Director
1301#127

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor Division of Administration Racing Commission

Disputed Races (LAC 35:IX.9105)

The Louisiana State Racing Commission hereby gives notice that it intends to amend the following rule. The proposed rule will define more clearly the enforcement of the rule.

Title 35 HORSE RACING Part IX. Weights

Chapter 91. Weight Penalties and Allowances

§9105. Disputed Race

A. When the decision of a race is in dispute, all horses involved in the dispute with respect to the winner's credit shall be liable to all penalties, including conditions and weights, attached to the winning of that race until a winner has been adjudged.

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 2:443 (December 1976), amended LR 3:39 (January 1977), LR 4:284 (August 1978).

Family Impact Statement

This proposed Rule has no known impact on family formation, stability, and/or autonomy as described in R.S. 49:972.

Poverty Statement

The proposed rules have no known no impact on poverty as described in R.S. 49:973.

Public Comments

The domicile office of the Louisiana State Racing Commission is open from 8 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, Louisiana 70119-5100.

Charles A. Gardiner III
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Disputed Races**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There is no anticipated direct material effect on state or local governmental units' expenditures as a result of the proposed administrative Rule. The proposed rule amendment is clerical in nature and is for the purpose of clarifying that when the decision of a race is in dispute, all horses involved with said dispute shall be subject to all penalties attached to the winning of the race, including both conditions and weights.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The proposed Rule change will not result in any increase in state and local governmental collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
The proposed administrative Rule change will not result in any anticipated cost to directly affected persons or non-governmental groups. The proposed Rule change is clerical, amended for the purpose of clarification and does not substantively change how winners of disputed races are regulated.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no effect on competition and employment as a result of the proposed administrative Rule change.

Charles A. Gardiner, III
Executive Director
1301#008

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Division of Administration
Racing Commission**

**Nonsteroidal and/or Anti-Inflammatory Medication
(LAC 35:I.1505)**

The Louisiana State Racing Commission hereby gives notice that it intends to discuss and/or amend the following rule. Pursuant to Thoroughbred Owners and Breeders Association (TOBA) and the American Graded Stakes Committee, as of January 2013, in order to retain a listed race's status, the horses participating in such race shall be subject to the same testing requirements that are currently in place as to non-steroidal anti-inflammatory drugs, which are provided below.

Title 35

HORSE RACING

Part I. General Provisions

Chapter 15. Permitted Medication

§1505. Nonsteroidal and/or Anti-Inflammatory Medication

A. - B. ...

C. For all horses entered in a graded or listed stakes race, the maximum analytical test result levels of the blood of such horse, regardless of time of administration, shall be as follows.

Post-Race Blood Level	Total of Drug and/or Metabolite
Phenylbutazone	2.0 micrograms per milliliter

AUTHORITYNOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:142.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 9:547 (August 1983), amended by the Office of the Governor, Division of Administration, Racing Commission, LR 38:1408 (June 2012), LR 39:

Family Impact Statement

This proposed Rule has no known impact on family formation, stability, and/or autonomy as described in R.S. 49:972.

Poverty Statement

The proposed rules have no known no impact on poverty as described in R.S. 49:973.

Public Comments

The domicile office of the State Racing Commission is open from 8 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, Louisiana 70119-5100.

Charles A. Gardiner III
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Nonsteroidal and/or Anti-Inflammatory Medication**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There is no anticipated direct material effect on state or local governmental units as a result of the proposed administrative Rule change. The current drug-testing contract with Louisiana State University provides for the drug testing of nearly 8,000 samples annually. The proposed administrative Rule change will bring Louisiana into compliance with the requirements of the Thoroughbred Owners and Breeders Association (TOBA) effective January 1, 2013, which provide that in order to maintain listed stakes race accreditation in

- Louisiana, all horses entered in a Listed Stakes Race must meet a maximum post-race blood level of 2.0 micrograms per milliliter for the drug phenylbutazone.
- 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 as a result of the proposed administrative Rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
 Trainers, veterinarians and owners could be impacted by the proposed administrative Rule in that upon entering a horse in a listed stakes race, the horse will be subject to the proposed amended rule, which allows a maximum post-race blood level of 2.0 micrograms per milliliter for the drug phenylbutazone, rather than 5.0 micrograms per milliliter, which is the current maximum post-race blood level for listed and non-graded races.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
 There is no effect on competition and employment as a result of the proposed administrative Rule change.

Charles A. Gardiner, III
 Executive Director
 1301#009

Evan Brasseaux
 Staff Director
 Legislative Fiscal Office

NOTICE OF INTENT
Office of the Governor
Real Estate Commission

Real Estate (LAC 46:LXVII.Chapters 53 and 55)

Under the authority of the Louisiana Real Estate License Law, R.S. 37:1430 et seq., and in accordance with the provisions of the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Louisiana Real Estate Commission has initiated procedures to amend LAC 46:LXVII, Real Estate, Chapters 53 and 55.

A pre-license instructor certification will no longer serve to automatically qualify pre-license instructors to instruct post-license and continuing education courses. Post-license and continuing education instructors will no longer be certified by the LREC, and will forego the cost of the certification exam. All instructors, including certified pre-license instructors, will be required to submit an application for approval to instruct post-license or continuing education per course, which will be graded by an LREC-developed point system. Unlike the current procedure, which effectively grandfathers pre-license instructors to teach post-license and continuing education with no qualifying requirements, the amended procedure is designed to ensure that post-license and continuing education instructors possess the knowledge and skills to teach courses of this type.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS
Part LXVII. Real Estate
Subpart 1. Real Estate

Chapter 53. Real Estate Schools
§5319. Pre-License Instructors; Initial and Renewal Applications; Guest Lecturers

A. No person shall act as pre-license instructor at any real estate school, and no real estate school shall hire or otherwise permit any person to act as a pre-license instructor for the school, unless that person has been certified as such by the commission.

B. - K. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Real Estate Commission, LR 37:3015 (October 2011), amended LR 39:

Chapter 55. Real Estate Vendors; Post-Licensing and Continuing Education

§5513. Post-License and Continuing Education Instructors

A. No person shall act as a post-license/continuing education instructor, and no real estate vendor shall hire or otherwise permit any person to act as a post-license/continuing education instructor, unless that person has been approved by the commission.

B. The application to become approved as a real estate post-license/continuing education instructor shall be in such form and detail as prescribed by the commission and shall be accompanied by any documentation requested therein and the certification fee(s) prescribed in R.S. 37:1443.

1. Approval as a post-license/continuing education instructor shall be required per vendor course and shall not qualify an approved instructor to instruct any other post-license/continuing education courses.

2. The expiration of an approved post-license/continuing education course shall result in the automatic expiration of all instructor approvals issued for that course.

C. The commission shall approve or deny a post-license/continuing education instructor application within 45 calendar days after it is received. Incomplete applications, or a request from the commission for additional information, may be cause for delay beyond 45 calendar days.

D. The commission may deny an application for approval as a post-license/continuing education instructor for any of the following reasons.

1. The applicant has been convicted of forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud, or theft, or has been convicted of a felony or crime involving moral turpitude in any court of competent jurisdiction.

2. An application contains a false statement of material fact.

3. A professional license or certification held by an applicant has been revoked.

4. The applicant fails to meet the minimum requirements prescribed by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Real Estate Commission, LR 37:3020 (October 2011), amended LR 39:

§5515. Supplemental Post-License/Continuing Education Instructors

A. Real estate vendors may hire or otherwise permit a supplemental course instructor to participate with a primary instructor in the instruction of an approved post-license/continuing education course, provided the supplemental course instructor is named as such in the Application for Post-License/Continuing Education Instructor submitted by the primary instructor.

B. A supplemental course instructor shall work under the direct supervision of the approved primary course instructor and shall be limited to no more than 25 percent of the total course instruction. In instances where there is more than one supplemental course instructor, the supplemental course instructors shall be limited to a combined total of no more than 25 percent of the total course instruction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Real Estate Commission, LR 37:3020 (October 2011), amended LR 39:

§5523. Suspension or Revocation of a Vendor Certification or Post-license/Continuing Education Instructor Approval

A. The commission may impose fines, and/or suspend or revoke a vendor certification and/or post-license/continuing education instructor approval for the following acts committed by a vendor, employee, or approved post-license/continuing education instructor:

1. violation of any rule or regulation promulgated by the commission;

2. conviction of a felony or entering a plea of guilty or nolo contendere to a felony charge;

3. refusal to appear or testify under oath at any hearing held by the commission;

4. false certification of course attendance hours for any student;

5. suspension or revocation of a salesperson, broker, or timeshare interest salesperson license by the commission;

6. failure of a real estate vendor contact person to inform post-license/continuing education instructors on changes to the Louisiana real estate license law or commission rules and regulations;

7. using designated course instruction time to teach, promote, advance, encourage, or further personal opinion, information, data, statistics, facts, figures, material, news, reports, intelligence, or knowledge that is not included in the approved course curriculum.

B. Suspension or revocation of a post-license/continuing education instructor approval shall include all courses for which the post-license/continuing education instructor approval has been granted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Real Estate Commission, LR 37:3021 (October 2011), amended LR 39:

§5527. Post License Education Courses

A. Post-license education courses offered by real estate education vendors shall be developed in accordance with the content outline prescribed by the commission.

B. Real estate education vendors shall not issue credit for any post-license education course unless the student has passed an examination on the course content. Post-license hours shall be secured through and reported by one approved vendor.

C. Post-license education courses shall be open to all licensees regardless of broker affiliation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Real Estate Commission, LR 37:3021 (October 2011), amended LR 39:

§5529. Continuing Education Courses

A. Real estate education vendors may offer continuing education course topics that include, but are not limited to, appraisal, finance, taxes, zoning, Louisiana Real Estate License Law/commission rules and regulations, environmental quality, property management, and federal laws affecting real estate such as HUD and fair housing regulations.

B. Continuing education courses offered by real estate education vendors shall be a minimum of two hours. A classroom hour is defined as 60 minutes, of which 50 minutes are instruction. The prescribed number of classroom hours may include time devoted to examinations if a required part of the course. Time devoted to breakfasts, luncheons, dinners, or other refreshments shall not be counted as instruction time.

C. Licensees shall not receive duplicate credit for attending the same continuing education course from the same vendor in the same year. It shall be the responsibility of the real estate education vendor to advise licensees that credit shall not be awarded for completing duplicate courses within the same license period.

D. Course work completed by licensees through non-approved providers will be considered for credit by the commission on an individual basis. Licensees seeking approval for course work obtained through non-approved providers shall apply for such approval by submitting documentation of attendance, hours completed, date of attendance, and detailed course content information.

E. Continuing education courses shall be open to all licensees regardless of broker affiliation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Real Estate Commission, LR 37:3022 (October 2011), amended LR 39:

§5531. Mandatory Courses

A. The commission shall mandate an annual four-hour continuing education course topic and curriculum that licensees shall complete during each license period as a requirement for license renewal.

B. Real estate education vendors shall not offer the mandatory course for credit unless a course approval application has been approved by the commission.

C. There shall be no substitute curriculum for the mandatory course, including any previously approved course that is similar in name and/or content, without prior commission approval.

D. Any instructor used in the presentation of the mandatory course shall have first completed the annual *Train the Trainer* instructor workshop developed specifically for each mandatory course topic. Completion of a prior year *Train the Trainer* instructor workshop shall not be substituted for completion of the current year workshop.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Real Estate Commission, LR 37:3022 (October 2011), amended LR 39:

Family Impact Statement

In accordance with R.S. 49:953(A)(1)(a)(viii) and 972, the following Family Impact Statement is submitted with the Notice of Intent for publication in the September 20, 2012 *Louisiana Register*. The proposed Rule has no known impact on family, formation, stability, or autonomy.

Poverty Statement

The proposed rules have no known impact on poverty as described in R.S. 49:973.

Public Comments

Interested parties are invited to submit written comments on the proposed regulations through October 4, 2012 at 4:30 p.m., to Stephanie Boudreaux, Louisiana Real Estate Commission, P.O. Box 14785, Baton Rouge, LA 70898-4785 or 9071 Interline Avenue, Baton Rouge, LA 70809.

Bruce Unangst
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Real Estate

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no implementation costs (savings) to state or local governmental units as a result of the proposed rule change. The purpose of the proposed rule change is to establish compliance procedures whereby appraisal management company licensees can meet the amended licensing requirements enacted in Act 429 of the 2012 Regular Legislative Session consistent with the requirements of the federal Dodd-Frank Wall Street Reform and Consumer Protection Act, to establish grievance/complaint procedures, and to further clarify investigative procedures.

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 as a result of the proposed rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Any cost associated with meeting the surety bond requirement of Act 429 will be determined by the Appraisal Management Company, depending on the independent decision to either purchase a bond, the cost of which will be determined

by the bonding company, or to submit a \$20,000 cash deposit or security in lieu of the bond. The purpose of the bond, deposit, or security is to ensure that the Appraisal Management Company conducts business in accordance with all license laws and rules, which provides the benefit of protection to the customer.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated impact on competition and employment as a result of the proposed rule change.

Bruce Unangst
Executive Director
1301#042

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Board of Examiners for Speech-Language Pathology and Audiology

General Requirements
(LAC 46:LXXV.107, 109, 121, 125, 130, and 701)

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 37:2656(c), that the Louisiana Board of Examiners for Speech-Language Pathology and Audiology intends to implement a Rule that provisional SLP assistants who wish to place their license on inactive status, which freezes the three year limit of time to hold said license, are required to renew annually and complete continuing education. This requirement will mirror the Rule currently in place for other licensees who claim inactive status. The board intends to revise the Rule regarding the approved examination in audiology and speech-language pathology to address upcoming changes being made by the educational testing service. The board intends to add a Rule regarding volunteer services to clarify that rendering services, whether on a paid or volunteer basis, requires a license, as well as, add a Rule regarding telepractice to clarify that a license is required. The board intends to promulgate a Rule regarding the expedited licensing of military personnel and the spouses of military personnel in response to Act 276 of the 2012 Legislative Session. The board is requesting other "housekeeping" type amendments to revise language, but not the intent of the Rule regarding continuing education and regarding those eligible to supervise other licensees.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXXV. Speech Pathology and Audiology

Chapter 1. General Rules

§107. Qualifications for Licensure

A. - H.4.c.ii...

iii. Licensees on inactive status may retain their license by payment of the annual renewal fee. In order to resume the practice of speech-language pathology or audiology, licensees on inactive status shall demonstrate completion of five clock hours of continuing education in the area of licensure for each year that inactive status was maintained (maximum of 25 hours).

I. - J.2. ...

K. Examination Requirement: Speech-Language Pathology License, Provisional Speech-Language Pathology License, Audiology License, Provisional Audiology License

1. Evidence of a passing score on the LBESPA-approved examination in audiology or speech-language pathology shall be submitted to LBESPA by the testing agency administering the examination. Scores received directly from the applicant are not acceptable for licensing purposes. The passing score shall be the score determined by the testing agency at the time the applicant completes the examination.

2. If an individual has never held a license to practice audiology or speech-language pathology in another state, and if the degree program was completed greater than ten years from the date of application, the passing score on the specialty area examination for speech/language pathology or audiology must have been obtained within the last five years.

3. - 4. Repealed.

L. - L.1.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 14:706 (October 1988), amended LR 22:346 (May 1996), LR 27:197 (February 2001), repromulgated LR 27:1690 (October 2001), amended LR 28:1781 (August 2002), LR 30:2308 (October 2004), LR 33:2192 (October 2007), LR 37:2393 (August 2011), LR 39:

§109. Application Procedures

A. - I. ...

J. An applicant may be granted only one 60-day period to work, with the exception of expedited military trained applicants and spouses, while his/her initial application is being processed. No additional grace period may be granted to an applicant, regardless of whether the application is a new license or a request to reinstate or upgrade a license.

K. - N.

O. Temporary Registration during a Declared Public Health Emergency

1. In a public health emergency lawfully declared as such by the governor of Louisiana, the requirement for a Louisiana license as an audiologist, speech-language pathologist, or speech-language pathology assistant may be waived by the board at that time to those out of state audiologists, speech-language pathologists, or speech-language pathology assistants, whose licenses, certifications or registrations are current and unrestricted in another jurisdiction of the United States, for a period of time not to exceed the duration and scope of R.S. 29:769(E), as more particularly set forth in this Section.

2. - 7. ...

P. Volunteer Services. Individuals seeking to provide services on a voluntary basis shall hold an unrestricted license in the area of practice, shall meet all of the qualifications for license set forth by this Chapter, and shall abide by the Code of Ethics.

Q. Licensing of Individuals with Military Training and Experience; Licensing of Military Spouses

1. Expedited application of licensure shall be granted to individuals who have completed a military program of training and been awarded a military occupational specialty in the area of audiology or speech-language pathology or to

a military spouse licensed, certified or registered in another jurisdiction while the military-training applicant or military spouse is satisfying the requirement for licensure.

a. Applications shall be submitted in accordance with §109.

b. Military-trained applicants shall submit with the application a copy of current military-issued identification and military orders.

c. Applicants who are the spouse of military personnel shall submit with the application a copy of current military-issued identification, marriage license, and an affidavit attesting that applicant is married to military personnel.

2. In accordance with 60-day grace period military applicant shall submit:

a. Military-trained applicants shall submit official, primary-source documentation verifying requirements met in accordance with §107.

b. Military spouse applicants shall submit official, primary-source documentation verifying requirements met in accordance with §107 and §111.

3. Applications of individuals with military training and experience and military spouses shall be expedited.

4. The provisions of this Section shall not apply to any applicant receiving a dishonorable discharge or a military spouse whose spouse received a dishonorable discharge.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 14:707 (October 1988), amended LR 22:352 (May 1996), LR 27:199 (February 2001), LR 28:1974 (September 2002), LR 30:2311 (October 2004), LR 33:2193 (October 2007), LR 37:2393 (August 2011), repromulgated LR 37:2623 (September 2011), LR 39:

§121. License Renewals

A. - F.3.

4. Licensees on inactive status or who are retired shall not supervise individuals or otherwise engage in the practice of speech-language pathology or audiology.

G. - J.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 14:707 (October 1988), amended LR 22:351 (May 1996), LR 27:198 (February 2001), LR 28:1972 (September 2002), LR 30:2314 (October 2004), LR 33:2195 (October 2007), LR 37:2395 (August 2011), LR 39:

§123. Continuing Education Requirements

A. - I.4. ...

5. college courses in the area of licensure taken for credit or official audit (three semester hours or six quarter hours = 10 hours of continuing education);

6. ...

7. workshops and in-services that are university, school, clinic, hospital or state agency sponsored (maximum of 5 hours in a related area;

I.8. - K.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 22:351 (May 1996), amended LR 27:199 (February 2001), LR 28:1973 (September 2002), LR

30:2314 (October 2004), LR 33:2196 (October 2007), LR 37:2395 (August 2011), LR 39:

§125. Supervision Requirements for Restricted License, Provisional Speech-Language Pathology License and Provisional Audiology License

A. - B. ...

C. An individual may not be supervised by a provisional licensee, restricted licensee, assistant licensee, or an individual on inactive status.

D. - N. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 14:707 (October 1988), amended LR 22:352 (May 1996), LR 27:199 (February 2001), LR 28:1974 (September 2002) LR 30:2315 (October 2004), LR 33:2196 (October 2007), LR 37:2396 (August 2011), LR 39:

§130. Telepractice

A. Licensed audiologists and speech-language pathologists can provide telehealth services through telephonic, electronic, or other means including diagnosis, consultation, treatment, transfer of healthcare information and continuing education. Telepractice regardless of where the service is rendered or delivered constitutes the practice of speech-language pathology or audiology and shall require Louisiana licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 39:

Chapter 7. Code of Ethics

§701. Preamble

A. - D. ...

E. Rules of Ethics for Audiology, Provisional Audiology, Speech-Language Pathology, Provisional Speech-Language Pathology, and Restricted Speech-Language Pathology Licensees

1. Principle of Ethics I: Licensees shall honor their responsibility to hold paramount the welfare of persons they serve and provide professional services with honesty and compassion and shall respect the dignity, worth, and rights of those served. The licensee shall take all reasonable precautions to avoid harm to the individual served professionally.

E.1.a. - F.4.j. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 17:370 (April 1991), amended LR 22:360 (May 1996), LR 30:2324 (October 2004), LR 33:2201 (October 2007), LR 37:2399 (August 2011), LR 39:

Family Impact Statement

The proposed changes have no anticipated adverse impact on the family.

Poverty Statement

The proposed rulemaking will have no impact as described in R.S. 49:973.

Interested Persons

Interested persons may submit written comments to Emily Efferson, Administrator, by mail at 18550 Highland Road, Suite B, Baton Rouge, LA 70809, email at

Emily@lbespa.org or fax at (225) 756-3472. Written comments will be accepted until 4:30 p.m. on February 20, 2013.

Emily Efferson
Administrator

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: General Requirements**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no estimated implementation savings to state or local governmental units through promulgation of the proposed rules changes. The estimated cost to the Louisiana Board of Examiners for Speech-Language Pathology and Audiology (LBESPA) paid to the State Register for publishing the Notice of Intent is \$1,500. The estimated cost to upload the new rules to the website is \$100. All implementation expenditures will be made in FY 13.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed changes will have minimal effect on revenue collections of state or local governmental units. With the exception of the changes to sections 107(H), 109(Q), and 130 detailed below, all other changes are for clarification purposes and have no fiscal impact. The current rules allow a Provisional Speech-Language Pathology Assistant who is not practicing to place their license on inactive status, which freezes their time to hold the license (limited to three years). The rule change under Section 107(H)(4)(c)(iii) will require Provisional Speech-Language Pathology Assistants who place their license on inactive status to renew annually and to obtain continuing education. This mirrors the existing requirement of other licensees that claim inactive status because they are not practicing. There are currently six Provisional Speech-Language Pathology Assistants claiming inactive status who will be required to renew in accordance with the rule change. The renewal fee between April 15 and June 30 is \$60 (6 x \$60 = \$360 annual revenue).

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

As stated in section II above, persons with a Provisional Speech-Language Assistant license on inactive status will be required to pay an annual renewal fee of \$60 to LBESPA. They will also be responsible for any continuing education costs required under the new rule (5 hours for each year on inactive status). These costs will vary depending on the courses taken. In addition, under Section 130, licensed audiologists and speech-language pathologists can provide telehealth services through telephonic, electronic, or other means including diagnosis, consultation, treatment, transfer of healthcare information and continuing education. This rule is codifying current practice, particularly in the field of supervision. It is anticipated that these practitioners will save an indeterminable amount on travel expenditures.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

LBESPA also proposes to add Section 109(Q) in response to mandates relative to Act 276 of the 2012 Legislative Session regarding expedited processing of licenses for military personnel who have completed a military program of training and been awarded a military occupational specialty in the area of audiology or speech-language pathology and to a military spouse licensed, certified or registered in another jurisdiction.

Expedited processing for licensure will allow qualified military personnel and their qualified spouse to practice in the state.

Emily Efferson
Administrator
1301#053

John D. Carpenter
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Board of Examiners of Nursing Facility Administrators

Exam Requirements and Complaints
(LAC 46:XLIX.303, 503, 505, 511, 701, 709,
713, 903, 905, 1101, 1105, 1107, 1201, and 1301)

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. and through the authority granted in R.S. 37:2501 et seq., that the Louisiana Board of Examiners of Nursing Facility Administrators proposes to amend LAC 46:XLIX.303-1301 relative to making certain technical changes, to establish/amend a rewards and recognition policy, to clarify minimum total hours for an AIT internship, to include a confidentiality and attestation for tests, to require passing exams prior to waivers, to allow for extension of time for CBC with board approval, to require a national prep course prior to taking the NAB, to specify minimum requirements for CEUs, and to provide that anonymous written or oral complaints will not be accepted and shall require sworn complaints be filed on board forms.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLIX. Nursing Facility Administrators

Chapter 3. Board of Examiners

§303. General Powers

A. - C. ...

D. The board may establish or amend a rewards and recognition policy in accordance with civil service rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Home Administrators, April 1970, repealed and promulgated by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators, LR 18:181 (February 1992), amended by the Board of Examiners of Nursing Facility Administrators, LR 20:790 (July 1994), amended by the Board of Examiners of Nursing Facility Administrators, LR 37:591 (February 2011), LR 39:

Chapter 5. Examinations

§503. Pre-Examination Requirements: Conditions Precedent

A. - A.1. ...

2. is a citizen of the United States of America, or that he has formally declared his intention of becoming a citizen of the United States;

3. has no convictions for a felony or crimes involving moral turpitude as provided in R.S. 14:81.2;

4. is physically and mentally suitable and fit to be licensed and to practice as a nursing home administrator; and

5. has successfully completed a bachelors degree from an accredited institute of higher learning.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2505.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Home Administrators, April 1970, amended and promulgated LR 6:276 (June 1980), repealed and repromulgated by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators, LR 18:181 (February 1992), amended by the Department of Health and Hospitals, Board of Examiners of Nursing Facility Administrators, LR 20:789 (July 1994), LR 33:2423 (November 2007), amended by the Board of Examiners of Nursing Facility Administrators, LR 37:592 (February 2011), LR 39:

§505. Application for Examination

A. - A.1. ...

2. an applicant for examination who has been convicted of, plead guilty to, no contest to, or has a trial pending for a misdemeanor involving abuse, neglect, or misappropriation of property or any felony or crimes involving moral turpitude as provided in R.S. 14:81.2 by any court in this state, or by any court of the United States, or by any court of any other state of the United States, shall not be admitted to, or be permitted to take the examination provided for herein, unless he shall request a formal hearing before the board and provide evidence establishing a full pardon or parole granted by an appropriate authority authorized to grant such;

A.3. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Home Administrators, April 1970, repealed and promulgated by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators, LR 18:181 (February 1992), amended by the Board of Examiners of Nursing Facility Administrators, LR 37:592 (February 2011), LR 39:

§511. Examinations and Mandatory Test Preparatory Course

A. Every candidate for licensing as a nursing facility administrator shall pass the Louisiana State Standards Examination and the NAB national examination by scores established by the board.

B. The NAB nursing home administrators licensing exam and the Louisiana state licensure exam both contain confidential information. Since some of the material contained on these examinations is used in future administrations of the examinations. Therefore, applicants shall not comment to other applicants, potential applicants, or any other person regarding the contents of these examinations. Failure to observe the confidentiality of the NAB nursing home administrators licensing exam or the state licensure exam may result in disciplinary action by the board.

C.1. Each candidate shall be required to take a test preparatory course approved by LABENFA prior to taking the NAB nursing home administrators licensing exam.

2. Cost of the LABENFA test preparatory course shall be as provided in Chapter 12 of this Part.

3. Any candidate that does not successfully pass the NAB nursing home administrators licensing exam shall be required to retake an approved LABENFA test preparatory course prior to re-taking the NAB nursing home administrators licensing exam.

4. Failure to complete the licensure process within 24 months from the date of application will result in loss of all accomplishments and fees unless authorized by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504 and R.S. 37:2505.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Facility Administrators, April 1970, repealed and promulgated by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators, LR 18:181 (February 1992), amended by the Board of Examiners of Nursing Facility Administrators, LR 20:790 (July 1994), LR 39:

Chapter 7. Administrator-in-Training (AIT)

§701. Program

A. An applicant must serve full-time (40 hours per week) as an administrator-in-training for a minimum of six, which shall include a minimum of 1040 training hours. The program may be completed or begun before or after taking examinations so long as it is carried out strictly according to Chapter 7. During this time the AIT must work under close, direct, personal, on-site supervision of a full-time preceptor who shall be administrator of record or licensed nursing home administrator serving as assistant administrator in the facility in which the AIT undertakes training.

1. - 2. ...

B. Facility. The AIT receives all training in the nursing home designated in his initial report unless the board grants prior approval for a change. The facility must be certified and participating in Medicare and/or Medicaid and have no current deficiency that is a threat to the health and safety of residents at the time the AIT begins training.

C. - D. ...

Department	Weeks	Hours
Administration	9	360
Nursing	5	200
Dietary	4	160
Resident Activity	2	80
Social Work	2	80
Medical Records	2	80
Environmental Management	2	80
Total Hours Required (minimum)		1040
A week is defined as seven days, Sunday through the following Saturday.		

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Home Administrators, April 1970, amended and promulgated LR 6:276 (June 1980), amended LR 12:511 (August 1986), repealed and repromulgated by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators, LR 18:181 (February 1992), amended by the Board of Examiners of Nursing Facility Administrators, LR 20:790 (July 1994) repromulgated LR 21:175 (February 1995), amended by the Board of Examiners of Nursing Facility Administrators, LR 37:592 (February 2011), LR 39:

§709. Exit Interview

A. Upon completion of the program and receipt of the certificate of completion the AIT undergoes an exit interview to ensure she/he is sufficiently knowledgeable to be licensed. The exit interview is conducted by the executive director, a board member, or other authorized person. The AIT will receive his license upon passage of the exit interview,

completion of initial registration form, and payment of initial registration fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Home Administrators, April 1970, amended and promulgated LR 6:276 (June 1980), amended LR 9:62 (February 1983), LR 10:499 (July 1984), LR 12:512 (August 1986), repealed and repromulgated by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators, LR 18:181 (February 1992), amended by the Board of Examiners of Nursing Facility Administrators, LR 37:593 (February 2011), LR 39:

§713. Waivers

A. - B.1.b. ...

2. Experience. Waiver may be granted for any portion of the AIT for experience in the healthcare field that meets or exceeds AIT requirements in their specialty and such areas as approved by the board. Request for waivers are to be submitted with the application and properly documented on forms supplied as follows.

a. Qualifications. Waivers are conducted only after the AIT has passed both the state and NAB tests. Applicants with a degree in health care administration that includes an internship may qualify for an AIT waiver. Additionally, an assistant administrator or a director of nurses may apply for a full or partial waiver, provided such applicant has been employed, full time for three years within the last five years in a Louisiana medicare/medicaid approved nursing home. Also, a previously licensed Louisiana administrator may request a full or partial AIT waiver provided their license has not lapsed for more than a three year period.

b. Examination. All applicants for a full waiver undergo an exit interview conducted by a board member or an authorized representative. Applicants for partial waiver may be required to undergo an exit interview in those areas for which waiver is requested.

c. Non-Participating Facility Experience. No full waiver will be granted for experience acquired in a facility that is not approved for and does not participate in Medicare and/or Medicaid. All applicants applying for waiver based on experience in a non-participating facility must undergo an exit interview.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Home Administrators, April 1970, amended and promulgated LR 6:276 (June 1980), amended LR 9:62 (February 1983), LR 10:499 (July 1984), LR 12:512 (August 1986), repealed and repromulgated by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators, LR 18:181 (February 1992), amended by the Board of Examiners of Nursing Facility Administrators, LR 37:593 (February 2011), repromulgated LR 37:887 (March 2011), amended LR 38:52 (January 2012), LR 39:

Chapter 9. Continuing Education

§903. Requirements

A. Number of Hours. Each licensee must complete a minimum of 15 hours of approved continuing education, or the portion thereof as designated by the board during the 12 month period preceding the date of re-registration of licenses.

B. - C.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504 and R.S. 37:2506.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Home Administrators, April 1970, amended and promulgated LR 6:276 (June 1980), amended LR 11:864 (September 1985), LR 13:240 (April 1987), repealed and repromulgated by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators, LR 18:181 (February 1992), amended by the Board of Examiners of Nursing Facility Administrators, LR 19:1023 (August 1993), repromulgated LR 19:1322 (October 1993), amended by the Board of Examiners of Nursing Facility Administrators, LR 37:593 (February 2011), LR 39:

§905. Registration of Institutions as Providers of Continuing Education Courses

A. - B. ...

C. A fee, as provided for in Chapter 12 of this Part, shall be paid annually by providers who impose charges to course participants. Government agencies are exempt from the fee.

D. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504 and R.S. 37:2506.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Home Administrators, April 1970, repealed and repromulgated by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators, LR 18:181 (February 1992), amended by the Board of Examiners of Nursing Facility Administrators, LR 19:1023 (August 1993), LR 20:788 (July 1994), amended by the Board of Examiners of Nursing Facility Administrators, LR 37:594 (February 2011), LR 39:

Chapter 11. Licenses

§1101. Initial License

A. ...

1. An applicant, upon completion of AIT training, shall submit their notarized Certificate of Completion within 30 days.

2. Upon receipt of notarized AIT training certificate of completion and notification of passing the state and national exams, an applicant shall schedule their exit interview within 30 days from such notification.

3. Upon successful completion of the exit interview, an applicant shall submit his initial registration form with all required fees within 30 days, unless otherwise authorized by the board.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504 and R.S. 37:2506.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Home Administrators, April 1970, repealed and promulgated by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators, LR 18:181 (February 1992), amended by the Board of Examiners of Nursing Facility Administrators, LR 20:789 (July 1994), repromulgated LR 20:1110 (October 1994), amended by the Board of Examiners of Nursing Facility Administrators, LR 37:594 (February 2011), LR 39:

§1105. Refusal, Suspension and Revocation of License

A. - A.3.c. ...

d. Category Four. A fine of not less than \$50 nor more than \$100.

A.3.e. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504, R.S. 37:2509 and R.S. 37:2510.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Home Administrators, April 1970, amended and promulgated LR 6:276 (June 1980), amended LR 9:461 (July 1983), LR 12:366 (June

1986), amended by Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators, LR 15:195 (March 1989), repealed and repromulgated LR 18:181 (February 1992), amended by the Board of Examiners of Nursing Facility Administrators, LR 37:595 (February 2011), LR 39:

§1107. Reciprocity

A. - A.4. ...

B. The basic minimum standards for endorsement of a license by reciprocity are that the applicant must meet licensing standards in effect in Louisiana at the time the applicant was licensed in the state from which he/she seeks reciprocity, but in no instance is applicant required to meet more than Louisiana standards; or has been licensed for at least five years and has practiced as a licensed administrator for at least three years. In lieu of an approved AIT program, one year of full-time experience as a practicing administrator may be considered.

C. A temporary license for a period not to exceed three months may be issued to a fully qualified reciprocity applicant upon payment of a registration fee determined by the board. However, the board may grant an extension up to 90 days in order to receive and review criminal background checks.

D. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504 and R.S. 37:2508.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Home Administrators, April 1970, amended and promulgated LR 9:461 (July 1983), repealed and repromulgated by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators, LR 18:181 (February 1992), amended by the Board of Examiners of Nursing Facility Administrators, LR 19:1024 (August 1993), amended LR 20:1002 (September 1994), amended by the Board of Examiners of Nursing Facility Administrators, LR 37:595 (February 2011), LR 39:

Chapter 12. Fees and Assessments

§1201. Fee Schedule

A. The board hereby establishes the following fees and costs to be imposed for the purpose of implementing and enforcing the provisions of this Part.

Administrator address labels/page	\$8
Annual Conditional Registration Fee	\$200
Annual Registration Fee	\$375
Application Packet	\$50
Certification of document as true copy	\$10
CNA / DSW Card	\$12
Continuing Education Provider(Annually)	\$600
Delinquent fee	\$150
Directory of Administrators	\$15
Failure to maintain current information	\$75
Handling and mailing per page	\$2
Initial Registration Fee	\$350
Minimum Licensure Standards Book	\$15
NFA Application Fee	\$500
NFA Replacement Card(with photo)	\$17
NSF Fee	\$25
Photocopies of document/page	\$0.50
Reciprocity Fee(to another state)	\$50
Reciprocity Fee(to Louisiana)	\$125
Replace License Card	\$12
Replace License(original)	\$30
Replace Registration Certificate or 2nd copy	\$25
Request for CEU Approval(applicant)	\$25
Request for CEU Approval(vendor)	\$75
Rules and Regulations Book	\$15

Seminars (per hour of instruction)	\$30
State Exam Fee	\$100

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Nursing Facility Administrators, LR 37:596 (February 2011), amended LR 39:

Chapter 13. Complaints and Hearing Procedures
§1301. Registration of Complaints

A. Effective January 2012, anonymous written or oral complaints will not be accepted by the board.

B. Any person, public officer, association, or the board, may prefer charges against any licensee for due cause.

C. Such proceedings shall begin by the filing of sworn written charges with the board. Such charges shall be filed on forms provided by the board. Thereupon the chairman shall initiate an investigation of such charges, and, if indicated, shall designate three or more of its members thereof as a hearing committee or other qualified person as a hearing officer to hear the charges and report to the board thereon.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504, R.S. 37:2509 and R.S. 37:2510.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Home Administrators, April 1970, amended and promulgated LR 9:461 (July 1983), amended LR 11:864 (September 1985), repealed and repromulgated by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators, LR 18:181 (February 1992), amended by the Board of Examiners of Nursing Facility Administrators, LR 39:

Family Impact Statement

The proposed amendments, to LAC 46:XLIX.303-1301, should not have any impact on family as defined by R.S. 49:972. There should not be any effect on: the stability of the family, the authority and rights of parents regarding the education and supervision of their children, the functioning of the family, family earnings and family budget, the behavior and personal responsibility of children, and/or the ability of the family or local government to perform the function as contained in the proposed Rule.

Poverty Statement

The proposed rulemaking will have no impact as described in R.S. 49:973.

Public Comments

Interested persons may submit written comments until 4 p.m. on February 10, 2013 to Mark A. Hebert, Board of Examiners of Nursing Facility Administrators, 5647 Superior Drive, Baton Rouge, LA 70816.

Mark A. Hebert
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Exam Requirements and Complaints

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Other than the rule publication costs, the total of which are estimated to be \$1,500 during FY 13, under section 1301, any filed complaints or charges against a licensee shall be on forms provided by the board. It is anticipated that this will result in a

minimal cost to the board for the requisite forms. In addition, section 303 allows the board to establish a Rewards and Recognition Policy for employees in accordance with Civil Service Rules. The policy could potentially increase costs by an indeterminate amount if the board grants monetary benefits to employees.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Under section 511, each applicant for licensure is required to take a Test Preparatory Course approved by the board prior to taking the National Association of Long Term Care Administrator Boards (NAB) Nursing Home Administrators Licensing Exam. The board currently offers a course quarterly at a central location statewide for a \$30/hour fee (the flat fee under the previous rule was \$250). Although the number of participants in the course is expected to increase due to the new requirement, it is unknown what the net effect this change will have on the Board's revenues since the fee methodology has changed to vary per course offering and because the applicant pool changes annually and has been decreasing for the past 3 years.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Under section 1101, an applicant for licensure must obtain and pay for a notarized Initial Training Agreement and an Administrator in Training (AIT) Certificate of Completion. Costs will vary for each applicant depending on the notary used. Under section 511, each applicant is required to take a Test Preparatory Course approved by the board prior to taking the NAB Nursing Home Administrators Licensing Exam. The board currently offers a course quarterly at a central location statewide for a \$30/hour per participant. Participants may also be required to travel and incur hotel and transportation costs of an indeterminate amount.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Under section 503, an applicant without a bachelor's degree from an accredited institute of higher learning no longer meets the pre-examination requirements for a Nursing Facility Administrator license in Louisiana. This has resulted in the elimination of persons with certain levels of experience combined with unfinished collegiate degrees or nursing degrees from licensure, unless they qualify for a waiver under section 713.

Mark A. Hebert
Executive Director
1301#049

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Medical Examiners**

Physician Practice; Dispensation of Medications
(LAC 46:XLV.6506)

Notice is hereby given in accordance with 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, that the Louisiana State Board of Medical Examiners (board) intends to amend its rules governing dispensation of medications, LAC 46:XLV.6506, to add Subsection D. The amendment would allow a physician who is registered with the board as a dispensing physician dispense up to a single seven day supply of a non-narcotic, non-anorectic Schedule V controlled substance,

which is packaged by the original manufacturer and provided at no cost, for the purpose of assessing a therapeutic response when prescribed according to approved indications. A physician dispensing such a drug must adhere to the board's dispensing rules, LAC 46:XLV.6501-6561, and the requirements of the Louisiana Prescription Monitoring Program, R.S. 40:1001 et seq.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLV. Medical Professions

Subpart 3. Practice

Chapter 65. Dispensation of Medications

Subchapter B. Prohibitions, Sanctions and Exceptions

§6506. Exceptions

A. - C.2. ...

D. Notwithstanding §6505.E of this Subchapter, a registrant may dispense up to a single seven day supply of a non-narcotic, non-anorectic Schedule V controlled substance for the purpose of assessing a therapeutic response when prescribed according to indications approved by the United States Food and Drug Administration and:

1. the medication is prepackaged by the original manufacturer;

2. the prepackaged medication is provided at no cost to a dispensing physician for dispensation to a patient at no cost to the patient; and

3. the dispensing physician submits all required information regarding each dispensation to the Louisiana Board of Pharmacy in accordance with the Prescription Monitoring Program Act, R.S. 40:1001 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and R.S. 37:1201.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 34:1626 (August 2008), repromulgated LR 34:1905 (September 2008), amended LR 39:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of the proposed amendment on the family has been considered. It is not anticipated that the proposed amendment will have any impact on family, formation, stability or autonomy, as described in R.S. 49:972.

Poverty Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the impact of the proposed amendment has been considered. It is not anticipated that the proposed amendment will have any impact on poverty, as described in R.S. 49:973.

Public Comments

Interested persons may submit written data, views, arguments, information or comments on the proposed amendment to Rita Arceneaux, Confidential Executive Assistant, Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, LA, 70130, (504) 568-6820, Ex. 242. She is responsible for responding to inquiries. Written comments will be accepted until 4 p.m., February 19, 2013.

Public Hearing

A request pursuant to R.S. 49:953(A)(2) for a public hearing must be made in writing and received by the board within 20 days of the date of this notice.

Robert L. Marier, M.D.
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES **RULE TITLE: Physician Practice; Dispensation of Medications**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Other than rule publication costs estimated to be \$238 for notice and promulgation in FY 2013, it is not anticipated that the proposed rule amendment will result in any additional costs, savings, increase or reduction in workload or additional paperwork to the Board of Medical Examiners or any other state or local governmental unit.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule amendment will not have any effect on the Board's revenue collections or that of any other state or local governmental unit.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

It is not anticipated that the proposed amendment will have any material effect on costs, paperwork, workload or income of physicians in general or registered dispensing physicians in particular. However, a registered dispensing physician who dispenses such a drug must comply with the Board's dispensing rules, LAC 46:XLV.6501-6561, as well as the reporting requirements of the Louisiana Prescription Monitoring Program, R.S. 40:1001 *et seq.* A patient provided such a drug may receive an economic benefit in the form of the value of the drug provided or to the extent that would have been spent on a prescription for the drug which proved to be non-therapeutic.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that the proposed rule amendment will have any impact on competition or employment in either the public or private sector.

Robert L. Marier, M.D.
Executive Director
1301#070

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Board of Pharmacy

Compounding for Prescriber's Use
(LAC 46:LIII.Chapter 25)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy hereby gives notice of its intent to repeal certain

provisions of its rules that permit pharmacies to compound medications intended for administration to a patient within a prescriber's office without the necessity of a patient-specific prescription. Further, the proposal seeks to prohibit a pharmacy from engaging in manufacturing activities within the prescription department of the pharmacy.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIII. Pharmacists

Chapter 25. Prescriptions, Drugs, and Devices

Subchapter C. Compounding of Drugs

§2533. Definitions

A. As used in this Subchapter, the following terms shall have the meaning ascribed to them in this Section.

* * *

Practitioner Administered Compounds—Repealed.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2105 (October 2003), effective January 1, 2004, amended LR 39:

§2535. General Standards

A. - C. ...

D. Repealed.

E. ...

F. Labeling of Compounded Products

1. ...

2. Repealed.

G. Manufacturing Activities. No pharmacy shall engage in the manufacturing of drugs or drug products within the prescription department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 23:1316 (October 1997), amended LR 29:2105 (October 2003), effective January 1, 2004, amended LR 39:

§2537. Requirements for Compounding of Sterile Products

A. - F. ...

G. Labeling

1. Repealed.

2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2106 (October 2003), effective January 1, 2004, amended LR 39:

Family Impact Statement

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a family impact statement on the rule proposed for adoption, repeal, or amendment.

1. The Effect on the Stability of the Family. We can discern no effect on the stability of the family.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. We can discern no effect on the authority and rights of

parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. We can discern no effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. We can discern no effect on family earnings or family budget.

5. The Effect on the Behavior and Personal Responsibility of Children. We can discern no effect on the behavior and personal responsibility of children.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. We can discern no effect on the ability of the family or a local government to perform the activity as contained in the proposed Rule.

Poverty Statement

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a poverty impact statement on the Rule proposed for adoption, repeal, or amendment. The following statements will be published in the *Louisiana Register* with the proposed agency Rule.

1. The Effect on Household Income, Assets, and Financial Security. We anticipate no impact from the proposed Rule on household income, assets, or financial security.

2. The Effect on Early Childhood Development and Preschool through Postsecondary Education Development. We anticipate no impact from the proposed Rule on early childhood development or preschool through postsecondary education development.

3. The Effect on Employment and Workforce Development. We anticipate no impact from the proposed Rule on employment or workforce development.

4. The Effect on Taxes and Tax Credits. We anticipate no impact from the proposed Rule on taxes or tax credits.

5. The Effect on Child and Dependent Care, Housing, Health Care, Nutrition, Transportation, and Utilities Assistance. We anticipate no impact from the proposed Rule on child and dependent care, housing, health care, nutrition, transportation, or utilities assistance.

Small Business Statement

In accordance with Section 965 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a regulatory flexibility analysis on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, each of the following methods of reducing the impact of the proposed Rule on small businesses.

1. The Establishment of Less Stringent Compliance or Reporting Requirements for Small Businesses. The proposed Rule change will not change any reporting requirements, but it will require a change in the type of record to be maintained by the pharmacy. Instead of a purchase order from the prescriber to the pharmacy, the proposed rule change will require the prescriber to issue a patient-specific prescription to the pharmacy in order to authorize the compounding of the medication.

2. The Establishment of Less Stringent Schedules or Deadlines for Compliance or Reporting requirements for small businesses. There are no changes in the deadlines for compliance or reporting requirements.

3. The Consolidation or Simplification of Compliance or Reporting Requirements for Small Businesses. There are no changes in the reporting requirements.

4. The Establishment of Performance Standards for Small Businesses to Replace Design or Operational Standards Required in the Proposed Rule. There no design standards in the proposed Rule change. The operational standard for the type of document to be received in the pharmacy will change from a purchase order to a patient-specific prescription.

5. The Exemption of Small Businesses from all or any part of the Requirements Contained in the Proposed Rule. There are no exemptions for small businesses in the proposed Rule.

Public Comments

Interested persons may submit written comments to Malcolm J Broussard, Executive Director, Louisiana Board of Pharmacy, 3388 Brentwood Drive, Baton Rouge, LA 70809-1700. He is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, February 27, 2013 at 9 a.m. in the board office. At that time, all interested persons will be afforded an opportunity to submit data, views, or arguments, either orally or in writing. The deadline for the receipt of all comments is 12 noon that same day.

Malcolm J. Broussard
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Compounding for Prescriber’s Use**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is estimated that implementation of the proposed rule will cost the agency \$500 in FY 12-13 for printing costs.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The Board seeks to repeal certain provisions of its current rules relative to the compounding of medications by pharmacies intended for administration by practitioners in their offices without the necessity of a patient-specific prescription. Some of these pharmacies specialize in the large-scale preparation of practitioner-administered compounds as opposed to compounding medications pursuant to patient-specific prescriptions, which has been tied to the spread of fungal meningitis in other states. Although the statutory definition of ‘compounding’ in the Louisiana Pharmacy Practice Act [La. R.S. 37:1164(5)] requires pharmacies to receive patient-specific prescriptions, the Board’s current rules permit pharmacies to prepare practitioner-administered compounds without the necessity of a patient-specific prescription. In order to eliminate this discrepancy and to take safety precautions, the Board is repealing the provisions regarding compounding without a patient-specific prescription until a new rule can be developed with the necessary safeguards in place. Until this new rule is established, the Board will lose any revenue received from permitting (\$150 each) and renewal fees (\$125) associated with pharmacies choosing to solely distribute non-patient-specific compounded medication.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change will require a compounding pharmacy to receive a patient-specific prescription prior to compounding medications intended for administration to a patient within a practitioner’s office. It is estimated that pharmacies that currently produce compound medications for practitioners without use of patient-specific prescriptions will lose the revenue associated with that book of business. For smaller compounding pharmacies, this loss of revenue can be significant, though the amount is indeterminable. It is possible for a pharmacy to continue distributing compound medications without patient-specific prescriptions if it has obtained a manufacturing permit through the Food & Drug Administration (FDA); however, this costs \$525,000 for the overall permit registration and \$98,000 per individual compound drug registration.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition and employment is anticipated as a result of this proposed rule.

Malcolm J. Broussard
Executive Director
1301#044

John D. Carpenter
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Pharmacy**

Hospital Off-Site Satellite Pharmacy
(LAC 46:LIII.1503 and 1525)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy hereby gives notice of its intent to amend its Chapter of rules for hospital pharmacies to authorize the use of satellite pharmacies by pharmacies located within hospitals. The proposed Rule identifies the credentialing requirements and standards of practice applicable to such satellite pharmacies.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS Part LIII. Pharmacists
Chapter 15. Hospital Pharmacy
§1503. Definitions**

A. As used in this Chapter, the following terms shall have the meaning ascribed to them in this Section.

Hospital Off-Site Satellite Pharmacy—a pharmacy located within a hospital licensed by the Louisiana Department of Health and Hospitals, or its successor, the location of which is physically separate from the location of the provider pharmacy.

* * *

Provider Pharmacy—a hospital pharmacy which provides administrative control, staffing as well as products and services to a hospital off-site satellite pharmacy.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2093 (October 2003), effective January 1, 2004, amended LR 33:1132 (June 2007), LR 39:

§1525. Hospital Off-Site Satellite Pharmacy

A. Issuance and Maintenance of Permit

1. A hospital pharmacy may establish a hospital off-site satellite pharmacy within a facility bearing the same hospital license number as the facility housing the provider pharmacy.

2. The provider pharmacy, acting through its pharmacist-in-charge, shall make application for the satellite pharmacy permit using a form and process specified by the board.

3. The applicant shall pay the fee for the initial issuance and renewal as specified in R.S. 37:1184.

4. Once issued, the satellite pharmacy permit shall expire at midnight on December 31 of each year, unless suspended or revoked earlier by the board.

5. The satellite pharmacy shall renew its permit using the form and process specified by the board.

6. The operation of a hospital off-site satellite pharmacy without a pharmacy permit, or with an expired permit, shall constitute a violation of R.S. 37:1241(A)12.

7. In the event a provider pharmacy sustains a change of ownership sufficient to require a new pharmacy permit, the hospital off-site satellite pharmacy shall also obtain a new pharmacy permit.

8. In the event a provider pharmacy closes permanently and surrenders its permit, the hospital off-site satellite pharmacy shall also close and surrender its permit.

B. General Requirements

1. The hospital off-site satellite pharmacy shall be of sufficient size and shall contain sufficient fixtures, equipment and supplies commensurate with the scope of practice for that pharmacy, provided:

a. the pharmacy shall be of sufficient size to allow for the safe and proper storage of prescription drugs and/or controlled substances;

b. all areas where drugs and devices are stored shall be dry, well-lighted, well ventilated, and maintained in a clean and orderly condition, and more specifically, storage areas shall be maintained at temperatures which will ensure the integrity of the drugs prior to their dispensing as stipulated by the United States Pharmacopeia (USP) and/or the manufacturer's or distributor's product labeling unless otherwise indicated by the board;

c. the pharmacy shall be secured by either a physical barrier with suitable locks and/or an electronic barrier to detect entry at a time when the pharmacist is not present; and

d. prescription and other patient health care information shall be maintained in a manner that protects the integrity and confidentiality of such information.

2. The pharmacist-in-charge of the provider pharmacy shall be responsible for all pharmacy operations involving the hospital off-site satellite pharmacy including supervision of pharmacy personnel.

3. The hospital off-site satellite pharmacy shall have at least one licensed pharmacist on duty and physically present in the pharmacy at all times the hospital off-site satellite pharmacy is open for the transaction of business.

4. The hospital off-site satellite hospital pharmacy shall have a sufficient number of pharmacists on duty to operate the pharmacy competently, safely, and adequately to meet the needs of the patients of the pharmacy.

5. When the hospital off-site satellite pharmacy is closed or there is no pharmacist on duty, other individuals shall not have access to the hospital off-site satellite pharmacy except for temporary absences as provided for in Chapter 11 of these rules.

6. The provider pharmacy and the hospital off-site satellite pharmacy shall have:

a. the same owner; and

b. share a common electronic file or have the appropriate technology to allow access to sufficient information necessary or required to process a prescription or medical order.

7. The hospital off-site satellite pharmacy shall comply with the recordkeeping provisions identified in Chapter 11 of these rules.

8. The compounding of preparations in a hospital off-site satellite pharmacy shall be accomplished in compliance with the current federal standards applicable to such practices: USP, chapter 797, or its successor, for the compounding of sterile preparations, and USP, chapter 795, or its successor, for the compounding of non-sterile preparations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 39:

Family Impact Statement

In accordance with Section 953 of Title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a family impact statement on the Rule proposed for adoption, repeal, or amendment.

1. The Effect on the Stability of the Family. We can discern no effect on the stability of the family.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. We can discern no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. We can discern no effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. We can discern no effect on family earnings or family budget.

5. The Effect on the Behavior and Personal Responsibility of Children. We can discern no effect on the behavior and personal responsibility of children.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. We can discern no effect on the ability of the family or a local government to perform the activity as contained in the proposed Rule.

Poverty Statement

In accordance with Section 973 of Title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a poverty impact statement on the Rule proposed for adoption, repeal, or amendment. The following statements will be published in the *Louisiana Register* with the proposed agency Rule.

1. The Effect on Household Income, Assets, and Financial Security. We anticipate no impact from the proposed Rule on household income, assets, or financial security.

2. The Effect on Early Childhood Development and Preschool through Postsecondary Education Development. We anticipate no impact from the proposed Rule on early childhood development or preschool through postsecondary education development.

3. The Effect on Employment and Workforce Development. We anticipate no impact from the proposed Rule on employment or workforce development.

4. The Effect on Taxes and Tax Credits. We anticipate no impact from the proposed Rule on taxes or tax credits.

5. The Effect on Child and Dependent Care, Housing, Health Care, Nutrition, Transportation, and Utilities Assistance. We anticipate no impact from the proposed Rule on child and dependent care, housing, health care, nutrition, transportation, or utilities assistance.

Small Business Statement

In accordance with Section 965 of Title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a regulatory flexibility analysis on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, each of the following methods of reducing the impact of the proposed Rule on small businesses:

1. The Establishment of Less Stringent Compliance or Reporting Requirements for Small Businesses. The proposed rule change would not change any recordkeeping or reporting requirements, but it could simplify the process by centralizing all such activities under a single pharmacy permit instead of the potential multiple pharmacy permits.

2. The Establishment of Less Stringent Schedules or Deadlines for Compliance or Reporting requirements for small businesses. There are no changes in the deadlines for compliance or reporting requirements.

3. The Consolidation or Simplification of Compliance or Reporting Requirements for Small Businesses. There are no changes in the reporting requirements.

4. The Establishment of Performance Standards for Small Businesses to Replace Design or Operational Standards Required in the Proposed Rule. The proposed Rule change eliminates the specific minimum physical specifications identified for full service pharmacy permits, so satellite pharmacies are free to select different design and operational standards.

5. The Exemption of Small Businesses from all or any part of the Requirements Contained in the Proposed Rule. There are no exemptions for small businesses in the proposed Rule.

Public Comments

Interested persons may submit written comments to Malcolm J. Broussard, Executive Director, Louisiana Board of Pharmacy, 3388 Brentwood Drive, Baton Rouge, LA 70809-1700. He is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, February 27, 2013 at 9 a.m. in the board office. At that time, all interested persons will be afforded an opportunity to submit data, views, or arguments, either

orally or in writing. The deadline for the receipt of all comments is 12 noon that same day.

Malcolm J. Broussard
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Hospital Off-Site Satellite Pharmacy

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is estimated that implementation of the proposed rule will cost the agency \$500 in FY 12-13 for printing costs.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No impact on state or local government revenue collections is anticipated as a result of the proposed rule change. The Board seeks to amend its existing rules to provide a new classification of pharmacy permit – hospital off-site satellite pharmacy – to be used by hospital pharmacies seeking to provide pharmacy products and services at its own distant campuses without the necessity of an additional full service pharmacy permit. The proposed rule identifies the new credentials, establishes credentialing requirements, and establishes the standards of practice for such satellite pharmacies. The credentialing requirements will be less strict for the off-site satellite pharmacy as opposed to the full service pharmacy permit. However, the fees will be the same as a full service pharmacy permit so there is no new anticipated revenue as a result of this rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change may result in a reduction in costs associated with the recordkeeping and reporting requirements for satellite pharmacies as compared to full service pharmacies in hospitals or health systems.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition and employment is anticipated as a result of this proposed rule.

Malcolm J. Broussard
Executive Director
1301#043

John D. Carpenter
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Bureau of Health Services Financing

Abortion Facilities—Licensing Standards
(LAC 48:I.4403, 4409, and 4415)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 48:I.4403, §4409, and §4415 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 40:2175.1 et seq., 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.

In compliance with the Louisiana Outpatient Abortion Facility Licensing Law, established in Act 391 of the 2001 Regular Session of the Louisiana Legislature, the

Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions governing the licensing standards for outpatient abortion facilities (*Louisiana Register*, Volume 29, Number 5). The Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions of the May 20, 2003 Rule governing the licensing of abortion facilities in order to clarify the licensing requirements and staffing provisions (*Louisiana Register*, Volume 38, Number 10). This proposed Rule is being promulgated to continue the provisions of the October 20, 2012 Emergency Rule.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 44. Abortion Facilities

§4403. Licensing Requirements

A. ...

1. An outpatient abortion facility shall be in compliance with all applicable federal, state, and local statutes, laws, rules, regulations, and ordinances, including DHH rules, regulations, and fees, governing or relating to outpatient abortion facilities, abortion or termination procedures, reporting requirements, ultrasound requirements, informed consent requirements or any other matter related to abortion or abortion procedures.

B. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:705 (May 2003), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

§4409. Personnel

A. - A.6. ...

B. Nursing Personnel

1. The outpatient abortion facility shall provide nursing services.

2. The nursing services shall be provided under the direction of a registered nurse.

3. There shall be a plan of administrative authority with delineation of responsibilities and duties for each category of nursing personnel.

4. The number of nursing personnel on duty shall be sufficient to meet the needs of the patient(s) in the facility. An outpatient abortion facility shall have at least one licensed nurse on duty at all times when there is a patient in the facility who is receiving or recovering from an abortion.

5. All nurses employed by the facility shall have a current and valid Louisiana nursing license as a registered nurse (RN) or licensed practical nurse (LPN), as appropriate. The facility shall verify and maintain documentation of the nursing license in the personnel file.

6. All licensed nurses shall have current documentation in their personnel file of successfully completing a basic life support course.

7. Nursing care policies and procedures shall be in writing and be consistent with accepted nursing standards. Policies shall be developed for all nursing service

procedures provided at the facility. The procedures shall be reviewed at least annually and revised as necessary.

8. A formalized program of in-service training and evaluation for competency shall be developed for all categories of nursing personnel and for all nursing services provided at the facility. Training related to required job skills shall be provided to nursing personnel. The facility shall maintain documentation of the training provided and evaluation for competency in the personnel file.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:707 (May 2003), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

§4415. Patient Records and Reports

A. - A.1. ...

2. The department is entitled to access all books, records, or other documents maintained by or on behalf of the facility on the licensed premises to the extent necessary to ensure compliance with this Chapter 44. Ensuring compliance includes permitting photocopying by the department or providing photocopies to the department of any records or other information by or on behalf of the department as necessary to determine or verify compliance with this Chapter.

A.3 - E.2.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:708 (May 2003), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability or autonomy as described in R.S. 49:972.

Poverty Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Public Comments

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, February 27, 2013 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally

or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Bruce D. Greenstein
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Abortion Facilities—Licensing
Standards**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 12-13. It is anticipated that \$492 (SGF) will be expended in FY 12-13 for the state's administrative expense for promulgation of this proposed rule and the final rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will not affect revenue collections 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, which continues the provisions of the October 20, 2012 emergency rule, proposes to amend the provisions governing the licensing of abortion facilities in order to clarify the licensing requirements and promote flexibility in the staffing requirements. It is anticipated that implementation of this proposed rule will not have economic costs or benefits to abortion facilities for FY 12-13, FY 13-14, and FY 14-15 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.

J. Ruth Kennedy
Medicaid Director
1301#110

John D. Carpenter
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

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

Office for Citizens with Developmental Disabilities

Home and Community-Based Services Waivers
New Opportunities Waiver
Reimbursement Rate Reduction
(LAC 50:XXI.14301)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities propose to amend LAC 50:XXI.14301 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. 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 2011, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities amended the provisions governing the reimbursement methodology for the new opportunities waiver to reduce the reimbursement rates (*Louisiana Register*; Volume 37, Number 7).

Due to a budgetary shortfall in state fiscal year 2013, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for the New Opportunities Waiver to reduce the reimbursement rates (*Louisiana Register*, Volume 38, Number 7). In order to clarify the rate reduction to NOW services, the department promulgated an Emergency Rule which amended the provisions of the July 1, 2012 Emergency Rule (*Louisiana Register*, Volume 38, Number 8). This proposed Rule is being promulgated to continue the provisions of the July 1, 2012 amended Emergency Rule.

Title 50

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

Subpart 11. New Opportunities Waiver

Chapter 143. Reimbursement

§14301. Reimbursement Methodology

A. - J.I.e. ...

K. Effective for dates of service on or after July 1, 2012, the reimbursement rates for individualized and family support services—day provided to one person shall be reduced by 1.5 percent of the rates in effect on June 30, 2012.

AUTHORITY NOTE: Promulgated in 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), LR 37:2158 (July 2011), LR 39:

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.

Poverty Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule may have an adverse impact on child, individual, or family poverty in relation to individual or

community asset development as described in R.S. 49:973 in the event that health care assistance is reduced as a result of diminished provider participation.

Public Comments

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, February 27, 2013 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Bruce D. Greenstein
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Home and Community-Based Services Waivers—New Opportunities Waiver Reimbursement Rate Reduction

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in estimated state general fund programmatic savings of \$1,442,596 for FY 12-13, \$1,647,009 for FY 13-14 and \$1,787,103 for FY 14-15. It is anticipated that \$328 (\$164 SGF and \$164 FED) will be expended in FY 12-13 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.96 percent in FY 13-14. The enhanced rate of 62.11 percent for the last nine months of FY 14 is the federal rate for disaster-recovery FMAP adjustment states.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately \$2,874,132 for FY 12-13, \$2,799,559 for FY 13-14 and \$2,792,862 for FY 14-15. It is anticipated that \$164 will be expended in FY 12-13 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.96 percent in FY 13-14. The enhanced rate of 62.11 percent for the last nine months of FY 14 is the federal rate for disaster-recovery FMAP adjustment states.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule continues the provisions of the July 1, 2012 emergency rule which amended the provisions governing the reimbursement methodology for the New Opportunities Waiver (NOW) to reduce the reimbursement rates (approximately 7,900 recipients). It is anticipated that implementation of this proposed rule will reduce programmatic expenditures in the Medicaid Program by approximately \$4,317,056 for FY 12-13, \$4,446,568 for FY 13-14 and \$4,579,965 for FY 14-15.

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 the implementation of this proposed rule may have a negative effect on employment as it will reduce the payments made for NOW services. The reduction in payments may adversely impact the financial standing of providers and could possibly cause a reduction in employment opportunities.

J. Ruth Kennedy
Medicaid Director
1301#111

John D. Carpenter
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Bureau of Health Services Financing and Office for Citizens with Developmental Disabilities

Home and Community-Based Services Waivers
Residential Options Waiver—Reimbursement Rate
Reduction (LAC 50:XXI.16901)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities propose to amend LAC 50:XXI.16901 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.

The Department of Health and Hospitals, Bureau of Health Services and the Office for Citizens with Developmental Disabilities promulgated an Emergency Rule which amended the provisions governing the Residential Options Waiver (ROW) to revise the provisions governing the allocation of waiver opportunities and the delivery of services in order to provide greater clarity (*Louisiana Register*, Volume 36, Number 4).

Due to a budgetary shortfall in state fiscal year 2013, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for the Residential Options Waiver to reduce the reimbursement rates (*Louisiana Register*, Volume 38, Number 7). This proposed Rule is being promulgated to continue the provisions of the July 1, 2012 Emergency Rule.

Title 50

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

Subpart 13. Residential Options Waiver

Chapter 169. Reimbursement §16901. Reimbursement Methodology

A. - K.1.d. ...

L. Effective for dates of service on or after July 1, 2012, the reimbursement for Residential Options Waiver services shall be reduced by 1.5 percent of the rates in effect on June 30, 2012.

1. The following services shall be excluded from this rate reduction:

- a. personal emergency response services;
- b. environmental accessibility adaption services;

- c. specialized medical equipment and supplies; and
- d. transitional 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 for Citizens with Developmental Disabilities, LR 33:2456 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:

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.

Poverty Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Public Comments

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 708219030. She is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, February 27, 2013 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Bruce D. Greenstein
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Home and Community-Based
Services Waivers—Residential Options
Waiver—Reimbursement Rate Reduction**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will result in estimated state general fund programmatic savings of \$4,213 for FY 12-13, \$4,997 for FY 13-14 and \$5,422 for FY 14-15. It is anticipated that \$328 (\$164 SGF and \$164 FED) will be expended in FY 12-13 for the state’s administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a

blended Federal Medical Assistance Percentage (FMAP) rate of 62.96 percent in FY 13-14. The enhanced rate of 62.11 percent for the last nine months of FY 14 is the federal rate for disaster-recovery FMAP adjustment states.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately \$8,556 for FY 12-13, \$8,493 for FY 13-14 and \$8,473 for FY 14-15. It is anticipated that \$164 will be expended in FY 12-13 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.96 percent in FY 13-14. The enhanced rate of 62.11 percent for the last nine months of FY 14 is the federal rate for disaster-recovery FMAP adjustment states.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

This proposed rule continues the provisions of the July 1, 2012 emergency rule which amended the provisions governing the reimbursement methodology for the Residential Options Waiver (ROW) to reduce the reimbursement rates (approximately 65 recipients). It is anticipated that implementation of this proposed rule will reduce programmatic expenditures in the Medicaid Program by approximately \$13,097 for FY 12-13, \$13,490 for FY 13-14 and \$13,895 for FY 14-15.

**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 the implementation of this proposed rule may have a negative effect on employment as it will reduce the payments made for Residential Options Waiver services. The reduction in payments may adversely impact the financial standing of providers and could possibly cause a reduction in employment opportunities.

J. Ruth Kennedy
Medicaid Director
1301#112

John D. Carpenter
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Bureau of Health Services Financing
and
Office for Citizens with Developmental Disabilities**

Home and Community-Based Services Waivers
Supports Waiver—Reimbursement Rate Reduction
(LAC 50:XXI.6101)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities propose to amend LAC 50:XXI.6101 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. 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 2011, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities amended the provisions governing the reimbursement methodology for Supports

Waiver services to reduce the reimbursement rates (*Louisiana Register*, Volume 37, Number 7).

Due to a budgetary shortfall in state fiscal year 2013, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for Supports Waiver services to reduce the reimbursement rates (*Louisiana Register*, Volume 38, Number 7). This proposed Rule is being promulgated to continue the provisions of the July 1, 2012 Emergency Rule.

Title 50

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

Subpart 5. Supports Waiver

Chapter 61. Reimbursement Methodology

§6101. Reimbursement Methodology

A. - L.1. ...

M. Effective for dates of service on or after July 1, 2012, the reimbursement rates for Supports Waiver services shall be reduced by 1.5 percent of the rates on file as of June 30, 2012.

1. Personal emergency response system services shall be excluded from the rate reduction.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:1607 (September 2006), amended LR 34:662 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 36:2281 (October 2010), LR 37:2158 (July 2011), LR 39:

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.

Poverty Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule may have an adverse impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 in the event that health care assistance is reduced as a result of diminished provider participation.

Public Comments

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, February 27, 2013 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Bruce D. Greenstein
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Home and Community-Based Services Waivers—Supports Waiver—Reimbursement Rate Reduction

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in estimated state general fund programmatic savings of \$52,428 for FY 12-13, \$60,037 for FY 13-14 and \$65,144 for FY 14-15. It is anticipated that \$328 (\$164 SGF and \$164 FED) will be expended in FY 12-13 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.96 percent in FY 13-14. The enhanced rate of 62.11 percent for the last nine months of FY 14 is the federal rate for disaster-recovery FMAP adjustment states.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately \$104,610 for FY 12-13, \$102,050 for FY 13-14 and \$101,806 for FY 14-15. It is anticipated that \$164 will be expended in FY 12-13 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.96 percent in FY 13-14. The enhanced rate of 62.11 percent for the last nine months of FY 14 is the federal rate for disaster-recovery FMAP adjustment states.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule continues the provisions of the July 1, 2012 emergency rule which amended the provisions governing the reimbursement methodology for Supports Waiver services to reduce the reimbursement rates (approximately 30,260 annual service units). It is anticipated that implementation of this proposed rule will reduce programmatic expenditures in the Medicaid Program by approximately \$157,366 for FY 12-13, \$162,087 for FY 13-14 and \$166,950 for FY 14-15.

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 the implementation of this proposed rule may have a negative effect on employment as it will reduce the payments made for Supports Waiver services. The reduction in payments may adversely impact the financial standing of

providers and could possibly cause a reduction in employment opportunities.

J. Ruth Kennedy
Medicaid Director
1301#113

John D. Carpenter
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Bureau of Health Services Financing

Home Health Program—Durable Medical Equipment
Reimbursement Rate 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. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

As a result of a budgetary shortfall in state fiscal year 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for medical equipment, supplies and appliances to reduce the reimbursement rates (*Louisiana Register*, Volume 36, Number 9).

Due to a budgetary shortfall in state fiscal year 2013, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for medical equipment, supplies and appliances to reduce the reimbursement rates (*Louisiana Register*, Volume 38, Number 7). This proposed Rule is being promulgated to continue the provisions of the July 1, 2012 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. - E.2. ...

F. Effective for dates of service on or after July 1, 2012, the reimbursement paid for medical equipment, supplies and appliances shall be reduced by 3.7 percent of the rates on file as of June 30, 2012.

AUTHORITY NOTE: Promulgated in 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), LR 36:2041 (September 2010), LR 39:

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.

Poverty Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule may have an adverse impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 in the event that health care assistance is reduced as a result of diminished provider participation.

Public Comments

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, February 27, 2013 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Bruce D. Greenstein
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Home Health Program Durable Medical Equipment Reimbursement Rate Reduction

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in estimated state general fund programmatic savings of \$214,036 for FY 12-13, \$244,477 for FY 13-14 and \$265,273 for FY 14-15. It is anticipated that \$246 (\$123 SGF and \$123 FED) will be expended in FY 12-13 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.96 percent in FY 13-14. The enhanced rate of 62.11 percent for the last nine months of FY 14 is the federal rate for disaster-recovery FMAP adjustment states.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately \$426,529 for FY 12-13, \$415,558 for FY 13-14 and \$414,564

for FY 14-15. It is anticipated that \$123 will be expended in FY 12-13 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.96 percent in FY 13-14. The enhanced rate of 62.11 percent for the last nine months of FY 14 is the federal rate for disaster-recovery FMAP adjustment states.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule continues the provisions of the July 1, 2012 emergency rule which amended the provisions governing the reimbursement methodology for durable medical equipment to reduce the reimbursement rates. It is anticipated that implementation of this proposed rule will reduce programmatic expenditures in the Medicaid Program by approximately \$640,811 for FY 12-13, \$660,035 for FY 13-14 and \$679,836 for FY 14-15.

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 the implementation of this proposed rule may have a negative effect on employment as it will reduce the payments made for durable medical equipment. The reduction in payments may adversely impact the financial standing of providers and could possibly cause a reduction in employment opportunities.

J. Ruth Kennedy
Medicaid Director
1301#114

John D. Carpenter
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

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

Home Health Program
Nursing and Home Health Aide Services
Reimbursement Rate Reduction (LAC 50:XIII.701)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:XIII.701 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. 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 2011, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for nursing services covered in the Home Health Program in order to reduce the reimbursement rates paid for extended nursing services (*Louisiana Register*, Volume 37, Number 7).

Due to a budgetary shortfall in state fiscal year 2013, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for intermittent and extended nursing services and home health aide services covered in the Home Health Program in

order to reduce the reimbursement rates (*Louisiana Register*, Volume 38, Number 7). This proposed Rule is being promulgated to continue the provisions of the July 1, 2012 Emergency Rule.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XIII. Home Health

Subpart 1. Home Health Services

Chapter 7. Reimbursement Methodology

§701. Nursing and Home Health Aide Services

A. - C. ...

D. Effective for dates of service on or after July 1, 2012, the reimbursement rates for intermittent and extended nursing services and home health aide services shall be reduced by 3.7 percent of the rates in effect on June 30, 2012.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:654 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2281 (October 2010), amended LR 37:2159 (July 2011), LR 39:

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.

Poverty Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule may have an adverse impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 in the event that health care assistance is reduced as a result of diminished provider participation.

Public Comments

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, February 27, 2013 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally

or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Bruce D. Greenstein
Secretary

NOTICE OF INTENT

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

Medicaid Provider Screening and Enrollment
(LAC 50:I.Chapter 15)

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Home Health Program
Nursing and Home Health Aide 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 state general fund programmatic savings of \$261,265 for FY 12-13, \$298,439 for FY 13-14 and \$323,824 for FY 14-15. It is anticipated that \$328 (\$164 SGF and \$164 FED) will be expended in FY 12-13 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.96 percent in FY 13-14. The enhanced rate of 62.11 percent for the last nine months of FY 14 is the federal rate for disaster-recovery FMAP adjustment states.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately \$520,660 for FY 12-13, \$507,282 for FY 13-14, and \$506,068 for FY 14-15. It is anticipated that \$164 will be expended in FY 12-13 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.96 percent in FY 13-14. The enhanced rate of 62.11 percent for the last nine months of FY 14 is the federal rate for disaster-recovery FMAP adjustment states.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule continues the provisions of the July 1, 2012 emergency rule which amended the provisions governing the reimbursement methodology for intermittent and extended nursing services and home health aide services covered in the Home Health Program in order to reduce the reimbursement rates. It is anticipated that implementation of this proposed rule will reduce programmatic expenditures in the Medicaid Program by approximately \$782,253 for FY 12-13, \$805,721 for FY 13-14 and \$829,892 for FY 14-15.

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 the implementation of this proposed rule may have a negative effect on employment as it will reduce the payments made to home health providers. The reduction in payments may adversely impact the financial standing of home health providers and could possibly cause a reduction in employment opportunities.

J. Ruth Kennedy
Medicaid Director
1301#115

John D. Carpenter
Legislative Fiscal Officer
Legislative Fiscal Office

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt LAC 50:I.Chapter 15 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 40:2116. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Patient Protection and Affordable Care Act (PPACA), U.S. Public Law 111-148, and 42 CFR Part 455, Subpart E established procedures for the screening of providers of medical or other items, services, and suppliers under Medicare, Medicaid, and the Children's Health Insurance Program (CHIP). The regulations also established provisions governing provider enrollment. In compliance with PPACA and federal regulations, the Department of Health and Hospitals, Bureau of Health Services Financing adopts provisions in the Medicaid Program governing provider screening and enrollment.

**Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part I. Administration
Subpart 1. General Provisions
Chapter 15. Provider Screening and Enrollment
§1501. General Provisions**

A. Pursuant to the provisions of the Patient Protection and Affordable Care Act (PPACA), Public Law 111-148 and 42 CFR Part 455, Subpart E, the Medicaid Program adopts the following provider enrollment and screening requirements. The Centers for Medicare and Medicaid Services (CMS) has established guidelines for provider categorization based on an assessment of potential for fraud, waste, and abuse for each provider type. The Medicaid Program shall determine the risk level for providers and will adopt these federal requirements in addition to any existing requirements. Additional enrollment requirements may be adopted in the future.

B. In accordance with PPACA and federal regulations, the Medicaid Program shall screen all initial applications, including applications for a new practice location, and any applications received in response to a re-enrollment or revalidation, utilizing the following guidelines.

1. Provider types shall be categorized by the following risk levels.

a. High Categorical Risk—categories of service that pose a significant risk of fraud, waste, and abuse to the Medicaid Program.

b. Moderate Categorical Risk—categories of service that pose a moderate risk of fraud, waste, and abuse to the Medicaid Program.

c. Limited Categorical Risk—categories of service that pose a minor risk of fraud, waste, and abuse to the Medicaid Program.

C. Screening activities for the varying risk levels shall include the following mandates.

1. High risk level screening activities shall include:
 - a. fingerprinting and criminal background checks for all disclosed individuals;
 - b. unannounced site visits before and after enrollment; and
 - c. verification of provider-specific requirements including, but not limited to:
 - i. license verification;
 - ii. National Provider Identifier (NPI) check;
 - iii. Office of Inspector General (OIG) exclusion check;
 - iv. disclosure of ownership/controlling interest information; and
 - v. the Social Security Administration's Death Master File check.
2. Moderate risk level screening activities shall include:
 - a. unannounced site visits before and after enrollment; and
 - b. verification of provider-specific requirements including, but not limited to:
 - i. license verification;
 - ii. NPI check;
 - iii. OIG exclusion check;
 - iv. disclosure of ownership/controlling interest information; and
 - v. the Social Security Administration's Death Master File check.
3. Limited risk level screening activities shall include, but are not limited to:
 - a. verification of provider-specific requirements including:
 - i. license verification;
 - ii. NPI check;
 - iii. OIG exclusion check;
 - iv. disclosure of ownership/controlling interest information verification; and
 - v. the Social Security Administration's Death Master File check.

D. The Medicaid Program may rely on, but is not limited to, the results of provider screenings performed by:

1. Medicare contractors;
2. Medicaid agencies; or
3. Children's Health Insurance Programs (CHIP) of other states.

E. Updated Medicaid enrollment forms shall require additional information for all disclosed individuals.

F. Providers shall be required to revalidate their enrollments with the Medicaid Program at a minimum of five year intervals. A more frequent revalidation requirement, a minimum of three year intervals, shall apply to durable medical equipment (DME) providers and pharmacy providers with DME or home medical equipment (HME) specialty enrollments. All providers shall be required to revalidate their enrollment under PPACA and Medicaid criteria.

1. Existing providers shall be revalidated in phases, with completion scheduled for March 23, 2015.

AUTHORITY NOTE: Promulgated in 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 39:

§1503. Temporary Moratoria

A. The secretary of the U.S. Department of Health and Human Services (HSS) will consult with the Department of Health and Hospitals (DHH) regarding the imposition of temporary moratoria on enrollment of new providers or provider types prior to imposition of the moratoria.

1. DHH shall impose temporary moratoria on enrollment of new providers or provider types identified by the HHS secretary as posing an increased risk to the Medicaid Program.

2. DHH shall not be required to impose such a moratorium if it is determined that imposition of a temporary moratorium would adversely affect recipient's access to medical assistance.

- a. If making such a determination, DHH must notify the HHS secretary in writing.

B. DHH may impose temporary moratoria on enrollment of new providers, or impose numerical caps or other limits that the department identifies as having a significant potential for fraud, waste or abuse, and that the HHS secretary has identified as being at high risk.

1. Before implementing the moratoria, caps or other limits, DHH must determine that its action would not adversely impact beneficiaries' access to medical assistance.

2. DHH must notify the HHS secretary in writing in the event the department seeks to impose such moratoria, including all details of the moratoria, and obtain the secretary's concurrence with imposition of the moratoria.

C. The department must impose the moratorium for an initial period of six months, and if necessary, extend the moratorium in six month increments.

AUTHORITY NOTE: Promulgated in 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 39:

Family Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability or autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Public Comments

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, February 27, 2013 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an

opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Bruce D. Greenstein
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Medicaid Provider
Screening and Enrollment**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of the fingerprinting and background checks components of this proposed rule may cause an increase in programmatic expenditures in the Medicaid Program by an indeterminable amount for FY 12-13, FY 13-14, and FY 14-15. It is anticipated that \$656 (\$328 SGF and \$328 FED) will be expended in FY 12-13 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule may have an indeterminable increase in federal revenue collections for FY 12-13, FY 13-14, and FY 14-15. It is anticipated that \$328 will be expended in FY 12-13 for the federal administrative expenses 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)

In compliance with requirements of the Patient Protection and Affordable Care Act, this rule proposes to adopt provisions in the Medicaid Program governing provider screening and enrollment. It is anticipated that implementation of this proposed rule will not have economic costs or benefits for FY 12-13, FY 13-14, and FY 14-15.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

J. Ruth Kennedy
Medicaid Director
1301#116

John D. Carpenter
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

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

**Personal Care Services—Long Term
Cost Reporting Requirements
(LAC 50:XV.12919)**

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt LAC 50:XV.12919 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.

Act 299 of the 2011 Regular Session of the Louisiana Legislature directed the Department of Health and Hospitals to establish mandatory cost reporting requirements for providers of home and community-based services to verify expenditures and for use in determining appropriate reimbursement rates. In compliance with Act 299, the department promulgated an Emergency Rule which adopted provisions establishing cost reporting requirements for providers of long-term personal care services (*Louisiana Register*, Volume 38, Number 7). This proposed Rule is being promulgated to continue the provisions of the July 1, 2012 Emergency Rule.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 9. Personal Care Services

Chapter 129. Long Term Care

§12919. Cost Reporting Requirements

A. Effective July 1, 2012, the department shall implement mandatory cost reporting requirements for providers of long-term personal care services. The cost reports will be used to verify expenditures and to support rate setting for the services rendered to Medicaid recipients.

B. Each LT-PCS provider shall complete the DHH approved cost report and submit the cost report(s) to the department no later than five months after the state fiscal year ends (June 30).

AUTHORITY NOTE: Promulgated in 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 39:

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 or autonomy as described in R.S. 49:972.

Poverty Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Public Comments

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821—9030. She is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, February 27, 2013 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally

or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Bruce D. Greenstein
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Personal Care Services—Long Term Cost Reporting Requirements

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 12-13. It is anticipated that \$246 (\$123 SGF and \$123 FED) will be expended in FY 12-13 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will not affect revenue collections other than the federal share of the promulgation costs for FY 12-13. It is anticipated that \$123 will be collected in FY 12-13 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 continues the provisions of the July 1, 2012 Emergency Rule which adopted provisions establishing cost reporting requirements for providers of long-term personal care services (LT-PCS). It is anticipated that implementation of this proposed rule will not have economic cost or benefits to LT-PCS providers for FY 12-13, FY 13-14 and FY 14-15.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

J. Ruth Kennedy
Medicaid Director
1301#117

John D. Carpenter
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Office of Public Health

Disease Reporting Requirements and Blood Bank Storage
Temperature (LAC 51:II.105, 113 and XIX.309)

Notice is hereby given, in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., that the state health officer acting through the Department of Health and Hospitals, Office of Public Health, pursuant to the authority in R.S. 40:4(A)(2), R.S. 40:4(A)(10), and R.S. 40:5(10), intends to amend and revise Title 51 (Public Health—Sanitary Code), Part II (Disease Reporting Requirements) and Part XIX (Hospitals, Ambulatory Surgical Centers, Renal Dialysis Centers) by effecting substantive changes as outlined below.

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. The following diseases or conditions are hereby declared reportable with reporting requirements by Class.

1. Class A Diseases or Conditions which Shall Require Reporting within 24 Hours

a. Class A diseases or conditions include diseases or conditions of major public health concern because of the severity of the disease or condition and the potential for epidemic spread. Class A diseases or conditions shall be reported to the Office of Public Health by telephone (or in another electronic format acceptable to the Office of Public Health) immediately upon recognition that a case, a suspected case, or a positive laboratory result is known. In addition, all cases of rare or exotic communicable diseases, unexplained death, unusual cluster of disease and all outbreaks shall be reported. Any Class A disease or condition, rare or exotic communicable disease, unexplained death, or unusual cluster of disease and any disease outbreak, shall be reported to the Office of Public Health as soon as possible but no later than 24 hours from recognition that a case, a suspected case, a positive laboratory result, an unexplained death, an unusual cluster of disease, or a disease outbreak is known. The following diseases or conditions shall be classified as Class A for reporting requirements:

- i. Acute Flaccid Paralysis;
- ii. Anthrax;
- iii. Avian or novel strain Influenza A (Initial Detection);
- iv. Botulism;
- v. Brucellosis;
- vi. Cholera;
- vii. *Clostridium perfringens* food-borne infection;
- viii. Diphtheria;
- ix. Fish or shellfish poisoning (Domoic Acid poisoning, Neurotoxic shellfish poisoning, Ciguatera, Paralytic shellfish poisoning, scombroid) ;
- x. Food-borne Infection;
- xi. *Haemophilus influenzae* (invasive infection);
- xii. Influenza-associated mortality;
- xiii. Measles (rubeola imported or indigenous);
- xiv. *Neisseria meningitidis* (invasive infection);
- xv. Outbreaks of any infectious diseases;
- xvi. Pertussis;
- xvii. Plague (*Yersinia pestis*);
- xviii. Poliomyelitis (paralytic and non-paralytic);
- xix. Q Fever (*Coxiella burnetii*);
- xx. Rabies (animal and human);
- xxi. Ricin poisoning;
- xxii. Rubella (congenital syndrome);
- xxiii. Rubella (German measles);
- xxiv. Severe Acute Respiratory Syndrome-associated Coronavirus (SARS-CoV);
- xxv. *Staphylococcus aureus*, Vancomycin Intermediate or Resistant (VISA/VRSA);

- xxvi. Staphylococcal Enterotoxin B (SEB) Pulmonary poisoning;
- xxvii. Smallpox;
- xxviii. Tularemia (*Francisella tularensis*);
- xxix. Viral Hemorrhagic Fever; and
- xxx. Yellow Fever.

2. Class B Diseases or Conditions which Shall Require Reporting within One Business Day

a. Class B diseases or conditions include diseases or conditions of public health concern needing timely response because of potential for epidemic spread. The following Class B diseases or conditions 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. Amoeba (free living) infection (including *Acanthamoeba*, *Naegleria*, *Balamuthia* and others);
- ii. Anaplasmosis;
- iii. Arthropod-Borne Neuroinvasive Disease and other infections (including West Nile, St. Louis, California, Eastern Equine, Western Equine and others);
- iv. Aseptic meningitis;
- v. Babesiosis;
- vi. Chagas disease;
- vii. Chancroid;
- viii. Dengue fever;
- ix. *Escherichia coli*, Shiga-toxin producing (STEC), including *E. coli* O157:H7;
- x. Granuloma inguinale;
- xi. Hantavirus (Infection or Pulmonary Syndrome);
- xii. Hemolytic-Uremic Syndrome;
- xiii. Hepatitis A (acute illness);
- xiv. Hepatitis B (acute illness and carriage in pregnancy);
- xv. Hepatitis B (perinatal infection);
- xvi. Hepatitis E;
- xvii. Herpes (neonatal);
- xviii. Human Immunodeficiency Virus [(HIV), infection in pregnancy]²;
- xix. Human Immunodeficiency Virus [(HIV), perinatal exposure]²;
- xx. Legionellosis;
- xxi. Malaria;
- xxii. Mumps;
- xxiii. Salmonellosis;
- xxiv. Shigellosis;
- xxv. Syphilis¹;
- xxvi. Tetanus;
- xxvii. Tuberculosis³ due to *Mycobacterium tuberculosis*, *bovis* or *africanum*; and
- xxviii. Typhoid Fever.

3. Class C Diseases or Conditions which Shall Require Reporting within Five Business Days

a. Class C diseases or conditions shall include diseases or conditions of significant public health concern. The following Class C diseases or 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. Acquired Immune Deficiency Syndrome (AIDS);²
- ii. *Anaplasma phagocytophilum*
- iii. Blastomycosis;
- iv. Campylobacteriosis;
- v. Chlamydial infection¹;
- vi. Coccidioidomycosis;
- vii. Cryptococcosis;
- viii. Cryptosporidiosis;
- ix. Cyclosporiasis;
- x. Ehrlichiosis (human granulocytic, human monocytic, *Ehrlichia chaffeensis* and *ewingii*);
- xi. Enterococcus, Vancomycin Resistant [(VRE), invasive disease];
- xii. Giardia;
- xiii. Glanders;
- xiv. Gonorrhea¹ (Genital, oral, ophthalmic, pelvic inflammatory disease rectal);
- xv. Hansen Disease (leprosy);
- xvi. Hepatitis B (carriage, other than in pregnancy);
- xvii. Hepatitis C (acute illness);
- xviii. Hepatitis C (past or present infection);
- xix. Human Immunodeficiency Virus [(HIV) infection, other than as in Class B]²
- xx. Human T Lymphocyte Virus (HTLV I and II) infection;
- xxi. Leptospirosis;
- xxii. Listeria;
- xxiii. Lyme Disease;
- xxiv. Lymphogranuloma venereum¹;
- xxv. Melioidosis (*Burkholderia pseudomallei*)
- xxvi. Meningitis eosinophilic
- xxvii. Nipah virus infection
- xxviii. Psittacosis;
- xxix. Spotted fevers [*Rickettsia* species including Rocky Mountain Spotted Fever (RMSF)];
- xxx. Staphylococcal Toxic Shock Syndrome;
- xxxi. *Staphylococcus aureus*, Methicillin/Oxacillin Resistant (MRSA), invasive infection);
- xxxii. Streptococcal disease, Group A (invasive disease);
- xxxiii. Streptococcal disease, Group B (invasive disease);
- xxxiv. Streptococcal Toxic Shock Syndrome;
- xxxv. *Streptococcus pneumoniae* invasive disease;
- xxxvi. Transmissible Spongiform Encephalopathies (Creutzfeldt-Jacob Disease and variants);
- xxxvii. Trichinosis;
- xxxviii. Varicella (chickenpox);
- xxxix. *Vibrio* infections (other than cholera); and
- xl. Yersiniosis.

4. Class D Special Reportable Diseases or Conditions Shall Require Reporting within Five Business Days

a. Class D diseases or conditions shall include diseases or conditions of significant public health concern. The following Class D diseases or 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. galactosemia;
- vi. heavy metal (arsenic, cadmium, mercury) exposure and/or poisoning (all ages)⁵;
- vii. hemophilia;
- viii. lead exposure and/or poisoning (children); (adults);
- ix. pesticide-related illness or injury (all ages);
- x. phenylketonuria⁴;
- xi. Reye's Syndrome;
- xii. severe traumatic head injury;
- xiii. severe under nutrition (severe anemia, failure to thrive);
- xiv. sickle cell disease (newborns);
- xv. spinal cord injury; and
- xvi. sudden infant death syndrome (SIDS).

5. Class E Syndromic Surveillance: Reportable Conditions seen at Emergency Departments of Acute Care Hospitals which Shall Require Reporting Electronically within One Business Day of the Visit

a. Class E shall include all conditions seen at Emergency Departments of Acute Care Hospitals. The text content of the chief complaint for the visit or an International Classification of Disease Code shall be reported to the Office of Public Health within one business day of the visit by electronic means as specified by the Office of Public Health beginning on [the effective date of this rule].

B. Case reports not requiring special reporting instructions (see below) can be reported by mail or facsimile [504-568-8290 (fax)] on Confidential Disease Report forms, or by phone (call 800-256-2748 for forms and instructions) or in an electronic format acceptable to the Office of Public Health.

1. ¹Report on STD-43 form. Report cases of syphilis with active lesions by telephone, within one business day, to 504-568-7474.

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 facsimile [504-568-8253 (fax)] or call 504-568-8254 or 800-242-3112.

5. ⁵Report to the Section of Environmental Epidemiology and Toxicology: www.seet.dhh.louisiana.gov or call 504-568-8159 or 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), repromulgated LR 34:2582 (December 2008), LR 36:1014 (May 2010), repromulgated LR 36:1253 (June 2010), LR 39:

§113. Laboratory Reporting Requirements [formerly paragraph 2:008]

A. The director of every laboratory whether public, private, hospital or other, within or out of the state shall report to the state health officer the results of all tests that are in any way clinically relevant, suggestive or indicative of an individual having active disease, past or present exposure to, past or present contact with and/or past or present association with any of the disease/conditions listed in LAC 51 (Public Health-Sanitary Code), Part II, Chapter 1, §105. The results of the tests to be reported to the state health officer do not have to be conducted for diagnostic reasons, nor do the results have to be diagnostic or confirmatory. The report should be received in a timely manner consistent with the requirements of the diseases/conditions Class described in §105 and shall state the name, date of birth, sex, race, usual residence, specimen identification code/ID and test results of the tested individual as well as the name of the physician or person submitting the specimen. Contact information for the laboratory performing the test(s) must be provided. Laboratories shall not defer their Public Health Reporting responsibilities to any other authorities within the institutions they serve. In addition, laboratories performing tests on specimens received from other laboratories shall report to the state health officer all results as prescribed above plus the contact information for the facility/laboratory where the specimen originated. Moreover, no considerations, evaluations or concerns, regarding any test technology or test result by institutions and/or organizations whether federal, state or otherwise (e.g., FDA, CMS-CLIA, etc.) which may be overseeing, approving, evaluating or licensing laboratory testing, shall represent an *a priori* rationale for withholding laboratory reports from the state health officer.

B. A reference culture is required to be sent to the Office of Public Health Laboratory for the following microorganisms within 5 working days of the final identification of the microorganism:

- i. *Bacillus anthracis* (confirmed or suspected);
- ii. Bordetella pertussis;
- iii. Burkholderia mallei;
- iv. Campylobacter spp.;
- v. Corynebacterium diphtheria;
- vi. *E.Coli* O157H7 or *E.coli* Shiga Toxin producing ;
- vii. *Francisella* species;
- viii. Listeria spp
- ix. Mycobacterium tuberculosis, bovis or africanum;
- x. Plesiomonas spp.;
- xi. Salmonella;
- xii. Shigella;
- xiii. *Vibrio* spp.;
- xiv. Yersinia enterocolitica; and
- xv. Yersinia pestis.

C. A reference culture is required to be sent to the Office of Public Health Laboratory for the following microorganisms if the original culture was from a sterile site (e.g., blood, spinal fluid, other internal fluid, tissue, etc.).

Such reference culture shall be sent to the Office of Public Health Laboratory within five working days of the final identification of the microorganism.

- i. *Haemophilus influenzae* type b or untyped;
- ii. *Neisseria meningitidis*; and
- iii. *Streptococcus pneumoniae*.

D. Laboratory reports shall not be construed by the Office of Public Health as diagnosis. In the case of private patients, follow-up of laboratory reports shall be through the physician(s) submitting the specimen(s).

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 28:1214 (June 2002), amended LR 32:1052 (June 2006), LR 39:

**Part XIX. Hospitals, Ambulatory Surgical Centers,
Renal Dialysis Centers**

Chapter 3. Operations and Maintenance

§309. Laboratory

[formerly paragraph 19:024]

A. Microbiological cultures shall be disposed of in an incinerator approved by the Air Permits Division of the DEQ or sterilized prior to disposal. Smoking and eating are not allowed in laboratory areas. Laboratories, especially horizontal work surfaces, shall be cleaned and disinfected at the end of each work day.

B. ...

C. [Formerly paragraph 19:026] Blood bank refrigerators shall be kept clean and maintained at a temperature of 1°C to 6°C (33.8°F to 42.8°F), provided with an alarm and used for flood storage only. Time and temperature charts shall be maintained continuously and monitored and recorded daily. These records shall be maintained for at least a year. Alarm devices for refrigerators shall be provided.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(10) and R.S. 40:5(2)(3)(5)(15)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1395 (June 2002), LR 39:

Family Impact Statement

1. The Effect on the Stability of the Family. None
2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. None
3. The Effect on the Functioning of the family. None
4. The Effect on the Family Earnings and Family Budget. None
5. The Effect on the Behavior and Personal Responsibility of Children. None
6. The Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rule. None

Poverty Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Such comments should be submitted no later than Monday, February 11, 2013 at 4:30 p.m. to Theresa Sokol, Infectious Disease Surveillance, Infectious Disease Epidemiology Section,

Office of Public Health, 1450 Poydras Street, Suite 2155, New Orleans, LA 70112. Comments may be faxed to (504) 568-8290.

Public Hearing

A public hearing is scheduled for Tuesday, February 26, 2013 at 10 a.m. in room 371 at the DHH Bienville Building, 628 North Fourth Street, Baton Rouge, LA 70802. Please call (504) 568-8313 in advance to confirm the time and place of the public hearing, as the public hearing will be cancelled if the requisite number of comments is not received.

Bruce D. Greenstein
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Disease Reporting Requirements and
Blood Bank Storage Temperature**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule amends Part II (The Control of Diseases), Section 105 (Reportable Diseases and Conditions) of the Louisiana State Sanitary Code (LAC 51) to update current disease reporting requirements based on recommendations of the Council of State and Territorial Epidemiologists and the Centers for Disease Control (CDC). The main purpose of this proposed rule is to add, modify, or clarify over 30 different infectious diseases or conditions of public health importance that are rare. Some of these diseases or conditions are of significant public concern and adding them will make reporting faster and potentially save an indeterminable amount in future treatment costs. State laboratories will be required to send certain reference cultures to the Office of Public Health (OPH), which will result in an indeterminable increase in supply and shipping costs. It is anticipated that these costs will be minimal; however, they will vary annually depending on the number of microorganisms identified. OPH receives approximately \$2 million annually in federal grant funds from the CDC for prevention activities, including genetic testing of the new reference cultures. Depending on the number of reference cultures sent to the OPH lab each year, the tests will result in minimal increased costs that will be absorbed within the CDC grant fund balance.

This rule change also adds a requirement for syndromic surveillance reporting through the Louisiana Early Events Detection System (LEEDS). The LEEDS software was developed through federal funding from the CDC and will have no fiscal impact on state agencies; however, emergency departments in state hospitals that do not currently participate will incur minimal costs for a technician to arrange for the data transfer.

The proposed rule will also amend Part XIX (Hospitals, Ambulatory Surgical Centers, Renal Dialysis Centers) to make the sanitary code requirements relative to the refrigeration of blood and blood products congruent with the recommendation of the American Association of Blood Banks (AABB). The proposed rule may minimally increase costs to state hospitals and clinics if a new blood bank refrigerator is purchased. Since the proposed rule expands the current temperature control range that blood and blood products must be kept in such refrigerators, the refrigerator itself may be manufactured at a lower cost than existing refrigerators that meet the current, narrower temperature control range.

The proposed rule changes will result in any estimated cost of \$1,218 to publish the notice of intent and the final rule in the Louisiana Register.

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)

Emergency departments at acute care hospitals that do not currently participate in LEEDS will incur minimal costs for technicians to arrange for the data transfer. Non-state laboratories will also be required to send certain reference cultures to OPH, which will result in an indeterminable increase in supply and shipping costs. It is anticipated these costs will be minimal; however, they will vary annually depending on the number of microorganisms identified.

The proposed rule to make the sanitary code requirements relative to the refrigeration of blood and blood products congruent with the recommendation of the AABB may minimally increase costs to the owner or operator of hospitals, plasmapheresis centers, and other concerned facilities if a new blood bank refrigerator is purchased. The proposed rule expands the current temperature control range that blood and blood products must be kept in such refrigerators; thus, the refrigerator itself may be manufactured at a lower cost than existing refrigerators that meet the current, narrower temperature control range.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment as a result of this rule change.

J.T. Lane
Assistant Secretary
1301#084

John D. Carpenter
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Office of Public Health

Permit Requirements and Additional Requirements for a Potable Water Supply, and Inapplicability of Certain Requirements of Ten State Standards (LAC 51:XII.101, 105, 106, and 107)

Under the authority of R.S. 40:4 and 40:5, and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the state health officer, acting through the Department of Health and Hospitals, Office of Public Health (DHH-OPH), intends to amend Part XII (Water Supplies) of the Louisiana State Sanitary Code (LAC 51). The amendments propose to update the DHH-OPH existing regulations relative to the design standards of public water supplies and provide exemptions for certain noncompliant equipment or facilities.

The regulation of water system design standards for public water supplies is defined in Part XII of the Louisiana Sanitary Code and through adoption defined in the 2003 Edition of the Ten State Standards which is published as a separate document by the Great Lakes and Upper Mississippi Board of State Sanitary Engineers. This update provides for exemptions to certain requirements of Ten State Standards for certain existing noncompliant equipment or

facilities where achieving compliance for said requirements has been determined to impose a significant cost and such exemptions are not anticipated to compromise the continued safe supply of drinking water. This update also provides that certain requirements of Ten State Standards are not applicable to public water supplies located within Louisiana.

For the reasons set forth above, Part XII (Water Supplies) of the Louisiana State Sanitary Code (LAC 51:XII) is proposed to be amended as follows.

Title 51

PUBLIC HEALTH—SANITARY CODE

Part XII. Water Supplies

Chapter 1. General

§101. Definitions

[formerly paragraph 12:001]

A. Unless otherwise specifically provided herein, the following words and terms used in this Part of the Sanitary Code, and all other Parts which are adopted or may be adopted, are defined for the purposes thereof as follows.

* * *

Ten State Standards—the Recommended Standards for Water Works (2003 Edition)* promulgated by the Great Lakes and Upper Mississippi Board of State Sanitary Engineers.

*NOTE: Published by Health Education Services, P.O. Box 7126, Albany, New York 12224 (internet URL address: "http://www.hes.org/")

* * *

AUTHORITY NOTE: The first source of authority for promulgation of the Sanitary Code is in R.S. 36:258(B), with more particular provisions found in Chapters 1 and 4 of Title 40 of the Louisiana Revised Statutes. This Part is promulgated in accordance with R.S. 36:254 (B)(7), R.S. 40:4 (A)(8), R.S. 40:5 (2)(3)(5)(6)(17)(20), R.S. 40:1148, and R.S. 40:1299.27.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1318 (June 2002), amended LR 28:2513 (December 2002), LR 30:1194 (June 2004), LR 30:2326 (October 2004), LR 35:484 (March 2009), LR 35:1240 (July 2009), LR 38:2375 (September 2012), LR 38:2793 (November 2012), LR 38:3232 (December 2012), LR 39:

§105. Permit Requirements for a Potable Water Supply

[formerly paragraph 12:002-2]

A. - C. ...

D. The review and approval of plans and specifications submitted for issuance of a permit shall be made in accordance with the requirements of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(8) and R.S. 40:5 (5)(6)(7)(17)(19).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1320 (June 2002), amended LR 38:2376 (September 2012), LR 39:

§106. Additional Requirements for a Potable Water Supply

A. Notwithstanding Part I, Section 123 of this Code, a public water system shall be designed, installed, and maintained in compliance with the Ten State Standards, the *Louisiana Water Well Rules, Regulations, and Standards*, and the requirements set forth in this Part. In the event of a conflict, the requirements of this Part shall control.

B.1. Notwithstanding Subsection A of this Section, a public water system shall be exempt, with respect to noncompliant equipment or facilities installed and operating as of December 31, 2012 only, from the following

requirements of Ten State Standards with the following conditions or limitations, if any:

- a. 4.2.1.4.c;
- b. 5.4.1, but only for 1-ton or larger containers covered by a roof or similar structure that protects against direct sunlight, and containers must be protected from vandalism;
- c. 5.4.3.a.1, but chlorite must be covered by a roof or similar structure that protects against direct sunlight and must be protected from vandalism;
- d. 5.4.5.2, but only as to the enclosure requirement if protected from vandalism;
- e. 5.4.5.3.a, but only as to the enclosure requirement if protected from vandalism;
- f. 7.0.8, but only as to the two manhole requirement if at least one manhole above the waterline is provided; and
- g. 8.4.3, but exemption terminates when a hydrant is replaced.

2. This Subsection shall not exempt any component or subcomponent, compliant as of December 31, 2012, of otherwise noncompliant equipment or facilities.

C. An exemption under Subsection B of this Section shall cease to apply in the event that:

1. the physical facilities associated with the system process (production, treatment, storage, pumping stations, or distribution) in which the noncompliant equipment or facility is incorporated undergo *substantial renovation* as defined in this Part or Part I of the Code;
2. the public water system suffers an adverse event, potentially detrimental to public health or safety, that the state health officer determines might have been avoided or mitigated if the equipment or facilities in question had not been exempt; or
3. The state health officer determines that the exemption poses a substantial threat to public health or safety.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(8) and R.S. 40:5 (5)(6)(7)(17)(19).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 39:

§107. Inapplicability of Certain Requirements of Ten States Standards

A. Sections 2.6, 3.2.1.2, 3.2.1.3.a, and 6.6.6 of Ten States Standards shall not be mandatory for any non-community water supply that does not serve a hospital.

B. The water sight glass requirement of Ten States Standards section 7.2.4 shall not be mandatory if an automated control to maintain the proper water-to-air ratio in the tank is provided.

C. The day tanks mandated by section 5.1.11.a. shall not be mandatory, except for fluoride, in those instances where the state health officer approves an alternative means to provide chemical overfeed protection that provides at least the same level of protection as a day tank in addition to the requirements of section 5.1.5, or where chemicals are fed directly from shipping containers no larger than 55 gallons.

1. Where shipping containers are used as provided above, a drain per section 5.1.10.h. is not required.

D. The requirement that hydropneumatic tanks be completely housed, Section 7.2.1 of Ten States Standards, shall not be mandatory.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and R.S. 40:5(5)(6)(7)(17)(19).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 39:

Family Impact

1. The Effect on the Stability of the Family. No effect on the stability of the family is anticipated as a result of this proposed rulemaking.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. No effect on the authority and rights of parents regarding the education and supervision of their children is anticipated as a result of this proposed rulemaking.

3. The Effect on the Functioning of the Family. No effect on the functioning of the family is expected as a result of this proposed rulemaking.

4. The Effect on the Family Earnings and Family Budget. No effect on the family earnings and family budget is anticipated as a result of this proposed rulemaking.

5. The Effect on the Behavior and Personal Responsibility of Children. No effect on the behavior and personal responsibility of children is anticipated as a result of this proposed rulemaking.

6. The Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rule. The family has no function to perform under this rule; therefore, the family's ability to perform a function under this rule is a non-issue. Only those local governments which own or operate a public water system may be affected by this Rule. If affected, local governments may have a cost savings as a result of this proposed rulemaking.

Poverty Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Public Comments

DHH-OPH will conduct a public hearing at 1 p.m. on Tuesday, February 26, 2013, in Room 118 of the Bienville Building, 628 North Fourth Street, Baton Rouge, LA. Persons attending the hearing may have their parking ticket validated when one parks in the 7-story Galvez Parking Garage which is located between North Sixth and North Fifth/North and Main Sts. (cater-corner and across the street from the Bienville Building). All interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing.

Public Hearing

In addition, all interested persons are invited to submit written comments on the proposed Rule. Such comments must be received no later than Tuesday, February 26, 2013 at COB, 4:30 p.m., and should be addressed to Caryn Benjamin, Deputy Chief Engineer, Engineering Services,

Office of Public Health, Mail Bin # 3, P.O. Box 4489, Baton Rouge, LA 70821-4489, or faxed to (225) 342-7303. If comments are to be shipped or hand-delivered, please deliver to the Bienville Building, 628 North Fourth Street, Room 132, Baton Rouge, LA 70802.

Bruce D. Greenstein
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Permit Requirements and
Additional Requirements for a Potable Water
Supply, and Inapplicability of Certain
Requirements of Ten State Standards**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The Office of Public Health (OPH) is proposing to amend Part XII of the Louisiana State Sanitary Code (LAC 51). The proposed rule changes will result in an estimated cost of \$840 to publish the notice of intent and the final rule in the *Louisiana Register*. The amendment to Part XII (Water Supplies) proposes to provide exemptions to the water system design standards as defined in the Ten-State Standards for public water supplies. There could be a significant cost savings to state or local governmental units that own and/or operate a public water supply as a result of adopting the proposed exemptions to water system design standards. However this cost savings is inestimable due to variables in the applicable requirements based upon various sized public water supplies.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

According to OPH, the costs of maintaining and renovating in order to meet the Ten-State Standards are funded through revenues collected from water bills. It is unknown if state or local governmental units that own and/or operate a public water supply (PWS) will decrease their revenue collections (i.e., decrease water bills) as a result of not incurring the costs associated with compliance with the proposed exemptions to the water system design standards. The actual effect on revenue collections is hard to predict due to variables in the applicable requirements based upon various sized public water supplies.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

There could be a significant cost savings to persons or non-governmental groups that own and/or operate a public water supply as a result of adopting the proposed exemptions to the water system design standards. The actual cost savings is inestimable due to variables in the applicable requirements based upon various sized public water supplies.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

The proposed exemptions will not cause an effect on competition and employment.

J.T. Lane
Assistant Secretary
1301#083

John D. Carpenter
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Uniform Construction Code Council**

Uniform Construction Code (LAC 55:VI.301)

In accordance with the provisions of R.S. 40:1730.26, relative to the authority of the Louisiana State Uniform Construction Code Council (LSUCCC) to promulgate and enforce rules, the Office of the State Fire Marshal hereby proposes to adopt the following Rule regarding the establishment of minimum standards for occupant loads in A-2 occupancies and for wind speeds in residential construction.

Title 55

PUBLIC SAFETY

Part VI. Uniform Construction Code

**Chapter 3. Adoption of the Louisiana State Uniform
Construction Code**

§301. Louisiana State Uniform Construction Code

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

iii. Amend Chapter 9 to adopt and amend 2012 International Building Code Section 903.2.1.2 Group A-2 (2.) The fire area has an occupant load of 300 or more.

iv. Amend chapter 16, section 1609.1.2, exceptions 1. Wood structural panels with a minimum thickness of 7/16 inch (11.1 mm) and maximum panel span of 8 feet (2438 mm) shall be permitted for opening protection in one- and two-story buildings. Panels shall be precut so that they shall be attached to the framing surrounding the opening containing the product with the anchorage method and shall be secured with the attachment hardware provided. Attachments shall be designed to resist the components and cladding loads determined in accordance with the provisions of ASCE 7, with corrosion-resistant attachment hardware provided and anchors permanently installed on the building. Attachment in accordance with Table 1609.1.2 with corrosion-resistant attachment hardware provided and anchors permanently installed on the building is permitted for buildings with a mean roof height of 45 feet (13,716 mm) or less where wind speeds do not exceed 140 mph (63 m/s).

v. Amend chapter 16, section 1613.1 Scope. Every structure, and portion thereof, including nonstructural components that are permanently attached to structures and their supports and attachments, shall be designed and constructed to resist the effects of earthquake motions in accordance with ASCE7, excluding Chapter 14 and Appendix 11A. The seismic design category for a structure is permitted to be determined in accordance with Section 1613 or ASCE 7-10. Figure 1613.5(1) shall be replaced with ASCE 7-10 Figure 22-1. Figure 1613.5(2) shall be replaced with ASCE 7-10 Figure 22-2.

vi. Amend chapter 23, section 2308.2, exceptions 4. Wind speeds shall not exceed 110 miles per hour (mph) (48.4m/s) (3-second gust) for buildings in exposure category B.

A.2. - A.3.a.vii. ...

viii. Substitute Figure R301.2(4) A Basic Wind Speeds of the 2012 IRC, in lieu of Figure R301.2(4) Basic Wind Speeds For 50-Year Mean Recurrence Interval of the 2003 IRC.

3.b. - 7....

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D) and 40:1730.26(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:291 (February 2007), amended LR 34:93 (January 2008), LR 34: 883 (May 2008), LR 34:2205 (October 2008), LR 35:1904 (September 2009), LR 36:2574 (November 2010), effective January 1, 2011, LR 37:601 (February 2011), LR 37:913 (March 2011), repromulgated LR 37:2187 (July 2011), repromulgated LR 37:2726 (September 2011), LR 37:3065 (October 2011), LR 38:1994 (August 2012), LR 39:

Family Impact Statement

The proposed Rule will not have any known or foreseeable impact on any family as defined by R.S. 49:972 D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of the children.
6. Local governmental entities have the ability to perform the enforcement of the action proposed in accordance with R.S. 40:1730.23.

Poverty Statement

The impact of the proposed Rule on child, individual, or family poverty has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on poverty in relation to individual or community asset development as provided in the R.S. 49:973. The agency has considered economic welfare factors and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on poverty.

Small Business Impact Statement

The impact of the proposed Rule on small businesses has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Such comments should be submitted no later than February 15, 2013, at 4:30 p.m. to Mark Joiner, Louisiana State Uniform Construction Code Council, 8181 Independence Blvd., Baton Rouge, LA 70896.

Public Hearing

A public hearing is scheduled for February 5, 2013 at 10 a.m. at 8181 Independence Blvd., Baton Rouge, LA 70806. Please call in advance to confirm the time and place of meeting, as the meeting will be cancelled if the requisite number of comments is not received.

Jill P. Boudreaux
Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Uniform Construction Code

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. These rule changes provide for an amendment to the adopted construction codes by replacing the A-2 Occupant Load of 100, adopted in the 2009 International Building Code, with a new Occupant Load of 300 in the 2012 International Building Code, and the Basic Wind Speed Figure adopted in the 2003 International Residential Code with Figure R301.2(4)A, in the 2012 International Residential Code. This will result in an indeterminable decrease in commercial and residential construction cost for owners and contractors.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated impact on revenue collections of state or local governmental units as a result of this rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The construction industry and prospective owners of commercial and residential buildings will be affected by the proposed changes with regard to the International Building Code (IBC) and the International Residence Code (IRC). The proposed adoption of the new IBC A-2 Occupant Load will result in a decrease in commercial construction costs for owners and contractors. The proposed adoption of the IRC amendment will replace the wind speed maps adopted in the 2003 International Residential Code with recently updated editions of these maps. The updated maps show a decrease in the likelihood of a wind event throughout much of the state, thus lowering the significant construction cost necessary to design for such an event. This will result in an indeterminable decrease in residential construction cost for owners and contractors. Due to the variety of size and scope of residential and commercial projects, potential costs and savings cannot be quantified.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes should not significantly affect competition or employment.

Jill P. Boudreaux
Undersecretary
1301#080

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Transportation and Development Professional Engineering and Land Surveying Board

Naval Architecture/Marine Engineering and Flood
Protection Levees (LAC 46:LXI.903, 1901, and 2909)

Under the authority of the Louisiana professional engineering and land surveying licensure law, R.S. 37:681 et seq., and in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Louisiana Professional Engineering and Land Surveying Board has initiated procedures to amend its rules contained in LAC 46:LXI.Chapters 9, 19, and 29.

This is a technical revision of existing rules under which LAPELS operates. These changes incorporate the new alternatives for licensure of naval architects/marine engineers and provide clarification that route surveys for flood protection levees are excluded from the Board's standards of practice for boundary surveys.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXI. Professional Engineers and Land Surveyors Chapter 9. Requirements for Certification and Licensure of Individuals and Temporary Permit to Practice Engineering

§903. Professional Engineer Licensure

A. The requirements for licensure as a professional engineer under the alternatives provided in the licensure law are as follows:

1. ...
2. the applicant for licensure as a professional engineer shall be an individual who holds a valid license to engage in the practice of engineering issued to him/her by proper authority of a state, territory, or possession of the United States, or the District of Columbia, based on requirements that do not conflict with the provisions of the licensure law, and which were of a standard not lower than that specified in the applicable licensure law in effect in Louisiana at the time such license was issued, who is of good character and reputation, who has submitted an application for licensure in accordance with the requirements of R.S. 37:694, and if the state, territory, or possession, or the District of Columbia, in which he/she is licensed will accept the licenses issued by the board on a comity basis, and who was duly licensed as a professional engineer by the board; or
3. effective until December 31, 2015, the applicant for licensure as a professional engineer shall be an individual who holds a bachelor of science degree in naval architecture and marine engineering, or in an equivalent board-approved curriculum, from an accredited engineering curriculum of four years or more approved by the board as being of satisfactory standing, who is of good character and reputation, who has a verifiable record of twenty years or more of progressive engineering experience in naval architecture and marine engineering on engineering projects of a level and scope satisfactory to the board, who was recommended for licensure by five personal references, three of whom are professional engineers who have personal knowledge of the applicant's engineering experience and

character and ability, who has submitted an application for licensure in accordance with the requirements of R.S. 37:694, and who was duly licensed as a professional engineer by the board; or

4. effective until December 31, 2015, the applicant for licensure as a professional engineer shall be an individual who holds a master of science degree in naval architecture and marine engineering, or in an equivalent board-approved curriculum, or two bachelor of science degrees in related engineering curricula, from an accredited engineering curriculum approved by the board as being of satisfactory standing, who is of good character and reputation, who has a verifiable record of 15 years or more of progressive engineering experience in naval architecture and marine engineering on engineering projects of a level and scope satisfactory to the board, who was recommended for licensure by five personal references, three of whom are professional engineers who have personal knowledge of the applicant's engineering experience and character and ability, who has submitted an application for licensure in accordance with the requirements of R.S. 37:694, and who was duly licensed as a professional engineer by the board; or

5. effective until December 31, 2015, the applicant for licensure as a professional engineer shall be an individual who holds a doctor of philosophy degree in naval architecture and marine engineering, or in an equivalent board-approved curriculum, from an accredited engineering curriculum approved by the board as being of satisfactory standing, who is of good character and reputation, who has a verifiable record of 10 years or more of progressive engineering experience in naval architecture and marine engineering on engineering projects of a level and scope satisfactory to the board, who was recommended for licensure by five personal references, three of whom are professional engineers who have personal knowledge of the applicant's engineering experience and character and ability, who has submitted an application for licensure in accordance with the requirements of R.S. 37:694, and who was duly licensed as a professional engineer by the board; or

6. effective until December 31, 2015, the applicant for licensure as a professional engineer shall be an individual who has demonstrated long-standing experience in naval architecture and marine engineering, who is of good character and reputation, who has a verifiable record of thirty years or more of progressive engineering experience in naval architecture and marine engineering on engineering projects of a level and scope satisfactory to the board, who was recommended for licensure by five personal references, three of whom are professional engineers who have personal knowledge of the applicant's engineering experience and character and ability, who has submitted an application for licensure in accordance with the requirements of R.S. 37:694, and who was duly licensed as a professional engineer by the board.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:352 (November 1976), amended LR 5:114 (May 1979), LR 5:365 (November 1979), LR 6:735 (December 1980), LR 7:644 (December 1981), LR 10:804 (October 1984), LR 11:362 (April 1985), LR 19:56

(January 1993), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1028 (July 2001), LR 30:1712 (August 2004), LR 32:1619 (September 2006), LR 37:2412 (August 2011), LR 38:2564 (October 2012), LR 39:

Chapter 19. Disciplines of Engineering

§1901. Disciplines

A. ...

B. Each individual licensed under R.S. 37:693(B)(5) and LAC 46:LXI.903.A.3-6 shall be listed by the board as a professional engineer in the discipline of naval architecture/marine engineering.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:118 (May 1979), amended LR 5:365 (November 1979), LR 7:646 (December 1981), LR 11:362 (April 1985), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1033 (July 2001), LR 30:1718 (August 2004), LR 39:

Chapter 29. Standards of Practice for Boundary Surveys

§2909. Route Survey

A. Definition

Route Survey—a survey for determining the route of a proposed pipeline, power line, cable, road or other linear facilities, excluding flood protection levees, in order to acquire a right-of-way, servitude or easement from the property owner being crossed.

B. - B.5 ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 37:2418 (August 2011), amended LR 39:

Family Impact Statement

In accordance with R.S. 49:953(A)(1)(a)(viii) and 972, the following Family Impact Statement is submitted with the Notice of Intent for publication in the *Louisiana Register*: The proposed Rule has no known impact on family formation, stability or autonomy.

Poverty Statement

In accordance with R.S. 49:953(A)(1)(a)(ix) and 973, the following Poverty Statement is submitted with the Notice of Intent for publication in the *Louisiana Register*: The proposed Rule has no known impact on child, individual or family poverty in relation to individual or community asset development.

Public Comments

Interested parties are invited to submit written comments on the proposed Rule through February 10, 2013 at 4:30 p.m., to Donna D. Sentell, Executive Director, Louisiana Professional Engineering and Land Surveying Board, 9643 Brookline Avenue, Suite 121, Baton Rouge, LA 70809-1433.

Richard L. Savoie, P.E.
Board Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Naval Architecture/Marine Engineering and Flood Protection Levees

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no costs or savings to state or local governmental units resulting from this rule change. The proposed rule makes changes mandated by revisions to the board’s licensure law, as well as a clarification requested by a local governmental subdivision. These changes include: new alternatives for licensure of naval architects/marine engineers; and clarification that route surveys for flood protection levees are excluded from the board’s standards of practice for boundary surveys.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units as a result of this proposed action.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change may provide increased income, prestige, credentials, marketability, etc. for those individuals who will now be able to apply for licensure as a naval architect/marine engineer.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change may provide increased employment opportunities, ability to compete, income, prestige, credentials, marketability, etc. to those individuals who will now be able to become licensed as naval architects/marine engineers.

Richard L. Savoie, P.E.
Board Chairman
1301#038

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of the Treasury
Board of Trustees of the Louisiana
State Police Retirement System**

Internal Revenue Code Provisions (LAC 58:IX.Chapter 2)

In accordance with R.S. 49:950 et seq. of the Administrative Procedure Act, notice is hereby given that the Board of Trustees of the Louisiana State Police Retirement System has approved for advertisement the adoption of Chapter 2 of Part IX, included in Title 58, Retirement, of the *Louisiana Administrative Code*. This intended action complies with the statutory law administered by the Board of Trustees of the Louisiana State Police Retirement System. The proposed rules are being adopted pursuant to newly enacted R.S. 11:1302.1 (Acts 2011, No. 354), the effective date of enactment of which will be the formal adoption of these rules. Newly enacted R.S. 11:1302.1 provides that rules and regulations be adopted which will assure that the Louisiana State Police Retirement System will remain a tax-

qualified retirement plan under the United States *Internal Revenue Code* and the regulations thereunder. A preamble to this proposed action has not been prepared.

Title 58

RETIREMENT

Part IX. Louisiana State Police Retirement System

Chapter 2. Internal Revenue Code Provisions

§201. Limitation on Benefits

A. The limitations of this Chapter shall apply in limitation years beginning on or after July 1, 2007, except as otherwise provided herein.

B. The annual benefit otherwise payable to a member under the plan at any time shall not exceed the maximum permissible benefit. If the benefit the member would otherwise accrue in a limitation year would produce an annual benefit in excess of the maximum permissible benefit, the benefit shall be limited (or the rate of accrual reduced) to a benefit that does not exceed the maximum permissible benefit.

C. If the member is, or has ever been, a member in another qualified defined benefit plan (without regard to whether the plan has been terminated) maintained by the employer or a predecessor employer, the sum of the member's annual benefits from all such plans may not exceed the maximum permissible benefit.

D. The application of the provisions of this chapter shall not cause the maximum permissible benefit for any member to be less than the member's accrued benefit under all the defined benefit plans of the employer or a predecessor employer as of the end of the last limitation year beginning before July 1, 2007 under provisions of the plans that were both adopted and in effect before April 5, 2007. The preceding sentence applies only if the provisions of such defined benefit plans that were both adopted and in effect before April 5, 2007 satisfied the applicable requirements of statutory provisions, regulations, and other published guidance relating to section 415 of the *Internal Revenue Code* in effect as of the end of the last limitation year beginning before July 1, 2007, as described in section 1.415(a)-1(g)(4) of the Income Tax Regulations.

E. The limitations of this Chapter shall be determined and applied taking into account the rules in Subsection G.

F. Definitions

Annual Benefit—a benefit that is payable annually in the form of a straight life annuity. Except as provided below, where a benefit is payable in a form other than a straight life annuity, the benefit shall be adjusted to an actuarially equivalent straight life annuity that begins at the same time as such other form of benefit and is payable on the first day of each month, before applying the limitations of this article. For a member who has or will have distributions commencing at more than one annuity starting date, the annual benefit shall be determined as of each such annuity starting date (and shall satisfy the limitations of this Chapter as of each such date), actuarially adjusting for past and future distributions of benefits commencing at the other annuity starting dates. For this purpose, the determination of whether a new starting date has occurred shall be made without regard to section 1.401(a)-20, Q and A 10(d), and with regard to section 1.415(b)1(b)(1)(iii)(B) and (C) of the Income Tax Regulations.

a. No actuarial adjustment to the benefit shall be made for:

i. survivor benefits payable to a surviving spouse under a qualified joint and survivor annuity to the extent such benefits would not be payable if the member's benefit were paid in another form;

ii. benefits that are not directly related to retirement benefits (such as a disability benefit, preretirement incidental death benefits, and postretirement medical benefits); or

iii. the inclusion in the form of benefit of an automatic benefit increase feature, provided the form of benefit is not subject to section 417(e)(3) of the *Internal Revenue Code* and would otherwise satisfy the limitations of this chapter, and the plan provides that the amount payable under the form of benefit in any limitation year shall not exceed the limits of this chapter applicable at the annuity starting date, as increased in subsequent years pursuant to section 415(d). For this purpose, an automatic benefit increase feature is included in a form of benefit if the form of benefit provides for automatic, periodic increases to the benefits paid in that form. The determination of the annual benefit shall take into account social security supplements described in section 411(a)(9) of the *Internal Revenue Code* and benefits transferred from another defined benefit plan, other than transfers of distributable benefits pursuant section 1.411(d)-4, Q and A-3(c), of the Income Tax Regulations, but shall disregard benefits attributable to employee contributions or rollover contributions. Effective for distributions in plan years beginning after December 31, 2003, the determination of actuarial equivalence of forms of benefit other than a straight life annuity shall be made in accordance with §201.F.1.b or F.1.c.

b. Benefit Forms Not Subject to section 417(e)(3)

i. The straight life annuity that is actuarially equivalent to the member's form of benefit shall be determined under this Subparagraph F.1.b, if the form of the member's benefit is either:

(a) a non-decreasing annuity (other than a straight life annuity) payable for a period of not less than the life of the member (or, in the case of a qualified pre-retirement survivor annuity, the life of the surviving spouse); or

(b) an annuity that decreases during the life of the member merely because of:

(i) the death of the survivor annuitant (but only if the reduction is not below 50 percent of the benefit payable before the death of the survivor annuitant); or

(ii) the cessation or reduction of Social Security supplements or qualified disability payments [as defined in section 401(a)(11)].

ii. Limitation Years Beginning before July 1, 2007. For limitation years beginning before July 1, 2007, the actuarially equivalent straight life annuity is equal to the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit computed using whichever of the following produces the greater annual amount:

(a) the interest rate and the mortality table (or other tabular factor) specified in the plan for adjusting benefits in the same form; and

(b). a 5 percent interest rate assumption and the applicable mortality table for that annuity starting date.

iii. Limitation Years Beginning on or after July 1, 2007. For limitation years beginning on or after July 1, 2007, the actuarially equivalent straight life annuity is equal to the greater of:

(a). the annual amount of the straight life annuity (if any) payable to the member under the plan commencing at the same annuity starting date as the member's form of benefit; and

(b). the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using a 5 percent interest rate assumption and the applicable mortality table for that annuity starting date.

c. Benefit Forms Subject to section 417(e)(3). The straight life annuity that is actuarially equivalent to the member's form of benefit shall be determined under this paragraph if the form of the member's benefit is other than a benefit form described in §201.F.1.b. In this case, the actuarially equivalent straight life annuity shall be determined as follows.

i. Annuity Starting Date in Plan Years Beginning After 2005. If the annuity starting date of the member's form of benefit is in a plan year beginning after 2005, the actuarially equivalent straight life annuity is equal to the greatest of:

(a). the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using the interest rate and the mortality table (or other tabular factor) specified in the plan for adjusting benefits in the same form; and

(b). the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using a 5.5 percent interest rate assumption and the applicable mortality table; and

(c). the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using the applicable interest rate and the applicable mortality table, divided by 1.05.

ii. Annuity Starting Date in Plan Years Beginning in 2004 or 2005. If the annuity starting date of the member's form of benefit is in a plan year beginning in 2004 or 2005, the actuarially equivalent straight life annuity is equal to the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using whichever of the following produces the greater annual amount:

(a). the interest rate and the mortality table (or other tabular factor) specified in the plan for adjusting benefits in the same form; and

(b). a 5 percent interest rate assumption and the applicable mortality table. If the annuity starting date of the member's benefit is on or after the first day of the first plan year beginning in 2004 and before December 31, 2004, the application of this §201.F.1.c. shall not cause the amount

payable under the member's form of benefit to be less than the benefit calculated under the plan, taking into account the limitations of this chapter, except that the actuarially equivalent straight life annuity is equal to the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using whichever of the following produces the greatest annual amount:

(i). the interest rate and the mortality table (or other tabular factor) specified in the plan for adjusting benefits in the same form;

(ii). the applicable interest rate and the applicable mortality table; and

(iii). the applicable interest rate (as in effect on the last day of the last plan year beginning before January 1, 2004, under provisions of the plan then adopted and in effect) and the applicable mortality table.

Applicable Interest Rate—the rate of interest on 30 year Treasury securities (or any subsequent rate used under section 417(e) of the *Internal Revenue Code*) as specified by the Internal revenue service for the lookback month. The lookback month applicable to the stability period is the second calendar month preceding the first day of the stability period. The stability period is the plan year that contains the annuity starting date for the distribution and for which the applicable interest rate remains constant.

Applicable Mortality Table—the applicable mortality table within the meaning of section 417(e)(3)(B) of the *Internal Revenue Code*.

415 Safe-Harbor Compensation—

a. *Compensation*—wages, salaries, and fees for professional services and other amounts received (without regard to whether or not an amount is paid in cash) for personal services actually rendered in the course of employment with the employer maintaining the plan to the extent that the amounts are includible in gross income (including, but not limited to, commissions paid salespersons, compensation for services on the basis of a percentage of profits, commissions on insurance premiums, tips, bonuses, fringe benefits, and reimbursements, or other expense allowances under a nonaccountable plan (as described in section 1.62-2(c) of the Income Tax Regulations), and excluding the following:

i. employer contributions [other than elective contributions described in section 402(e)(3), section 408(k)(6), section 408(p)(2)(A)(i), or section 457(b)] to a plan of deferred compensation (including a simplified employee pension described in section 408(k) or a simple retirement account described in section 408(p), and whether or not qualified) to the extent such contributions are not includible in the member's gross income for the taxable year in which contributed, and any distributions (whether or not includible in gross income when distributed) from a plan of deferred compensation (whether or not qualified);

ii. amounts realized from the exercise of a nonstatutory stock option (that is, an option other than a statutory stock option as defined in section 1.421-1(b) of the Income Tax Regulations), or when restricted stock (or property) held by the member either becomes freely transferable or is no longer subject to a substantial risk of forfeiture;

iii. amounts realized from the sale, exchange or other disposition of stock acquired under a statutory stock option;

iv. other amounts that receive special tax benefits, such as premiums for group-term life insurance (but only to the extent that the premiums are not includible in the gross income of the member and are not salary reduction amounts that are described in section 125);

v. other items of remuneration that are similar to any of the items listed in Clauses i through iv above.

b. For any self-employed individual, compensation shall mean earned income.

c. Except as provided herein, for limitation years beginning after December 31, 1991, compensation for a limitation year is the compensation actually paid or made available during such limitation year.

d. For limitation years beginning on or after July 1, 2007, compensation for a limitation year shall also include compensation paid by the later of 2 1/2 months after an member's severance from employment with the employer maintaining the plan or the end of the limitation year that includes the date of the member's severance from employment with the employer maintaining the plan, if:

i. the payment is regular compensation for services during the member's regular working hours, or compensation for services outside the employee's regular working hours (such as overtime or shift differential), commissions, bonuses, or other similar payments, and, absent a severance from employment, the payments would have been paid to the member while the member continued in employment with the employer;

ii. the payment is for unused accrued bona fide sick, vacation or other leave that the member would have been able to use if employment had continued; or

iii. the payment is received by the member pursuant to a nonqualified unfunded deferred compensation plan and would have been paid at the same time if employment had continued, but only to the extent includible in gross income.

e. Any payments not described above shall not be considered compensation if paid after severance from employment, even if they are paid by the later of 2 1/2 months after the date of severance from employment or the end of the limitation year that includes the date of severance from employment. Back pay, within the meaning of section 1.415(c)-2(g)(8), shall be treated as compensation for the limitation year to which the back pay relates to the extent the back pay represents wages and compensation that would otherwise be included under this definition.

f. For limitation years beginning after December 31, 1997, compensation paid or made available during such limitation year shall include amounts that would otherwise be included in compensation but for an election under sections 125(a), 402(e)(3), 402(h)(1)(B), 402(k), or 457(b).

g. For limitation years beginning after December 31, 2000, compensation shall also include any elective amounts that are not includible in the gross income of the member by reason of section 132(f)(4).

Defined Benefit Compensation Limitation—100 percent of a member's high three-year average compensation, payable in the form of a straight life annuity. In the case of a

member who is rehired after a severance from employment, the defined benefit compensation limitation is the greater of 100 percent of the member's high three-year average compensation, as determined prior to the severance from employment or 100 percent of the member's high three-year average compensation, as determined after the severance from employment under §201.G.

Defined Benefit Dollar Limitation—effective for limitation years ending after December 31, 2001, the defined benefit dollar limitation is \$160,000, automatically adjusted under section 415(d) of the *Internal Revenue Code*, effective January 1 of each year, as published in the Internal Revenue Bulletin, and payable in the form of a straight life annuity. The new limitation shall apply to limitation years ending with or within the calendar year of the date of the adjustment, but a member's benefits shall not reflect the adjusted limit prior to January 1 of that calendar year.

Employer—for purposes of this chapter, employer shall mean the employer that adopts this plan, and all members of a controlled group of corporations, as defined in section 414(b) of the *Internal Revenue Code*, as modified by section 415(h), all commonly controlled trades or businesses [as defined in section 414(c), as modified, except in the case of a brother-sister group of trades or businesses under common control, by section 415(h)], or affiliated service groups [as defined in section 414(m)] of which the adopting employer is a part, and any other entity required to be aggregated with the employer pursuant to section 414(o) of the *Internal Revenue Code*.

Formerly Affiliated Plan of the Employer—a plan that, immediately prior to the cessation of affiliation, was actually maintained by the employer and, immediately after the cessation of affiliation is not actually maintained by the employer. For this purpose, cessation of affiliation means the event that causes an entity to no longer be considered the employer, such as the sale of a member controlled group of corporations, as defined in section 414(b) of the *Internal Revenue Code*, as modified by section 415(h), to an unrelated corporation, or that causes a plan to not actually be maintained by the employer, such as transfer of plan sponsorship outside a controlled group.

High Three-Year Average Compensation—the average compensation for the three consecutive years of service (or, if the member has less than three consecutive years of service, the member's longest consecutive period of service, including fractions of years, but not less than one year) with the employer that produces the highest average. In the case of a member who is rehired by the employer after a severance from employment, the member's high three-year average compensation shall be calculated by excluding all years for which the member performs no services for and receives no compensation from the employer (the break period) and by treating the years immediately preceding and following the break period as consecutive. A member's compensation for a year of service shall not include compensation in excess of the limitation under section 401(a)(17) of the *Internal Revenue Code* that is in effect for the calendar year in which such year of service begins.

Limitation Year—a fiscal year, from July 1 to June 31. All qualified plans maintained by the employer must use the same limitation year. If the limitation year is amended to a

different 12-consecutive month period, the new limitation year must begin on a date within the limitation year in which the amendment is made.

Maximum Permissible Benefit—the lesser of the defined benefit dollar limitation or the defined benefit compensation limitation (both adjusted where required, as provided below).

a. Adjustment for Less than 10 Years of Participation or Service. If the member has less than 10 years of participation in the plan, the defined benefit dollar limitation shall be multiplied by a fraction:

i. the numerator of which is the number of years (or part thereof, but not less than one year) of participation in the plan; and

ii. the denominator of which is 10. In the case of a member who has less than 10 years of service with the employer, the defined benefit compensation limitation shall be multiplied by a fraction:

(a). the numerator of which is the number of years (or part thereof, but not less than one year) of Service with the employer; and

(b). the denominator of which is 10.

b. Adjustment of Defined Benefit Dollar Limitation for Benefit Commencement before Age 62 or after Age 65. Effective for benefits commencing in limitation years ending after December 31, 2001, the defined benefit dollar limitation shall be adjusted if the annuity starting date of the member's benefit is before age 62 or after age 65. If the annuity starting date is before age 62, the defined benefit dollar limitation shall be adjusted under Clause b.i of this Paragraph, as modified by Clause b.iii of this Paragraph. If the annuity starting date is after age 65, the defined benefit dollar limitation shall be adjusted under Clause b.ii of this Paragraph, as modified by Clause b.iii of this Paragraph.

i. Adjustment of Defined Benefit Dollar Limitation for Benefit Commencement before Age 62

(a). Limitation Years Beginning before July 1, 2007. If the annuity starting date for the member's benefit is prior to age 62 and occurs in a limitation year beginning before July 1, 2007, the defined benefit dollar limitation for the member's annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the member's annuity starting date that is the actuarial equivalent of the defined benefit dollar limitation (adjusted under §201.F.11.a. for years of participation less than 10, if required) with actuarial equivalence computed using whichever of the following produces the smaller annual amount:

(i). the interest rate and the mortality table (or other tabular factor) specified in the plan for adjusting benefits in the same form; or

(ii). a 5 percent interest rate assumption and the applicable mortality table.

(b). Limitation Years Beginning on or After July 1, 2007

(i). Plan Does Not Have Immediately Commencing Straight Life Annuity Payable at Both Age 62 and the Age of Benefit Commencement. If the annuity starting date for the member's benefit is prior to age 62 and occurs in a limitation year beginning on or after July 1, 2007, and the plan does not have an immediately commencing straight life annuity payable at both age 62 and

the age of benefit commencement, the defined benefit dollar limitation for the member's annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the member's annuity starting date that is the actuarial equivalent of the defined benefit dollar limitation (adjusted under Subparagraph a of this Paragraph for years of participation less than 10, if required) with actuarial equivalence computed using a 5 percent interest rate assumption and the applicable mortality table for the annuity starting date (and expressing the member's age based on completed calendar months as of the annuity starting date).

(ii). Plan Has Immediately Commencing Straight Life Annuity Payable at Both Age 62 and the Age of Benefit Commencement. If the annuity starting date for the member's benefit is prior to age 62 and occurs in a limitation year beginning on or after July 1, 2007, and the plan has an immediately commencing straight life annuity payable at both age 62 and the age of benefit commencement, the defined benefit dollar limitation for the member's annuity starting date is the lesser of the limitation determined under Division b.i.(b).(i) of this Paragraph and the defined benefit dollar limitation (adjusted under Subparagraph a of this Paragraph for years of participation less than 10, if required) multiplied by the ratio of the annual amount of the immediately commencing straight life annuity under the plan at the member's annuity starting date to the annual amount of the immediately commencing straight life annuity under the plan at age 62, both determined without applying the limitations of this article.

ii. Adjustment of Defined Benefit Dollar Limitation for Benefit Commencement after Age 65

(a). Limitation Years Beginning Before July 1, 2007. If the annuity starting date for the member's benefit is after age 65 and occurs in a limitation year beginning before July 1, 2007, the defined benefit dollar limitation for the member's annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the member's annuity starting date that is the actuarial equivalent of the defined benefit dollar limitation (adjusted under Subparagraph a of this Paragraph for years of participation less than 10, if required) with actuarial equivalence computed using whichever of the following produces the smaller annual amount:

(i). the interest rate and the mortality table (or other tabular factor) specified in the plan for adjusting benefits in the same form; or

(ii). a 5-percent interest rate assumption and the applicable mortality table.

(b). Limitation Years Beginning Before July 1, 2007

(i). Plan Does Not Have Immediately Commencing Straight Life Annuity Payable at Both Age 65 and the Age of Benefit Commencement. If the annuity starting date for the member's benefit is after age 65 and occurs in a limitation year beginning on or after July 1, 2007, and the plan does not have an immediately commencing straight life annuity payable at both age 65 and the age of benefit commencement, the defined benefit dollar limitation at the member's annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the member's annuity starting date

that is the actuarial equivalent of the defined benefit dollar limitation (adjusted under Subparagraph a of this Paragraph for years of participation less than 10, if required), with actuarial equivalence computed using a 5 percent interest rate assumption and the applicable mortality table for that annuity starting date (and expressing the member's age based on completed calendar months as of the annuity starting date).

(ii) Plan Has Immediately Commencing Straight Life Annuity Payable at Both Age 65 and the Age of Benefit Commencement. If the annuity starting date for the member's benefit is after age 65 and occurs in a limitation year beginning on or after July 1, 2007, and the plan has an immediately commencing straight life annuity payable at both age 65 and the age of benefit commencement, the defined benefit dollar limitation at the member's annuity starting date is the lesser of the limitation determined under §201.F.11.b.ii.(b).(i) and the defined benefit dollar limitation (adjusted under §201.F.11.a for years of participation less than 10, if required) multiplied by the ratio of the annual amount of the adjusted immediately commencing straight life annuity under the plan at the member's annuity starting date to the annual amount of the adjusted immediately commencing straight life annuity under the plan at age 65, both determined without applying the limitations of this article. For this purpose, the adjusted immediately commencing straight life annuity under the plan at the member's annuity starting date is the annual amount of such annuity payable to the member, computed disregarding the member's accruals after age 65 but including actuarial adjustments even if those actuarial adjustments are used to offset accruals; and the adjusted immediately commencing straight life annuity under the plan at age 65 is the annual amount of such annuity that would be payable under the plan to a hypothetical member who is age 65 and has the same accrued benefit as the member.

iii. Notwithstanding the other requirements of this Subparagraph F.10.b., no adjustment shall be made to the defined benefit dollar limitation to reflect the probability of a member's death between the annuity starting date and age 62, or between age 65 and the annuity starting date, as applicable, if benefits are not forfeited upon the death of the member prior to the annuity starting date. To the extent benefits are forfeited upon death before the annuity starting date, such an adjustment shall be made. For this purpose, no forfeiture shall be treated as occurring upon the member's death if the plan does not charge members for providing a qualified preretirement survivor annuity, as defined in section 417(c) of the *Internal Revenue Code*, upon the member's death.

c. Minimum Benefit Permitted. Notwithstanding anything else in this section to the contrary, the benefit otherwise accrued or payable to a member under this plan shall be deemed not to exceed the maximum permissible benefit if:

i. the retirement benefits payable for a limitation year under any form of benefit with respect to such member under this plan and under all other defined benefit plans (without regard to whether a plan has been terminated) ever maintained by the employer do not exceed \$10,000 multiplied by a fraction:

(a). the numerator of which is the member's number of years (or part thereof, but not less than one year) of service (not to exceed 10) with the employer; and

(b). the denominator of which is 10; and

ii. the employer (or a predecessor employer) has not at any time maintained a defined contribution plan in which the member participated (for this purpose, mandatory employee contributions under a defined benefit plan, individual medical accounts under section 401(h), and accounts for postretirement medical benefits established under section 419A(d)(1) are not considered a separate defined contribution plan).

Predecessor Employer—if the employer maintains a plan that provides a benefit which the member accrued while performing services for a former employer, the former employer is a predecessor employer with respect to the member in the plan. A former entity that antedates the employer is also a predecessor employer with respect to a member if, under the facts and circumstances, the employer constitutes a continuation of all or a portion of the trade or business of the former entity.

Severance from Employment—an employee has a severance from employment when the employee ceases to be an employee of the employer maintaining the plan. An employee does not have a severance from employment if, in connection with a change of employment, the employee's new employer maintains the plan with respect to the employee.

Year of Participation—the member shall be credited with a year of participation (computed to fractional parts of a year) for each accrual computation period for which the following conditions are met:

a. the member is credited with at least the number of hours of service (or period of service if the elapsed time method is used) for benefit accrual purposes, required under the terms of the plan in order to accrue a benefit for the accrual computation period; and

b. the member is included as a member under the eligibility provisions of the plan for at least one day of the accrual computation period. If these two conditions are met, the portion of a year of participation credited to the member shall equal the amount of benefit accrual service credited to the member for such accrual computation period. A member who is permanently and totally disabled within the meaning of section 415(c)(3)(C)(i) of the *Internal Revenue Code* for an accrual computation period shall receive a year of participation with respect to that period. In addition, for a member to receive a year of participation (or part thereof) for an accrual computation period, the plan must be established no later than the last day of such accrual computation period. In no event shall more than one Year of Participation be credited for any 12-month period.

Year of Service—for purposes of Section 201.G, the member shall be credited with a year of service (computed to fractional parts of a year) for each accrual computation period for which the member is credited with at least the number of hours of service (or period of service if the elapsed time method is used) for benefit accrual purposes, required under the terms of the plan in order to accrue a benefit for the accrual computation period, taking into account only service with the employer or a predecessor employer.

G. Other Rules

1. Benefits under Terminated Plans. If a defined benefit plan maintained by the employer has terminated with sufficient assets for the payment of benefit liabilities of all plan members and a member in the plan has not yet commenced benefits under the plan, the benefits provided pursuant to the annuities purchased to provide the member's benefits under the terminated plan at each possible annuity starting date shall be taken into account in applying the limitations of this article. If there are not sufficient assets for the payment of all members' benefit liabilities, the benefits taken into account shall be the benefits that are actually provided to the member under the terminated plan.

2. Benefits Transferred from the Plan. If a member's benefits under a defined benefit plan maintained by the employer are transferred to another defined benefit plan maintained by the employer and the transfer is not a transfer of distributable benefits pursuant section 1.411(d)-4, Q and A-3(c), of the Income Tax Regulations, the transferred benefits are not treated as being provided under the transferor plan (but are taken into account as benefits provided under the transferee plan). If a member's benefits under a defined benefit plan maintained by the employer are transferred to another defined benefit plan that is not maintained by the employer and the transfer is not a transfer of distributable benefits pursuant section 1.411(d)-4, Q and A-3(c), of the Income Tax Regulations, the transferred benefits are treated by the employer's plan as if such benefits were provided under annuities purchased to provide benefits under a plan maintained by the employer that terminated immediately prior to the transfer with sufficient assets to pay all members' benefit liabilities under the plan. If a member's benefits under a defined benefit plan maintained by the employer are transferred to another defined benefit plan in a transfer of distributable benefits pursuant section 1.411(d)-4, Q and A-3(c), of the Income Tax Regulations, the amount transferred is treated as a benefit paid from the transferor plan.

3. Formerly Affiliated Plans of the Employer. A formerly affiliated plan of an employer shall be treated as a plan maintained by the employer, but the formerly affiliated plan shall be treated as if it had terminated immediately prior to the cessation of affiliation with sufficient assets to pay members' benefit liabilities under the plan and had purchased annuities to provide benefits.

4. Plans of a Predecessor Employer. If the employer maintains a defined benefit plan that provides benefits accrued by a member while performing services for a predecessor employer, the member's benefits under a plan maintained by the predecessor employer shall be treated as provided under a plan maintained by the employer. However, for this purpose, the plan of the predecessor employer shall be treated as if it had terminated immediately prior to the event giving rise to the predecessor employer relationship with sufficient assets to pay members' benefit liabilities under the plan, and had purchased annuities to provide benefits; the employer and the predecessor employer shall be treated as if they were a single employer immediately prior to such event and as unrelated employers immediately after the event; and if the event giving rise to the predecessor relationship is a benefit transfer, the

transferred benefits shall be excluded in determining the benefits provided under the plan of the predecessor employer.

5. Special Rules. The limitations of this chapter shall be determined and applied taking into account the rules in section 1.415(f)-1(d), (e) and (h) of the Income Tax Regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1302.1.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Louisiana State Police Retirement System, LR 39:

§202. Required Minimum Distributions

A.1. Unless the member has elected otherwise on or before December 31, 1983, the entire benefit of a member shall be distributed over a period not longer than the longest of the following periods:

- a. the member's life;
- b. if the member is married, the life of the member's designated beneficiary;
- c. the member's life expectancy;
- d. the joint life and last survivor life expectancy of the member and his designated beneficiary.

2. If the member is married and his spouse survives him, the designated beneficiary for at least a qualified joint and survivor annuity and 50 percent of his deferred retirement option plan account shall be his spouse, unless such spouse has consented to the contrary in writing before a notary public. For purposes of this Paragraph, *spouse* shall mean that person who is married to the member under a legal regime of community of acquets and gains on his effective date of retirement or effective date of participation in the deferred retirement option plan, whichever is earlier.

3. If the member was a member on or before December 31, 1983, he shall be deemed to have made the election referred to herein. If a member dies after the commencement of his benefits, the remaining portion of his benefit shall be distributed at least as rapidly as before his death. Payment of survivor benefits shall not be considered to violate this provision.

B.1. If the member dies before his benefit has commenced the remainder of such interest shall be distributed to the member's beneficiary within five years after the date of such member's death.

2. Paragraph 1 of this Subsection shall not apply to any portion of a member's benefit which is payable to or for the benefit of a designated beneficiary or beneficiaries, over the life of or over the life expectancy of such beneficiary, so long as such distributions begin not later than one year after the date of the member's death, or, in the case of the member's surviving spouse, the date the member would have attained the age of 70 years and six months. If the designated beneficiary is a child of the member, for purposes of satisfying the requirement of Paragraph 1 of this Subsection, any amount paid to such child shall be treated as if paid to the member's surviving spouse if such amount would become payable to such surviving spouse, if alive, upon the child's reaching age eighteen or, if later, upon the child's completing a designated event. For purposes of the preceding sentence, a designated event shall be the later of the date the child is no longer disabled, or the date the child ceases to be a full-time student or attains age 23, if earlier.

3. Paragraph 1 of this Subsection shall not apply if the distribution of the member's interest has commenced and is for a term certain over a period permitted in Subsection A of this section.

4. Paragraph 1 of this Subsection shall not apply if the member has elected otherwise on or before December 31, 1983, or such later date to which such election period shall be subject under *Internal Revenue Code* section 401(a).

C. As to any benefit payable by the retirement system which is not optional as of December 31, 1983, the member shall be considered to have made the election referred to in Subsections A and B of this Section, if he was a member on or before such time.

D. If by operation of law or by action of the board of trustees, a survivor benefit is payable to a specified person or persons, the member shall be considered to have designated such person as an alternate beneficiary hereunder. If there is more than one such person, then the youngest disabled child shall be considered to have been so designated, or, if none, then the youngest person entitled to receive a survivor benefit shall be considered to have been so designated. The designation of a designated beneficiary hereunder shall not prevent payment to multiple beneficiaries but shall only establish the permitted period of payments.

E. Payment in accordance with the survivor benefit provisions of R.S. 11:1316-1323.1 shall be deemed not to violate Subsections A and B of this Section.

F. This Section shall be effective for members of the system who complete any service under the system on or after July 1, 1992, with employers contributing to the system.

G. Distributions from the system shall be made in accordance with the requirements set forth in *Internal Revenue Code* section 401(a)(9), including the minimum distribution incidental benefit rules applicable thereunder.

H.1. A member's benefits shall commence to be paid on or before the required beginning date.

2. The required beginning date shall be April 1 of the calendar year following the later of the calendar year in which the member attains 70 1/2 years of age, or the calendar year in which the employee retires. Effective for plan years beginning on or after January 1, 1998, the required beginning date shall be April 1 of the year following the later of the year the member attained 70 1/2 or the year he terminated employment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1302.1.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Louisiana State Police Retirement System, LR 39:

§203. Direct Rollovers

A. Notwithstanding any other provision of law to the contrary that would otherwise limit a distributee's election under this Section, a distributee may elect, at the time and in the manner prescribed by the board of trustees, to have any portion of an "eligible rollover distribution", as specified by the distributee, paid directly to an "eligible retirement plan", as those terms are defined below.

B. The following definitions shall apply.

Eligible Rollover Distribution—any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include:

a. any distribution that is one of a series of substantially equal periodic payments, not less frequently than annually, made for the life or life expectancy of the member, or the joint lives or joint life expectancies of the member and the member's designated beneficiary, or for a specified period of ten years or more;

b. any distribution to the extent that such distribution is required under section 401(a)(9) of the United States *Internal Revenue Code*; and

c. any distribution which is made upon hardship of the employee.

Eligible Retirement Plan—any of the following:

a. an individual retirement account described in section 408(a) of the *Internal Revenue Code*;

b. an individual retirement annuity described in section 408(b) of the *Internal Revenue Code*;

c. an annuity plan described in section 403(a) of the *Internal Revenue Code*;

d. a qualified trust as described in section 401(a) of the *Internal Revenue Code*, provided that such trust accepts the member's eligible rollover distribution;

e. an eligible deferred compensation plan described in section 457(b) of the *Internal Revenue Code* that is maintained by an eligible governmental employer, provided the plan contains provisions to account separately for amounts transferred into such plan; and

f. an annuity contract described in section 403(b) of the *Internal Revenue Code*.

Distributee—shall include:

a. a member or former member;

b. the member's or former member's surviving spouse, or the member's or former member's former spouse with whom a benefit or a return of employee contributions is to be divided pursuant to R.S. 11:291(B), with reference to an interest of the member or former spouse;

c. the member's or former member's non-spouse beneficiary, provided the specified distribution is to an eligible retirement plan as defined in Subparagraphs a and b of the definition of *eligible retirement plan* in this Section.

Direct Rollover—a payment by the system to the eligible retirement plan specified by the distributee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1302.1.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Louisiana State Police Retirement System, LR 39:

§204. Annual Compensation Limitation

A. Unless otherwise provided in this Chapter, the accrued benefit of each section 401(a)(17) employee as that term is defined below shall be the greater of the following:

1. The employee's accrued benefit determined with respect to the benefit formula applicable for the plan year beginning on or after January 1, 1996, as applied to the employee's total years of service taken into account for purposes of benefit accruals.

2. The sum of:

a. the employee's accrued benefit as of the last day of the last plan year beginning before January 1, 1996, frozen in accordance with the provisions of section 1.401(a)(4)-1 through 1.401(a)(4)-13 of the *Code of Federal Regulations*;

b. the employee's accrued benefit determined under the benefit formula applicable for the plan year beginning on or after January 1, 1996, as applied to the employee's years of service credited to the employee for plan years beginning on or after January 1, 1996, for purposes of benefit accruals.

B. A *section 401(a)(17) employee* shall mean any employee whose current accrued benefit, as of a date on or after the first day of the first plan year beginning on or after January 1, 1996, is based on compensation for a year beginning prior to the first day of the first plan year beginning on or after January 1, 1996, that exceeded \$150,000.

C. If an employee is not a section 401(a)(17) employee, his accrued benefit in this system shall not be based upon compensation in excess of the annual limit of section 401(a)(17) of the United States *Internal Revenue Code* as amended and revised.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1302.1.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Louisiana State Police Retirement System, LR 39:

§205. General

A. The assets of this system's pension plan shall be held for the exclusive benefit of the employees who are or become participating members of the system and their survivors and beneficiaries, and of retirees and their survivors and beneficiaries. No part of the corpus, the system's pension plan assets held in trust, or income of the system's pension plan shall be used for or diverted to purposes other than the exclusive benefit of such members and retirees, or their survivors or beneficiaries, whether by operation or natural termination of the system's pension plan, by power of revocation or amendment, by the happening of a contingency, by collateral assignment, or by any other means.

B. The retirement benefit earned by a member shall be fully vested and nonforfeitable no later than the date he becomes eligible to retire. Benefits of affected members shall also become vested and nonforfeitable to the extent funded, upon the termination or partial termination of the system's pension plan or the complete discontinuance of contributions thereto.

C. Forfeitures resulting from a termination of employment or a withdrawal of a member's own contributions may not be used to increase benefits to remaining members. This shall not preclude an increase in benefits by amendment to the benefit formula made possible by favorable investment results or for any other reason.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1302.1.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Louisiana State Police Retirement System, LR 39:

Family Impact Statement

The proposed adoption of LAC 58:IX.201, regarding *Internal Revenue Code* provisions applicable to the Louisiana State Police Retirement System, 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; or
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Poverty Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Public Comments

Any interested person may submit written comments regarding this proposed Rule to Kimberly Gann, Assistant Director, Louisiana State Police Retirement System by mail to 3100 Brentwood Drive, Suite B, Baton Rouge, LA 70809. All comments must be received no later than 4:30 p.m., February 11, 2013.

Irwin L. Felps, Jr.
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Internal Revenue Code Provisions

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no net estimated implementation costs or savings to state or local governmental units. R.S. 11:1302.1 requires that provisions relating to the tax-qualification status of the Louisiana State Police Retirement System be contained in rules and regulations.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be 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 will be no estimated costs and/or economic benefits to directly affected persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no estimated effect on competition or employment.

Irwin L. Felps, Jr.
Executive Director
1301#032

Evan Brasseaux
Staff Director
Legislative Fiscal Office

Administrative Code Updates

CUMULATIVE: JANUARY-DECEMBER 2012

Location:					Location:				
LAC Title	Part #.Section #	Action	Month	LR 38 Page	LAC Title	Part #.Section #	Action	Month	LR 38 Page
1	III.103,109,301,305,307,309,311,313,501 III.503,509,515,519,521,523,527,529,531 III.801,805,807	Amended	Nov.	2946	28	XLIII.543 XLIII.905 XLIX.101-3501 LXXIX.115,705,707,905,2103,3303 LXXIX.119,2109 LXXIX.2109,2317,2321,2323,2331 LXXIX.3001,3003,3005,3007,3009,3011 LXXIX.3013,3015,3017 LXXXIII.301,405,409,413,515,517,519,521 LXXXIII.302,303,307,411,523,903,1401 LXXXIII.409,515,707,3501 LXXXIII.409,705,707,3301 LXXXIII.601,603,611,613,703,707,708,709 LXXXIII.601,613 LXXXIII.1101,1103,1301,1303,1601,1603 LXXXIII.1105 LXXXIII.1403,1405,1609,1901,1903,2001 LXXXIII.1607,2101,2301,2501,2503,2901 LXXXIII.2003,2005,2007,2507,3111,3701 LXXXIII.2403 LXXXIII.3101,3105,3107,3109,3301,3303 LXXXIII.3503,3507 LXXXIII.3901,3905,4001,4101,4103,4104 LXXXIII.4301,4311,4315,4509,4527 LXXXIII.4303,4305,4307,4309,4313,5101 LXXXIII.5103 XCIII.101,103,301,303,501,503,505,507,701 XCIII.703,705,707,709,711,713,715,717,719 XCIII.721,723,725,727,729,731,733,735,901 XCIII.903,905,907,909,911,1101 CXI.305,312,501 CXI.312 CXI.312,315,701,1803,1813,1817,1821,3303 CXI.317,1348,1808,2401,2403,2405,2407 CXI.3305,3505 CXIII.303,307,501,1901,2501,2507 CXV.337,502 CXV.337,507 CXV.505 CXV.907,1103 CXV.1103 CXV.1103 CXV.1703 CXV.2103 CXV.2307 CXV.2317,2318,2325,2345,2351,2353 CXV.2318,2319 CXV.2318,2319 CXV.2318,2325 CXV.2321 CXV.2324 CXV.2325 CXV.2345 CXV.2357 CXV.2377 CXV.2385 CXV.2385 CXV.2395 CXV.2701,2703,2705,2707,2709,2711,2713 CXV.2715 CXV.2903 CXV.2907 CXV.2907 CXXXI.240 CXXXI.240,703,705,707,721,723 CXXXI.303,305,311,313,315 CXXXI.307,343,345,346,347,504,507,509 CXXXI.343 CXXXI.405,659 CXXXI.411 CXXXI.411 CXXXI.413 CXXXI.415 CXXXI.505 CXXXI.605 CXXXI.607 CXXXI.665	Amended	June	1403
		Amended	Nov.	2946			Amended	Sept.	2367
		Amended	Nov.	2946			Repealed	Dec.	3148
4	III.101,106,112,114,127,131 VII.901,902 VII.903,905,907,911,917,937,939,947,955 VII.909,957	Amended	Mar.	797	Amended	June	1404		
		Adopted	April	1015	Amended	April	1008		
		Amended	April	1015	Adopted	May	1226		
		Repealed	April	1015	Adopted	May	1226		
		Amended	Oct.	2521	Amended	Dec.	3105		
7	XI.101,103,105,107,113,117,121,123,127 XI.115,119,135,137 XI.131,133 XIII.115,143 XVII.101,103,115,117,119,123,131,135,137 XVII.139,141,143,145,149,153,155,157,159 XVII.161,163,165,167,169 XVII.171 XIX.101 XXI.1503,1515 XXIII.103 XXIII.1103 XLVII.101,103,105,107,109,111	Amended	Oct.	2521	Repealed	Dec.	3105		
		Repealed	Oct.	2521	Amended	May	1212		
		Amended	Oct.	2521	Amended	Sept.	2357		
		Amended	July	1557	Amended	Dec.	3105		
		Amended	Oct.	2521	Amended	June	1391		
		Amended	Oct.	2521	Amended	Dec.	3105		
		Amended	Oct.	2521	Adopted	Dec.	3105		
		Repealed	Oct.	2521	Repealed	Dec.	3105		
		Adopted	Oct.	2521	Amended	Dec.	3105		
		Amended	April	961	Repealed	Dec.	3105		
		Amended	Dec.	3103	Repealed	June	1391		
		Amended	July	1556	Amended	Dec.	3105		
		Adopted	April	962	Repealed	May	1212		
		Adopted	Dec.	3168	Amended	Dec.	3105		
		Adopted	Dec.	3168	Repealed	Dec.	3105		
		10	XIII.1201,1203,1205	Adopted	Dec.	3168	Amended	Dec.	3105
				Adopted	Dec.	3168	Repealed	Dec.	3105
Adopted	Dec.			3168	Repealed	Dec.	3105		
Adopted	Dec.			3168	Repealed	Dec.	3105		
Adopted	Dec.			3168	Repealed	Dec.	3105		
Adopted	Dec.			3168	Repealed	Dec.	3105		
Adopted	Dec.			3168	Repealed	Dec.	3105		
Adopted	Dec.			3168	Repealed	Dec.	3105		
13	I.1129 I.2901,2903,2904,2905,2911 I.4101,4103,4105,4107,4109,4111 I.4301,4303,4305,4307,4309,4311 I.4501,4503,4505,4507,4509 III.151,153,155	Repealed	Nov.	2740	Adopted	Dec.	3141		
		Amended	Feb.	350	Adopted	Dec.	3141		
		Adopted	Nov.	2739	Adopted	Dec.	3141		
		Adopted	Nov.	2736	Adopted	Dec.	3141		
		Adopted	Nov.	2738	Adopted	Dec.	3141		
		Adopted	Oct.	2528	Amended	Mar.	747		
		Adopted	Oct.	2528	Amended	Sept.	2358		
		Adopted	Aug.	1996	Amended	Jan.	33		
		Adopted	Aug.	1996	Adopted	Jan.	33		
		Adopted	Aug.	1996	Amended	Jan.	33		
		Adopted	April	992	Amended	Mar.	748		
		Adopted	April	992	Amended	Jan.	41		
		Adopted	April	986	Amended	Jan.	39		
Adopted	April	986	Amended	May	1224				
Adopted	April	986	Amended	May	1224				
Adopted	Nov.	2740	Amended	April	1000				
Adopted	Nov.	2741	Amended	June	1399				
16	II.701,703,705,707,709,711	Adopted	Aug.	1996	Amended	Sept.	2365		
		Adopted	Aug.	1996	Amended	Dec.	3135		
		Adopted	Aug.	1996	Amended	May	1223		
		Adopted	Aug.	1996	Amended	Mar.	754		
		Adopted	Aug.	1996	Amended	Mar.	761		
		Adopted	Aug.	1996	Amended	April	1001		
		Adopted	Aug.	1996	Amended	July	1584		
		Adopted	Aug.	1996	Amended	Dec.	3133		
		Adopted	Aug.	1996	Amended	Dec.	3134		
		Adopted	Aug.	1996	Amended	Sept.	2363		
		Adopted	Aug.	1996	Amended	Sept.	2364		
		Adopted	Aug.	1996	Amended	Jan.	40		
		Adopted	Aug.	1996	Amended	Dec.	3134		
		Adopted	Aug.	1996	Amended	June	1399		
		Adopted	Aug.	1996	Amended	Sept.	2364		
		Adopted	Aug.	1996	Amended	Dec.	3134		
		Adopted	Aug.	1996	Amended	Dec.	3134		
		Adopted	Aug.	1996	Amended	Dec.	3134		
		Adopted	Aug.	1996	Amended	Dec.	3134		
		Adopted	Aug.	1996	Amended	Dec.	3134		
		22	I.107 I.109 I.313 I.316 I.331 I.337 I.407 I.409 I.1301,1303 III.5701,5702,5703 XV.1701,1703,1705,1707,1709,1711,1713 XV.1715,1717,1719	Repealed	Nov.	2934	Amended	Dec.	3135
				Amended	Feb.	429	Amended	May	1223
Amended	Mar.			830	Amended	Mar.	754		
Amended	Mar.			835	Amended	Mar.	761		
Amended	May			1252	Amended	April	1001		
Amended	July			1599	Amended	July	1584		
Amended	Feb.			432	Amended	Dec.	3133		
Adopted	July			1597	Amended	Dec.	3134		
Amended	Nov.			2932	Amended	Sept.	2363		
Amended	July			1588	Amended	Sept.	2364		
Adopted	Mar.			813	Amended	Jan.	40		
Adopted	Mar.			813	Amended	Dec.	3134		
Adopted	Mar.			813	Amended	June	1399		
Adopted	Mar.			813	Amended	Sept.	2364		
Adopted	Mar.			813	Amended	Dec.	3134		
Adopted	Mar.			813	Amended	Dec.	3134		
Adopted	Mar.			813	Amended	Dec.	3134		
Adopted	Mar.			813	Amended	Dec.	3134		
Adopted	Mar.			813	Amended	Dec.	3134		
Adopted	Mar.			813	Amended	Dec.	3134		
Adopted	Mar.			813	Amended	Dec.	3134		
Adopted	Mar.			813	Amended	Dec.	3134		
Adopted	Mar.			813	Amended	Dec.	3134		
Adopted	Mar.			813	Amended	Dec.	3134		
Adopted	Mar.			813	Amended	Dec.	3134		
28	I.103,305,307,309,311,313,315,501,503,703 I.503 I.705,709,711,713,717,719,901,903,1101 I.725 I.1103,1105,1107,1303 I.1107 IV.301 IV.301,507,509,703,705,803,805,2103,2107 IV.703 IV.1205 IV.1401 IV.1415 IV.2001,2007,2013 VI.107 VI.315 IX.305 XLIII.133 XLIII.167,168,169 XLIII.508,511,512,513,514,516,518,532,904 XLIII.540,541,542,543 XLIII.543			Amended	Dec.	3149	Amended	June	1398
				Amended	Mar.	772	Amended	Sept.	2364
				Amended	Dec.	3149	Amended	Dec.	3134
		Repealed	Dec.	3149	Repealed	June	1398		
		Amended	Dec.	3149	Repealed	June	1398		
		Amended	Dec.	3149	Repealed	June	1398		
		Amended	June	1404	Repealed	June	1398		
		Amended	Aug.	1953	Repealed	June	1398		
		Amended	Dec.	3156	Amended	July	1583		
		Amended	Feb.	354	Amended	April	1000		
		Amended	Aug.	1953	Amended	Dec.	3133		
		Amended	Feb.	354	Amended	Mar.	765		
		Amended	May	1229	Amended	Mar.	762		
		Amended	July	1585	Amended	Jan.	44		
		Amended	Dec.	3162	Amended	Aug.	1951		
		Amended	Aug.	1954	Amended	Dec.	3136		
		Amended	May	1228	Amended	Jan.	45		
		Amended	June	1401	Amended	Sept.	2366		
		Amended	Mar.	768	Amended	Jan.	45		
		Amended	Sept.	2367	Amended	Mar.	768		
		Adopted	April	1006	Amended	Sept.	2365		
		Repromulgated	May	1225	Amended	Jan.	43		
		Repromulgated	May	1225	Amended	Jan.	44		
		Repromulgated	May	1225	Amended	Jan.	44		
		Repromulgated	May	1225	Amended	Mar.	766		

Location:

Location:

LAC Title	Part #.Section #	Action	Month	LR 38 Page	LAC Title	Part #.Section #	Action	Month	LR 38 Page	
28	CXXXI.668	Adopted	Mar.	767	35	I.1304	Amended	June	1407	
	CXXXI.701,703,705,707,709,710,711,723	Amended	Dec.	3136		I.1505	Amended	June	1408	
	CXXXI.725,803,901	Amended	Dec.	3136		V.6335	Amended	Dec.	3168	
	CXXXI.903,906,909,911	Amended	Mar.	762		XIII.10501	Amended	June	1407	
	CXXXI.908,910	Adopted	Dec.	3136		XIII.10901	Amended	June	1410	
	CXXXIX.103,512,513,515,517,701,901	Amended	Mar.	750		XIII.11001	Adopted	June	1408	
	CXXXIX.103,512,513,515,517,701,901	Repromulgated	June	1392		XIII.11115	Amended	Oct.	2548	
	CXXXIX.103,515	Amended	Jan.	37		XIII.11701	Amended	Oct.	2549	
	CXXXIX.103,515	Repromulgated	July	1583		37	III.101,105,109,111,303,505,507,509,511	Amended	Oct.	2533
	CXXXIX.307,503,512,513,515,701,1101	Amended	Dec.	3117			III.513,515,517,711,715,901,903,905,907	Amended	Oct.	2533
	CXXXIX.1101,1303,1503,1703,1903,2701	Amended	Mar.	750			III.519	Adopted	Oct.	2533
	CXXXIX.1101,1303,1503,1703,1903,2701	Repromulgated	June	1392			III.909,911,1101,1103,1105,1107,1301	Amended	Oct.	2533
	CXXXIX.1301,1303,1502,1503,1701,1903	Amended	Dec.	3117			III.1303,1305,1309,1311,1401,1403,1405	Amended	Oct.	2533
	CXXXIX.2501,2705,2709,2901	Amended	Dec.	3117			III.1307,1701,1703	Repealed	Oct.	2533
	CXXXIX.2707,2709	Amended	Mar.	750			III.1501,1503,1505,1507,1509,1901,1903	Amended	Oct.	2533
	CXXXIX.2707,2709,3901,3903,3905	Repromulgated	June	1392			III.1905,1907,1909,1911,1917,1919,1921	Amended	Oct.	2533
	CXXXIX.2903	Repealed	Dec.	3117			III.1923,1925,1931	Amended	Oct.	2533
	CXXXIX.3701,3703,3705,3707	Adopted	Jan.	37	XIII.14101,14103,14105,14107,14109		Adopted	April	1027	
	CXXXIX.3901,3903,3905	Adopted	Mar.	750	XIII.14111,14113,14115,14117,14119	Adopted	April	1027		
	CXLV.501,503,505	Amended	Feb.	352	40	I.2012,2024,2116,2136,2214,2228,2314,2328	Repealed	Dec.	3253	
	CXLV.502	Adopted	Dec.	3121		I.2328	Adopted	Dec.	3253	
	CXLV.505	Amended	June	1396		I.2701,2715,2717	Amended	April	1030	
	CXLV.703	Amended	Sept.	2358		I.2715,2717	Repromulgated	May	1286	
	CXLVII.101,103,105,315,317,319,323,327	Amended	May	1214		I.2715,2718	Amended	Dec.	3255	
	CXLVII.105,301,305,307,309,311,319,321	Amended	Sept.	2359		I.2718	Adopted	April	1030	
	CXLVII.301,303,305,307,309,311,313,321	Adopted	May	1214		I.2915	Amended	Mar.	836	
	CXLVII.303	Amended	Dec.	3123		I.6647	Adopted	Dec.	3252	
	CXLVII.323,325,701,901,905	Amended	Sept.	2359		42	III.109	Repealed	Nov.	2936
	CXLVII.325,329,905	Adopted	May	1214			III.111	Amended	Nov.	2934
	CXLVII.701,901,903	Amended	May	1214	III.401,402,403		Adopted	Nov.	2934	
	CXLVII.903	Repealed	Sept.	2359	III.Chapters 17,19,21,23,25,27,29,31,33,34		Adopted	July	1601	
	CLI.101,103,105,301,303,501,503,505,507	Adopted	Dec.	3124	III.Chapters 35,39,40,41,42,43,45,47		Adopted	July	1601	
	CLI.701,703,901,1101,1301	Adopted	Dec.	3124	VII.Chapters 17,19,21,23,25,27,29,33,35,41		Repealed	July	1601	
	CLIII.101,301,303,501,701,901,1101	Adopted	Dec.	3129	VII.Chapters 42,43,45		Repealed	July	1601	
	33	I.401,403,405,407	Adopted	Nov.	2768		IX.Chapters 19,21,23,25,27,29,31,33,35,39	Repealed	July	1601
		I.1203,4701,4703,4705,4711,5707	Amended	Nov.	2749		IX.Chapters 41,42,43,45	Repealed	July	1601
		I.1503	Amended	July	1586		XI.2403,2405,2407,2409,2417,2424	Amended	Nov.	2934
		I.1507	Adopted	July	1586	XI.2407	Repromulgated	Dec.	3234	
		I.1507	Repromulgated	Aug.	1954	XIII.Chapters 17,19,21,23,25,27,29,31,33,35	Repealed	July	1601	
		I.1801	Amended	May	1232	XIII.Chapters 39,40,41,42,43,45	Repealed	July	1601	
		III.317	Adopted	Aug.	1955	43	I.1101,1102,1103,1104,1107,1108,1109,1110	Adopted	Jan.	125
		III.504	Amended	May	1231		I.1111,1112,1113,1114,1115,1116,1117,1118	Adopted	Jan.	125
		III.504,601,603,605,607,615,619	Amended	Nov.	2765		I.1119,1120,1121,1122,1123,1124,1125,1129	Adopted	Jan.	125
		III.506,507,2160,3003,5116,5122,5311,5901	Amended	May	1229		I.1130,1131,1132,1133,1134,1135,1136,1137	Adopted	Jan.	125
III.509		Amended	Dec.	3163	I.1138,1139,1140,1141,1142,1145,1146,1147		Adopted	Jan.	125	
III.523,537,1410,2103,2107,2108,2121,2122		Amended	Nov.	2749	I.1148,1153,1154,1155,1156,1157,1161,1162		Adopted	Jan.	125	
III.533		Amended	Nov.	2745	I.1163,1164,1165,1166,1167,1168,1169,1175		Adopted	Jan.	125	
III.537		Amended	Nov.	2768	I.1176,1177		Adopted	Jan.	125	
III.2117		Amended	Nov.	2742	V.401,403,405,407,409,411,413		Repealed	Jan.	125	
III.2132,2153,2159,2301,2303,2511,2521		Amended	Nov.	2749	VI.701		Amended	Nov.	2932	
III.2531,3003,5113,5307,5311		Amended	Nov.	2749	XI.101	Repromulgated	June	1414		
III.5101,5103,5107,5109,5113,5151		Amended	Nov.	2742	XIII.301,303,305,307,309,311,313,315,317	Amended	Jan.	110		
III.5301,5303,5307		Repealed	Nov.	2769	XIII.312,322,2731,3501,3503,3505,3507	Adopted	Jan.	110		
V.105,4909		Amended	Mar.	790	XIII.319	Repealed	Jan.	110		
V.108,109,307,1107,1109,1111,1513,1516		Amended	Mar.	774	XIII.321,503,507,713,715,912,921,923,1105	Amended	Jan.	110		
V.109		Repromulgated	April	1009	XIII.923,2720	Repromulgated	Mar.	828		
V.109,1101,1113,1127,1301,1516,1531,4145		Amended	Mar.	781	XIII.1151,1511,1513,1933,2117,2705,2715	Amended	Jan.	110		
V.705		Amended	Nov.	2768	XIII.2716,2720,2911,3323,3325,3331,3335	Amended	Jan.	110		
V.1907,2271,2273,4999		Amended	Nov.	2749	XIII.3339,3345,3351,5103	Amended	Jan.	110		
V.2299,2519,2603,4105,4139,4511,4901		Amended	Mar.	774	XIII.3509,3511,3513,3515	Adopted	Jan.	110		
V.4903		Amended	Mar.	774	XIX.701,703,705,707	Amended	Nov.	2930		
V.10303,10305		Amended	June	1417	46	I.1305	Amended	July	1587	
V.30103,30105,30107,30118,30123,30127		Amended	Jan.	99		I.1315	Amended	April	1012	
V.30124,30146,30207,30446		Adopted	Jan.	99		XXI.1103	Amended	Aug.	1957	
V.30131,30140,30145,30173,30264,30307		Amended	Jan.	99		XXIX.101,103,105,107,109,111,113,115,117	Amended	Jan.	148	
V.30137,30144		Repealed	Jan.	99		XXIX.110	Adopted	Jan.	148	
V.30401,30402,30432,30440,30452,30571		Amended	Jan.	99		XXIX.301,307,309,311,315,317,501,503,505	Amended	Jan.	148	
V.30573,30588,30905		Amended	Jan.	99		XXIX.507,509,511,513,515,517,519,521,701	Amended	Jan.	148	
VI.103,403,501,502,505,507,509,515,521		Amended	Nov.	2749		XXIX.703,901,903,1103,1109,1111,1113	Amended	Jan.	148	
VI.607,705,711,801,803,911,913		Amended	Nov.	2749		XXIX.1301,1501,1503,1505,1507,1509	Amended	Jan.	148	
VII.115,508		Amended	Jan.	46		XXIX.1511,1513	Adopted	Mar.	813	
IX.309		Amended	Nov.	2768	XXXIII.103,105,120,124	Amended	Nov.	2770		
IX.4901,4903		Amended	Nov.	2747	XXXIII.124,306,403,409,415,1611,1709	Repromulgated	Feb.	355		
IX.7313		Amended	Nov.	2749	XXXIII.318	Amended	Aug.	1960		
XI.301,303,507,701,703,715,903,905,907		Amended	Nov.	2749	XXXIII.1505,1507,1509,1611	Amended	Aug.	1958		
XI.1111,1113,1123,1129,1131,1139,1305		Amended	Nov.	2749	XXXIII.1611,1615	Amended	Mar.	817		
XI.1309		Amended	Nov.	2749	XXXIII.1709,1711	Amended	Aug.	1959		
XV.102		Amended	Nov.	2748	XXXIX.101,301,901	Repromulgated	Feb.	355		
XV.304,328	Amended	Nov.	2746	XL.119,120,121,303,305,309,313,315,319	Amended	July	1589			
XV.763,1599	Amended	Nov.	2747		Amended	Oct.	2529			
34	I.601,603,605,607,609,611,613,615,617	Adopted	June	1406						
	XI.101,103	Amended	July	1588						

Location:

Location:

LAC Title	Part #.Section #	Action	Month	LR 38 Page	LAC Title	Part #.Section #	Action	Month	LR 38 Page	
46	XL.321	Repromulgated	Oct.	2529	48	I.9081	Amended	Feb.	371	
	XL.325,713	Amended	Oct.	2529		I.9097	Adopted	Feb.	371	
	XLI.1903,1904,1905	Amended	April	1018		I.9201,9202,9231,9273,9277,9285,9287,9293	Amended	Dec.	3175	
	XLII.1906,1907	Adopted	April	1018		I.9211,9213,9215,9217,9219,9221,9271,9289	Repealed	Dec.	3175	
	XLV.193,195,197,2501,2503,2505,2507	Amended	Jan.	52		I.9241,9243,9245,9247,9249,9251,9253,9255	Adopted	Dec.	3175	
	XLV.303,311	Amended	Dec.	3173		I.9257,9259,9261	Adopted	Dec.	3175	
	XLV.422	Adopted	Dec.	3174		I.9291	Repealed	Dec.	3175	
	XLV.1521	Amended	Dec.	3174		I.9303,9305,9377	Amended	June	1413	
	XLV.2509,2513,2525,2527,2529,2531,2533	Repealed	Jan.	52		I.9741,9743	Amended	Mar.	824	
	XLV.2510,2511,2515,2517,2519,2521,2523	Amended	Jan.	52		I.10001,10011,10013,10015,10017,10019	Amended	May	1241	
	XLV.2535,2539	Repealed	Jan.	52		I.10015,10081	Repromulgated	June	1410	
	XLV.2536,2537,2540,2541,2543,2545,2547	Amended	Jan.	52		I.10021,10023,10025,10033,10035,10045	Amended	May	1241	
	XLV.2548,2573	Adopted	Jan.	52		I.10055,10057,10059,10061,10071,10073	Amended	May	1241	
	XLV.2549,2551,2553,2555,2557,2559,2561	Amended	Jan.	52		I.10079,10081,10082,10083,10084,10085	Amended	May	1241	
	XLV.2563,2565,2567,2569,2571,2575,5501	Amended	Jan.	52		I.10086,10088,10089,10090	Amended	May	1241	
	XLV.3149 (House Committee Report #69)	Amended	June	1460		I.10091	Repealed	May	1241	
	XLV.3509	Amended	April	1026		I.12501,12503	Amended	Aug.	1961	
	XLV.4507	Amended	May	1233		I.12503,12505	Amended	July	1593	
	XLV.5503,5505,5507,5509,5517,5519	Amended	Jan.	52		I.12524	Adopted	Aug.	1961	
	XLVII.3331	Amended	Mar.	818		I.12526	Adopted	July	1593	
	XLVII.3533	Amended	Oct.	2549		III.537	Amended	Dec.	3214	
	XLIX.713	Amended	Jan.	51		V.8001,8003,8005,8007,8009,8011,8013	Adopted	Dec.	3215	
	LI.301,503,603	Amended	July	1590		V.8015,8017,8019,8021,8023,8025,8027	Adopted	Dec.	3215	
	LIII.505,905,1203	Amended	May	1234		V.8029,8031,8033,8035,8037,8039,8041	Adopted	Dec.	3215	
	LIII.525	Adopted	May	1233		V.8043,8045,8047,8049,8051,8053,8055	Adopted	Dec.	3215	
	LIII.1105	Amended	May	1239		V.8057,8059,8061,8063,8064,8065,8067	Adopted	Dec.	3215	
	LIII.1143	Amended	May	1240		V.8071,8073,8075,8077,8079,8081	Adopted	Dec.	3215	
	LIII.1501,1513	Amended	May	1235		50	I.2901,2903,2905,2907,2909,2911,2913,2915	Repealed	Sept.	2370
	LIII.1512	Adopted	May	1235			I.4101,4103,4105,4107,4115,4117,4119,4127	Amended	Nov.	2774
	LIII.1525	Repealed	May	1240			I.4127,4131,4133,4135,4151,4153	Repealed	Nov.	2774
	LIII.1801,1803,1805,1807,1809,1811,1813	Adopted	May	1235			I.4129,4147,4149,4161,4163,4165,4167,4169	Amended	Nov.	2774
	LIII.1815,1817,1819	Adopted	May	1235			I.4177,4195,4203,4211,4213,4229	Amended	Nov.	2774
	LVII.518	Amended	July	1596			I.4181	Adopted	Nov.	2774
	LVII.519	Adopted	Sept.	2378			II.20001,20007,20013,20015	Amended	Mar.	825
	LX.3309,3311,3315	Amended	Aug.	1965			II.20005	Amended	May	1241
	LX.3317,3319,3321	Adopted	Aug.	1965			V.109	Adopted	Aug.	1962
	LXI.105	Amended	Mar.	835			V.301	Amended	Mar.	824
	LXI.105	Repromulgated	April	1029			V.551	Adopted	May	1241
	LXI.707,709,901,903,907,909,1301,1509	Amended	Oct.	2563			V.551,967,1331	Amended	Nov.	2772
	LXI.1701	Amended	Oct.	2563			V.963	Adopted	Nov.	2772
	LXI.2305,2701	Amended	June	1418			V.963	Amended	Dec.	3181
	LXVI.901	Amended	Jan.	97			V.1125,1127	Amended	May	1240
	LXVI.1127,1129	Adopted	Jan.	97			V.5113	Amended	Aug.	1963
	LXVII.2515	Amended	April	1021			V.5311,5511,5711,5911,6113	Amended	May	1251
	LXVII.5319,5513,5523,5527,5529,5531	Amended	Dec.	3171			V.5319,5519,5919	Adopted	Nov.	2773
	LXVII.5515	Adopted	Dec.	3171			V.6127	Amended	Nov.	2773
LXX.3103,3205,3207,3209,3301	Amended	Sept.	2369	IX.15107	Adopted		Aug.	1964		
LXX.6102,6105,6204,6205,6206,6207,6208	Amended	Dec.	3165	IX.15155	Adopted		Aug.	1964		
LXX.6209,6304,6307,6310,6311,6404,6406	Amended	Dec.	3165	XI.Chapter 17	Repealed		Feb.	366		
LXXX.501	Amended	April	1025	XI.7501	Amended		Aug.	1961		
LXXX.901,903,905,907,909,911,917,921	Amended	April	1022	XV.Chapters 1-13	Repealed		Feb.	366		
LXXX.906,908,913,915,929	Adopted	April	1022	XV.7701,7703,7705,7707,9133	Repealed		Feb.	365		
LXXX.919,925	Repromulgated	April	1022	XV.9101,9113,9121	Amended		Feb.	365		
LXXX.923,927	Amended	April	1022	XV.9301,9303,9305,9307	Adopted		Sept.	2371		
LXXXV.303,400,405,500,503	Amended	July	1591	XXI.101,103	Repealed		Nov.	2771		
LXXXV.712,1103,1105,1200,1201,1211	Amended	Feb.	356	XXI.2915	Repromulgated		July	1594		
LXXXV.1209	Adopted	Feb.	356	XXII.6101,6103,6301,6303,6501,6503,6701	Adopted		Mar.	820		
XCI.801	Amended	Aug.	1960	XXII.6703,6901,6903	Adopted		Mar.	820		
48	I.4203,4207,4227,4245,4267	Amended	Sept.	2372	XXVII.573		Amended	Dec.	3214	
	I.5001	Amended	June	1410	XXIX.117		Amended	Feb.	368	
	I.5001,5003,5005,5007,5009,5011,5013,5015	Adopted	Jan.	63	XXXIII.101,103,105,107,301,303,305,501		Adopted	Feb.	360	
	I.5016,5017,5019,5021,5023,5025,5027,5029	Adopted	Jan.	63	XXXIII.701,901		Adopted	Feb.	360	
	I.5031,5033,5035,5037,5039,5041,5043,5045	Adopted	Jan.	63	XXXIII.2101,2103,2301,2303,2501,2701		Adopted	Feb.	363	
	I.5049,5051,5053,5055,5057,5059,5061,5063	Adopted	Jan.	63	XXXIII.4101,4103,4301,4303,4305,4501		Adopted	Feb.	400	
	I.5071,5073,5075,5077,5079,5081,5083,5085	Adopted	Jan.	63	XXXIII.4701,4703		Adopted	Feb.	400	
	I.5087,5089,5090,5091,5093,5094,5095,5099	Adopted	Jan.	63	XXXIII.6101,6103,6301,6303,6305,6307		Adopted	Feb.	358	
	I.6101,6103,6105	Adopted	Nov.	2928	XXXIII.6501,6701		Adopted	Feb.	358	
	I.6201,6203,6207,6209,6211,6213,6215,6217	Adopted	Feb.	401	XXXIII.8101,8103,8301,8303,8305,8501		Adopted	Feb.	366	
	I.6219,6221,6223,6225,6227,6229,6233,6237	Adopted	Feb.	401	XXXIII.8701		Adopted	Feb.	366	
	I.6239,6241,6245,6247,6249,6251,6253,6255	Adopted	Feb.	401	XXXIII.10101,10103,10301,10303,10501		Adopted	Feb.	369	
	I.6259,6261,6265,6267,6269,6271,6273,6275	Adopted	Feb.	401	XXXIII.10701,10703,10705,10707		Adopted	Feb.	369	
	I.6279,6281,6285,6287,6289,6291,6293,6295	Adopted	Feb.	401	XXXIII.12101,12103,12301,12303,12501		Adopted	Feb.	427	
	I.7403	Amended	Dec.	3215	XXXIII.12701,12703,12705,12707		Adopted	Feb.	427	
	I.8501,8503,8505,8507,8509,8511,8513,8515	Adopted	Dec.	3181	XXXIII.14101,14103,14301,14303,14501	Adopted	Feb.	426		
	I.8517,8519,8521,8523,8525,8531,8533,8535	Adopted	Dec.	3181	XXXIII.14701	Adopted	Feb.	426		
	I.8541,8543,8549,8551,8553,8555,8557,8565	Adopted	Dec.	3181	51	I.101	Amended	Sept.	2374	
	I.8567,8569,8577,8579,8581,8583,8585,8587	Adopted	Dec.	3181		I.101,123	Amended	Nov.	2790	
	I.8589,8595,8597,8599,8601,8603,8605,8609	Adopted	Dec.	3181		I.124	Adopted	Sept.	2374	
	I.8611,8613,8615	Adopted	Dec.	3181		II.505	Amended	Nov.	2927	
	I.9001,9003,9031,9033,9035,9037,9041,9049	Amended	Feb.	371		II.701	Amended	May	1252	
	I.9007,9009,9011,9013,9015,9017,9019,9021	Adopted	Feb.	371		VI.101,109,113,121,319,321,509,705,709	Amended	Nov.	2790	
	I.9023,9025,9027,9029,9043,9045,9047,9063	Adopted	Feb.	371		VI.1117,1313,1515	Amended	Nov.	2790	
	I.9051,9061,9065,9067,9071,9075,9077,9079	Amended	Feb.	371		VII.101,2117	Amended	Nov.	2790	
	I.9069,9083,9085,9087,9089,9091,9093,9095	Adopted	Feb.	371						

Location:

Location:

LAC Title	Part #.Section #	Action	Month	LR 38 Page	LAC Title	Part #.Section #	Action	Month	LR 38 Page			
51	IX.321,327,329,331	Amended	Nov.	2788	55	IX.166,167,169,171,172,175,177,179,181	Amended	May	1254			
	IX.325,327,331,333	Amended	Jan.	95		IX.183,201,203,205,207,301,1501,1503,1505	Amended	May	1254			
	IX.330	Adopted	Jan.	95		IX.1507,1509,1511,1513,1515,1517,1519	Amended	May	1254			
	X.101,113,115	Amended	Nov.	2790		IX.1521,1523,1525,1527,1529,1531,1533	Amended	May	1254			
	X.115	Repromulgated	Dec.	3232		IX.1535,1537,1539,1541,1543,1545,1547	Amended	May	1254			
	XII.101,105,301,337,355,1101,1103,1301	Amended	Sept.	2374		XXI.101,103,105,301,303,305,307,309,311	Amended	Jan.	48			
	XII.101,301	Amended	Dec.	3215		XXI.501,503	Adopted	Jan.	48			
	XII.101,335,371	Amended	Nov.	2790		XXIII.101,103,105,301,303,305	Adopted	April	1019			
	XII.344	Adopted	Nov.	2790		56	I.323	Amended	Nov.	2932		
	XII.1701,1903,1911	Amended	Sept.	2374			58	I.2511,2513	Amended	Mar.	836	
	XIV.101,103,105	Amended	Nov.	2790				I.2521,2523	Repealed	Mar.	836	
	XIV.103	Repromulgated	Dec.	3232				V.101	Amended	Mar.	796	
	XIV.107,109,111,113,115,117,119,121,123	Adopted	Nov.	2790				V.501	Amended	April	1011	
	XIV.125,127,129,131,133,135,137,139,201	Adopted	Nov.	2790				V.503,505	Repealed	April	1011	
	XIV.203,301,303,305,307,309,311,313,315	Adopted	Nov.	2790				V.2003,2005	Adopted	April	1012	
	XIV.317,319,321,401,403,405,407,409,411	Adopted	Nov.	2790				VII.401,403,405,407	Adopted	Dec.	3241	
	XIV.413,415,417,501,503,505,507,509,511	Adopted	Nov.	2790				XVII.101,103,105	Adopted	April	1029	
	XIV.513,601,603,605,607,609,611,613,615	Adopted	Nov.	2790	61			I.1515	Amended	Sept.	2382	
	XIV.617,619,621,623,625,627,629,701,703	Adopted	Nov.	2790		I.1913		Adopted	Dec.	3239		
	XIV.705,707,709,711,713,715,717,719,721	Adopted	Nov.	2790		I.4372	Adopted	Aug.	1995			
	XIV.723,725,727,729,731,733,735,801,803	Adopted	Nov.	2790		I.4415	Repealed	Aug.	1995			
	XIV.805,807,809,811,901,903,905,907,909	Adopted	Nov.	2790		I.4910	Amended	Sept.	2382			
	XIV.911,913,915,917,919,921,923,925,927	Adopted	Nov.	2790		V.101,303,304,703,907,1101,1103,1307	Amended	Mar.	799			
	XIV.929,931,933,935,937,939,941,1001	Adopted	Nov.	2790		V.1503,2503,2713,2717,3101,3103,3105	Amended	Mar.	799			
	XIV.1003,1005,1101,1103,1105,1107,1109	Adopted	Nov.	2790		V.3106,3107	Amended	Mar.	799			
	XIV.1111,1113,1115,1117,1201,1203,1205	Adopted	Nov.	2790		67	III.301,303,305,307,309,311,313,315,317	Amended	April	964		
	XIV.1207,1301,1303,1305,1307,1309,1401	Adopted	Nov.	2790			III.319,321,323,325,327,329,331,333	Amended	April	964		
	XIV.1403,1405,1501,1503,1505,1507,1509	Adopted	Nov.	2790	III.1983		Amended	Feb.	350			
	XIV.1511,1513,1515,1517,1519,1521,1523	Adopted	Nov.	2790	III.5103,5109		Amended	Dec.	3103			
	XIV.1601,1603,1605,1607,1609,1611,1613	Adopted	Nov.	2790	III.5329,5729		Amended	June	1390			
	XIV.1615,1617,1619,1621,1623,1701,1801	Adopted	Nov.	2790	III.5501		Amended	July	1558			
	XIV.1803,1805,1807,1809,1811,1813	Adopted	Nov.	2790	III.7312,7327,7365,7373		Amended	April	981			
	XVI.101	Amended	Nov.	2790	III.7328,7378		Adopted	April	981			
	XVII.101,107,303	Amended	Nov.	2790	III.7331,7363		Amended	May	1207			
	XVII.107	Repromulgated	Dec.	3232	V.6301,6303,6305,6307,6309,6311,6313		Repealed	Nov.	2734			
	XVIII.101	Amended	Nov.	2790	V.6315,6317,6319,6321,6323,6325,6327	Repealed	Nov.	2734				
	XXI.105	Amended	Nov.	2790	V.6329,6331,6333,6335,6337,6339,6341	Repealed	Nov.	2734				
	XXIII.301,3307	Amended	Nov.	2790	V.6703,6955,6957,6959,6961,7105,7107	Amended	April	968				
	XXIII.3119	Adopted	Nov.	2790	V.6708,6710	Adopted	April	968				
	XXIV.103,717	Amended	Nov.	2790	V.7107,7111,7113,7115,7117,7119,7313	Amended	April	984				
	52	I.1201,1203,1205,1207	Amended	May	1207	V.7111	Amended	April	968			
		I.1209	Adopted	May	1207	V.7501,7503,7505,7507,7509,7511,7513	Adopted	July	1558			
		I.1703	Amended	Aug.	1951	V.7507	Amended	Dec.	3104			
		I.2401,2403,2405,2407,2409,2411,2413,2415	Adopted	May	1209	V.7515,7517,7519,7521,7523,7525	Adopted	July	1558			
		I.2417	Adopted	May	1209	VII.203,219	Amended	Jan.	147			
		XII.101,105,301,337,355,1101,1301,1701	Amended	Sept.	2374	VII.221,223	Adopted	Jan.	147			
		XII.1903,1911	Amended	Sept.	2374	70	XI.101	Adopted	Sept.	2380		
		55	I.501,507,509,511,515	Amended	Aug.		1992	XI.301,303,305	Adopted	Sept.	2379	
			I.503	Amended	Oct.		2562	71	I.501	Amended	Jan.	146
			I.503	Amended	Nov.		2937		76	I.701,703,705,707,709	Adopted	Aug.
	I.514,516		Adopted	Aug.	1992		I.709			Repromulgated	Oct.	2566
I.1301,1303,1305,1307,1309,1311,1313,1315	Amended		May	1279	V.115 (House Committee Report #6)		Amended			June	1459	
I.1301,1307	Repromulgated		June	1415	V.130		Adopted			Aug.	1997	
III.143,144,145,146,147,148,149,150,151	Adopted		Aug.	1974	VII.134		Adopted			Oct.	2567	
III.143,149,154,155,157	Amended		Dec.	3234	VII.157		Amended			July	1732	
III.152,153,154,155,156,157	Adopted		Aug.	1974	VII.158		Adopted			July	1732	
III.159	Adopted		Dec.	3234	VII.197	Amended	Nov.			2941		
III.701,801,803,805,807,809,811,813,821	Amended	Oct.	2550	VII.206	Adopted	Dec.	3249					
III.808	Repealed	Oct.	2550	VII.329	Amended	Dec.	3250					
III.827,829	Amended	Oct.	2550	VII.335	Amended	Sept.	2383					
V.501,507,509,521,523,525,527,535,539,543	Amended	Dec.	3235	VII.361	Amended	June	1419					
V.503	Adopted	Dec.	3235	VII.367	Amended	Jan.	146					
V.541,701,703,705,707,709,711,713,715,717	Repealed	Dec.	3235	VII.367	Amended	Dec.	3250					
V.547,549,551	Amended	Dec.	3235	VII.371,525	Amended	Aug.	1997					
V.719,721,723	Repealed	Dec.	3235	VII.377	Adopted	Dec.	3249					
VI.301	Amended	Aug.	1994	VII.403,413	Amended	Nov.	2943					
VII.305	Amended	Nov.	2937	VII.415	Adopted	Nov.	2943					
VII.315	Amended	Nov.	2938	VII.533	Amended	Oct.	2567					
VII.315,3109	Amended	Jan.	144	VII.901	Repromulgated	Feb.	433					
VII.317	Amended	May	1286	XIX.101,103	Amended	July	1747					
VII.317	Amended	Nov.	2938	XIX.111	Amended	July	1732					
VII.329,3119	Adopted	May	1285	XIX.113	Amended	Nov.	2941					
VII.3101,3103,3109	Amended	Jan.	145	XIX.115	Amended	Nov.	2944					
VII.3103,3107,3109	Amended	Nov.	2939									
IX.101,103,105,107,109,111,113,115,117	Amended	May	1254									
IX.119,121,123,125,127,129,131,133,135	Amended	May	1254									
IX.139,141,143,145,151,155,159,163,165	Amended	May	1254									
IX.147,173	Repealed	May	1254									

Potpourri

POTPOURRI

Department of Children and Family Services Division of Programs

Temporary Assistance to Needy Families (TANF) Caseload Reduction Report

The Department of Children and Family Services hereby gives notice that, in accordance with federal regulations at 45 CFR 261.40, the Temporary Assistance to Needy Families (TANF) Caseload Reduction Report for Louisiana is now available to the public for review and comment.

In order to receive a caseload reduction credit for minimum participation rates, the agency must submit a report based on data from the Family Independence Temporary Assistance Program (FITAP) and the Strategies to Empower People Program (STEP) containing the following information:

1. a listing of, and implementation dates for, all State and Federal eligibility changes, as defined at §261.42, made by the state after FY 2005;
2. a numerical estimate of the positive or negative impact on the applicable caseload of each eligibility change (based, as appropriate, on application denials, case closures, or other analyses);
3. an overall estimate of the total net positive or negative impact on the applicable caseload as a result of all such eligibility changes;
4. an estimate of the state's caseload reduction credit;
5. a description of the methodology and the supporting data that it used to calculate its caseload reduction estimates;
6. a certification that it has provided the public an appropriate opportunity to comment on the estimates and methodology, considered their comments, and incorporated all net reductions resulting from federal and state eligibility changes; and
7. a summary of all public comments.

Copies of the TANF Caseload Reduction Report may be obtained by writing Brandy Bonney, Department of Children and Family Services, P.O. Box 94065, Baton Rouge, LA 70804-9065, by telephone at (225) 342-4096, or via email at brandy.bonney@la.gov.

Written comments regarding the report should also be directed to Ms. Bonney. These must be received by close of business on February 19, 2013.

Suzy Sonnier
Secretary

1301#081

POTPOURRI

Department of Environmental Quality Office of the Secretary Legal Division

2008 Ozone (O₃) National Ambient Air Quality Standards (NAAQS)—State Implementation Plan (SIP) Revisions

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2051 et seq., the secretary of the Louisiana Department of Environmental Quality gives notice that the Office of Environmental Services, Air Permits Division, Manufacturing Section, will submit to the Environmental Protection Agency (EPA) a revision to the infrastructure, as required by Section 110(a)(1) and (2) of the Clean Air Act (CAA). (1301Pot1)

On March 27, 2008, EPA revised the primary and secondary Ozone NAAQS from a 1997 8-hour standard of 0.08 part per million (ppm) to a 8-hour standard of 0.075 ppm. Pursuant to Sections 110(a)(1) and (2) of the CAA, each State is required to submit a plan to provide for the implementation, maintenance and enforcement of a newly promulgated or revised NAAQS.

If any party requests a public hearing on this matter, one will be scheduled and the comments received will be submitted as an addendum to the original submittal. All interested persons are invited to submit written comments concerning the revisions no later than 4:30 p.m., February 19, 2013, to Sonya Eastern, Office of Environmental Services, P.O. Box 4313, Baton Rouge, LA 70821-4313, fax (225) 219-3474, or by email to sonya.eastern@la.gov.

A copy of the recommendation may be viewed online at the LDEQ Air Permits Engineering and Planning website or the LDEQ headquarters at 602 North Fifth Street, Baton Rouge, LA, Room 536-38.

Herman Robinson, CPM
Executive Counsel

1301#047

POTPOURRI

Office of the Governor Coastal Protection and Restoration Authority

Public Hearing—State Fiscal Year 2014 Draft Annual Plan

Pursuant to R.S. 49:213.6, the Coastal Protection and Restoration Authority of Louisiana (CPRA), will hold the following public hearings to receive comments and recommendations from the public and from elected officials

on Louisiana's draft "Fiscal Year 2014 Annual Plan: Integrated Ecosystem Restoration and Hurricane Protection in Coastal Louisiana."

Presentations and an opportunity for public comment on oil spill restoration planning and the RESTORE Act will immediately follow the annual plan public hearing.

Tuesday Feb. 19, 2013 at 5 p.m.*
 Terrebonne Civic Center
 346 Civic Center Boulevard
 Room 3
 Houma, LA 70360

Wednesday Feb. 20, 2013 at 5 p.m.*
 University of New Orleans - Homer Hitt Alumni Center
 Ballroom
 2000 Lakeshore Dr.
 New Orleans, LA, 70148

Thursday Feb. 21, 2013 at 5 p.m.*
 Lake Charles Civic Center
 Jean Lafitte Room
 900 Lakeshore Drive
 Lake Charles, LA 70601

* An open house will be held at 5 p.m., with the public hearing starting at 6 p.m.

If, because of a disability, you require special assistance to participate, please contact the CPRA executive assistant, at P.O. Box 44027, Baton Rouge, LA 70804-4027 or by telephone at (225) 342-4683, at least five working days prior to the hearing.

Please visit <http://coastal.la.gov/> for more detailed information and copies of the draft annual plan, which will be posted prior to the public meetings.

For questions regarding the meetings, please contact Chuck Perrodin at (225) 342-7615.

Garret Graves
 Chairman

1301#045

POTPOURRI
Office of the Governor
Division of Administration
Tax Commission

Public Hearing

The Louisiana Tax Commission published a Notice of Intent in the December 2012 edition of *the Louisiana Register* (LR 39:3280-3281).

The commission received written comments and a request for a hearing related to its real/personal property rules and

regulations. A public hearing will be held on Friday, February, 1, 2013, at 10 a.m., at the Louisiana State Capitol, House Committee Room 1, Baton Rouge, LA, 70804.

James D. "Pete" Peters
 Chairman

1301#132

POTPOURRI
Department of Natural Resources
Office of Conservation

Orphaned Oilfield Sites

Office of Conservation records indicate that the oilfield sites listed in the table below have met the requirements as set forth by Section 91 of Act 404, La. R.S. 30:80 et seq., and as such are being declared orphaned oilfield sites.

Operator	Field	District	Well Name	Well Number	Serial Number
JEFFERSON LAKE SULPHUR COMPANY	BAY ST ELAINE	L	SALT DOME ROYALTIER INC	005	25012
GATOR ENERGY OPERATING, LLC	HACKBERRY, EAST	L	DANIEL A DAVIS ETAL	001	240567
MARTIN EXPLORATI ON CO.	MILLHAVEN	M	BREECE LBR CO	C-3	42129
T, F & B OIL COMPANY, LLC	BAYOU COCODRIE, MIDDLE	M	ANGELINA	003	150243
T, F & B OIL COMPANY, LLC	BAYOU COCODRIE, MIDDLE	M	ANGELINA A	001	242084
T, F & B OIL COMPANY, LLC	BAYOU COCODRIE, MIDDLE	M	ANGELINA SWD	001	970190
T, F & B OIL COMPANY, LLC	BAYOU COCODRIE, SOUTHEAST	M	ANGELINA	001	212405
T, F & B OIL COMPANY, LLC	LITTLE CHENIERE	L	5300 RA VUA:A NUNEZ	001	157782
T, F & B OIL COMPANY, LLC	LITTLE CHENIERE	L	MERMENTA U MINERAL LAND CO	002	215824
T, F & B OIL COMPANY, LLC	LITTLE CHENIERE	L	7100 RA SUA;MERM MIN LAND CO	001	216843
T, F & B OIL COMPANY, LLC	LITTLE CHENIERE	L	J P BOUDOIN	001	216843
G T PETROLEUM CO., INC.	GROSSE TETE	L	WILBERT C	001	148285(30)
UNKNOWN OPERATOR	LOGANSPO RT	L	FROST LUMBER IND.	001	990475
UNKNOWN OPERATOR	MONTEGUT	L	HOLLY ESCHETE	001	990476

James H. Welsh
 Commissioner

1301#039

POTPOURRI

Department of Natural Resources Office of the Secretary Fishermen's Gear Compensation Fund

Underground Obstruction—Latitude/Longitude Coordinates

In accordance with the provisions of R.S. 56:700.1 et. seq., notice is given that 23 claims in the amount of \$89,307.48 were received for payment during the period December 1, 2012 - December 31, 2012.

There were 23 paid and 0 denied.

Latitude/longitude coordinates, in degree decimal minutes, of reported underwater obstructions are:

29 03.069	90 41.948	Terrebonne
29 03.937	89 16.016	Plaquemines
29 04.382	89 07.332	Plaquemines
29 04.556	90 15.276	Lafourche
29 06.603	90 10.428	Lafourche
29 07.731	90 19.268	Lafourche
29 08.996	90 31.774	Terrebonne
29 10.016	90 38.461	Terrebonne
29 11.956	89 16.051	Plaquemines
29 12.692	89 58.943	Jefferson
29 13.900	89 07.690	Plaquemines
29 25.553	90 27.149	Lafourche
29 41.533	90 12.212	Jefferson
29 44.639	93 11.666	Cameron
29 45.646	93 22.450	Cameron
29 48.201	91 57.641	Iberia
29 48.900	89 17.050	Saint Bernard
29 51.654	93 14.882	Cameron
29 51.697	93 20.793	Cameron
30 10.516	89 55.544	Orleans

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) 342-9388.

Stephen Chustz
Secretary

1301#054

POTPOURRI

Department of Public Safety and Corrections Oil Spill Coordinator's Office

Deepwater Horizon Oil Spill Phase II Early Restoration Plan and Environmental Review

ACTION: notice of availability of final plan.

SUMMARY: In accordance with the Oil Pollution Act of 1990 (OPA), the Louisiana Oil Spill Prevention and Response Act (OSPRA), the National Environmental Policy Act (NEPA), and the Framework Agreement for Early Restoration Addressing Injuries Resulting from the Deepwater Horizon oil spill (framework agreement), notice is hereby given that the federal and state natural resource

trustee agencies (trustees) have approved the Phase II Early Restoration Plan and Environmental Review (Phase II ERP/ER) describing the second set of early restoration projects selected by the trustees to continue the process of restoring natural resources and services injured or lost as a result of the Deepwater Horizon oil spill and associated response activities (the spill). The purpose of this notice is to inform the public of the availability of the Phase II ERP/ER.

ADDRESSES:

Obtaining Documents: You may download the Phase II ERP/ER and the Framework Agreement at <http://losco-dwh.com/>. Alternatively, you may request a CD of the Phase II ERP/ER from the contact listed below (see FOR FURTHER INFORMATION CONTACT). You may also review hard copies of the document at the public repositories listed at <http://losco-dwh.com/>.

FOR FURTHER INFORMATION CONTACT:

Karolien Debusschere at Karolien.Debusschere@la.gov.

SUPPLEMENTARY INFORMATION:

Introduction:

On or about April 20, 2010, the mobile offshore drilling unit Deepwater Horizon, which was being used to drill a well for BP Exploration and Production, Inc. (BP) in the Macondo prospect (Mississippi Canyon 252 – MC252), experienced a significant explosion, fire and subsequent sinking in the Gulf of Mexico, resulting in discharges of oil and other substances from the rig and from the wellhead on the seabed. An estimated 4.9 million barrels (210 million gallons) of oil were released from the well into the Gulf of Mexico over approximately three months. In addition, an estimated 1.84 million gallons of dispersants were applied to the waters of the spill area in an attempt to minimize impacts from spilled oil. Affected resources include ecologically, recreationally and commercially important species and their habitats in the Gulf of Mexico and along the coastal areas of Alabama, Florida, Louisiana, Mississippi, and Texas.

Federal and state trustees (listed below) are conducting the natural resource damage assessment for the spill under the Oil Pollution Act 1990 (OPA; 33 U.S.C. § 2701 et seq.). Pursuant to OPA, federal and state agencies and Indian tribes may act as trustees on behalf of the public to assess natural resource injuries and losses and to determine the damages required to compensate the public for those injuries and losses. OPA further instructs the designated trustees to develop and implement a plan for the restoration, rehabilitation, replacement, or acquisition of the equivalent of the injured natural resources under their trusteeship.

The Deepwater Horizon trustees are:

- the United States Department of the Interior (DOI), as represented by the National Park Service, United States Fish and Wildlife Service, and Bureau of Land Management;
- the National Oceanic and Atmospheric Administration (NOAA), on behalf of the United States Department of Commerce;
- the United States Department of Agriculture;
- the United States Environmental Protection Agency;
- State of Louisiana Coastal Protection and Restoration Authority, Oil Spill Coordinator's Office, Department of Environmental Quality, Department of Wildlife and Fisheries and Department of Natural Resources;

- State of Mississippi Department of Environmental Quality;
- State of Alabama Department of Conservation and Natural Resources and Geological Survey of Alabama;
- State of Florida Department of Environmental Protection and Fish and Wildlife Conservation Commission; and
- Texas Parks and Wildlife Department, Texas General Land Office and Texas Commission on Environmental Quality.

The United States Department of Defense (DOD) is also a trustee of natural resources associated with DOD-managed land on the Gulf Coast, which is included in the ongoing natural resource damage assessment (NRDA).

Background:

In April 2011, BP agreed, in the Framework Agreement, to provide up to \$1 billion toward early restoration projects in the Gulf of Mexico to address injuries to natural resources caused by the spill. The Framework Agreement represents a preliminary step toward the restoration of injured natural resources, and provides a mechanism through which the trustees and BP can work together “to commence implementation of early restoration projects that will provide meaningful benefits to accelerate restoration in the Gulf as quickly as practicable” prior to the completion of the natural resource damage assessment process or full resolution of the trustees’ natural resource damages claim.

The trustees have actively solicited public input on early restoration project ideas through a variety of mechanisms, including public meetings, electronic communication, and creation of a Trustee-wide public website and database to share information and receive public project submissions, and are considering a broad array of potential early restoration projects. The trustees’ key objective in pursuing early restoration is to secure tangible recovery of natural resources and natural resource services for the public’s benefit while the longer-term process of fully assessing injury and damages is still underway. As the first step in this accelerated process, the trustees released, after public review and comment, a Phase I Early Restoration Plan and Environmental Assessment (Phase I ERP/EA) in April 2012 detailing eight initial projects. The projects included in the Phase I ERP/EA are currently in various stages of implementation.

On November 6, 2012, the trustees made available to the public the Draft Phase II Early Restoration Plan and Environmental Review (Phase II DERP/ER) proposing two additional restoration projects to address response injuries from the spill and provided a review and comment period that concluded on December 10, 2012 (77 FR 66626, November 6, 2012). The trustees held a public meeting on November 13, 2012 in Pensacola, Florida to facilitate public comment on the Phase II DERP/ER. The trustees considered the public comments received prior to selecting the projects included in the Phase II ERP/ER. The public comments received and the trustees’ responses are addressed in Chapter 5 of the Phase II ERP/ER. The projects included in the Phase II ERP/ER also address a number of specific public comments raised during the Phase

I DERP/EA process, requesting the development of additional habitat and wildlife-based early restoration projects.

Overview of the Phase II ERP/ER:

Early Restoration Plan Alternatives, Including the Selected Alternative:

The Phase II ERP/ER describes two early restoration alternatives: The No Action—Natural Recovery (required for consideration by OPA) and The Selected Alternative—Phase II Early Restoration Projects.

No Action Alternative:

Under the No Action Alternative, the trustees would not implement early restoration projects as described in the Phase II ERP/ER. Choosing No Action at this time would result in delaying protection and improvement of important nesting habitats injured by the spill.

Selected Alternative:

The Selected Alternative includes two projects intended to protect and enhance beach nesting habitats used by birds and sea turtles by, among other things, protecting bird nesting habitat with symbolic fencing and signs and reducing the presence of harmful lighting on certain beaches as described in the plan. The proposed projects are: (1) Enhanced Management of Avian Breeding Habitat Injured by Response in the Florida Panhandle, Alabama, and Mississippi; and (2) Improving Habitat Injured by spill Response: Restoring the Night Sky. Each of these projects will benefit coastal nesting habitats injured by response activities associated with the Deepwater Horizon oil spill. Both projects meet the evaluation criteria further described in section 1.6 of the Phase II ERP/ER.

The Phase II ERP/ER represents the second set of projects selected as part of the Deepwater Horizon early restoration process. Planning for additional early restoration action is continuing. Neither the Phase I ERP/EA, nor the Phase II ERP/ER, nor any subsequent plan for early restoration is intended to or will fully address all injuries caused by the spill or provide the extent of restoration needed to satisfy claims against responsible parties. Further comprehensive restoration will still be required to fully compensate the public for natural resource losses from the spill.

Administrative Record:

The documents comprising the administrative record can be viewed electronically at the following location: <http://losco-dwh.com/AdminRecord.aspx>.

Authority:

The authority of this action is the Oil Pollution Act of 1990 (33 U.S.C. §2701 et seq.), the implementing Natural Resource Damage Assessment regulations found at 15 CFR Part 990, the Louisiana Oil Spill Prevention and Response Act (La. R.S. §30:2451 et seq.), the implementing Natural Resource Damage Assessment regulations found at LAC 43:XXIX.101 et seq., and the Framework Agreement for Addressing Injuries Resulting from the Deepwater Horizon Oil Spill.

Brian Wynne
Coordinator

1301#027

CUMULATIVE INDEX
(Volume 39, Number 1)

	2012	
Pages		Issue
1-230.....		January
EO—Executive Order PPM—Policy and Procedure Memoranda ER—Emergency Rule R—Rule N—Notice of Intent CR—Committee Report GR—Governor's Report L—Legislation P—Potpourri QU—Administrative Code Quarterly Update		

ADMINISTRATIVE CODE UPDATE

Cumulative

January 2012-December 2012, 219QU

CHILDREN AND FAMILY SERVICES

Formerly Department of Social Services.

Division of Programs

Economic Stability and Self-Sufficiency

Child welfare emergency assistance services program, 67R

Increasing resource limit for households with elderly and disabled members, 4ER

Temporary Assistance to Needy Families (TANF) caseload reduction report, 223P

Verbal fair hearing withdrawals, 162N

Licensing Section

Criminal records check, 166N

Emergency preparedness and evacuation planning, 4ER

Juvenile detention facilities fees, fines, penalties, and state central registry disclosure, 127N

Penalty for the operation of an unlicensed facility, 66R

Secretary, Office of

Community and family support system flexible family fund, 5ER

CULTURE, RECREATION AND TOURISM

State Library, Office of

Cultural resources, 67R

ECONOMIC DEVELOPMENT

Business Development Services, Office of

Competitive projects tax exemption program, 131N

Entertainment Industry Development, Office of

Entertainment industry tax credit programs

Digital media and software act, 133N

Musical and theatrical production income tax credit program, 140N

EDUCATION

Elementary and Secondary Education, Board of

Bulletin 118—Statewide Assessment Standards and Practices, 73R, 144N

Bulletin 119—Louisiana School Transportation Specifications and Procedures, 80R

Bulletin 126—Charter Schools

Application process, 81R

Recruitment and enrollment, 148N

Bulletin 129—The Recovery School District

Return of schools to LEA, 82R, 150N

Bulletin 133—Scholarship Programs, 82R

Bulletin 134—Tuition Donation Rebate Program, 152N

Bulletin 135—Health and Safety, 158N

Bulletin 741—Louisiana Handbook for School Administrators

High schools, 168N

Regents, Board of

Registration and licensure, 84R

ENVIRONMENTAL QUALITY

Secretary, Office of

Legal Affairs Division

2008 Ozone (O3) national ambient air quality standards (NAAQS)—state implementation plan (SIP) revisions, 223P

Control facilities to be installed when feasible, 169N

Incorporation by reference of 40 CFR 60, 171N

Office of environmental assessment references, 85R

EXECUTIVE ORDERS

BJ 12-24 Executive Branch—Expenditure Reduction, 1EO

BJ 12-25 Executive Branch—Spending Freeze, 2EO

BJ 13-01 School and Campus Safety, 3EO

GOVERNOR

Administration, Division of

Facility Planning and Control

Capital improvement projects, Louisiana building code, 85R

Pardons, Board of

General administration and clemency, 7ER

Racing Commission

Disputed races, 175N

Nonsteroidal and/or anti-inflammatory medication, 176N

Coastal Protection and Restoration Authority

Public hearing—state fiscal year 2014 draft annual plan, 223P

Certified Shorthand Reporters, Board of Examiners

Continuing education, 172N

Commission on Law Enforcement and Administration of Criminal Justice

Innocence compensation fund, 173N

Crime Victims Reparations Board

Limits on awards, 174N

Real Estate Commission

Real estate, 177N

Tax Commission

Public hearing, 224P

HEALTH AND HOSPITALS

Aging and Adult Services, Office of

Home and community-based services waivers

Community choices waiver, 32ER

Reimbursement rate reduction, 36ER

Personal care services

Long-term

Policy clarifications and service limit reduction, 46ER

Citizens with Developmental Disabilities, Office of

Home and community-based services waivers

Children's choice

Money follows the person rebalancing demonstration extension, 32ER

New opportunities waiver

Reimbursement rate reduction, 192N

Residential options waiver

Reimbursement rate reduction, 193N

Supports waiver

Reimbursement rate reduction, 194N

Dentistry, Board of

Continuing education, licensure examinations and criminal history records, 86R

General provisions—evidence of graduation, restricted licensees, temporary licenses, and returning to active practice, 86R

Licensure by credentials, 87R

Restrictive license; fees, sedation, educational requirements, facilities and exceptions, 89R

Health Services Financing, Bureau of

Abortion facilities—licensing standards, 18ER, 190N

Coordinated care network

Dental benefits plan, 19ER

Pharmacy services coverage, 92R

Physician services, reimbursement methodology, 25ER

Disproportionate share hospital payments, 27ER

Community hospitals, 29ER

Early and periodic screening, diagnosis and treatment

Dental program, 29ER

School-based health centers, 30ER

Uncompensated care payments, 93R

Electronic health records incentive payments, inclusion of optometrists, 31ER

Family planning clinics

Reimbursement methodology office of public health uncompensated care payments, 93R

Home and community-based services waivers

Children's choice

Money follows the person rebalancing demonstration extension, 32ER

Community choices waiver, 32ER

Reimbursement rate reduction, 36ER

New opportunities waiver

Reimbursement rate reduction, 192N

Residential options waiver

Reimbursement rate reduction, 193N

Supports waiver

Reimbursement rate reduction, 194N

Home health program

Durable medical equipment

Reimbursement rate reduction, 196N

Nursing and home health aide services

Reimbursement rate reduction, 197N

Hospice services, 37ER

Inpatient hospital services

Distinct part psychiatric units reimbursement methodology, 94R

Non-rural, non-state hospitals

Reimbursement rate reduction, 38ER

Non-rural, non-state public hospitals

Reimbursement methodology, 39ER, 95R

Public-private partnerships

Reimbursement methodology, 39ER

Small Rural Hospitals

Low income and needy care collaboration, 40ER

Laboratory Services

Office of public health uncompensated care payments, 95R

Medicaid provider screening and enrollment, 198N

Outpatient hospital services

Diabetes self-management training, 41ER

Non-rural, non-state hospitals and children's specialty hospitals

Reimbursement rate reduction, 42ER

Non-rural, non-state public hospitals

Supplemental payments, 44ER

HEALTH AND HOSPITALS (Continued)

Personal care services

Long-term

Cost reporting requirements, 200N

Policy clarifications and service limit reduction, 46ER

Pregnant women extended services

Dental services, program termination, 50ER

Substance abuse screening and intervention services, 51ER

Professional services program

Children's immunizations

Reimbursement methodology, 52ER

Diabetes self-management training, 53ER

Family planning services office of public health uncompensated care payments, 96R

Immunizations office of public health uncompensated care payments, 96R

Physician services

Reclassification of optometry services, 54ER

Reimbursement methodology, 56ER

Reimbursement rate reduction, 57ER

Rehabilitation clinics, termination of coverage for recipients 21 and older, 58ER

Targeted case management

HIV coverage termination, 59ER

Nurse family partnership program

Termination, 60ER

Uncompensated care payments, 97R

Medical Examiners, Board of

Physician practice; dispensation of medications, 185N

Nursing Facility Administrators, Board of Examiners

Exam requirements and complaints, 182N

Pharmacy, Board of

Compounding for prescriber's use, 14ER, 186N

Durable medical equipment (DME) permit, 15ER

Hospital off-site satellite pharmacy, 188N

Public Health, Office of

Disease reporting requirements and blood bank storage temperature, 201N

Early and periodic screening, diagnosis and treatment uncompensated care payments, 93R

Family planning clinics

Reimbursement methodology office of public health uncompensated care payments, 93R

Laboratory Services

Office of public health uncompensated care payments, 95R

Permit Requirements and additional requirements for a potable water supply, and inapplicability of certain requirements of ten state standards, 205N

Professional services program

Family planning services office of public health uncompensated care payments, 96R

Immunizations office of public health uncompensated care payments, 96R

Targeted case management—nurse family partnership program, uncompensated care payments, 97R

Review and approval of plans and specifications for issuance of a permit for a potable water supply, 61ER

Secretary, Office of

Community and family support system flexible family fund, 5ER

Speech-Language Pathology and Audiology, Board of Examiners

General requirements, 179N

Wholesale Drug Distributors, Board of

Policy and procedures and quarantine of legend drugs or legend devices, 91R

NATURAL RESOURCES

Conservation, Office of

Orphaned Oilfield Sites, 224P

Oil Spill Coordinator's Office

Deepwater horizon oil spill phase II early restoration plan and environmental review, 225P

Secretary, Office of

Fishermen's Gear Compensation Fund

Underground obstruction coordinates, 225P

PUBLIC SAFETY AND CORRECTIONS

Motor Vehicles, Office of

Driver education, 98r

State Police, Office of

Special permit for vehicles hauling sugarcane, 98R

State Uniform Construction Code Council

State uniform construction code, 62ER, 207N

REVENUE

Policy Services Division

Corporation income and franchise tax filing extensions, 99R

Income tax credits for wind or solar energy systems, 99R

Income—withholding tax—payment, 103R

Individual income tax filing extensions, 102R

Withholding by professional athletic teams, 103R

TRANSPORTATION

Aviation Section

Aviation program needs and project priority process, 104R

Highways/Engineering, Office of

Design-build pilot program repeal, 117R

Multimodal Planning, Office of

Port design-build pilot program, 117R

Operations, Office of

Special permit for vehicles hauling sugarcane, 98R

Professional Engineering and Land Surveying Board
Naval architecture/marine engineering and flood
protection levees, 209N

TREASURY

**Louisiana State Employees' Retirement System,
Board of**

Election to the board of trustees, 118R
Plan year; limitations year, 120R

**Louisiana State Police Retirement System, Board of
Trustees**

Internal revenue code provisions, 210N

WILDLIFE AND FISHERIES

Wildlife and Fisheries Commission

Commercial king mackerel harvest, commercial king
mackerel season 2013-14, 63ER

Commercial shark season 2013, 63ER

Exotic fish

Designation and taking, 120R

Falconry, 120R

Reef fish

Harvest regulations

Greater amberjack commercial trip limit 2013,
64ER

Recreational reef fish seasons 2013-2014, 65ER

Shrimp season closure

Fall inshore

December 18, 2012, 64ER

December 20, 2012, 64ER