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# Executive Orders

## EXECUTIVE ORDER BJ 08-31

### Call of Meetings of the State Mineral Board

WHEREAS, the State Mineral Board, created and established by Act No. 93 of the 1936 Regular Legislative Session, R.S. 30:121, et seq., meets at the call of the governor pursuant to the provisions of R.S. 30:123; and

WHEREAS, the customary meeting schedule for the State Mineral Board is impracticable at times, due to holidays, special events, and/or special circumstances;

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 regular scheduled meetings of the State Mineral Board (hereafter "Board") shall be held on the second Wednesday of each month for the granting of oil, gas, and mineral leases, and such other business as may properly come before the Board.

SECTION 2: Upon obtaining the approval of the Board, the chair of the Board is authorized to issue for the governor the call of a meeting of the Board scheduled for a date other than the second Wednesday of a month, when a meeting on the second Wednesday is impracticable because a holiday or other special event falls on that date.

SECTION 3: Upon obtaining the approval of the Board, the chair of the Board is authorized to issue for the governor the call of a meeting of the Board that is in addition to the board's monthly meeting, when special circumstances necessitate that an additional meeting be held.

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 with the Board in implementing the provisions of this Order.

SECTION 5: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 8th day of August, 2008.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Jay Dardenne  
Secretary of State  
0809#078

## EXECUTIVE ORDER BJ 08-32

### Emergency Operations Plan

WHEREAS, the state of Louisiana must be prepared to respond in a coordinated, effective and efficient manner to all the emergencies and disasters to which it is subjected;

WHEREAS, it is the policy of the state of Louisiana for all homeland security and emergency preparedness functions to follow the principles outlined in the National Incident Management System, or its successor, and La. R.S. 29:722(C); and

WHEREAS, the state of Louisiana will best achieve effective coordinated emergency planning by updating the state's current emergency operations order through the replacement of Executive Order No. KBB 2006-34, issued on August 3, 2006, and by the Governor's Office of Homeland Security and Emergency Preparedness updating its emergency operations plan;

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

#### SECTION 1:

A. The director of the Governor's Office of Homeland Security and Emergency Preparedness, state of Louisiana, (hereafter "director"), shall direct the state of Louisiana's emergency and/or disaster operations.

B. The director, or the director's designee, shall also coordinate the activities of all non-state agencies, departments, and/or organizations involved in emergency management within the state of Louisiana.

#### SECTION 2:

A. This Executive Order shall constitute the Louisiana Emergency Operations Plan ("Plan"), which shall be binding on all departments, commissions, boards, agencies, organizations and employees of the state of Louisiana, and on all local governments or political subdivisions of the state authorized or directed to conduct homeland security and emergency management operations.

B. The director shall supplement the provisions of the Plan by prescribing rules, regulations, and procedures. Once adopted, the supplement shall also be binding on all departments, commissions, boards, agencies, organizations and employees of the state of Louisiana, and on all local governments or political subdivisions of the state authorized or directed to conduct homeland security and emergency management operations.

C. Any supplement or subsequent changes to the plan shall continue to follow the principles outlined in the National Incident Management System, or its successor, and also provide for the emergency operations that may be implemented should an emergency and/or disaster strike the state of Louisiana or an area within the state of Louisiana;

SECTION 3:

A. The director shall control the activation and/or implementation of the Plan and the conclusion and/or deactivation of the Plan.

B. The director shall also control the activation and deactivation of the state Emergency Operations Center (hereafter “Center”).

C. The activation of the Center shall constitute the implementation of the Plan.

SECTION 4: The departments, offices, agencies, and organizations of the state of Louisiana government have primary and support responsibilities for the following Emergency Support Functions (ESF):

ESF	ANNEX	DEPARTMENT/AGENCY	PRIMARY/ SUPPORT
ESF1	Transportation	Department of Transportation and Development	P
		Louisiana National Guard	S
		Department of Agriculture and Forestry	S
		Department of Corrections	S
		Department of Education	S
		Department of Health and Hospitals	S
		Louisiana State Police	S
		Department of Wildlife and Fisheries	S
ESF 2	Communications	Governor’s Office of Homeland Security and Emergency Preparedness	P
		Louisiana National Guard	P
		Louisiana State Police	P
		Department of Agriculture and Forestry	S
		Department of Corrections	S
		Department of Culture, Recreation & Tourism	S
		Department of Economic Development	S
		Department of Education	S
		Department of Environmental Quality	S
		Governor – Division of Administration	S
		Governor – Office of Elderly Affairs	S
		Governor – Oil Spill Coordinators Office	S
		Louisiana State University System	S
		Department of Health and Hospitals	S
		Department of Justice	S
		Department of Labor	S
		Louisiana Public Service Commission	S
		Louisiana Board of Regents	S
		Department of Revenue	S
		Department of Social Services	S
Department of Transportation & Development	S		
Department of Wildlife and Fisheries	S		
Volunteer Organizations	S		
ESF 3	Public Works & Engineering	Department of Transportation & Development	P
		Louisiana National Guard	S
		Governor – Division of Administration	S
		Department of Health & Hospitals	S
		Department of Natural Resources	S
		Volunteer Organizations	S
ESF 4	Firefighting	Department of Agriculture and Forestry	P
		Louisiana National Guard	S
		Department of Environmental Quality	S
		State Fire Marshal	S
		Department of Transportation and Development	S
		Department of Wildlife and Fisheries	S
Volunteer Organizations	S		

<b>ESF 5</b>	<b>Emergency Management</b>	Governor's Office of Homeland Security and Emergency Preparedness	P
		Louisiana National Guard	S
		Department of Agriculture and Forestry	S
		Department of Corrections	S
		Department of Culture, Recreation & Tourism	S
		Department of Economic Development	S
		Department of Education	S
		Department of Environmental Quality	S
		Governor – Division of Administration	S
		Governor – Office of Disability Affairs	S
		Governor – Office of Elderly Affairs	S
		Governor – Office of Indian Affairs	S
		Governor – Oil Spill Coordinators Office	S
		Louisiana State University System	S
		Department of Health and Hospitals	S
		Department of Justice	S
		Department of Labor	S
		Department of Natural Resources	S
		Louisiana Public Service Commission	S
		Louisiana Board of Regents	S
		Department of Revenue	S
		Secretary of State	S
		Department of Social Services	S
		Louisiana State Police	S
		Department of Transportation & Development	S
		Department of the Treasury	S
Department of Wildlife and Fisheries	S		
Volunteer Organizations	S		
<b>ESF 6</b>	<b>Mass Care, Housing and Human Services</b>	Department of Social Services	P
		Department of Corrections	P
		Governor's Office of Homeland Security and Emergency Preparedness	S
		Louisiana Family Recovery Corps	S
		Louisiana Housing Finance Agency	S
		Louisiana National Guard	S
		Department of Agriculture and Forestry	S
		Department of Culture, Recreation and Tourism	S
		Department of Education	S
		State Fire Marshal	S
		Governor – Office of Disability Affairs	S
		Governor – Office of Elderly Affairs	S
		Department of Health and Hospitals	S
		Louisiana State University System	S
		Department of Insurance	S
		Department of Labor	S
		Department of Natural Resources	S
		Louisiana Board of Regents	S
		Department of Veterans Affairs	S
Department of Revenue	S		
Volunteer Organizations	S		
<b>ESF 7</b>	<b>Resources Support</b>	Governor's Office of Homeland Security and Emergency Preparedness	P
		Louisiana National Guard	P
		Department of Agriculture & Forestry	S
		Department of Culture, Recreation and Tourism	S
		Department of Economic Development	S
		Department of Environmental Quality	S
		Governor – Division of Administration	S
		Louisiana State University System	S
		Department of Health and Hospitals	S
		Department of Labor	S
		Department of Natural Resources	S
		Louisiana Board of Regents	S
		Department of Social Services	S
		Louisiana State Police	S
		Department of Transportation & Development	S
		Department of the Treasury	S
Volunteer Organizations	S		
<b>ESF 8</b>	<b>Public Health &amp; Medical Services</b>	Department of Health & Hospitals	P
		Louisiana National Guard	S
		Department of Agriculture and Forestry	S

		Department of Corrections	S
		Department of Environmental Quality	S
		Louisiana State University System	S
		Louisiana Board of Regents	S
		State Fire Marshal	S
		Department of Transportation & Development	S
		Department of Veterans Affairs	S
		Volunteer Organizations	S
<b>ESF 9</b>	<b>Search &amp; Rescue</b>	Department of Wildlife and Fisheries	P
		Louisiana National Guard	S
		Department of Agriculture and Forestry	S
		Department of Corrections	S
		Department of Culture, Recreation, & Tourism	S
		State Fire Marshal	S
		Louisiana State Police	S
		Department of Transportation and Development	S
		Louisiana State University Fire and Emergency Training Institute	S
		Volunteer Organizations	S
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		Department of Environmental Quality	P
		Governor’s Office of Homeland Security and Emergency Preparedness	S
		Louisiana National Guard	S
		Department of Agriculture and Forestry	S
		State Fire Marshal	S
		Louisiana State University System	S
		Department of Health and Hospitals	S
		Department of Natural Resources	S
		Department of Transportation and Development	S
		Department of Wildlife and Fisheries	S
<b>ESF 11</b>	<b>Agriculture</b>	Volunteer Organizations	S
		Department of Agriculture & Forestry	P
		Louisiana National Guard	S
		Department of Corrections	S
		Department of Environmental Quality	S
		Department of Health and Hospitals	S
		Louisiana Board of Regents	S
		Louisiana State University System	S
		Department of Transportation and Development	S
		Department of Wildlife and Fisheries	S
Volunteer Organizations	S		
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		Louisiana Department of Environmental Quality (Wastewater Utilities)	S
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<b>ESF 13</b>	<b>Public Safety and Security</b>	Louisiana National Guard	S
		Louisiana State Police	P
		Department of Justice	P
		Louisiana National Guard	S
		Department of Agriculture and Forestry	S
		Department of Corrections	S
		Department of Culture, Recreation and Tourism	S
		Department of Revenue - Office of Alcohol and Tobacco Control	S
		Department of Transportation and Development	S
Department of Wildlife and Fisheries	S		
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		Department of Economic Development	P
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		Department of Culture, Recreation and Tourism	S
		Department of Education	S
		Department of Environmental Quality	S
		Governor – Division of Administration	S
		Governor – Office of Financial Institutions	S
Louisiana State University System	S		
Department of Health and Hospitals	S		

		Department of Insurance	S
		Department of Justice	S
		Department of Labor	S
		Department of Natural Resources	S
		Louisiana Public Service Commission	S
		Louisiana Board of Regents	S
		Department of Revenue	S
		Department of Social Services	S
		Secretary of State	S
		Louisiana State Police	S
		Department of Transportation and Development	S
		Department of the Treasury	S
		Volunteer Organizations	S
<b>ESF 15</b>	<b>Emergency Public Information</b>	Governor's Office of Homeland Security and Emergency Preparedness	P
		Louisiana National Guard	S
		Senate and House Legislative Liaisons	S
		Department of Agriculture and Forestry	S
		Department of Corrections	S
		Department of Culture, Recreation & Tourism	S
		Department of Economic Development	S
		Department of Education	S
		Department of Environmental Quality	S
		State Fire Marshal	S
		Governor – Division of Administration	S
		Governor – Office of Disability Affairs	S
		Governor – Office of Elderly Affairs	S
		Governor – Office of Financial Institutions	S
		Governor – Office of Indian Affairs	S
		Governor – Oil Spill Coordinators Office	S
		Louisiana State University System	S
		Department of Health and Hospitals	S
		Department of Justice	S
		Department of Insurance	S
		Department of Labor	S
		Department of Natural Resources	S
		Louisiana Public Service Commission	S
		Louisiana Board of Regents	S
Department of Revenue	S		
Department of Social Services	S		
Secretary of State	S		
Louisiana State Police	S		
Department of Transportation and Development	S		
Department of the Treasury	S		
Department of Wildlife and Fisheries	S		
Volunteer Organizations	S		
<b>ESF 16</b>	<b>Military Support to Civilian Affairs</b>	Louisiana National Guard	P

SECTION 5: The head of each department, office, agency, and organization identified in Section 4 of this Order shall designate both an emergency coordinator and an alternate coordinator to act on the department's behalf during an emergency situation, and furnish the director with their names and all phone numbers. The head shall also designate a Continuity of Operations Plan (COOP) coordinator who will prepare and maintain plans, procedures, arrangements, and agreements to ensure that the organization will continue to carry out its mission in an emergency or disaster.

SECTION 6: The head of each department assigned a primary ESF responsibility in Section 4 shall submit implementing procedures to the director that set forth the department's procedures for carrying out its assigned emergency support functions. The head of each department shall submit annual updates of their implementing procedures to the director.

SECTION 7: The head of each department assigned emergency support responsibilities in Section 4 of this Order

shall assist its primary department in the preparation of their procedures and/or any other documents necessary to support the Plan.

SECTION 8: The head of each department assigned a primary and/or a support responsibility in Section 4 of this Order will:

A. Staff the State Emergency Operations Center with personnel during training exercises and emergencies as requested by the director;

B. Maintain and operate a 24-hour response capability in the department headquarters, or in the department's designated Emergency Operations Center, when the Plan is implemented;

C. Participate in exercises of the Plan when scheduled by the director;

D. Participate in, and conduct, training essential to implementation of the department's assigned emergency service;

E. Conduct an annual internal review to update the details of their department's implementing procedures and

advise the director of needed modifications of their implementing procedures; and

F. Maintain logs, records, and reporting systems required by all state and federal laws, rules, and regulations.

SECTION 9: All departments, commissions, boards, agencies and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate in the implementation of this Order.

SECTION 10: 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 22nd day of August, 2008.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Jay Dardenne  
Secretary of State  
0809#025

### EXECUTIVE ORDER BJ 08-33

Office of Abstinence Education—Louisiana Abstinence Education Project—Governor’s Program on Abstinence

WHEREAS, the economic development of the state of Louisiana depends on a healthy, educated, and job-ready workforce;

WHEREAS, the citizens of the state of Louisiana face many challenges, including rates of teenage pregnancy and sexually transmitted diseases that rank above the national average, which hinder our ability to prepare our youth for the opportunities of the future;

WHEREAS, the encouragement of abstinence education programs throughout the state, with special emphasis in those areas with elevated rates of sexually transmitted diseases and/or premarital pregnancies among teenagers, will support the youth of this state in creating a culture that promotes sexual abstinence prior to marriage;

WHEREAS, through a program established pursuant to Title V of the Social Security Act, as provided in 42 U.S.C. §710, states may apply for allotments from the federal government, through the secretary of the United States Department of Health and Human Services, to enable the state to provide abstinence education and to provide appropriate mentoring, counseling, and adult supervision to youths to promote abstinence from premarital sexual activity, focusing on those groups which have a higher premarital pregnancy rate; and

WHEREAS, the interests of the citizens of the state of Louisiana would best be served by the continuance of the Office of Abstinence Education which will create new, and continue existing programs, throughout the state, to bring age-appropriate, medically sound information in a manner that educates, encourages, and supports the youth regarding the benefit of sexual abstinence;

NOW THEREFORE, I, BOBBY JINDAL, Governor of the state of Louisiana, by virtue of the authority vested by

the Constitution and the laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: The Office of Abstinence Education - Louisiana Abstinence Education Project - Governor’s Program on Abstinence (hereafter “Office of Abstinence Education”) is reestablished and recreated within the executive department, Office of Community Programs, Office of the Governor, with federal funding through the Department of Health and Hospitals;

SECTION 2: The goals of the Office of Abstinence Education shall include, but are not limited to, the following:

A. Reducing the incidence of premarital sexual activity among the youth of Louisiana;

B. Reducing the rate of sexually transmitted diseases among the youth of Louisiana; and

C. Lowering the premarital pregnancy rate among the youth of Louisiana.

SECTION 3: The duties of the Office of Abstinence Education shall include, but are not limited to, the following:

A. Applying for and receiving funding for the development and administration of the Office of Abstinence Education from public and private sources including, but not limited to, funding and allotments available pursuant to 42 U.S.C. §710;

B. Establishing and administering community-based abstinence education programs statewide with an emphasis in those communities with elevated rates of premarital pregnancies and/or sexually transmitted diseases;

C. Providing youths with the authentic abstinence message which includes medically accurate and age-appropriate family life education and skills which emphasize abstinence from sexual activity and other high risk behaviors;

D. Providing parents with family life education and skills which emphasize and support their role as the primary educator of family values;

E. Promoting among youths, community awareness of the dangers of premarital sexual activity for the purpose of encouraging a more socially acceptable dialogue between youths and adults about abstinence from sexual activity and other high risk behaviors; and

F. Promoting character qualities and human skills that are beneficial to marriage and to raising responsible and productive children.

SECTION 4: As used in this Order, “abstinence education” is defined in accordance with 42 U.S.C. §710(b)(2). “Abstinence education” means an education or motivational program which:

A. Has as its exclusive purpose, teaching the social, psychological, and health gains to be realized by abstaining from sexual activity;

B. Teaches abstinence from sexual activity outside marriage as the expected standard for all school age children;

C. Teaches that abstinence from sexual activity is the only certain way to avoid out-of-wedlock pregnancy, sexually transmitted diseases, and other associated health problems;

D. Teaches that a mutually faithful monogamous relationship in the context of marriage is the expected standard of human sexual activity;

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Office of Community Programs

E. Teaches that sexual activity outside of the context of marriage is likely to have harmful psychological and physical effects;

F. Teaches that bearing children out-of-wedlock is likely to have harmful consequences for the child, the child's parents, and society;

G. Teaches young people how to reject sexual advances, and how alcohol and drug use increases vulnerability to sexual advances; and

H. Teaches the importance of attaining self-sufficiency before engaging in sexual activity.

**SECTION 5:**

A. The Office of Abstinence Education shall be directed by a director/state coordinator who shall be appointed by, and serve at the pleasure of, the governor. The director/state coordinator shall be responsible for administering, overseeing, and evaluating the programs of the Office of Abstinence Education in a manner which facilitates the accomplishment of the project's goals, as set forth in Section 2 of this Order, and its duties, as defined in Section 3 of this Order.

B. The director/state coordinator shall submit an annual comprehensive report to the governor, by January 1, which addresses the fulfillment of the Office of Abstinence Education's goals, as set forth in Section 2 of this Order, and its duties, as defined in Section 3 of this Order. Annual reports shall include all relevant comparative data and information relating to the effectiveness of the Office of Abstinence Education to the abstinence education projects and/or programs of other states.

**SECTION 6:** The office of the director/state coordinator of the Office of Abstinence Education shall be located in, and operated from, a state-owned facility. The Office of Abstinence Education shall be permitted staff and resources to fulfill the goals, duties, and responsibilities specified in this Order. It shall be permitted to accept the efforts of volunteers in accordance with state law.

**SECTION 7:** 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 with the Office of Abstinence Education in implementing the provisions of this Order.

**SECTION 8:** 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 22nd day of August, 2008.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Jay Dardenne  
Secretary of State  
0809#026

WHEREAS, the Office of the Governor has many agencies and/or divisions within it which provide a wide range of services for the citizens and local governments of the state of Louisiana; and

WHEREAS, the Office of Community Programs within the Office of the Governor was originally established by executive order to coordinate the operation and delivery of services provided by these agencies and/or divisions;

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

**SECTION 1:** The Office of Community Programs (hereafter "Office") is reestablished and recreated within the executive department, Office of the Governor.

**SECTION 2:** The Office shall be composed of the following agencies and divisions of the Office of the Governor:

- A. Office of Disability Affairs (R.S. 46:2581, *et seq.*);
- B. Office of Elderly Affairs (R.S. 46:931, *et seq.*);
- C. Office of Indian Affairs (R.S. 46:2301, *et seq.*);
- D. Office of the Louisiana Oil Spill Coordinator (R.S. 30:2455, *et seq.*);
- E. Louisiana State Interagency Coordinating Council for Child Net, sometimes referred to as "Early Steps" (R.S. 17:1979 and R.S. 36.4(R));
- F. Louisiana Abstinence Education Project (Executive Order No. BJ 08-33);
- G. Governor's Office of Safe and Drug Free Schools and Communities;
- H. Drug Policy Board (R.S. 49:219.1, *et seq.*);
- I. Office on Women's Policy (R.S. 46:2521, *et seq.*);
- J. Children's Cabinet (R.S. 46:2602, *et seq.*); and
- K. Louisiana Animal Welfare Commission (R.S. 3:2364).

**SECTION 3:** The Office shall also be composed of the following programs and/or services:

- A. Renewal Communities Program;
- B. Non-Public School Early Childhood Development Program;
- C. Delta Regional Authority; and
- D. Louisiana Guardianship Program.

**SECTION 4:** The duties and functions of the Office shall include, but are not limited to, the following:

- A. Coordinating, directing, and monitoring the manner in which the services of the agencies, divisions, and/or programs of the Office of the Governor that are listed in Section 2 and Section 3 of this Order are provided to the citizens and local governments of the state of Louisiana;
- B. Promoting and coordinating legislative initiatives that are designed to improve the quantity, quality, and delivery of the state services provided for the benefit of the citizens and local governments of the state of Louisiana;

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**Hours of Service of Drivers of Gas  
and/or Electric Utility Service Vehicles**

C. Disseminating information about state services and legislative initiatives to state, federal, and/or private agencies which provide services to the citizens and/or local governments of the state of Louisiana; and

D. Advising the governor on all issues related to state services that are provided for the benefit of citizens and/or local governments of the state of Louisiana.

**SECTION 5:**

A. A member of the governor’s executive staff shall serve as the executive director of the Office. The executive director shall report to the governor, or the governor’s designee.

B. The executive director shall be the appointing and budget authority for all the agencies, divisions, and/or programs of the Office of the Governor listed in Section 2 and Section 3 of this Order, with the exception of the Office on Women’s Policy and the Office of Elderly Affairs.

C. The directors and/or executive directors of each of the agencies, divisions, and/or programs listed in Section 2 and Section 3 of this Order shall report directly to the executive director.

D. The executive director shall prepare, and update as needed, reports and spreadsheets on all contract, loan and/or grant sources and on all loans, grants, and/or contracts that are issued and/or awarded by the agencies, divisions, and/or programs of the Office of the Governor listed in Section 2 and Section 3 of this Order and/or by any other governmental entity in the executive branch which is required to report to the governor by the Louisiana Constitution of 1974, as amended, or by legislative act. The executive director shall submit such reports and updated reports to the governor, the president of the Louisiana Senate, the speaker of the Louisiana House of Representatives, and the commissioner of administration.

**SECTION 6:** All entities in the executive branch of state government which are required by the Louisiana Constitution of 1974, as amended, or by legislative act to report to the governor, are required to report all available grant, loan, and/or contract funding sources to the Office.

**SECTION 7:** Support staff, facilities, and resources for the Office shall be provided by the Office of the Governor.

**SECTION 8:** All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed (or requested pursuant to Subsection 1B) to cooperate with the implementation of the provisions in this Order.

**SECTION 9:** 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 22nd day of August, 2008.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Jay Dardenne  
Secretary of State  
0809#027

WHEREAS, the welfare of the citizens of the state of Louisiana is jeopardized by any occurrence, natural or man-made, that interrupts the delivery of gas and electrical services;

WHEREAS, 49 C.F.R. §350.201, et seq., of the Federal Motor Carrier Safety Regulations, requires each state to assume responsibility for improving motor carrier safety and adopting and enforcing safety laws and regulations that are compatible with new federal hours of service regulations as soon as practical, but no later than June 27, 2006, as a condition for Commercial Motor Carrier Safety Assistance Program funding;

WHEREAS, transportation performed by state, federal and local governments is exempt from the new federal hours of service regulations by 49 C.F.R. §390.3(f)(2); and

WHEREAS, application of the new federal hours of service regulations to the drivers of gas and/or electric utility service vehicles engaged solely in intrastate commerce within the state of Louisiana may impair the ability of gas and/or electric utilities from expeditiously restoring services by prohibiting drivers from working extended hours while assisting in the restoration of gas and/or electric utility services;

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

**SECTION 1:** Notwithstanding any provision of the Louisiana Administrative Code to the contrary, in the event of and upon a declaration of a state of emergency by the governor of Louisiana, the amendments to the hours of service regulations promulgated on April 28, 2003, at 68 F.R. 22456-01 by the U.S. Department of Transportation, effective June 27, 2003, (hereafter “Federal Hours of Service Regulations”) shall not be applicable to the drivers of gas and/or electric utility service vehicles as defined in 49 C.F.R. §395.2, which are engaged solely in intrastate commerce within the state of Louisiana and operated by gas and/or electric utilities regulated by the Louisiana Public Service Commission or the city of New Orleans (hereafter “Drivers of Utility Service Vehicles”), while this Order is in effect.

**SECTION 2:** Regulations on hours of service that were in effect and applicable to Drivers of Utility Service Vehicles on June 26, 2003, shall apply to Drivers of Utility Service Vehicles while this Order is in effect.

**SECTION 3:** Any rule and/or regulation promulgated by the Department of Public Safety and Corrections after this Order is issued, which adopts the Federal Hours of Service Regulations, shall not be applicable to Drivers of Utility Service Vehicles while this Order is in effect.

**SECTION 4:** If federal law and/or regulations are amended to exempt Drivers of Utility Service Vehicles from the Federal Hours of Service Regulations, the exemption shall be effective immediately in this state for the duration of the federal exemption.

SECTION 5:

A. 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.

B. This Order shall be immediately terminated upon a finding by or notification from the U.S. Department of Transportation that the application of Sections 1 and/or 3 of this Order will result in the loss of Federal Motor Carrier Safety Assistance Program funding.

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 22nd day of August, 2008.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Jay Dardenne  
Secretary of State  
0809#028

**EXECUTIVE ORDER BJ 08-36**

Office of the First Lady

WHEREAS, the First Lady is the official hostess of the state of Louisiana and, as a result, the First Lady holds both private status and *de facto* state officer status;

WHEREAS, the First Lady of Louisiana, Mrs. Supriya Jindal, travels throughout Louisiana to promote the health and safety of its inhabitants, and other worthy projects and causes, including those that impact Louisiana’s children;

WHEREAS, the First Lady, Mrs. Supriya Jindal, welcomes visiting dignitaries, makes speeches and public service announcements, authors articles pertaining to her projects, holds press conferences and interviews, participates in charity events, and performs numerous other duties and activities at the Governor’s request; and

WHEREAS, the numerous duties and activities of the First Lady place significant administrative demands on the office of the First Lady which necessitate that it be given formal recognition;

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 Office of the First Lady is created and established within the Executive Department, Office of the Governor. The First Lady shall be an ambassador and a spokesperson for the state of Louisiana, and shall perform other official duties.

SECTION 2: Support staff, office facilities, and reasonable operating expenses shall be provided to the Office of the First Lady by the Executive Department, Office of the Governor.

SECTION 3: The First Lady shall not receive compensation or a per diem. Nonetheless, she may receive reimbursement for actual travel expenses incurred in the representation of the Office of the First Lady, in accordance

with state guidelines and procedures, contingent upon the availability of funds, and the approval of the commissioner of the Division of Administration.

SECTION 4: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate with the Office of First Lady in implementing the provisions of this Order.

SECTION 5: Upon signature of the Governor, the provisions of this Order shall be made retroactive to January 14, 2008, and shall remain in effect until amended, modified, terminated, or rescinded by the Governor, or until terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 22nd day of August, 2008.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Jay Dardenne  
Secretary of State  
0809#029

**EXECUTIVE ORDER BJ 08-37**

Inmate Labor for Construction of a Non-Denominational Chapel at the Louisiana Correctional Institute for Women in St. Gabriel

WHEREAS, during the 1988 Regular Session of the Louisiana Legislature, Act No. 933 was enacted relative to correctional facilities inmate labor;

WHEREAS, Act No. 933, among other things, authorizes the governor to use inmate labor in certain projects or maintenance or repair work; and

WHEREAS, The act further provides that the governor, upon determining that it is appropriate and in furtherance of the rehabilitation and training of inmates, may, by executive order, authorize the use of inmates of a penal or correctional facility owned by the state of Louisiana for necessary labor in connection with a particular project;

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

SECTION 1: In furtherance of the goals of the state of Louisiana of rehabilitating inmates, reducing recidivism, and reintegrating inmates into society, inmate labor is hereby authorized to complete construction of a non-denominational chapel at Louisiana Correctional Institute for Women, St. Gabriel, Louisiana; and

SECTION 2: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 22nd day of August, 2008.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Jay Dardenne  
Secretary of State  
0809#030

**EXECUTIVE ORDER BJ 08-38**

Inmate Labor for Construction of Non-Denominational  
Chapels at B.B. "Sixty" Rayburn and Forcht-Wade  
Correctional Centers

WHEREAS, R.S. 15:832.1, as enacted in Act No. 933 of the 1988 Regular Session of the Louisiana Legislature, provides that the governor, upon determining that it is appropriate and in furtherance of the rehabilitation and training of inmates, may, by executive order, authorize the use of inmates of a penal or correctional facility owned by the state of Louisiana for necessary labor in connection with a particular capital construction project on the grounds of the facility; and

WHEREAS, the Department of Public Safety and Corrections, Corrections Services, seeks to utilize inmate labor to assist in the construction of non-denominational chapels to help enhance the rehabilitation and training of incarcerated inmates through the Department's faith-based initiatives;

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

SECTION 1: In furtherance of the goals of the state of Louisiana of rehabilitating inmates, reducing recidivism, and reintegrating inmates into society, inmate labor is hereby authorized to complete construction of non-denominational chapels at B.B. "Sixty" Rayburn Correctional Center in Angie, Louisiana and the Forcht-Wade Correctional Center in Keithville, Louisiana.

SECTION 2: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 22nd day of August, 2008.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Jay Dardenne  
Secretary of State  
0809#031

**EXECUTIVE ORDER BJ 08-39**

Inmate Labor for Construction of Animal Shelter  
Dixon Correctional Institute

WHEREAS, R.S. 15:832.1(A)(1) provides that the governor, upon determining that it is appropriate and in furtherance of the rehabilitation and training of inmates, may, by executive order, authorize the use of inmates of a penal or correctional facility owned by the state of Louisiana for necessary labor in connection with a particular capital construction project on the grounds of the facility;

WHEREAS, the Department of Public Safety and Corrections, Corrections Services, seeks to utilize inmate labor to assist in the construction of a permanent animal holding facility and an emergency animal shelter on the grounds of Dixon Correctional Institute in Jackson, Louisiana; and

WHEREAS, the Department of Public Safety and Corrections has advised that the estimated cost of construction is below the maximum specified in R.S. 15:832.1(A)(1).

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

SECTION 1: In furtherance of the goals of the state of Louisiana of rehabilitating inmates, reducing recidivism, and reintegrating inmates into society, inmate labor is hereby authorized to complete construction of a permanent animal holding facility and an emergency animal shelter on the grounds of Dixon Correctional Institute in Jackson, Louisiana.

SECTION 2: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 22nd day of August, 2008.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Jay Dardenne  
Secretary of State  
0809#032

**EXECUTIVE ORDER BJ 08-40**

Continuation of the National Incident  
Management System (NIMS) Designation

WHEREAS, it is necessary and desirable that all federal, state, local, and tribal emergency agencies and personnel coordinate their efforts to effectively and efficiently provide the highest levels of incident management;

WHEREAS, the President in Homeland Security Directive (HSPD)-5, directed the secretary of the Department of Homeland Security to develop and administer a National Incident Management System (hereafter "NIMS"), which would provide a consistent nationwide approach for federal, state, local and tribal governments to work together more effectively and efficiently to prevent, prepare for, respond to and recover from domestic incidents, regardless of cause, size or complexity;

WHEREAS, the collective input and guidance from all federal, state, local and tribal homeland security partners has been, and will continue to be, vital to the development, effective implementation and utilization of a comprehensive NIMS;

WHEREAS, to facilitate the most efficient and effective incident management, it is critical that federal, state, local and tribal organizations utilize standardized terminology, standardized organizational structures, interoperable communications, consolidated action plans, unified command structures, uniform personnel qualification standards, uniform standards for planning, training and exercising, comprehensive resource management, and designated incident facilities during emergencies or disasters;

WHEREAS, the NIMS standardized procedures for managing personnel, communication, facilities and resources will improve the state's ability to utilize federal funding to enhance local and state agency readiness, maintain first responder safety, and streamline incident management process;

WHEREAS, the Incident Command System components of NIMS are already an integral part of various incident management activities throughout the state, including current emergency management training programs;

WHEREAS, the National Commission on Terrorist Attacks (9-11 Commission) has also recommended adoption of a standardized incident command system; and

WHEREAS, the best interests of the citizens of the state of Louisiana are served by the adoption of the standardized incident command system to facilitate the most efficient and effective incident management;

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

SECTION 1: The National Incident Management System (NIMS) was earlier established within the Governor's Office of Homeland Security and Emergency Preparedness (GOHSEP) as the standard for incident management pursuant to earlier Executive Order No. KBB 2005-61.

SECTION 2: As previously mandated by Homeland Security Presidential Directive HSPD-5, commencing in Fiscal Year 2005, adoption of NIMS continues to be a requirement for both GOHSEP and sub-grantees receiving federal funds from the Federal Emergency Management Agency.

SECTION 3: Accordingly, NIMS shall continue to be the standard of incident management for the state of Louisiana.

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 with the implementation of the provisions of this Order.

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 22nd day of August, 2008.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Jay Dardenne  
Secretary of State  
0809#033

#### EXECUTIVE ORDER BJ 08-41

##### Solutions to Poverty

WHEREAS, the United States Census Bureau's 2006 American Community Survey identifies Louisiana's poverty rate as the second-highest among U.S. states;

WHEREAS, real economic costs resulting from a high rate of poverty are borne by Louisiana's overall population, and negatively affect the state's educational, workforce, and economic development potential;

WHEREAS, the first Solutions to Poverty Summit was held on December 6 and 7, 2004, in Monroe, Louisiana;

WHEREAS, since that time, locally-led Solutions to Poverty coalitions have convened in communities across the state in order to identify both needs and locally-available resources for addressing poverty;

WHEREAS, the most effective strategies for reducing poverty are those that help individuals and families move from poverty to self-sufficiency through effective educational and workforce supports; and

WHEREAS, the Louisiana Department of Social Services works in close collaboration with other state government agencies and local partners to implement such strategies;

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: Solutions to Poverty shall represent a continuing collaborative effort between state government agencies, community-level stakeholders, non-profit organizations, faithbased organizations, and private industry to identify and implement effective, efficient strategies for addressing poverty.

SECTION 2: Solutions to Poverty shall incorporate programs and initiatives shown by evidence to advance individual and family financial self-sufficiency, and reduce dependence on public benefits.

SECTION 3: Outcomes of all Solutions to Poverty initiatives shall be measured and documented. Outcomes shall be reported to the executive department, Office of the Governor, and the state legislature as requested.

SECTION 4: The Child Poverty Prevention Council, created by Act 559 of the 2008 Regular Session of the State Legislature, shall utilize, through the Department of Social Services' Community Mobilization staff, locally-led Solutions to Poverty coalitions in implementing the strategy which the Council is required to develop for reducing the rate of child poverty in Louisiana by 50% over ten years.

SECTION 5: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed (or requested pursuant to Subsection 1B) to cooperate with the implementation of the provisions in this Order.

SECTION 6: 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 22nd day of August, 2008.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Jay Dardenne  
Secretary of State  
0809#034

#### EXECUTIVE ORDER BJ 08-42

##### Maritime Advisory Task Force

WHEREAS, the state of Louisiana is our nation's leading marine transportation state;

WHEREAS, the maritime industry is a major contributor to Louisiana's present economic well-being and to its future economic outlook as 95,000 jobs are directly or indirectly dependent on the industry;

WHEREAS, forty-four (44) of the sixty-four (64) parishes in the state of Louisiana border on navigable waterways;

WHEREAS, the state of Louisiana intends to increase its competitiveness in global markets through the ever evolving maritime industry;

WHEREAS, the interests of the citizens of the state of Louisiana would best be served by the continuation of the Maritime Advisory Task Force, composed of maritime industry representatives, to recommend methods of promoting and protecting Louisiana's maritime industry and increasing the state's competitiveness in global maritime markets;

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

SECTION 1: The Maritime Advisory Task Force (hereafter "Task Force") is reestablished within the executive department, Office of the Governor.

SECTION 2: The duties of the Task Force shall include, but are not limited to, the following:

A. Recommending legislation that is designed to enhance and protect the economic viability of Louisiana's maritime industry;

B. Recommending economic development programs which are designed to foster and promote growth in Louisiana's maritime industry;

C. Suggesting a means to enhance the competitiveness of Louisiana's maritime industry in national and international markets;

D. Evaluating maritime industry safety concerns and recommending safety measures that would benefit both the general population and Louisiana's maritime industry; and

E. Developing a "Five Year Ports Plan for economic development within the state of Louisiana" by September 1, 2009.

SECTION 3: By December 1, 2008, the Task Force shall submit a written comprehensive report to the governor on the issues set forth in Section 2 of this Order. Annually thereafter, the Task Force shall submit an updated report to the governor.

#### SECTION 4:

A. The Task Force shall be composed of five (5) ex-officio members, selected as follows:

1. The governor, or the governor's designee;

2. The secretary of the Department of Economic Development, or the secretary's designee;

3. The chair of the House Committee on Transportation, Highways, and Public Works, or the chair's designee;

4. The chair of the Senate Committee on Transportation, Highways, and Public Works, or the chair's designee; and

5. The secretary of the Department of Transportation and Development, or the secretary's designee;

B. The Task Force shall also be composed of twelve (12) members who shall be appointed by and serve at the pleasure of the governor, selected as follows:

1. One (1) representative of the shallow draft maritime industry;

2. One (1) representative of the deep draft maritime industry;

3. One (1) representative of the shipyard industry;

4. One (1) representative of the ports on the Mississippi River;

5. One (1) representative of the ports on the Calcasieu River;

6. One (1) representative of the ports on the Gulf/Intracoastal Canal;

7. One (1) representative of the ports on the Red River;

8. One (1) ship pilot commissioned by the state of Louisiana;

9. One (1) representative of passenger vessels;

- 10. One (1) representative of the offshore supply industry;
- 11. One (1) representative of the fleeting industry; and
- 12. One (1) representative of the United States Coast Guard who shall serve in a non-voting advisory liaison capacity.

SECTION 5: The chair of the Task Force shall be appointed by the governor from the membership of the Task Force. All other officers, if any, shall be elected by the Task Force from its membership.

SECTION 6: The Task Force shall meet biannually and at the call of the chair.

SECTION 7: Support staff, facilities, and resources for the Task Force and facilities for its meetings shall be provided by the Department of Economic Development.

SECTION 8:

A. Task Force members shall not receive additional compensation or a per diem from the Office of the Governor for serving on the Task Force.

B. Task Force members who are employees or elected public officials of the state of Louisiana or a political subdivision thereof may seek reimbursement of travel expenses, in accordance with PPM 49, from their employing and/or elected department, agency and/or office.

C. Task Force members who are also members of the Louisiana Legislature may seek a per diem from the Louisiana State Senate or House of Representatives, as appropriate, for their attendance.

SECTION 9: 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 with the Task Force in implementing the provisions of this Order.

SECTION 10: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 22nd day of August, 2008.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Jay Dardenne  
Secretary of State  
0809#035

**EXECUTIVE ORDER BJ 08-43**

Interstate 49 South Feasibility and Funding Task Force

WHEREAS, U.S. Highway 90 (hereafter "U.S. 90") is one of the state of Louisiana's major links to the Gulf of Mexico, and a main corridor for access to oil and gas operations in the central gulf's outer continental shelf, petrochemical industries along the Mississippi River, and waterborne freight en route to the central United States;

WHEREAS, over thirty-six percent (36%) of the population of the state of Louisiana resides in the vicinity of U.S. 90 between Interstate 10 (hereafter "I-10") in Lafayette and the Westbank Expressway in New Orleans; as a consequence, the four-laned highway is the primary hurricane evacuation route for South Louisiana;

WHEREAS, it is a priority for the state of Louisiana to prepare for the twenty-first century by promoting economic growth and development through the provision of a transportation system adequate to support new economic activity with its increase in traffic volume, encourage international and domestic commerce, promote tourism, and improve public safety; and

WHEREAS, the interests of the citizens of the state of Louisiana would be best served by the continuation of the Interstate 49 South Feasibility and Funding Task Force, formerly known as the "Interstate 49 South Project Task Force", in order to complete its analysis of upgrading U.S. 90 into an interstate and evaluating the impact it would have on the general populace of the state, particularly those living in South Louisiana;

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

SECTION 1: The Interstate 49 South Feasibility and Funding Task Force (hereafter "Task Force") is reestablished within the Executive Department, Office of the Governor.

SECTION 2: The duties and functions of the Task Force shall include, but are not limited to, the following:

A. Identify funding sources and /or innovative financing alternatives to fully fund the proposed project to extend Interstate 49 south from the city of Lafayette to the city of New Orleans (hereafter "I-49 South Extension Project"), from the beginning of the project through its completion; and

B. Documenting the level of support for the I-49 South Project by 1) the citizens of the state of Louisiana living in the various geographical sections of the state of Louisiana, 2) the Metropolitan Planning Organizations in the areas surrounding U.S. 90 between I-10 in Lafayette and the Westbank Expressway in New Orleans, and 3) the members of the Louisiana Legislature.

SECTION 3:

A. By March 1, 2009, the Task Force shall submit a comprehensive report on the issues set forth in Section 2 of this Order to the governor, the House Committee on Transportation, Highways, and Public Works, and the Senate Committee on Transportation, Highways, and Public Works.

B. The Task Force shall also submit documentation to the governor by March 1, 2010, suitable for submission to the members of the state of Louisiana's United States Congressional Delegation, supporting the reasons for extending Interstate 49 south from Lafayette to New Orleans.

SECTION 4: The Task Force shall meet at regularly scheduled intervals and at the call of the chair.

SECTION 5: The Task Force shall be composed of a maximum of twenty-three (23) members who, unless otherwise specified, shall be appointed by, and serve at the

pleasure of the governor. The membership of the Task Force shall be selected as follows:

- A. The governor, or the governor's designee;
- B. The secretary of the Department of Transportation and Development, or the secretary's designee;
- C. The chair of the House Committee on Transportation, Highways, and Public Works, or the chair's designee;
- D. The chair of the Senate Committee on Transportation, Highways, and Public Works, or the chair's designee;
- E. The Federal Highway Administrator for the state of Louisiana, or the Federal Highway Administrator's designee;
- F. Representatives from communities located along the span of U.S. 90 between the Westbank Expressway in New Orleans and I-10 in Lafayette;
- G. Representatives of businesses in South Louisiana;
- H. Representatives of the Lafayette, Houma, and New Orleans Metropolitan Planning Organizations;
- I. A representative of the farming community, who resides in Louisiana, whose principal business is farming; and
- J. Two (2) at-large members.

SECTION 6: The chair of the Task Force shall be appointed by the governor from the membership of the Task Force. All other officers, if any, shall be elected by the members of the Task Force from its membership.

SECTION 7:

A. Task Force members shall not receive additional compensation or a per diem from the Office of the Governor for serving on the Task Force.

B. Task Force members who are employees or elected public officials of the state of Louisiana or a political subdivision thereof may seek reimbursement of travel expenses, in accordance with PPM 49, from their employing and/or elected department, agency and/or office.

C. Task Force members who are also members of the Louisiana Legislature may seek a per diem from the Louisiana State Senate or House of Representatives, as appropriate, for their attendance.

SECTION 8: Support staff, facilities, and resources for the Task Force shall be provided by the Department of Transportation and Development.

SECTION 9: 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 with the Task Force in implementing the provisions of this Order.

SECTION 10: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of

Louisiana, at the Capitol, in the city of Baton Rouge, on this 22nd day of August, 2008.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Jay Dardenne  
Secretary of State  
0809#036

**EXECUTIVE ORDER BJ 08-44**

Interstate 49 North Extension Feasibility  
and Funding Task Force

WHEREAS, due to Interstate 49 not extending north beyond the city of Shreveport, businesses and industries of the state of Louisiana are not directly linked by an interstate highway to our neighboring state of Arkansas and consumer markets in the mid-west;

WHEREAS, the state of Louisiana's goals and objectives for economic development are inextricably intertwined with those for improving the infrastructure of the state's highways and roadways; and

WHEREAS, the interests of the citizens of the state of Louisiana would be best served by the continuation of the Interstate 49 North Extension Feasibility and Funding Task Force in order to complete its analysis of securing funding sources for extending Interstate 49 north to the Louisiana-Arkansas border, analyzing the benefits of such an extension project, and evaluating the impact that such an extension would have on the citizens of the state of Louisiana, especially those who live and/or work in the northwest region of the state of Louisiana;

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

SECTION 1: The Interstate 49 North Extension Feasibility and Funding Task Force (hereafter "Task Force") is reestablished within the executive department, Office of the Governor.

SECTION 2: The duties and functions of the Task Force shall include, but are not limited to, the following:

A. Identify funding sources and/or innovative financing alternatives to fully fund the proposed project to extend Interstate 49 north from the city of Shreveport to the Louisiana-Arkansas border (hereafter "I-49 Extension Project"), from the beginning of the project through its completion; and

B. Documenting and evaluating the level of support for the I-49 Extension Project from a) the citizens of the state of Louisiana living in the various geographical regions of the state, b) the chambers of commerce of the communities located in the northwest region of the state of Louisiana, and c) the members of the Louisiana Legislature and Louisiana's United States Congressional Delegation.

SECTION 3:

A. By March 1, 2009, the Task Force shall submit a comprehensive report on the issues set forth in Section 2 of this Order to the governor, the House Committee on Transportation, Highways, and Public Works, and the Senate Committee on Transportation, Highways, and Public Works.

B. The Task Force shall also submit documentation to the governor by March 1, 2010, suitable for submission to the members of the state of Louisiana's United States Congressional Delegation, supporting the reasons for extending Interstate 49 north to the Louisiana-Arkansas border.

SECTION 4: The Task Force shall be composed of a maximum of twenty-three (23) members who, unless specified, shall be appointed by and serve at the pleasure of the governor, and selected as follows:

A. The governor, or the governor's designee;

B. The secretary of the Department of Transportation and Development, or the secretary's designee;

C. The commissioner of administration, or the commissioner's designee;

D. The chair of the House Committee on Transportation, Highways, and Public Works, or the chair's designee;

E. The chair of the Senate Committee on Transportation, Highways, and Public Works, or the chair's designee;

F. The chair of the Senate Committee on Commerce, or the chair's designee;

G. The chair of the House Committee on Commerce, or the chair's designee;

H. The Federal Highway Administrator for the state of Louisiana, or the Federal Highway Administrator's designee;

I. A member of the Louisiana State Senate, elected from the northwest region of the state of Louisiana, designated by the president of the Senate;

J. A member of the House of Representatives, elected from the northwest region of the state of Louisiana, designated by the speaker of the House of Representative;

K. Citizens of the state of Louisiana who reside in a community in the northwest region of the state of Louisiana; and

L. Representatives of businesses and/or industries that are located in the northwest region of the state of Louisiana.

SECTION 5: The chair of the Task Force shall be appointed by the governor from the membership of the Task Force. All other officers, if any, shall be elected by the members of the Task Force from its membership.

SECTION 6: The Task Force shall meet at regularly scheduled intervals and at the call of the chair.

SECTION 7:

A. Task Force members shall not receive additional compensation or a per diem from the Office of the Governor or the Department of Transportation and Development for serving on the Task Force.

B. Task Force members who are an employee or an elected public official of the state of Louisiana or a political subdivision of the state of Louisiana may seek reimbursement of travel expenses, in accordance with PPM

49, from their employing department, agency and/or office or elected office.

C. Task Force members who are also a member of the Louisiana Legislature may seek a per diem from the Louisiana State Senate or House of Representatives, as appropriate, for their attendance at Task Force meetings and/or services on the Task Force.

SECTION 8: Support staff, facilities, and resources for the Task Force shall be provided by the Department of Transportation and Development.

SECTION 9: 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 with the Task Force in implementing the provisions of this Order.

SECTION 10: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 22nd day of August, 2008.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Jay Dardenne  
Secretary of State  
0809#037

**EXECUTIVE ORDER BJ 08-45**

Establishment of Unified Command  
Group and Subcommittees

WHEREAS, Louisiana Revised Statute 29:725.6 (Act No. 797 of the 2008 Regular Session) dictates that the Unified Command Group (UCG) shall be established and composed of members established by Executive Order;

WHEREAS, the statute further requires that three (3) permanent subcommittees be established by the UCG, namely:

1. An Interoperability Subcommittee;
2. A First Responders Subcommittee; and
3. A Regional Parish OEP Parish Directors Subcommittee.

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

SECTION 1: The Unified Command Group (UCG) is hereby established by this Executive Order and shall be composed of fifteen (15) members:

A. The secretary of the Department of Transportation and Development, or the secretary's designee;

B. The superintendent of State Police, or the superintendent's designee;

C. The adjutant general, or the general's designee;

D. The commissioner of the Department of Agriculture & Forestry, or the commissioner's designee;

E. The secretary of the Department of Social Services, or the secretary's designee;

F. The secretary of the Department of Public Safety, or the secretary's designee;

G. The commissioner of the Division of Administration, or the commissioner's designee;

H. The secretary of the Department of Health and Hospitals, or the secretary's designee;

I. The secretary of the Department of Wildlife and Fisheries, or the secretary's designee;

J. The secretary of the Department of Environmental Quality, or the secretary's designee;

K. The secretary of the Department of Natural Resources, or the secretary's designee;

L. The attorney general, or the general's designee;

M. The secretary of the Louisiana Workforce Commission, or the secretary's designee;

N. The executive secretary of the Public Service Commission, or the secretary's designee; and

O. The coordinator of the Governor's Office of Oil Spill, or the coordinator's designee.

SECTION 2: There shall be three (3) permanent subcommittees of the UCG as required by R.S. 29:725.6, namely:

A. The Interoperability Subcommittee;

B. The First Responders Subcommittee; and

C. The Regional Parish OEP Parish Directors Subcommittee, whose members shall consist of those agency and department heads enumerated in R.S. 29:725.6.

SECTION 3: Additionally, UCG may establish such other subcommittees as it deems advisable and feasible under the authority granted in R.S. 29:725.6.

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 with the Council in implementing the provision of this Order.

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 22nd day of August, 2008.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Jay Dardenne  
Secretary of State  
0809#038

#### EXECUTIVE ORDER BJ 08-46

##### Drug Control and Violent Crime Policy Board

WHEREAS, incidents of violent crimes and drug abuse are problematic for the state of Louisiana;

WHEREAS, the federal government provides financial assistance to the state to improve the operational

effectiveness of our drug and violent crime control efforts through such programs as the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C.A. §13701 *et seq.*, and the Drug Control and System Improvement Grant Program, 42 U.S.C.A. §3751 *et seq.*; and

WHEREAS, the interests of the citizens of the state of Louisiana would be best served through the utilization of a single coordinating board to administer these federal assistance programs in order to function as a communication forum and to facilitate the coordination of drug abuse and violent crime projects within the state;

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

SECTION 1: The Louisiana Drug Control and Violent Crime Policy Board (hereafter "Board") is reestablished within the executive department, Office of the Governor.

SECTION 2: The duties of the Board shall include, but are not limited to, the following:

A. Serve as an advisory body to the Louisiana Commission on Law Enforcement and Administration of Criminal Justice;

B. Develop a statewide drug control and violent crime strategy encompassing all components of the criminal justice system; and

C. Perform any duties and functions requested by the governor and/or the Louisiana Commission on Law Enforcement and Administration of Criminal Justice.

SECTION 3: The Board shall be composed of a maximum of eighteen (18) members who unless otherwise specified, shall be appointed by and serve at the pleasure of the governor. The membership of the Board shall be as follows:

A. The superintendent of the Department of Public Safety, or the superintendent's designee;

B. Three (3) district attorneys, one each from the eastern, the western, and the middle areas of the state;

C. The executive director of the Louisiana District Attorneys Association, or the executive director's designee;

D. Three (3) sheriffs, one each from the eastern, the western, and the middle areas of the state;

E. The executive director of the Louisiana Sheriffs' Association, or the executive director's designee;

F. Three (3) chiefs of police, one each from the eastern, the western, and the middle areas of the state;

G. One (1) marshal or constable selected from either the eastern, the western, or the middle areas of the state; and

H. Five (5) at-large members who are private citizens and/or former members of the state judiciary and who are active in community drug control and prevention.

SECTION 4: The chair of the Board shall be appointed by the governor from the membership of the Board. All other officers, if any, shall be elected from the membership of the Board.

SECTION 5: The Board shall meet at regularly scheduled intervals and at the call of the chair.

SECTION 6:

A. Board members shall not receive additional compensation or a per diem from the Office of the Governor for serving on the Board.

B. Board members who are employees or elected public officials of the state of Louisiana or a political subdivision thereof may seek reimbursement of travel expenses, in accordance with PPM 49, from their employing and/or elected department, agency and/or office.

C. Board members who are also members of the Louisiana Legislature may seek a per diem from the Louisiana State Senate or House of Representatives, as appropriate, for their attendance.

SECTION 7: Support staff, facilities, and resources for the Board shall be provided by the Office of the Governor.

SECTION 8: 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 with the Board in implementing the provisions of this Order.

SECTION 9: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 22nd day of August, 2008.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Jay Dardenne  
Secretary of State  
0809#039

#### EXECUTIVE ORDER BJ 08-47

##### Bond Allocation Procedures

WHEREAS, Section 146 of the Internal Revenue Code of 1986 (hereafter "the Act"), as amended (hereafter "the Code"), restricts the total principal amount of certain private activity Bonds which exclude interest from gross income for federal income tax purposes under Section 103 of the Code, including the portion of government use Bonds allocated to non-governmental use as required by the Act (hereafter "Bonds") which may be issued within the state of Louisiana during each calendar year to a dollar amount determined by (a) multiplying \$80 times the population of the state, based on the most recently published estimate of the population for the state of Louisiana released by the United States Bureau of Census before the beginning of each such calendar year, and (b) multiplying such amount by the cost of living adjustment, as determined pursuant to the Act;

WHEREAS, Act No. 51 of the 1986 Regular Session of the Louisiana Legislature (hereafter "Act No. 51 of 1986") authorizes the governor to allocate the volume limit applicable to the Bonds (hereafter "the ceiling") among the state and its political subdivisions in such a manner as the governor deems to be in the best interest of the state of Louisiana;

WHEREAS, pursuant to the authorization of both the Act and Act No. 51 of 1986, the governor hereby elects to (a) provide for the manner in which the ceiling shall be determined, (b) establish the method to be used in allocating the ceiling, (c) establish the application procedure for obtaining an allocation of Bonds subject to such ceiling, and (d) establish a system of record keeping for such allocations; and

WHEREAS, it is necessary to renew Executive Order KBB 2005-12, issued on April 7, 2005, in order to provide for procedures for bond allocations;

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

#### SECTION 1: DEFINITIONS

A. Each abbreviation provided in the preamble of this Order, *supra*, shall have the same meaning throughout all the sections, subsections, and paragraphs of this Order.

B. The following definitions shall apply:

1. "Economic Development Bonds" means all types of Bonds subject to the ceiling other than Industrial Bonds, Housing Bonds, and Student Loan Bonds;

2. "Housing Bonds" means Bonds subject to the ceiling and issued to provide housing described under Section 142(d) of the Code ("Qualified Residential Rental Project Bonds"), or issued to provide housing under Section 143 of the Code ("Qualified Mortgage Bonds");

3. "Industrial Bonds" means Bonds for manufacturers, as defined by North American Industry Classification System (NAICS) codes 113310, 211, 213111, 541360, 311-339, 511-512 and 54171, or facilities financed as part of the Department of Health and Hospitals' Drinking Water Revolving Loan Fund, which Bonds subject to the ceiling are (1) designated as "exempt facility Bonds" in Section 142(a) of the Code (other than Housing Bonds), or (2) issued for facilities to treat, abate, reduce, or eliminate air or water pollution pursuant to the transition rules of the Tax Reform Act of 1986;

4. "Issuer" or "Issuers" means any entity or entities now or hereafter authorized to issue Bonds under the Louisiana Constitution of 1974, as amended, or the laws of the state of Louisiana; and

5. "Student Loan Bonds" means Bonds subject to the ceiling and issued under the authority of Section 144(b) of the Code.

C. Any term not defined in this Order shall have the same meaning as in the Act.

#### SECTION 2: DETERMINATION OF CEILINGS FOR 2008 AND THEREAFTER

A. The sum of three hundred sixty-four million, nine hundred twenty-two thousand, three hundred forty dollars (\$364,922,340) represents the amount of the ceiling determined by the staff of the Louisiana State Bond Commission (hereafter "the SBC staff") for the year of 2008 pursuant to the provisions of the Act.

B. On or before February 15, 2009, and on or before February 15 of each subsequent calendar year during the life of this Order, the SBC staff shall determine the amount of

the ceiling for each calendar year in the manner set forth in the Act. Upon determining the amount of the ceiling, the SBC staff shall promptly notify the governor in writing of the amount determined.

### SECTION 3: GENERAL ALLOCATION POOL; METHOD OF ALLOCATION

A. A pool, designated as the "General Allocation Pool", shall be hereby created. The entire ceiling for each calendar year shall be automatically credited to the General Allocation Pool. Allocations for all types of Bonds that require allocations from the ceiling under the Act may be requested, and granted, from this General Allocation Pool. During the calendar year of 2004, and in each calendar year thereafter, at the discretion of the governor, amounts shall be initially reserved for allocations from the General Allocation Pool as follows:

1. Until September 1 of each year, an amount equal to fifty (50) percent of the General Allocation Pool shall be reserved for allocations for Housing Bonds;

2. Until September 1 of each year, an amount equal to twenty-five (25) percent of the General Allocation Pool shall be reserved for allocations for Student Loan Bonds;

3. Until September 1 of each year, an amount equal to twenty (20) percent of the General Allocation Pool shall be reserved for allocations for Economic Development Bonds; and

4. Until September 1 of each year, an amount equal to five (5) percent of the General Allocation Pool shall be reserved for allocations for Industrial Bonds.

B. On September 1 of each year, any amounts remaining and not allocated for the purposes described in Section 3(A) (1) through (4) shall be combined, and allocations from such amounts remaining shall be granted, at the discretion of the governor, without regard to any reservation for particular use.

C. The allocation of the ceiling from the General Allocation Pool shall be considered by the governor on the basis of criteria established by the governor.

D. The issuance of an executive order by the governor, awarding a portion of the ceiling to a particular issue of Bonds, shall be evidence of each allocation granted pursuant to this Order. A copy of such an executive order shall be promptly furnished to the Louisiana State Bond Commission.

### SECTION 4: APPLICATION PROCEDURE FOR ALLOCATIONS

A. All issuers in and of the state of Louisiana may apply for allocations.

B. An issuer who proposes to issue Bonds for a specific project or purpose must apply for an allocation of a portion of the ceiling for the particular project or purpose by submitting a volume cap allocation request to the Louisiana State Bond Commission staff, with a copy to the governor or the governor's designee, as part of the initial submission of debt application request. The allocation form, if any, may be revised from time to time at the discretion of the governor. However, at a minimum, all applications must contain the following information:

1. The name and the address of the issuer of the Bonds;

2. In the case of Bonds, other than Student Loan Bonds or Qualified Mortgage Bonds, the name and mailing address of (1) the initial owner or operator of the project, (2) an appropriate person from whom information regarding the project can be obtained, and (3) the person to whom notification of the allocation should be made;

3. If required by the Code, the date of adoption by the issuer of an inducement resolution adopted for the purpose of evidencing "official intent";

4. The amount of the ceiling which the issuer is requesting be allocated for the project or purpose of the application, including, without limitation, a statement of the minimum amount of allocation that will support the issuance of the Bonds and a general description of the project (including the address or other description of its location) or the purpose to be financed; and

5. In the case of Housing Bonds for Qualified Residential Rental Project Bonds, the following criteria must be included on the application for the project:

(a) Identify whether the project promotes neighborhood revitalization and/or in-fill development, including new development on vacant or adjudicated properties, and whether the buildings are complimentary to the existing architecture in the neighborhood;

(b) Identify whether the project is for scattered site singlefamily units, or, if the project is for a multiple unit dwelling or dwellings, the number of buildings in the project and the number of units that each dwelling contains;

(c) Identify whether the project is located proximate to a central business district or within a targeted area within the meaning of the Internal Revenue Code of 1986, as amended;

(d) Identify whether the project leverages other governmental or private equity funds and/or governmental incentives, and, if so, what the sources and amounts are; and

(e) Identify whether a workforce training program is a component of the project's development plan.

6. In the case of Industrial Bonds and Economic Development Bonds requested for manufacturing purposes, the following criteria must be included on the application:

(a) Identify the North American Industrial Classification System code reported to the federal government and the Department of Labor;

(b) Report the economic impact over ten years as determined by the Department of Economic Development;

(c) Identify the number of jobs to be created and/or retained and the average salary for both new and retained jobs as well as the amount of the capital investment made or to be made; and

(d) Identify other state programs that provide any financial or business incentives as part of this expansion or new location;

7. Either (1) a bond purchase agreement or other written commitment to purchase the Bonds for which an allocation is requested, executed by one or more purchasers, setting forth in detail the principal and interest payment provisions and the security for the Bonds, accepted by the issuer or the beneficiary of the Bonds; (2) in the case of a public offering of the Bonds for which the allocation from

the ceiling is requested, a binding bond purchase or underwriting agreement obligating the underwriter or underwriters to sell or purchase the Bonds within ninety (90) days of the receipt of an allocation, setting forth in detail the proposed principal and interest payment provisions and the security for the Bonds, accepted by the issuer or the beneficiary of the Bonds; or (3) a \$7,500 escrow deposit which will be forfeited in the event the Bonds for which an allocation is granted are not delivered prior to the expiration of such allocation as provided in Section 4(E). The \$7,500 escrow deposit shall be returned to the party depositing the same without interest upon the substitution of the items described in (1) or (2), *supra*, or delivery of the Bonds within the allocation period. In the event that such Bonds are not delivered within the allocation period, the deposit shall be forfeited and deposited in the State Treasury, unless the failure to deliver such Bonds is the result of the Louisiana State Bond Commission denying approval of such Bonds, in which case the deposit shall be returned to the party depositing same, without interest;

8. A specific date as to when the bond allocation is required and when the project financing is intended to close;

9. A schedule showing the project time or projected timing of the use of the bond proceeds;

10. Information necessary to evidence compliance with the criteria established by the governor; and

11. A letter from bond counsel, addressed to the governor, expressing that the Bonds for which an allocation is requested are subject to the ceiling.

C. Upon receipt of the application required by Section 4(B), the SBC staff shall determine if the requirements of Section 4(B) have been met. When it is determined the requirements have been met, the SBC staff shall immediately forward a copy of the application to the governor.

D. Until September 1 of each year, the maximum amount of allocation that may be granted for any project or purpose in any calendar year (other than for Qualified Mortgage Bonds issued by the Louisiana Housing Finance Agency or Student Loan Bonds) shall not exceed the greater of thirty million dollars (\$30,000,000) or fifteen (15) percent of the ceiling for that year. If an issuer submits a request for an allocation that is in Excess of this authorized amount, the SBC staff shall retain the application for consideration of the allocation of additional amounts, which may only be granted on or after September 1 of that year.

E. Any allocation from the ceiling (other than carry forward allocations described in Section 4(H), *infra*) shall expire unless the Bonds receiving the allocation are delivered by the earlier of (1) ninety (90) days from the date of the executive order awarding the allocation, or (2) December 31st of the calendar year granted. In the event the allocation of the ceiling for a particular project or purpose expires as provided in this section, the issuer may resubmit its application for an allocation of a portion of the ceiling for such project or purpose. The application of the issuer relating to such project or purpose shall be reviewed in chronological order of receipt of the resubmission.

F. On September 1 of each year, the SBC staff shall determine the remaining amounts of the ceiling and shall

submit to the governor for consideration all applications for allocations of Bonds in excess of the permitted amounts.

G. The SBC staff shall maintain accurate records of all allocations and all Bonds delivered. All issuers of Bonds that have received an allocation shall notify the SBC staff of the delivery of Bonds within five (5) days after the delivery of such Bonds and shall specify the total principal amount of Bonds issued. The SBC staff shall provide to any person so requesting, within a reasonable time: (1) the amount of unallocated ceiling remaining on the date such request is made; (2) a list of allocations (naming the issuer and amount of allocation) which have been made and the date of each allocation; (3) a list of applications being held by the SBC staff which have requested a larger allocation than permitted; and (4) a list of Bonds which have been given an allocation and have been delivered.

H. If the ceiling exceeds the aggregate amount of Bonds issued during any year by all issuers, the governor may allocate such to issuers for use as a carry forward for one or more carry forward projects permitted under the Act by issuing an executive order for all carry forward projects for which an application has been submitted that contains the elements required by Section 4(B), and for which a request to be treated as a carry forward project has been received by the SBC staff. The SBC staff shall notify the issuers which are allocated a portion of the ceiling for a carry forward project at least five (5) days prior to the last date an election to carry forward a portion of the ceiling may be made.

I. This Order only relates to Bonds subject to the private activity bond volume limitation set forth in the Act. No issuer shall apply for or be entitled to an allocation from the ceiling for Bonds that are not subject to the private activity bond volume limitation set forth in the Act.

J. The governor may modify, amend, supplement, or rescind this Order to reflect any change in federal or state legislation; provided, however, that any modification, amendment, supplementation or rescission shall not rescind any allocation granted for a project or purpose pursuant to the terms of this Order if such allocation is required under federal law in order to maintain the tax-exempt status of the Bonds issued for such project or purpose.

K. Notwithstanding any provision in this Order to the contrary, if the governor determines it to be in the best interest of the state of Louisiana, because a project or purpose serves a crucial need or provides an extraordinary benefit to the state of Louisiana or to an area within the state of Louisiana, through the issuance of an executive order, the governor may authorize allocations in any amount or grant any or every portion of the ceiling, and for any purpose.

#### SECTION 5: MISCELLANEOUS PROVISIONS

A. The responsibility of the SBC staff as set forth in this Order shall be exercised by the SBC staff independent of any of its other duties and responsibilities owed to the Louisiana State Bond Commission.

B. The governor will certify in each executive order that grants a portion of the ceiling to a particular issue of Bonds that said bond issue meets the requirements of Section 146 of the Code.

SECTION 6: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 22nd day of August, 2008.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Jay Dardenne  
Secretary of State  
0809#040

### EXECUTIVE ORDER BJ 08-48

#### Louisiana Wild Caught Shrimp Industry Trade Action Advisory Council

WHEREAS, the Louisiana Wild Caught Shrimp Industry Trade Action Advisory Council was originally established by executive order to create an advisory body and/or council that will consolidate its efforts to initiate a trade action to protect itself from unfair trade practices utilized by foreign countries importing shrimp into the United States;

WHEREAS, the wild caught shrimp industry is an integral part of the state of Louisiana's history, culture, and economy and is a major component of the economy, providing employment and tax revenue for the state of Louisiana;

WHEREAS, certain foreign shrimp producing countries have utilized unfair trade practices that greatly damage the state's wild caught shrimp industry;

WHEREAS, funding sources and mechanisms must be developed in order to support a trade action for the protection of the domestic wild caught shrimp industry;

WHEREAS, the state of Louisiana supports a trade action by a consolidated wild caught shrimp industry in Louisiana and intends to assist in its success; and

WHEREAS, the citizens of the State of Louisiana will best be served by the continuance of an advisory council that will assist the state in its efforts to initiate trade actions to protect itself from unfair trade practices utilized by foreign countries importing shrimp into the United States;

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

SECTION 1: The Louisiana Wild Caught Shrimp Trade Action Advisory Council (hereafter "Council") is reestablished within the executive department, Office of the Governor.

SECTION 2: The duties of the Council shall include, but are not limited to, the following:

A. Supporting and assisting a trade action brought by a consolidated wild caught shrimp industry;

B. Exploring and developing funding sources and mechanisms to assist and support such trade action; and

C. Recommending proposed legislation to fund the trade action.

SECTION 3: On or before August 1, 2009, the Council shall submit a final report to the governor, and the

secretary of the Department of Wildlife and Fisheries, on the issues set forth in Section 2 of this Order.

SECTION 4: The Council shall be composed of a maximum of thirteen (13) members who, unless otherwise specified, shall be appointed by and serve at the pleasure of the governor. The membership of the Council shall be selected as follows:

A. The governor, or the governor's designee;

B. The secretary of the Department of Wildlife and Fisheries, or the secretary's designee;

C. The president of the Louisiana Senate, or the president's designee;

D. The speaker of the Louisiana House of Representatives, or the speaker's designee;

E. The chair of the Senate Committee on Natural Resources, or the chair's designee;

F. The chair of the House Committee on Natural Resources, or the chair's designee;

G. Two (2) members appointed by the governor from a list of four (4) Louisiana residents nominated by the Louisiana Shrimp Association;

H. Two (2) members appointed by the governor from a list of four (4) Louisiana residents nominated by the Louisiana Shrimp Industry Coalition;

I. One (1) member appointed by the governor from a list of three (3) Louisiana residents nominated by the American Shrimp Processors Association;

J. One (1) member appointed by the governor from a list of three (3) Louisiana residents nominated by the secretary of the Department of Wildlife and Fisheries who possess a current gear and boat license; and

K. One (1) at-large member.

SECTION 5: The chair of the Council shall be appointed by the governor from the membership of the Council. All other officers, if any, shall be elected by the members of the Council from its membership.

SECTION 6: The Council shall meet at regularly scheduled intervals and at the call of the chair.

SECTION 7:

A. Council members shall not receive additional compensation or a per diem from the Office of the Governor for serving on the Council.

B. Council members who are employees or elected public officials of the state of Louisiana or a political subdivision of the state of Louisiana may seek reimbursement of travel expenses, in accordance with PPM 49, from their employing and/or elected department, agency and/or office.

C. Council members who are also members of the Louisiana Legislature may seek a per diem from the Louisiana Senate or House of Representatives, as appropriate, for their attendance.

SECTION 8: Support staff, facilities, and resources for the Office shall be provided by the Department of Wildlife and Fisheries.

SECTION 9: 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 with the Office in implementing the provisions of this Order.

SECTION 10: This Order is effective upon signature and shall continue in effect until amended, modified,

terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 22nd day of August, 2008.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Jay Dardenne  
Secretary of State  
0809#041

### EXECUTIVE ORDER BJ 08-49

#### Louisiana Abraham Lincoln Bicentennial Commission

WHEREAS, the national Abraham Lincoln Bicentennial Commission was created by Congress in 2000 to inform the public about the impact Abraham Lincoln had on the development of our great nation and to find the best possible ways to honor his accomplishments;

WHEREAS, the official public bicentennial commemoration launched February 2008, and closes February 2010, with the capstone taking place on February 12, 2009, the two hundredth (200th) anniversary of Lincoln's birth;

WHEREAS, the national Commission has invited states to participate in honoring Abraham Lincoln and to coordinate their own bicentennial programs and events; and

WHEREAS, it is necessary to reestablish the state Commission to ensure Louisiana's participation in this nationwide commemoration of one of our country's greatest leaders.

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

SECTION 1: The Louisiana Abraham Lincoln Bicentennial Commission (hereafter Commission) is hereby re-established within the Department of State.

SECTION 2: The duties of the Commission shall include, but are not limited to, the following:

A. Develop, plan and coordinate statewide events that educate the public about the life and presidency of Abraham Lincoln as well as celebrate his many accomplishments.

B. Assist the state liaison to the national Commission in overseeing and directing preparations for statewide programs and events, including, but not limited to, supporting staff members in publicity and coordination efforts.

C. Develop and evaluate the effectiveness of programs and curricula which inform and educate citizens about Abraham Lincoln and, particularly, the historical time period encompassing his presidency. Such programs may include:

1. Museum exhibits of artifacts;
2. Displays of artwork and photography with appropriate historical themes;

3. Concerts of music and performances of short and long plays;

4. Traditional festivals;

5. Storytelling and oral history projects;

6. Re-enactments; and

7. Dissemination of brochures, posters, t-shirts and other merchandise.

SECTION 3: On or before March 1 of each year the Commission shall submit a written comprehensive report annually to the governor, the lieutenant governor, and the secretary of state on the issues set forth in Section 2 of this Order.

#### SECTION 4:

A. The Commission shall be composed of thirteen (13) members, as follows:

1. The Louisiana state liaison to the National Abraham Lincoln Bicentennial Commission Governors' Council;

2. The Governor or the Governor's designee;

3. The Lieutenant Governor or the Lieutenant Governor's designee;

4. The Secretary of State or the Secretary's designee;

5. The director of the State Museum, Department of Culture, Recreation and Tourism;

6. The State Museums Program coordinator, Department of State;

7. The state librarian, Department of Culture, Recreation and Tourism;

8. The state archivist, Department of State;

9. One member of the House of Representatives appointed by the Speaker of the House of Representatives;

10. One member of the Senate appointed by the President of the Senate; and

11. Three (3) members appointed by the Governor.

SECTION 5: The chair of the Commission shall be the Louisiana State Liaison to the National Abraham Lincoln Bicentennial Commission Governors' Council. All other officers, if any, shall be elected by the members of the Commission from its membership.

SECTION 6: The Commission shall meet at regularly scheduled meetings and at the call of the chair.

#### SECTION 7:

A. Commission members shall not receive compensation or a per diem for their service on the Commission.

B. Commission members who are employees or elected public officials of the state of Louisiana or a political subdivision thereof may seek reimbursement of travel expenses from their agency or department in accordance with PPM 49.

SECTION 8: Support staff, facilities, and resources for the Commission shall be provided by the Department of State.

SECTION 9: 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 with the Commission in implementing the provisions of this Order.

SECTION 10: This Order is effective upon signature and shall continue in effect until amended, modified,

terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 22nd day of August, 2008.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Jay Dardenne  
Secretary of State  
0809#042

### EXECUTIVE ORDER BJ 08-50

#### Louisiana Commission on Marriage and Family

WHEREAS, marriage is more than a civil contract which transforms the contracting of man and woman into a legally and publicly recognized partnership, as it is also a special form of social and legal dependence entered for the purpose of founding and maintaining a family;

WHEREAS, studies reveal that societal benefits result from marriage and two-parent families, as married men and women live longer, are often healthier, are less depressed, and have fewer heart attacks, diseases, and alcohol related problems than unmarried men and women and, as compared to children born to single and/or of divorced parents, children growing up in two-parent families are more likely to graduate from high school, less likely to have behavioral or emotional problems, less likely to be suspended or expelled from or drop out of school, less likely to contract childhood diseases and/or die, and boys are less likely to use drugs or alcohol or commit suicide, while girls are less likely to become sexually active at an early age;

WHEREAS, children growing up in two-parent families usually have an advantage over children with singleparents from their access to both parents for emotional, educational, spiritual, and moral support, additional family time, and reinforcement of discipline and family values;

WHEREAS, due to divorce and single-parent births, twenty-three million children in the United States are disadvantaged from growing up in a household without both their parents, including forty-nine percent (49%) of the children born in the state of Louisiana and sixty-eight (68%) born in the parish of Orleans to single parents in 2004;

WHEREAS, the future of the state of Louisiana is inextricably tied to the physical, intellectual, emotional, and moral growth of the children of this state and their future; and

WHEREAS, the interests of the citizens of the state of Louisiana will be best served by the continuation of the Louisiana Commission on Marriage and Family charged with the duty of advising the governor on the means to improve the social and personal well-being of the people of this state, especially the children, by strengthening marriages and/or family units and reducing the incidence of single-parenting;

NOW THEREFORE, I, BOBBY JINDAL, Governor of the state of Louisiana, by virtue of the authority vested by

the Constitution and the laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: The Louisiana Commission on Marriage and Family (hereafter "Commission") is reestablished within the executive department, Office of the Governor.

SECTION 2: The duties of the Commission shall be as follows:

A. Collect and analyze data on the social and personal effects of marriage, two-parent childrearing, and single-parent child-rearing, within the state of Louisiana;

B. Review and analyze all laws, rules and regulations, programs and/or policies of the state of Louisiana and/or any of the departments, commissions, boards, agencies, and/or offices in the executive branch thereof, which pertain to taxes, public assistance or benefits, education, childcare and/or public services, for neutrality regarding the institution of marriage so that marriage is not discouraged, discriminated against and/or undermined;

C. Propose and analyze initiatives, programs, policies, and/or incentives that encourage and support the institution of marriage;

D. Propose and analyze programs, policies, curriculums, and/or initiatives, especially those that may be funded with Temporary Assistance for Needy Family ("TANF") funds, which encourage the formation of two-parent families, prevent and/or reduce the incidence of single-parent births, strengthen existing marriages that are in jeopardy, encourage postponing child-bearing until after both parents have attained a postsecondary education and/or post-secondary technical/job training; promote responsible fatherhood, and/or motivate fathers to be continuously involved in and supportive of their children and/or families;

E. Propose and analyze programs, policies, curriculums, and/or community-based partnerships that may be utilized and/or developed to strengthen families and teach marriage skills, anger/conflict management skills, money management skills, parenting skills, and/or about the differences in communication styles and emotional needs between men and women in marriage; and

F. Analyze the policy considerations and issues involved in encouraging and/or requiring counseling and/or mediation prior to divorce and providing such counseling and/or mediation with public funds.

SECTION 3: Commencing December 31, 2008, and each December 31 thereafter, the Commission shall submit a detailed annual report to the governor which addresses the issues set forth in Section 2 of this Order.

SECTION 4: The Commission shall be composed of a maximum of twenty-nine (29) members who shall be appointed by and serve at the pleasure of the governor. The membership of the Commission shall be selected as follows:

A. The governor, or the governor's designee;

B. The secretary of the Department of Social Services, or the secretary's designee;

C. The secretary of the Department of Health and Hospitals, or the secretary's designee;

D. The secretary of the Department of Labor, or the secretary's designee;

E. The commissioner of higher education, or the commissioner's designee;

F. The superintendent of the Department of Education, or the superintendent's designee;

G. The executive director of the Children's Cabinet, Office of the Governor, or the executive director's designee;

H. The executive director of the Office on Women's Policy, Office of the Governor, or the executive director's designee;

I. The director of TANF (Temporary Assistance for Needy Families), Office of the Commissioner, Division of Administration;

J. Two (2) members of the Louisiana State Senate, nominated by the president of the Senate;

K. Two (2) members of the House of Representatives, nominated by the speaker of the House of Representatives;

L. A representative of the Louisiana Women's Policy and Research Commission;

M. A member of the Board of Elementary and Secondary Education;

N. A citizen of the state of Louisiana representing the interests and concerns of two-parent families;

O. A citizen of the state of Louisiana representing the interests and concerns of single-parent families; and

P. Twelve (12) citizens of the state of Louisiana who have significant academic and/or professional expertise in one (1) or more of the following areas:

1. Marriage education and/or marriage skills training;

2. Marriage, family and/or juvenile counseling and/or mediation;

3. Education;

4. Law;

5. Public health;

6. Sociology, social science, and/or social work; and

7. Community programs and/or assistance.

SECTION 5: The governor shall appoint the chair of the Commission from its membership. All other officers, if any, shall be elected by the members of the Commission from its membership.

SECTION 6: The Commission shall meet at regularly scheduled intervals and at the call of the chair.

SECTION 7:

A. Commission members shall not receive additional compensation or a per diem from the Office of the Governor for serving on the Commission.

B. Commission members who are employees or elected public officials of the state of Louisiana or a political subdivision thereof may seek reimbursement of travel expenses, in accordance with PPM 49, from their employing and/or elected department, agency and/or office.

C. Commission members who are also members of the Louisiana Legislature may seek a per diem from the Louisiana State Senate or House of Representatives, as appropriate, for their attendance.

SECTION 8: Support staff, facilities, and resources for the Commission shall be provided by the Department of Social Services.

SECTION 9: 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 with the Commission in implementing the provisions of this Order.

SECTION 10: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 22nd day of August, 2008.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR

Jay Dardenne  
Secretary of State  
0809#043

**EXECUTIVE ORDER BJ 08-51**

Louisiana Offshore Terminal Authority to Administer the Federal Deepwater Port Act for Louisiana

WHEREAS, the federal Deepwater Port Act, 33 U.S.C. Sec. 1501, *et seq.*, provides for the application for, and the construction and operation of deepwater ports or offshore terminal facilities beyond the seaward boundaries of Louisiana, for the transportation, storage or further handling of oil or natural gas;

WHEREAS, the state of Louisiana, to the extent that it is considered an adjacent coastal state, has been granted certain rights, duties, and responsibilities by the Deepwater Port Act in connection with the application for, and construction and operation of, such deepwater ports;

WHEREAS, there is a need for a single state agency to supervise, coordinate, and direct the state's duties and responsibilities in connection with implementation of the Deepwater Port Act;

WHEREAS, the Louisiana Offshore Terminal Authority was created by La. R.S. 34:3101, *et seq.*, to promote, plan, finance, develop, construct, control, license, regulate, supervise, operate, manage, maintain and modify offshore terminal facilities within its jurisdiction;

WHEREAS, the Deepwater Port Act has extended the jurisdiction of the state of Louisiana to adjacent offshore waters beyond state boundaries for the limited and exclusive purposes as stated in the Act; and,

WHEREAS, the Louisiana Offshore Terminal Authority has continuously demonstrated its competence and expertise in the operation, monitoring, and regulation of the Louisiana Offshore Oil Platform ("LOOP");

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

SECTION 1: The Louisiana Offshore Terminal Authority is hereby continued to be designated as the single state agency which, subject to the powers and duties reserved to the Governor, shall administer and supervise the rights, duties and responsibilities of the state of Louisiana under the federal Deepwater Port Act.

SECTION 2: The rights, duties and responsibilities to be supervised and administered by the Louisiana Offshore Terminal Authority shall include, but are not necessarily limited to, those contained in 33 U.S.C. Sec. 1504(h)(2) and 33 U.S.C. Sec. 1508, except for those powers expressly reserved to the Governor under 33 U.S.C. Sec. 1502 (10) and Sec. 1508(b)(1) relative to the Governor's authority to approve, disapprove, or conditionally approve pending applications. All required notices from the U.S. Coast Guard or the secretary of the U.S. Department of Transportation under the Deepwater Port Act, shall continue to be sent directly to the Governor, whose office shall provide same to the Louisiana Offshore Terminal Authority.

SECTION 3: The rights, duties and responsibilities to be administered and supervised by the Louisiana Offshore Terminal Authority in connection with the Deepwater Port Act shall include, but shall not necessarily be limited to, the following:

A. Upon receipt from the Governor of an application made under the Deepwater Port Act for the construction and operation of a deepwater port or offshore terminal facility, the Louisiana Offshore Terminal Authority shall coordinate and supervise the review by the state of such application, including coordination with other necessary state agencies, including the Department of Environmental Quality, the Department of Wildlife and Fisheries, and the Department of Natural Resources. The review shall include all environmental impact statements submitted, the impact on the coastal environment, the impact on the inshore and offshore waters and fisheries of the state, the impact on navigation, examination of monitoring plans, and such other reviews as the Louisiana Offshore Terminal Authority may deem necessary to assure the protection of the state and its resources.

B. Formulation and implementation of any necessary environmental monitoring and security plans, in cooperation with the operator, federal agencies, and state agencies.

C. Coordination with other adjacent coastal states and any other states impacted by the construction and operation of a deepwater port facility.

D. Letting of necessary contracts in connection with environmental monitoring, security, and such other necessary services as may be required by the Louisiana Offshore Terminal Authority in connection with the application for, or construction and operation of, deepwater ports under the Deepwater Port Act. Such contracts shall be let in accordance with law, and specifically in accordance with the requirements of the Louisiana Offshore Terminal Authority implementing legislation, La. R.S. 34:3101, *et seq.*

E. Upon completing necessary reviews of an application for construction of a deepwater port facility, report its findings and recommendations to the Governor so as to allow the Governor adequate information upon which to exercise, in a timely manner, the Governor's authority under 33 U.S.C. Sec. 1508(b)(1) to approve, disapprove, or conditionally approve a pending application.

F. In accordance with the provisions of 33 U.S.C. Sec. 1504(h)(2), obtain compensation for any economic cost incurred by the state of Louisiana in fulfilling its duties and responsibilities in connection with the construction and operation of any deepwater port facility, by fixing and

collecting reasonable fees for the use of a deepwater port facility and for use of land-based facilities directly related to a deepwater port facility, subject to the approval of the secretary of the U.S. Department of Transportation.

SECTION 4: For the Louisiana Offshore Terminal Authority to carry out its responsibilities as ordered herein, subject to the availability of funding, the Louisiana Offshore Terminal Authority shall have the authority to establish an office with appropriate staff and facilities; to develop and implement an operational plan; to develop and implement a communications plan; to work with industry with regard to homeland security, safety, and hurricane-preparedness plans; to construct and implement a budget, including performance-based budgeting; to institute monitoring and reporting timelines and guidelines in compliance with the Deepwater Port Act and other applicable law; and generally to do and implement any other necessary and appropriate measures to allow the Louisiana Offshore Terminal Authority to function effectively, in accordance with law, and specifically in accordance with the provisions of La. R.S. 34:3101, *et seq.*

SECTION 5: All departments, boards, commissions, 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 this Order.

SECTION 6: This Order is effective upon signature and shall apply 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 22nd day of August, 2008.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Jay Dardenne  
Secretary of State  
0809#044

#### EXECUTIVE ORDER BJ 08-52

##### E-Rate Oversight Committee

WHEREAS, Hurricane Katrina and its aftermath, and Hurricane Rita caused unprecedented devastation and damage to the communities of south Louisiana, including its people, economy, infrastructure, natural resources and critical institutions;

WHEREAS, an unprecedented amount of up to one hundred thirty-two (\$132,000,000) million in federal E-Rate Hurricane Katrina Relief Funding was committed to the rebuilding of school and library technology infrastructures in these areas and offsetting the cost entities endured with the influx of displaced students;

WHEREAS, it is essential that the state of Louisiana continue to coordinate such resources to fulfill its obligation to provide oversight as outlined in FCC 05-178 in Section 1, Paragraph 51;

WHEREAS, the importance and magnitude of such coordination and oversight undertaking dictate that a single unit of government be charged with such a task;

WHEREAS, the unit must continue to be guided by a distinguished board which shall ensure that E-Rate funding dedicated to the Hurricane Katrina Relief is coordinated to the highest standards of integrity and quality; and

WHEREAS, the unit must continue to work across levels of governments, guided by the governor's vision and in support of local communities to develop and realize a comprehensive long-term vision for a rebuilt and renewed Louisiana;

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 Louisiana Broadband Advisory Council (hereafter "Council") is hereby authorized to continue to coordinate an E-Rate Oversight Committee (hereafter "Committee") within its Council to work under the guidance of the Universal Service Administrative Authority and the FCC.

SECTION 2: The duties of the Committee shall include, but are not limited to, the following:

A. Review and approve all applications filed by Louisiana schools and libraries that apply for the special Hurricane Katrina E-Rate Funding to ensure that the requests are cost effective, warranted, and necessary to rebuild the infrastructure to the same level of functionality as prior to August 28, 2005;

B. Review and approve all requests by Louisiana schools and libraries to adjust their National School Lunch Program data to reflect the influx of displaced students and library patrons; and

C. Provide assistance to the FCC and the Universal Service Administrative Authority by providing accurate data on the number of schools and libraries impacted by Hurricane Katrina and the extent to which those schools and libraries will need special E-Rate Hurricane Katrina Funding.

SECTION 3: The Committee shall submit a written comprehensive report quarterly to the governor and to the Council.

SECTION 4: The Committee shall be composed of a maximum of seven (7) members, who shall be appointed by, and serve at the pleasure of the governor, selected as follows:

A. Two (2) representatives of the Louisiana Department of Education;

B. One (1) representative of the Division of Administration;

C. One (1) representative of the State Library of Louisiana;

D. One (1) representative of the Louisiana Resource Center for Educators;

E. One (1) representative of the Louisiana Office of Telecommunications; and

F. One (1) representative of the Louisiana Office of State Purchasing.

SECTION 5: The chair of the Committee shall be selected by the governor. All other officers, if any, shall be elected by and from the membership of the Committee.

SECTION 6: The Committee shall meet at regularly scheduled meetings and at the call of the chair.

SECTION 7: Committee members shall not receive additional compensation or a per diem for serving on the Committee. However, such Committee members shall be entitled to reasonable and necessary travel expenses consistent with travel allowance for state classified employees as provided in the latest Policy and Procedure Memorandum PPM 49 and approved by the chair, if funding becomes available.

SECTION 8: Support staff, facilities, and resources for the Committee shall be provided by the Council.

SECTION 9: 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 with the Committee in implementing the provisions of this Order.

SECTION 10: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 22nd day of August, 2008.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Jay Dardenne  
Secretary of State  
0809#045

#### EXECUTIVE ORDER BJ 08-53

Louisiana Federal Property Assistance Agency

WHEREAS, Public Law 94-519, enacted on October 17, 1976, amended the Federal Property and Administrative Act of 1949, 40 U.S.C. 484., *et seq.*, to permit the donation of federal surplus personal property to the states, local government, eligible 501(c)(3) not-for-profit organizations, Small Business Administration 8A program participants, for public purposes, and for other purposes;

WHEREAS, the U.S. General Services Administration within the executive branch of the United States Government is the designated federal agency which allocates the surplus property among the states in a fair and equitable manner, pursuant to criteria, which are based on need and utilization;

WHEREAS, after the Administrator of U.S. General Services Administration transfers the surplus property to a designated state agency, the property is distributed by the state agency: 1) to public agencies for carrying out or promoting one or more public purposes, which includes but are not limited to, conservation, economic development, education, parks and recreation, public health and public safety; 2) to nonprofit educational or public health institutions or organizations, including medical institutions, hospitals, health clinics, schools, colleges, universities, schools for the mentally retarded or physically handicapped, child care centers, and certain radio and television stations;

and 3) Small Business Administration 8A program participants;

WHEREAS, before any property may be transferred to a state agency by the administrator of the U.S. General Services Administration, the state shall develop, according to state law, a detailed plan of operation, developed in conformity with federal law, which includes adequate assurance for the federal government that the state agency has the "necessary organizational and operational authority and capability, including staff, facilities, means and methods of financing, and procedures with respect to: accountability, internal and external audits, cooperative agreements, compliance and utilization reviews, equitable distribution and property disposal, determination of eligibility, and assistance through consultation with advisory bodies and public and private groups";

WHEREAS, a permanent, revised plan of operation must be submitted to the administrator of the U.S. General Services Administration for approval in order that the state and/or state program may continue to qualify under Public Law 94-519;

WHEREAS, in addition to the federal surplus personal property that may be transferred to the states pursuant to the Federal Property and Administrative Act of 1949, as amended, under 10 U.S.C. 2576 a, added by Public Law 104-181, the secretary of Defense may also transfer to federal and state agencies the personal property of the Department of Defense, including small arms and ammunition, which the secretary of Defense determines is excess to the needs of the Department of Defense, but suitable for use by state and federal agencies in law enforcement activities, such as counter-drug and counterterrorism actions; and

WHEREAS, the U.S. General Services Administration (GSA Fleet Management) within the executive branch of the United States Government is the designated federal agency which allows the sale of federal fleet turn-in vehicles to state government. Authority is granted under 41CFR 101-45.304-12. These vehicles will be resold to state and local government organizations, eligible 501(c)(3) not-for-profit organizations, and Small Business Administration 8A program participants for public and other purposes;

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

SECTION 1: The Federal Property Assistance Program shall continue to be known as the Louisiana Federal Property Assistance Agency (hereafter "Agency").

SECTION 2: The Agency shall submit a revised Plan of Operation to the administrator of the U.S. General Services Administration for approval so that the state and/or public agencies of the state of Louisiana may participate or continue to participate as donees under the Federal Property and Administrative Services Act of 1949, as amended.

SECTION 3: The Agency shall be responsible for carrying out the provisions of the Plan of Operation, as approved by the administrator of the U.S. General Services Administration, and the fixed price vehicle resale program, as prescribed by the GSA Fleet Management within the executive branch of the United States Government.

SECTION 4: The Agency shall be responsible for carrying out the provisions of the Plan of Operation, as approved by the administrator of the U.S. General Services Administration, and the counter-drug program, counter-terrorism and law enforcement activities, as prescribed by the secretary of Defense.

SECTION 5: The Agency shall be a unit within the Office of General Services, a section of the Division of Administration, within the executive branch, Office of the Governor. The agency assistant director shall report to the commissioner of administration, through the director of the Agency.

SECTION 6: The director of the Agency, acting through the agency assistant director, shall possess all power and authority necessary to exercise and perform all the functions, duties, and responsibilities cited in the revised Plan of Operation, so as to comply with all applicable state and federal laws and regulations.

SECTION 7: 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 with the Agency in implementing the provisions of this Order.

SECTION 8: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 22nd day of August, 2008.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Jay Dardenne  
Secretary of State  
0809#046

#### EXECUTIVE ORDER BJ 08-54

##### HUD Community Planning and Development Formula Grant Program

WHEREAS, the United States Department of Housing and Urban Development (hereafter "HUD") promulgated a final rule in the *Federal Register* dated January 5, 1994, 24 CFR Part 91, *et seq.*, which requires annual submission of a single consolidated plan, performance report, and funding application submission (hereafter "consolidated submission") for all HUD community planning and development formula grant programs, including the Community Development Block Grant Program, the Emergency Shelter Grants Program, the HOME Investment Partnership Program, and the Housing Opportunities for Persons With AIDS Program; and

WHEREAS, the state of Louisiana desires to comply with HUD's annual consolidated submission requirements;

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

SECTION 1: The Division of Administration, Office of Community Development, (hereafter "OCD") shall continue to coordinate and designate, within the parameters of state law, all departments, agencies, or other entities of the state of Louisiana which have primary responsibility for the implementation of any function associated with HUD community planning and development formula grant programs, which are required to participate in the annual consolidated submission and which are to complete research, analysis, or other activities necessary for the OCD to submit to HUD, on behalf of the state of Louisiana, the annual consolidated submission and any amendments or supplements thereto.

SECTION 2: All departments, agencies, and other entities referred to in Section 1 of this Order shall cooperate with and submit to the OCD in a timely manner all necessary or requested information and documentation needed for the state of Louisiana to comply with the HUD consolidated submission requirements.

SECTION 3: The OCD shall continue to annually submit to HUD a consolidated submission and any amendments or supplements thereto on behalf of the state of Louisiana.

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 with OCD in implementing the provisions of this Order.

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 22nd day of August, 2008.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Jay Dardenne  
Secretary of State  
0809#047

#### **EXECUTIVE ORDER BJ 08-55**

Commandeering of Property Use—Lake Cataouatche  
Levee Enlargement, Parish of Jefferson

WHEREAS, the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, *et seq.*, confers upon the governor of the state of Louisiana emergency powers to deal with, respond to, or recover from emergencies and disasters, including those caused by fire, flood, earthquakes, or other natural or man-made causes;

WHEREAS, Proclamation No. 48 KBB 2005, issued on August 26, 2005, declared a state of emergency for the state of Louisiana due to Hurricane Katrina's potential to cause severe storms, high winds, and torrential rain that

could cause flooding and damage to private property and public facilities, and threaten the safety and security of the citizens of Louisiana;

WHEREAS, Proclamation No. 48 KBB 2005 was extended by subsequent proclamations, the last of which is Proclamation No. 47 BJ 2008, due to the extreme damage caused by Hurricane Katrina and the continuation of emergency/disaster conditions in the most affected areas;

WHEREAS, pursuant to R.S. 29:724(D)(4), and subject to applicable requirements for compensation, the governor may commandeer or utilize any private property if he finds this necessary to cope with a disaster or emergency;

WHEREAS, at the request of the U.S. Army Corps of Engineers, Jefferson Parish, the Department of Transportation and Development, and the West Jefferson Levee District, and upon the concurrence of the Attorney General's Office, it was determined in Executive Order No. KBB 2006-40, issued on October 6, 2006, that the best interests of the citizens of the state would be served by commandeering the use of certain property in the parish of Jefferson for the construction of the West Bank and Vicinity, Hurricane Protection Project, Lake Cataouatche Levee Enlargement, Highway 90 to Lake Cataouatche Pump Station, B/L Sta., 156 + 48 to 308 + 00, as depicted in map file no. H-8-46509, drawings 1 through 3 of 3, dated September, 2006, attached to that Executive Order as Exhibit A;

WHEREAS, Executive Order No. KBB 2006-40 directed the commandeering of the use of certain property located in the parish of Jefferson, state of Louisiana, situated in a portion of Section 69, Township 13 South, Range 22 East; and Sections 4, 5, 9, 10, and 44, Township 14 South, Range 22 East, containing 209.0 acres labeled "Perpetual Levee Borrow, and Drainage Ditch Easement" and 1.2 acres labeled "Perpetual Road Easement" in map file no. H-8-46509, drawings 1 through 3 of 3, dated September, 2006, attached to that Executive Order as Exhibit A;

WHEREAS, the commandeering ordered by Executive Order No. KBB 2006-40 expressly required the U.S. Department of the Army to identify and compensate the owners of said property; and

WHEREAS, Such compensation has not yet been made by the U.S. Department of the Army to the property owners;

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

SECTION 1: Executive Order No. KBB 2006-40 is hereby renewed and continued in full force and effect until such time as the U.S. Department of the Army has completed the project or has identified and compensated the property owners for the taking and use of the property commandeered for the project.

SECTION 2: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 22nd day of August, 2008.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Jay Dardenne  
Secretary of State  
0809#048

#### EXECUTIVE ORDER BJ 08-56

Commandeering Property for Repair of the 17th Street Canal

WHEREAS, the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, *et seq.*, confers upon the governor of the state of Louisiana emergency powers to deal with, respond to, or recover from emergencies and disasters, including those caused by fire, flood, earthquakes, or other natural or man-made causes;

WHEREAS, Proclamation No. 48 KBB 2005, issued on August 26, 2005, declared a state of emergency for the state of Louisiana due to Hurricane Katrina's potential to cause severe storms, high winds, and torrential rain that could cause flooding and damage to private property and public facilities, and threaten the safety and security of the citizens of Louisiana;

WHEREAS, Proclamation No. 48 KBB 2005 was extended by subsequent proclamations, the last of which is Proclamation No. 47 BJ 2008, due to the extreme damage caused by Hurricane Katrina and the continuation of emergency/disaster conditions in the most affected areas;

WHEREAS, pursuant to R.S. 29:724(D)(4), and subject to applicable requirements for compensation, the governor may commandeer or utilize any private property if he finds this necessary to cope with a disaster or emergency;

WHEREAS, at the request of the U.S. Army Corps of Engineers, Jefferson Parish, and East Jefferson Levee District, and upon the recommendation of the Attorney General's Office, the Department of Transportation and Development, and the Division of Administration, State Land Office, it was determined in Executive Order No. KBB 2006-6, issued on February 10, 2006, that the best interests of the citizens of the state would be served by commandeering the use of certain property in the parish of Jefferson for the construction and repair of the 17th Street Canal, as further described below;

WHEREAS, Executive Order No. KBB 2006-6 directed the commandeering of the use of certain property located in the parish of Jefferson, state of Louisiana, situated in a portion of Section 121 and 122, Township 12 South, Range 11 East, and land extending north into Lake Pontchartrain, containing approximately 10.2 acres, as shown on the map attached as Exhibit A to that Executive Order, entitled "Lake Pontchartrain and Vicinity, New Orleans Plan, Emergency Restoration, 17 Street Canal Interim Closure Structure, Exhibit A" and dated January, 2006;

WHEREAS, the commandeering ordered by Executive Order No. KBB 2006-6 expressly required the

U.S. Department of the Army to identify and compensate the owners of said property; and

WHEREAS, Such compensation has not yet been made by the U.S. Department of the Army to the property owners;

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

SECTION 1: Executive Order No. KBB 2006-6 is hereby renewed and continued in full force and effect until such time as the U.S. Department of the Army has completed the project or has identified and compensated the property owners for the taking and use of the property commandeered for the project.

SECTION 2: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 22nd day of August, 2008.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Jay Dardenne  
Secretary of State  
0809#049

#### EXECUTIVE ORDER BJ 08-57

Commandeering of Property Use  
East of Harvey Floodwall—Phase 2B

WHEREAS, the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, *et seq.*, confers upon the governor of the state of Louisiana emergency powers to deal with, respond to, or recover from emergencies and disasters, including those caused by fire, flood, earthquakes, or other natural or man-made causes;

WHEREAS, Proclamation No. 48 KBB 2005, issued on August 26, 2005, declared a state of emergency for the state of Louisiana due to Hurricane Katrina's potential to cause severe storms, high winds, and torrential rain that could cause flooding and damage to private property and public facilities, and threaten the safety and security of the citizens of Louisiana;

WHEREAS, Proclamation No. 48 KBB 2005 was extended by subsequent proclamations, the last of which is Proclamation No. 47 BJ 2008, due to the extreme damage caused by Hurricane Katrina and the continuation of emergency/disaster conditions in the most affected areas;

WHEREAS, pursuant to R.S. 29:724(D)(4), and subject to applicable requirements for compensation, the governor may commandeer or utilize any private property if he finds this necessary to cope with a disaster or emergency;

WHEREAS, at the request of the U.S. Army Corps of Engineers, Jefferson Parish, the Department of Transportation and Development, and the West Jefferson Levee District, and upon the concurrence of the Attorney

General's Office, it was determined in Executive Order No. KBB 2007-5, issued on February 2, 2007, that the best interests of the citizens of the state would be served by commandeering the use of certain property in the parish of Jefferson for the construction of the West Bank and Vicinity, Hurricane Protection Project, West of Algiers, Canal, Contract 2B-Boomtown Casino to Hero Pumping Station, East of Harvey Canal Floodwall, File No. H-8-45681, drawings 1 through 5 of 5, dated November 1, 2006 attached to that Executive Order as Exhibit A and drawing 72A, dated January 23, 2007 attached to that Executive Order as Exhibit B;

WHEREAS, Executive Order No. KBB 2007-5 directed the commandeering of the use of certain property located in the parish of Jefferson, state of Louisiana, situated in a portion of Section 56, Township 14 South, Range 24 East; containing 22.63 acres and labeled "Limits of Required Right-of-Way" and "Staging Area" on the map attached to that Executive Order as Exhibit A, map file no. H-8-45681, drawings 1 through 5, dated November 1, 2006 and drawing 72A, dated January 23, 2007 attached to that Executive Order as Exhibit B;

WHEREAS, the commandeering ordered by Executive Order No. KBB 2007-5 expressly required the U.S. Department of the Army to identify and compensate the owners of said property; and

WHEREAS, Such compensation has not yet been made by the U.S. Department of the Army to the property owners;

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

SECTION 1: Executive Order No. KBB 2007-5 is hereby renewed and continued in full force and effect until such time as the U.S. Department of the Army has completed the project or has identified and compensated the property owners for the taking and use of the property commandeered for the project.

SECTION 2: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 22nd day of August, 2008.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Jay Dardenne  
Secretary of State  
0809#050

#### EXECUTIVE ORDER BJ 08-58

Commandeering of Property Use  
East of Harvey Canal Floodwall—Contract 1

WHEREAS, the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, *et*

*seq.*, confers upon the governor of the state of Louisiana emergency powers to deal with, respond to, or recover from emergencies and disasters, including those caused by fire, flood, earthquakes, or other natural or man-made causes;

WHEREAS, Proclamation No. 48 KBB 2005, issued on August 26, 2005, declared a state of emergency for the state of Louisiana due to Hurricane Katrina's potential to cause severe storms, high winds, and torrential rain that could cause flooding and damage to private property and public facilities, and threaten the safety and security of the citizens of Louisiana;

WHEREAS, Proclamation No. 48 KBB 2005 was extended by subsequent proclamations, the last of which is Proclamation No. 47 BJ 2008, due to the extreme damage caused by Hurricane Katrina and the continuation of emergency/disaster conditions in the most affected areas;

WHEREAS, pursuant to R.S. 29:724(D)(4), and subject to applicable requirements for compensation, the governor may commandeer or utilize any private property if he finds this necessary to cope with a disaster or emergency;

WHEREAS, at the request of the U.S. Army Corps of Engineers, Southeast Louisiana Flood Protection Authority West Bank, the Department of Transportation and Development, and West Jefferson Levee District, and upon the concurrence of the Attorney General's Office, it was determined in Executive Order No. KBB 2007-19, issued on September 24, 2007, that the best interests of the citizens of the state would be served by commandeering the use of certain property in the parish of Jefferson for the construction of the West Bank and Vicinity, New Orleans, Louisiana, Hurricane Protection Project, West of Algiers Canal, Contract 1 - Sector Gate to Boomtown Casino, East of Harvey Canal Floodwall, Jefferson Parish, Louisiana, Map File No. H-4-45741, drawings R-1A through R-6A of 29, dated August 2, 2007, attached to that Executive Order as Exhibit A;

WHEREAS, Executive Order No. KBB 2007-19 directed the commandeering of the use of certain property located in the parish of Jefferson, state of Louisiana, situated in a portion of Section 56, Township 14 South, Range 24 East; containing approximately 22 acres and labeled "Limits of Required Rights-of-Way" on the map attached to that Executive Order as Exhibit A, Map File No. H-4-45741, drawings R-1A through R-6A of 29, dated August 2, 2007;

WHEREAS, the commandeering ordered by Executive Order No. KBB 2007-19 expressly required the U.S. Department of the Army to identify and compensate the owners of said property; and

WHEREAS, Such compensation has not yet been made by the U.S. Department of the Army to the property owners;

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

SECTION 1: Executive Order No. KBB 2007-19 is hereby renewed and continued in full force and effect until such time as the U.S. Department of the Army has completed the project or has identified and compensated the property owners for the taking and use of the property commandeered for the project.

SECTION 2: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 22nd day of August, 2008.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Jay Dardenne  
Secretary of State  
0809#051

### EXECUTIVE ORDER BJ 08-59

#### Commandeering of Property Use—East of Harvey Canal Floodwall—Contract 2A

WHEREAS, the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, et seq., confers upon the governor of the state of Louisiana emergency powers to deal with, respond to, or recover from emergencies and disasters, including those caused by fire, flood, earthquakes, or other natural or man-made causes;

WHEREAS, Proclamation No. 48 KBB 2005, issued on August 26, 2005, declared a state of emergency for the state of Louisiana due to Hurricane Katrina's potential to cause severe storms, high winds, and torrential rain that could cause flooding and damage to private property and public facilities, and threaten the safety and security of the citizens of Louisiana;

WHEREAS, Proclamation No. 48 KBB 2005 was extended by subsequent proclamations, the last of which is Proclamation No. 47 BJ 2008, due to the extreme damage caused by Hurricane Katrina and the continuation of emergency/disaster conditions in the most affected areas;

WHEREAS, pursuant to R.S. 29:724(D)(4), and subject to applicable requirements for compensation, the governor may commandeer or utilize any private property if he finds this necessary to cope with a disaster or emergency;

WHEREAS, at the request of the U.S. Army Corps of Engineers, Southeast Louisiana Flood Protection Authority West Bank, the Department of Transportation and Development, and West Jefferson Levee District, and upon the concurrence of the Attorney General's Office, it was determined in Executive Order No. KBB 2007-20, issued on September 24, 2007, that the best interests of the citizens of the state would be served by commandeering the use of certain property in the parish of Jefferson for the construction of the West Bank and Vicinity, New Orleans, Louisiana, Hurricane Protection Project, West of Algiers Canal, Contract 2A - U.S. Minerals to Boomtown Casino, East of Harvey Canal Floodwall, Jefferson Parish, Louisiana, Map File No. H-4-46545, drawings 2 through 7 of 7, dated November 27, 2006, attached to that Executive Order as Exhibit A;

WHEREAS, Executive Order No. KBB 2007-20 directed the commandeering of the use of certain property

located in the parish of Jefferson, state of Louisiana, situated in a portion of Section 56, Township 14 South, Range 24 East; containing approximately 14.3 acres and labeled "Limits of Required Rights of Way" on the map attached to that Executive Order as Exhibit A, Map File No. H-4-46545, drawings 2 through 7 of 7, dated November 27, 2006;

WHEREAS, the commandeering ordered by Executive Order No. KBB 2007-20 expressly required the U.S. Department of the Army to identify and compensate the owners of said property; and

WHEREAS, Such compensation has not yet been made by the U.S. Department of the Army to the property owners;

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

SECTION 1: Executive Order No. KBB 2007-20 is hereby renewed and continued in full force and effect until such time as the U.S. Department of the Army has completed the project or has identified and compensated the property owners for the taking and use of the property commandeered for the project.

SECTION 2: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 22 day of August, 2008.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Jay Dardenne  
Secretary of State  
0809#052

### EXECUTIVE ORDER BJ 08-60

#### Commandeering of Property Use East of Harvey Canal Floodwall Contract 3A

WHEREAS, the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, et seq., confers upon the governor of the state of Louisiana emergency powers to deal with, respond to, or recover from emergencies and disasters, including those caused by fire, flood, earthquakes, or other natural or man-made causes;

WHEREAS, Proclamation No. 48 KBB 2005, issued on August 26, 2005, declared a state of emergency for the state of Louisiana due to Hurricane Katrina's potential to cause severe storms, high winds, and torrential rain that could cause flooding and damage to private property and public facilities, and threaten the safety and security of the citizens of Louisiana;

WHEREAS, Proclamation No. 48 KBB 2005 was extended by subsequent proclamations, the last of which is Proclamation No. 47 BJ 2008, due to the extreme damage caused by Hurricane Katrina and the continuation of emergency/disaster conditions in the most affected areas;

**EXECUTIVE ORDER BJ 08-61**

Inmate Labor for Construction of Animal Shelter  
B.B. "Sixty" Rayburn Correctional Center

WHEREAS, pursuant to R.S. 29:724(D)(4), and subject to applicable requirements for compensation, the governor may commandeer or utilize any private property if he finds this necessary to cope with a disaster or emergency;

WHEREAS, at the request of the U.S. Army Corps of Engineers, Southeast Louisiana Flood Protection Authority West Bank, the Department of Transportation and Development, and West Jefferson Levee District, and upon the concurrence of the Attorney General's Office, it was determined in Executive Order No. KBB 2007-21, issued on September 24, 2007, that the best interests of the citizens of the state would be served by commandeering the use of certain property in the parish of Jefferson for the construction of the West Bank and Vicinity, New Orleans, Louisiana, Hurricane Protection Project, West of Algiers Canal, Contract 3A - Hero Pumping Station to Algiers Canal, East of Harvey Canal Floodwall, Jefferson Parish, Louisiana, Map File No. H-4-45691, drawing 1 of 3, dated June 25, 2007 attached to that Executive Order as Exhibit A;

WHEREAS, Executive Order No. KBB 2007-21 directed the commandeering of the use of certain property located in the parish of Jefferson, state of Louisiana, situated in a portion of Section 94, Township 14 South, and Range 24 East; containing approximately 1.1 acres and labeled "Limits of Required Rights-of-Way" on the map attached to that Executive Order as Exhibit A, Map File No. H-4-45691, drawing 1 of 3, dated June 25, 2007;

WHEREAS, the commandeering ordered by Executive Order No. KBB 2007-21 expressly required the U.S. Department of the Army to identify and compensate the owners of said property; and

WHEREAS, Such compensation has not yet been made by the U.S. Department of the Army to the property owners;

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

SECTION 1: Executive Order No. KBB 2007-21 is hereby renewed and continued in full force and effect until such time as the U.S. Department of the Army has completed the project or has identified and compensated the property owners for the taking and use of the property commandeered for the project.

SECTION 2: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 22nd day of August, 2008.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Jay Dardenne  
Secretary of State  
0809#053

WHEREAS, R.S. 15:832.1(A)(1) provides that the governor, upon determining that it is appropriate and in furtherance of the rehabilitation and training of inmates, may, by executive order, authorize the use of inmates of a penal or correctional facility owned by the state of Louisiana for necessary labor in connection with a particular capital construction project on the grounds of the facility;

WHEREAS, the Department of Public Safety and Corrections, Corrections Services, seeks to utilize inmate labor to assist in the construction of a permanent animal holding facility on the grounds of the B.B. "Sixty" Rayburn Correctional Center in Angie, Louisiana; and

WHEREAS, the Department of Pubic Safety and Corrections has advised that the estimated cost of construction is below the maximum specified in R.S. 15:832.1(A)(1).

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

SECTION 1: In furtherance of the goals of the state of Louisiana of rehabilitating inmates, reducing recidivism, and reintegrating inmates into society, inmate labor is hereby authorized to complete construction of a permanent animal holding facility and an emergency animal shelter on the grounds of the B.B. "Sixty" Rayburn Correctional Center in Angie, Louisiana.

SECTION 2: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 22nd day of August, 2008.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Jay Dardenne  
Secretary of State  
0809#054

**EXECUTIVE ORDER BJ 08-62**

Louisiana Historical Records Advisory Board

WHEREAS, the evaluation and re-evaluation for historical purposes of the experiences of our nation, states, communities, and societal groups are dependent on proper documentation;

WHEREAS, the National Historical Publications and Records Commission (hereafter "National Commission") was created pursuant to 44 U.S.C. § 2501, *et seq.*, to

cooperate with, assist, and encourage federal, state, and local agencies and non-governmental institutions, societies, and individuals in collecting, preserving, editing, and publishing documents, including the papers of outstanding citizens of the United States, that may be important for an in-depth understanding and appreciation of the history of the United States;

WHEREAS, through a program established under 44 U.S.C. § 2504, based on the recommendation of the National Commission, state and local agencies, nonprofit organizations, institutions, and individuals may receive grants from the Archivist of the United States for the collection, description, preservation, compilation, publication, and dissemination of records, photographs, and other materials significant to the history of the United States;

WHEREAS, as a prerequisite to a state's participation in the National Commission's grant program, the regulations of the entity which governs the National Commission, the National Archives and Records Administration, 44 U.S.C. § 2102, *et seq.*, require the state to establish a historical records advisory board, 36 C.F.R. Part 1206; and

WHEREAS, the interests of the citizens of the state of Louisiana would be best served by the continuation of Louisiana Historical Records Advisory Board in order to coordinate and facilitate the efforts of the historical records repositories and other informational agencies within the state in the collection, preservation, and publication of the important historical documents of this state;

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

SECTION 1: The Louisiana Historical Records Advisory Board (hereafter "Board") is reestablished within the division of archives, records management, and history, Department of State (hereafter "State Archives").

SECTION 2: The duties of the Board include, but are not limited to, the following:

A. Sponsoring and publishing surveys of the conditions and needs of historical records in this state;

B. Soliciting and/or developing proposals for historical records projects to be undertaken by institutions in this state or by the Board with grants from the National Commission;

C. Reviewing historical records projects proposed by institutions in this state and making recommendations thereon to the National Commission;

D. Developing, revising, and submitting the state's priorities for historical records projects to the National Commission in accordance with the guidelines developed by the National Commission;

E. Promoting an understanding of the role and the value of historical records and record-keeping;

F. Acting in an advisory capacity to State Archives and other statewide archival or records agencies; and

G. Reviewing, through reports and otherwise, the operation and progress of projects throughout the state which have been financed, in whole or in part, by grants from the National Commission.

SECTION 3: The Board shall consist of thirteen (13) members who shall be appointed by, and serve at the

pleasure of, the governor. As much as practicable, Board members shall be broadly representative of public and private archives, records offices, and research institutions and organizations in the state. The membership of the Board shall be selected as follows:

A. The director of State Archives, or the director's designee;

B. Eight (8) members with expertise in one or more of the following fields:

1. Administration of government records;
2. Historical records; and
3. Archives;

C. One (1) representative of the Clerk of Court Association; and

D. Three (3) at-large members.

SECTION 4: The director of State Archives shall chair the Board and serve as the state historical records coordinator (hereafter "coordinator"). On the recommendation of the coordinator, a deputy state historical records coordinator (hereafter "deputy coordinator") shall be appointed by, and serve at the pleasure of, the governor. When practicable, the deputy coordinator shall be selected from the membership of the Board or the staff of the coordinator's agency. The membership of the Board shall elect all other officers.

SECTION 5: The duties of the coordinator shall include, but are not limited to, the following:

A. Preparing a comprehensive written report on the Board's activities to be submitted annually to the governor and the National Commission detailing the Board's activities during the previous year, assessing the Board's ongoing planning objectives, and providing all additional data and/or information necessary to comply with the National Commission's Guidelines for State Historical Records Coordinators and State Historical Records Advisory Boards (hereafter "the National Commission's guidelines");

B. Coordinating the Board's efforts to assess and monitor the conditions and needs of historical records in the state;

C. Serving as project director or providing administrative oversight for any grant projects carried out by the Board;

D. Assisting the Board in developing and sustaining statewide strategic planning, including the development and maintenance of a statement of priorities for historical records programs in the state, identifying particular priorities for board action and priorities for grant funding;

E. Soliciting and receiving applications for National Commission-funded grant projects, managing the grant review process at the state level, and forwarding rating sheets and summary recommendations to the National Commission;

F. Providing information about National Commission grants and Board activities and priorities to institutions and individuals within the state;

G. Serving as a liaison between the Board and the National Commission, and as the initial point of contact for state and local officials and agencies on matters relating to records grants;

H. Reviewing, upon request by the National Commission and when practicable, grant proposals from

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**Governor’s Advisory Council on Safe and Drug-Free Schools and Communities**

other state historical records boards and applicants from outside of the state;

I. Fostering cooperation and communication among the historical records repositories, other information agencies within the state, and the National Commission; and

J. Participating with other state historical records coordinators in regional and national meetings to discuss the National Commission’s work and the work of the state boards, and to seek solutions to common problems.

SECTION 6: The duties of the deputy coordinator shall include, but are not limited to, assisting the coordinator in executing the coordinator’s duties as defined in Section 5 of this Order, and serving as an acting coordinator at the coordinator’s discretion or upon the coordinator’s resignation or inability to serve.

SECTION 7: The Board shall comply with the National Commission’s guidelines.

SECTION 8: The Board shall meet at regularly scheduled intervals and at the call of the chair.

SECTION 9: Support staff, facilities, and resources for the Board shall be provided by State Archives, Department of State.

**SECTION 10:**

A. Board members shall not receive additional compensation or a per diem from the Office of the Governor for serving on the Board.

B. Board members who are employees or elected public officials of the state of Louisiana or a political subdivision thereof may seek reimbursement of travel expenses, in accordance with PPM 49, from their employing and/or elected department, agency and/or office.

C. Board members who are also members of the Louisiana Legislature may seek a per diem from the Louisiana State Senate or House of Representatives, as appropriate, for their attendance.

SECTION 11: 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 with the Council in implementing the provisions of this Order.

SECTION 12: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 22nd day of August, 2008.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Jay Dardenne  
Secretary of State  
0809#055

WHEREAS, the use of illicit drugs and firearms remains a serious and intractable problem in our society;

WHEREAS, the United States of America has the highest rate of teenage drug use of any industrialized nation;

WHEREAS, the tragic consequences of drug use and alcohol abuse by students are felt not only by students and their families, but also by their communities and the nation;

WHEREAS, the U.S. Congress finds that one of the National Education Goals is to provide that every school in the United States of America will be free of drugs, violence, and the unauthorized presence of firearms and alcohol, and will offer a disciplined environment conducive to learning;

WHEREAS, the U.S. Congress passed the Elementary and Secondary Education Act of 1965 as generally amended by the No Child Left Behind Act of 2001, which provides state funding in order to mobilize schools and local organizations in communities throughout the nation in a coordinated program of prevention, to bring closer the goal of a drug-free generation, and a drug-free society; and

WHEREAS, it is in the best interests of the citizens of the state of Louisiana to continue the coordinated effort of compliance with the Elementary and Secondary Education Act of 1965 as generally amended by the No Child Left Behind Act of 2001, through the continuance of the Governor’s Advisory Council on Safe and Drug-Free Schools and Communities;

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

SECTION 1: The Governor’s Advisory Council on Safe and Drug-Free Schools and Communities (hereafter “Council”) is hereby reestablished and recreated within the executive department, Office of Safe and Drug Free Schools, Office of the Governor.

SECTION 2: The duties of the Council shall include, but are not limited to, the following:

A. Assisting in setting priorities for the Safe and Drug-Free Schools and Communities Act program for the state of Louisiana;

B. Contributing to the design of, and requests for, proposals and/or grants;

C. Reviewing and making recommendations on proposals and/or grants; and

D. Recommending dispositions on contracts in the case of non-complying agencies.

SECTION 3: The Council shall be composed of thirteen (13) at-large members, who shall be appointed by, and serve at the pleasure of, the governor. The governor shall appoint the chair of the Council. All other officers, if any, shall be selected by the members of the Council from the membership.

SECTION 4:

A. Council members shall not receive additional compensation or a per diem from the Office of the Governor for serving on the Council.

B. Council members who are employees or elected public officials of the state of Louisiana or a political subdivision thereof may seek reimbursement of travel expenses, in accordance with PPM 49, from their employing and/or elected department, agency and/or office.

C. Council members who are also members of the Louisiana Legislature may seek a per diem from the Louisiana State Senate or House of Representatives, as appropriate, for their attendance.

SECTION 5: Support staff, facilities, and resources for the Council shall be provided by the Office of Safe and Drug-Free Schools, Office of the Governor.

SECTION 6: 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 with the Council in implementing the provisions of this Order.

SECTION 7: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 22nd day of August, 2008.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Jay Dardenne  
Secretary of State  
0809#056

**EXECUTIVE ORDER BJ 08-64**

**Rules and Policies on Leave for Unclassified Service**

WHEREAS, no permanent rules or policies on annual, compensatory, sick, special, military, and other leave exist for certain officers and employees who are in the unclassified service of the state;

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

SECTION 1: Applicability:

A. The rules and policies established by this Order shall be applicable to all officers and employees in the unclassified service of the executive branch of the state of Louisiana with the exception of elected officials and their officers and employees, and the officers and employees of a system authorized by the Louisiana Constitution or legislative act to manage and supervise its own system. Elected officials of the executive branch may adopt the rules and policies set forth in this Order to govern the unclassified officers and employees within their department.

B. Nothing in this Order shall be applied in a manner which violates, or is contrary to, the Fair Labor Standards Act (hereafter "FLSA"), the Family and Medical Leave Act, or any other applicable federal or state law, rule, or regulation.

SECTION 2: Definitions:

Unless the context of this Order clearly indicates otherwise, the words and terms used in this Order shall be defined as follows:

A. "Annual leave" means leave with pay granted to an officer or employee for the purpose of rehabilitation, restoration, or maintenance of work efficiency, or the transaction of personal affairs.

B. "Appointing authority" means the agency, department, board, or commission, or the officers and employees thereof, authorized by statute or lawfully delegated authority to make appointments to positions in state service.

C. "Compensatory leave" means time credited for hours worked outside the regularly assigned work schedule.

D. "Continuing position" means an office or position of employment with the state which reasonably can be expected to continue for more than one (1) calendar year or twelve (12) consecutive months.

E. "Educational leave" means leave that may be granted by an appointing authority to an officer or employee for a limited educational purpose in accordance with the uniform rules developed by the commissioner of administration. "Educational leave with pay" is a subclass of educational leave and is for the purpose of attending an accredited educational institution to receive formalized training which will materially assist the officer or employee in performing the type of work performed by the officer or employee's department.

F. "Duty for military purposes" means the performance of continuous and uninterrupted military duty on a voluntary or involuntary basis and includes active duty, active duty for training, initial active duty for training, full-time National Guard duty, annual training, and inactive duty for training (weekend drills).

G. "Intermittent employee" means a person employed in state service who is not hired to work on a regularly scheduled basis.

H. "Leave without pay" and/or "leave of absence without pay" means a period of leave or time off from work granted by the appointing authority, or the appointing authority's designee, for which the officer or employee receives no pay.

I. "Overtime hour" means an hour worked at the direction of the appointing authority, or the appointing authority's designee, by an unclassified officer or employee who is serving in a position which earns compensatory leave:

1. On a day which is observed as a holiday in the department and area of the officer or employee's employment and falls on a day within the workweek, or is observed as a designated holiday in lieu of a regular holiday observed in the department;

2. In excess of the regular duty hours in a regularly scheduled workday;

3. In excess of the regular duty hours in a regularly scheduled workweek;

4. In excess of forty (40) hours worked during any regularly recurring and continuous seven (7) day calendar work period where excessive hours are systematically scheduled;

5. In excess of eighty (80) hours worked during any regularly recurring and continuous fourteen (14) day calendar work period where excessive hours are systematically scheduled;

6. In excess of the hours worked in a regularly established, continuous, and regularly recurring work period where hours average forty (40) hours per week, regardless of the manner in which scheduled; or

7. For the hours an officer or employee works on a day in which a department or division thereof is closed due to an emergency, within the meaning of R.S. 1:55(B)(5).

J. "Regular tour of duty" means an established schedule of work hours and days recurring regularly on a weekly, biweekly, or monthly basis for full-time or part-time unclassified officers or employees.

K. "Seasonal employee" means a person employed on a non-continuous basis for a recognized peak work load project.

L. "Sick leave" means leave with pay granted to an officer or employee who is unable to perform their usual duties and responsibilities due to illness, injury, or other disability, or when the officer or employee requires medical, dental, or optical consultation or treatment.

M. "State service" means employment in the executive branch of state government, including state supported schools, agencies and universities; public parish school systems; public student employment; membership on a public board or commission; and employment in the legislative and judicial branches. To constitute state service, the service or employment must have been performed for a Louisiana public entity. Contract service does not constitute state service.

N. "Temporary employee" means any person, other than an unclassified appointee, who is continuously employed in the unclassified service of the executive branch for a period which does not exceed and is not reasonably expected to exceed one (1) year or twelve (12) consecutive calendar months.

O. "Unclassified appointee," a subclass of officers and employees in the unclassified service of the executive branch, means certain unclassified officers who are appointed 1) by the governor to serve on the governor's executive staff, the governor's cabinet, and the executive staff of the governor's cabinet, or to serve as the head of a particular agency; 2) by a cabinet member to serve on the cabinet member's executive staff; 3) by the superintendent of the Department of Education to serve on the superintendent's executive staff; 4) by an elected official in the executive branch who has adopted the rules and policies set forth in this Order, to serve on the elected official's executive staff; or 5) by the secretary of the Department of Economic Development to serve in the unclassified service in the Office of Business Development. An unclassified appointee shall be on duty and available to serve and in contact with their appointing authority throughout the term of their appointment except when on leave.

P. "Unclassified service" means those positions of state service as defined in Article X, Sections 2 and 42 of the

Louisiana Constitution of 1974, which are not positions in the classified service.

#### SECTION 3: Full-time Employees:

For each full-time unclassified officer or employee, each appointing authority shall establish administrative work weeks of not less than forty (40) hours per week.

#### SECTION 4: Granting Leave:

A. At the discretion of their appointing authority, or the appointing authority's designee, unclassified officers and employees may be granted time off for vacations, illnesses, and emergencies.

B. At the discretion of their appointing authority, or the appointing authority's designee, an unclassified officer or employee may, for disability purposes, be granted annual leave, leave without pay, or sick leave.

#### SECTION 5: Earning of Annual and Sick Leave:

A. Annual and sick leave shall not be earned by the following persons:

1. Members of boards, commissions, or authorities;

2. Student employees, as defined under Civil Service Rules;

3. Temporary, intermittent, or seasonal employees; and

4. Part-time employees of the executive department, Office of the Governor.

B. The earning of annual and sick leave shall be based on the equivalent of years of full time state service and shall be credited at the end of each calendar month, or at the end of each regular pay period, in accordance with the following general schedule:

1. Less than three (3) years of service, at the rate of .0461 hour of annual leave and .0461 hour of sick leave for each hour of regular duty;

2. Three (3) or more years but less than five (5) years of service, at the rate of .0576 hour of annual leave and .0576 hour of sick leave for each hour of regular duty;

3. Five (5) or more years but less than ten (10) years of service, at the rate of .0692 hour of annual leave and .0692 hour of sick leave for each hour of regular duty;

4. Ten (10) or more years but less than fifteen (15) years of service, at the rate of .0807 hour of annual leave and .0807 hour of sick leave for each hour of regular duty; and

5. Fifteen (15) or more years of service, at the rate of .0923 hour of annual leave and .0923 hour of sick leave for each hour of regular duty.

For purposes of this Section, an unclassified appointee shall only accrue sick and annual leave on the basis of a forty (40) hour work week. Unclassified appointees shall earn annual and sick leave based on their equivalent years of full-time state service in accordance with the following general schedule.

1. Less than three (3) years of service, at the rate of twelve (12) days per year each for annual and sick leave;

2. Three (3) or more years but less than five (5) years of service, at the rate of fifteen (15) days per year each for annual and sick leave;

3. Five (5) or more years but less than ten (10) years of service, at the rate of eighteen (18) days per year each for annual and sick leave;

4. Ten (10) or more years but less than fifteen (15) years of service, at the rate of twenty-one (21) days per year each for annual and sick leave; and

5. Fifteen (15) or more years of service, at the rate of twenty-four (24) days per year each for annual and sick leave.

For purposes of this Section, contract service does not constitute either fulltime or part-time state service and cannot be used to determine, and has no effect upon, the rate at which annual leave and sick leave is earned by, accrued by, or credited to a full-time or part-time officer or employee in unclassified state service.

C. No unclassified officer or employee shall be credited with annual or sick leave:

1. For any overtime hour(s);

2. For any hour(s) of leave without pay, except as set forth in Section 17 of this Order;

3. For any hour(s) of on-call status outside the officer or employee's regular duty hour(s);

4. For any hour(s) of travel or other activity outside the officer or employee's regular duty hours; or

5. For any hour(s) of a holiday or other non-work day which occurs while on leave without pay, except as set forth in Section 17 of this Order.

SECTION 6: Carrying Annual and Sick Leave Forward:

Accrued unused annual and sick leave earned by an unclassified officer or employee shall be carried forward to succeeding calendar years without limitation.

SECTION 7: Use of Annual Leave:

A. An unclassified officer or employee shall apply for use of annual leave, but it may be used only with the approval of the appointing authority, or the appointing authority's designee.

B. An unclassified officer or employee shall apply for use of, and use, annual leave, compensatory leave, or leave without pay when unavailable to serve their appointing authority as a result of voluntary or involuntary conditions, such as personal vacations or trips unrelated to the officer or employee's duties; performing political activities during regular tour of duty hours; or performing for compensation non-appointment related activities, duties, or work during regular tour of duty hours.

C. Annual leave shall not be charged for non-work days and/or non-regular tour of duty hours.

D. The minimum charge to annual leave records shall be in increments of not less than one-tenth (.1) of an hour, or six (6) minutes.

E. An appointing authority, or the appointing authority's designee, may require an unclassified officer or employee to use their accrued annual leave whenever such an action is determined by the appointing authority, or the appointing authority's designee, to be in the best interest of the department.

When such an instance occurs, no unclassified officer or employee shall be required to reduce their accrued annual leave to less than two hundred forty (240) hours except:

1. When granted leave without pay, but subject to the military leave provision of Section 17 of this Order; or

2. When the absence from work is due to a condition covered by the Family and Medical Leave Act.

SECTION 8: Use of Sick Leave:

A. Sick leave with pay shall be used by an unclassified officer or employee who has accrued sick leave, when an illness or injury prevents the officer or employee from reporting to duty, or when medical, dental, or optical consultation or treatment is attended. Nonetheless, an unclassified appointee shall apply for use of, or use, sick leave when the appointee is unavailable or mentally or physically unable to serve their appointing authority as a result of voluntary or involuntary conditions.

B. A medical certificate is not required for an unclassified officer or employee to use accrued sick leave, but the appointing authority, or the appointing authority's designee, has discretion to require such a certificate as justification for an absence.

C. Sick leave shall not be charged for non-work days, or for non-regular tour of duty hours.

D. The minimum charge to sick leave records shall be in increments of not less than one-tenth (.1) of an hour, or six (6) minutes.

E. Sick leave with pay shall only be granted after it has been accrued by an unclassified officer or employee. Sick leave with pay shall not be advanced.

F. An appointing authority, or the appointing authority's designee, has discretion to place an unclassified officer or employee on sick leave after an officer or employee asserts the need to be absent from work due to an injury or illness.

SECTION 9: Transfer of Annual and Sick Leave:

A. A classified or unclassified officer or employee shall have all accrued annual and sick leave credited to them when the officer or employee transfers without a break in state service into a position covered by this Order.

B. An officer or employee shall have all accumulated annual and sick leave, to the extent that it was earned, credited to them when the officer or employee transfers without a break in service from a department not covered by this Order into a department covered by this Order.

C. When an unclassified officer or employee transfers without a break in service to a position covered by other leave rules of the state, the officer or employee's accrued annual and sick leave shall be transferred to the new employing state department or agency. The new employing department or agency shall either hold the annual and sick leave in abeyance or integrate the leave into its own system. The officer or employee's accumulated leave shall not be reduced during such integration.

SECTION 10: Disbursement of Accrued Annual Leave Upon Separation:

A. Upon the resignation, death, removal, or other final termination from state service of an unclassified officer or employee, the officer or employee's accrued annual leave shall be paid in a lump sum, up to a maximum of three hundred (300) hours, disregarding any final fraction of an hour. The payment shall be computed as follows:

1. When the officer or employee is paid on an hourly basis, the regular hourly rate that the officer or employee received at the time of termination from state service shall be multiplied by the number of hours of their accrued annual leave, which number is not to exceed three hundred (300) hours; or

2. When the officer or employee is paid on other than an hourly basis, the officer or employee's hourly rate shall be determined by converting the salary the officer or employee received at the time of termination from service into a working hourly rate. The converted hourly rate shall be multiplied by the number of hours of their accrued annual leave, which number is not to exceed three hundred (300) hours.

B. An unclassified officer or employee who is paid for accrued annual leave upon termination from service and who is subsequently re-employed in a leave-earning classified or unclassified position shall reimburse the state service, through the employing agency, for the number of hours the officer or employee was paid which exceeded the number of work hours that transpired during the officer or employee's break from state service. In turn, the officer or employee shall receive a credit for the number of hours of annual leave for which the officer or employee made reimbursement to state service.

**SECTION 11: Disbursement of Accrued Sick Leave Upon Separation:**

An unclassified officer or employee shall not receive payment, directly or in kind, for any accrued sick leave remaining at the time of their termination from unclassified service.

**SECTION 12: Continuance of Annual and Sick Leave:**

An unclassified officer or employee shall receive credit for all accrued unpaid annual leave and all unused sick leave upon re-employment by the state in the unclassified service within a period of five (5) years from date of their termination from state service if the officer or employee's re-employment occurs during the effective period of this Order.

**SECTION 13: Compensatory Leave:**

A. Compensatory leave shall not be earned by the following persons:

1. Unclassified appointees;
2. Student employees, as defined under the Civil Service Rules;
3. Temporary, intermittent, or seasonal employees;
4. Members of boards, commissions, or authorities;
5. The executive director or equivalent chief administrative officer of all boards, commissions, and authorities operating within the executive branch who are appointed by a board, commission, or authority; and
6. Other officers of the state who are appointed by the governor, including members of boards, commissions, and/or authorities; and
7. Part-time employees of the executive department, Office of the Governor.

B. Compensatory leave may be earned when an appointing authority, or the appointing authority's designee, requires an unclassified officer or employee in a compensatory leave earning position to work on a holiday or at a time that the officer or employee is not regularly required to be on duty. At the discretion of the appointing authority, compensatory leave may be granted for such overtime hours worked outside the regularly assigned work schedule or on holidays. However, officers or employees

exempt from the FLSA shall be compensated for such overtime in accordance with the FLSA.

C. No unclassified officer or employee who sets his own work schedule shall be eligible to earn compensatory leave. However, for overtime work which the appointing authority judges to be extraordinary and which the appointing authority closely monitors, the appointing authority may grant compensatory leave to such an unclassified officer or employee.

D. If an appointing authority permits the earning of compensatory leave to an FLSA-exempt unclassified officer or employee, then the amount of such leave shall be equal to, and not in excess of, the number of extra hours such an officer or employee is required to work.

E. When earned, compensatory leave shall be promptly credited to the unclassified officer or employee and, upon the approval of the appointing authority or the appointing authority's designee, it may be used by the officer or employee at a future time.

**SECTION 14: Use and Disbursement of Compensatory Leave While in Service:**

A. An unclassified officer or employee who is not exempt from the FLSA shall be paid in cash for any overtime hours worked in excess of the maximum balance allowed by the FLSA.

B. At the discretion of the appointing authority, an unclassified officer or employee may be paid in cash for any compensatory leave earned at the hour for hour rate in excess of three hundred sixty (360) hours. However, an appointing authority, with approval of the commissioner of administration, may authorize cash payments for any compensatory hours earned by officers or employees holding non-management disaster recovery related positions.

C. An appointing authority may require an unclassified officer or employee to use their earned compensatory leave at any time.

**SECTION 15: Disbursement of Accrued Compensatory Leave Upon Separation:**

A. When an unclassified officer or employee transfers without a break in service to another department within state service, at the discretion of the new appointing authority, the new department may credit accrued compensatory leave to the transferring officer or employee.

B. When the unclassified officer or employee, who is not exempt from the FLSA, separates from state service or transfers from the department in which the officer or employee earned compensatory leave to a department not crediting the officer or employee with the accrued balance of compensatory leave, the accrued compensatory leave shall be paid at the higher of the following rates:

1. The average regular rate of pay received by the officer or employee during the last three (3) years of his or her employment; or
2. The final regular rate of pay received by the officer or employee.

C. When an unclassified officer or employee, who is exempt from the FLSA, separates from state service or transfers from the department in which the officer or employee earned compensatory leave to a department not crediting the officer or employee with the accrued balance of compensatory leave, the accrued compensatory leave, if paid, shall be paid at the higher of the following rates:

1. The average regular rate of pay received by the officer or employee during the last three (3) years of his or her employment; or

2. The final regular rate of pay received by the officer or employee.

#### SECTION 16: Special Leave:

A. An unclassified officer or employee who is serving in a position that earns annual and sick leave shall be given time off, without loss of pay, annual leave, or sick leave when:

1. Performing state or federal grand or petit jury duty;

2. Appearing as a summoned witness before a court, grand jury, or other public body or commission;

3. Performing emergency civilian duty in relation to national defense;

4. Voting in a primary, general, or special election which falls on the officer or employee's scheduled work day, provided not more than two (2) hours of leave shall be allowed an officer or employee to vote in the parish of employment, and not more than one (1) day of leave shall be allowed an officer or employee to vote in another parish;

5. Participating in a state civil service examination on a regular work day, or taking a required examination pertinent to the officer or employee's state employment before a state licensing board;

6. The appointing authority determines an act of God prevents the performance of the duties of the officer or employee;

7. The appointing authority determines that, due to local conditions or celebrations, it is impracticable for the officer or employee to work in the locality;

8. The officer or employee is ordered to report for a pre-induction physical examination incident to possible entry into the armed forces of the United States;

9. The officer or employee is a member of the National Guard and is ordered to active duty incidental to a local emergency, an act of God, a civil or criminal insurrection, a civil or criminal disobedience, or a similar occurrence of an extraordinary and emergency nature which threatens or affects the peace or property of the people of the state of Louisiana or the United States;

10. The officer or employee is engaged in the representation of a pro-bono client in a civil or criminal proceeding pursuant to an order of a court of competent jurisdiction;

11. The officer or employee is a current member of Civil Air Patrol and, incident to such membership, is ordered to perform duty with troops or participate in field exercises or training, except that such leave shall not exceed fifteen (15) working days in any one (1) calendar year and shall not be used for unit meetings or training conducted during such meetings.

B. At the discretion of their appointing authority, an unclassified officer or employee who is not serving in a position which earns annual or sick leave, but who is regularly employed by the state of Louisiana in the executive branch within the meaning of R.S. 23:965(B) and who is called to serve or is serving on a state or federal grand or petit jury during regular tour of duty hours, may, in conjunction with the provisions of R.S. 23:965(B), be

granted a leave of absence without loss of pay or use of accrued leave for a period of up to twelve (12) days per year.

#### SECTION 17: Military Leave:

A. An unclassified officer or employee serving in a position that earns annual and sick leave who is a member of a reserve component of the armed forces of the United States and called to duty for military purposes, or who is a member of a National Guard unit called to active duty as a result of a non-local or nonstate emergency, shall be granted a leave of absence from a state position without loss of pay or deduction of leave for a period not to exceed fifteen (15) working days per calendar year (hereafter "military leave with pay"). In addition, an appointing authority may grant annual leave, compensatory leave, leave without pay, or any combination thereof, for a period in excess of fifteen (15) working days per calendar year, in accordance with this Order and/or as required by state and/or federal law.

B. An unclassified officer or employee who is a member of a reserve component of the armed forces of the United States or a National Guard unit, ordered and/or called to duty for military purposes, shall give prompt notice of the duty to their appointing authority, or the appointing authority's designee.

#### SECTION 18: Other Leave:

An unclassified officer or employee serving in a position that earns annual and sick leave may be eligible to use the following additional types of leave:

##### A. Optional Leave with Pay:

An unclassified officer or employee who is absent from work due to a disability for which the officer or employee is entitled to receive worker's compensation benefits, may use accrued sick or annual leave to receive combined leave and worker's compensation payments equal to, and, in an amount not to exceed, the officer or employee's regular salary.

##### B. Law Enforcement Disability Leave:

When an unclassified officer or employee in law enforcement becomes disabled while in the performance of a duty of a hazardous nature which results in their being unable to perform their usual or normal duties, the disabled officer or employee's appointing authority may, with the approval of the commissioner of administration, grant the disabled officer or employee a leave of absence with full pay during the period of such disability without charge against accrued sick or annual leave, provided the officer or employee pays to the employing department all amounts of weekly worker's compensation benefits received by the officer or employee during that period of leave with full pay.

##### C. Funeral Leave:

An unclassified officer or employee may, at the discretion of the appointing authority, be granted leave without loss of pay, or use of accrued leave to attend the funeral, burial, or last rites of a spouse, parent, step-parent, child, step-child, brother, step-brother, sister, step-sister, mother-in-law, father-in-law, grandparent, grandchild, or any other person that the officer or employee's appointing authority deems appropriate, provided such leave shall not exceed a period of two (2) days for any single occurrence. Whenever possible, prior notice of the need to take such leave shall be given by the officer or employee to the appointing authority. At all other times, the officer or

employee shall give notice of the need to take such leave at the time it is taken.

**D. Educational Leave:**

1. An appointing authority may grant an unclassified officer or employee educational leave without pay for an approved educational purpose, for a maximum period of twelve (12) months, in accordance with the rules developed by the commissioner of administration. Consecutive periods of leave without pay may be granted to the officer or employee by the appointing authority.

2. Upon the approval of the commissioner of administration and in accordance with the rules developed by the commissioner of administration, an appointing authority may grant an unclassified officer or employee educational leave with pay for a maximum period of thirty (30) calendar days during one (1) calendar year. Upon the approval of the commissioner of administration and in accordance with the rules developed by the commissioner of administration, an appointing authority may grant an unclassified officer or employee educational leave with pay for a maximum of ninety (90) calendar days during one (1) calendar year if, in addition to the general prerequisites necessary for qualification for educational leave with pay, the educational instruction or training to be taken by the officer or employee is also necessary to, or will substantially aid, the administration of the state agency.

3. In accordance with the rules developed by the commissioner of administration, an appointing authority may grant a stipend to an unclassified officer or employee who has been granted educational leave if 1) funds are available for such purposes, 2) the commissioner of administration approves the stipend, and 3) the commissioner of administration finds the stipend will be used for a proper, designated purpose and its proper use is clearly supported with appropriate documentation.

**SECTION 19: Leave of Absence Without Pay:**

A. An appointing authority may extend a leave of absence without pay to an unclassified officer or employee for a period not to exceed one (1) year, provided that such leave shall not prolong the period of the officer or employee's appointment or employment in state service.

B. If an unclassified officer or employee fails to report for, or refuses to be restored to, duty in pay status on the first working day following the expiration of an approved leave of absence without pay, or at an earlier date upon reasonable and proper notice from the appointing authority or the appointing authority's designee, then the officer or employee shall be considered as having deserted their position of appointment or employment.

C. At the discretion of the appointing authority, or at the request of the unclassified officer or employee, a period of leave of absence without pay that has been extended to an officer or employee may be credited, provided such curtailment is in the best interest of state service and reasonable and proper notice thereof is furnished to the officer or employee.

**SECTION 20: Holidays:**

A. Holidays shall be observed as provided in R.S. 1:55 and by proclamation issued by the governor.

B. An unclassified officer or employee in state service in a compensatory leave earning or part-time position may, at the discretion of their appointing authority, receive additional compensation when required to work on an observed holiday.

C. When an unclassified officer or employee is on leave without pay during the period immediately preceding and following an observed holiday, that officer or employee shall not receive compensation for that holiday unless the holiday is worked by the officer or employee.

**SECTION 21: Record Keeping:**

A. Leave records shall be maintained for all unclassified appointees. Daily attendance and leave records shall be maintained for all other unclassified officers and employees who are eligible to accrue or use annual, sick and/or compensatory leave.

B. An accrued balance of unused annual, compensatory, and/or sick leave shall be held in abeyance for an officer or employee who becomes ineligible to earn and/or use the particular type of leave pursuant to the terms of this Order. The accrued balance(s) shall be available to the officer or employee, in accordance with the provisions of this Order, when he or she again becomes eligible to earn and/or use said leave, or when he or she separates from state service.

**SECTION 22: Compliance:**

A. All departments, commissions, boards, agencies, and officers or employees of the state, or any political subdivision thereof within the executive branch of state government effected by this Order shall comply with, be guided by, and cooperate in the implementation of the provisions of this Order.

B. The head of each department shall be responsible for deciding the extent to which the discretionary provisions of this Order shall be implemented within their department.

**SECTION 23: Effective Dates:**

Unless specifically designated otherwise, upon signature of the governor, the provisions of this Order shall be applicable to all current and future unclassified officers and employees and, as to current officers and employees, be retroactive to noon on January 14, 2008. Any rights accrued to unclassified officers and employees prior to December 31, 2007, pursuant to the provisions of Executive Order No. KBB 2006-30, shall not be adversely affected by the retroactive application of this Order.

The provisions of this Order shall remain in effect until amended, modified, terminated, or rescinded by the governor, or until 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 22nd day of August, 2008.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Jay Dardenne  
Secretary of State  
0809#057

**EXECUTIVE ORDER BJ 08-65**

Community Development Block Grant Funds

WHEREAS, the Housing and Community Development Act of 1974, 42 U.S.C.A. §5301, *et seq.*, as amended, authorizes the state of Louisiana to receive and administer Community Development Block Grant (hereafter “CDBG”) funds for “nonentitlement areas”, which are also known as “small cities”;

WHEREAS, to receive these funds, a state must prepare a single consolidated plan and take responsibility for any funds distributed pursuant to the plan; and

WHEREAS, the Division of Administration is both a fiscal and an administrative arm of the executive branch of the state of Louisiana;

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

SECTION 1: The Division of Administration shall continue to be the recipient of CDBG funds.

SECTION 2: The Office of Community Development, within the Division of Administration, shall administer the CDBG funds in accordance with the terms of the single consolidated plan.

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 22nd day of August, 2008.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Jay Dardenne  
Secretary of State  
0809#058

**EXECUTIVE ORDER BJ 08-66**

The Hudson Initiative

WHEREAS, pursuant to Act No. 440 of the 2005 Regular Session of the Louisiana Legislature, the Louisiana Initiative for Small Entrepreneurship (hereafter “The Hudson Initiative”) was established to facilitate the growth and stability of Louisiana’s economy by fostering utilization by state interests of the business offerings available for state procurement and public contracts from Louisiana’s small entrepreneurship;

WHEREAS, the Department of Transportation and Development has served as a model for disadvantaged business enterprises by creating an open and transparent process, increasing participation goals on construction projects, and addressing the level of fairness and equality in consultant selections;

WHEREAS, an inclusive economic development initiative for all state agencies aimed at developing and enhancing opportunities for small and emerging businesses will successfully promote the state goal of wealth creation and poverty reduction;

WHEREAS, the success of small and emerging businesses will ultimately enhance the stability of Louisiana’s economy by providing opportunities for self-sufficiency, wealth creation, retention, and job growth; and

WHEREAS, the interest of the citizens of the state of Louisiana would best be served by the expansion of business development programs that will encourage the continued growth of small and emerging business;

NOW THEREFORE, I, BOBBY JINDAL, Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and the laws of the state of Louisiana, do hereby order and direct consistent with Act 440 of the Regular Session of the Louisiana Legislature as follows:

SECTION 1: All departments, commissions, boards, offices, entities, agencies, and offices of the state of Louisiana, or any political subdivision thereof, shall include small and emerging businesses in the business offerings available for state procurement and public contracts.

SECTION 2: 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 with implementing the provisions of this Order.

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 22nd day of August, 2008.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Jay Dardenne  
Secretary of State  
0809#059

**EXECUTIVE ORDER BJ 08-67**

Small Purchase Procedures

WHEREAS, the Louisiana Procurement Code, in R.S. 39:1596, authorizes the governor to establish procedures for the procurement of small purchases with the caveat that “procurement requirements shall not be artificially divided so as to constitute a small purchase under this Section”;

WHEREAS, the Louisiana Procurement Code exempts small purchases from the competitive sealed bidding requirements of the code;

WHEREAS, Louisiana businesses are a driving force in the Louisiana economy;

WHEREAS, Executive Order No. KBB 2007-10, signed on April 26, 2007, established the procedure for the procurement of small purchases in accordance with the statutory guidelines of the Louisiana Procurement Code; and

WHEREAS, it is necessary to rescind and terminate Executive Order No. KBB 2007-10 through the issuance of a replacement executive order;

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

SECTION 1: All departments, institutions, boards, commissions, budget units, and agencies of the executive branch of state government, and the officers and employees thereof, (hereafter "agency") shall observe, be guided by, and implement the specific directives on small purchase procedures set forth in this Order. This Order in no way affects or changes the purchasing authority delegated to an agency by the chief procurement officer as defined in R.S. 39:1556(3). No provision of this Order shall be construed as a limitation on the number of quotations to be solicited prior to making a purchase or procurement. Louisiana businesses, especially small and emerging businesses and small entrepreneurs, should be utilized to the greatest extent possible when soliciting prices.

SECTION 2: Unless the context clearly indicates otherwise, the words and terms used in this Order shall be defined as follows:

A. "Small purchases" means (1) any procurement not exceeding twenty-five thousand dollars (\$25,000), or (2) any procurement of those items listed in Section 5 of this Order, regardless of price, except as noted in Paragraphs 5(A)(14), 5(A)(24) and 5(A)(26), which are exempt from the competitive sealed bidding requirements of the Louisiana Procurement Code.

B. "Certified small and emerging business" means a business certified as a small and emerging business by the Division of Small and Emerging Business Development, Department of Economic Development, in accordance with the Provisions of the Small and Emerging Business Development Program, R.S. 51:941, *et seq.*, and included on the most recent list of certified small and emerging businesses issued by the Division of Certified Small and Emerging Business Development;

C. "Small Entrepreneurship" means a business certified as a small entrepreneurship by the Department of Economic Development, in accordance with the provisions of the Louisiana Initiative for Small Entrepreneurships (Hudson Initiative), R.S. 39:2006 (B); and

D. "Louisiana authorized dealer" means a company that satisfies the requirements of a resident business defined in R.S. 39:1591(6) and is authorized by the manufacturer to sell and/or provide service for their products.

SECTION 3: The following items are not subject to the procedures set forth in this Order:

A. Those items covered by an existing state contract, and

B. Public works contracts which exceed five thousand dollars (\$5,000) and are governed by the provisions of R.S. 38:2241.

SECTION 4: Except as otherwise provided in this Order, all small purchases shall be made in accordance with the following minimum procedures:

A. No competitive process is required for purchases not exceeding one thousand dollars (\$1,000) per single purchase transaction.

B. Price quotations shall be solicited from three (3) or more *bona fide*, qualified vendors for purchases exceeding one thousand dollars (\$1,000) but not exceeding five thousand dollars (\$5,000).

1. Quotations may be made by telephone, facsimile, or other means and shall be awarded on the basis of the lowest responsive quotation. Whenever possible, at least one (1) of the *bona fide*, qualified vendors shall be a certified small and emerging business or a small entrepreneurship. Agency files shall document and list all solicited vendors and each vendor's contact person, summarize quotations received, indicate the successful vendor and state the reason why any lower quotation was rejected. Agency files should also contain written confirmation of the quotation from the successful vendor;

2. Soliciting three quotations may be waived when making purchases from a Small Entrepreneurship or Small and Emerging Business that is currently certified by the Louisiana Department of Economic Development, when the price is determined to be reasonable. Reasonable is a best value determination based on price, delivery, service, and/or any other related factors. This determination is to be maintained in the file; and

3. Soliciting three quotations may be waived when purchasing from a business registered with the Secretary of State as domiciled in Louisiana. A business analysis must determine that in-state prices are equal or better than two other current price comparisons. Comparisons may include, but are not limited to, state contract prices, General Services Administration (GSA) prices, or similar resources. Comparison documents are to be maintained in the file.

C.1. Price quotations shall be solicited from five (5) or more *bona fide*, qualified vendors for purchases exceeding five thousand dollars (\$5,000) but not exceeding twenty-five thousand dollars (\$25,000). Quotations may be made by facsimile or written means and shall be awarded on the basis of the lowest responsive price quotation received. Whenever possible, at least two (2) of the *bona fide*, qualified vendors shall be certified small and emerging businesses or small entrepreneurs. The requirement to solicit certified small and emerging businesses or small entrepreneurs is waived for those agencies that post on LaPAC, Louisiana's internet based system for posting vendor opportunities and award information.

2. A minimum of three (3) working days shall be allowed for receipt of quotations.

3. All written or facsimile solicitations shall include the closing date, time, and all pertinent competitive specifications, including quantities, units of measure, packaging, delivery requirements, ship-to location, terms and conditions, and other information sufficient for a supplier to make an acceptable quotation. Precautionary measures shall be taken to safeguard the confidentiality of vendor responses prior to the closing time for receipt of

quotations. No quotation shall be evaluated using criteria not disclosed in the solicitation.

4. Agency files shall document and list all solicited vendors and each vendor's response, summarize quotations received, indicate the awarded quotation, and state the reason why any lower quotation was rejected.

SECTION 5: Except as provided in subsection A(14), A(24), or A(26) of this section, the following items are considered small purchases regardless of price and may be procured in the following manner:

A. No competitive process is required for the following items:

1. Repair parts for equipment obtained from a Louisiana authorized dealer shall be used if available. This provision does not apply to the stocking of parts;

2. Equipment repairs from a Louisiana authorized dealer shall be used if available;

3. Vehicle repairs not covered by a competitive state contract or the state fleet maintenance repair contract, obtained from a Louisiana authorized dealer shall be used if available.

4. Vehicle body repairs covered by insurance recovery and in accordance with insurance requirements;

5. Livestock purchased at public auction;

6. Purchasing or selling transactions between state budget units and other governmental agencies;

7. Publications and/or copyrighted materials purchased directly from the publisher or copyright holder, and web-based subscription services;

8. Publications and/or copyrighted materials purchased by libraries or text rental stores from either subscription services or wholesale dealers which distribute for publishers and/or copyright holder;

9. Public utilities and services provided by local governments;

10. Prosthetic devices, implantable devices, and devices for physical restoration, which are not covered by a competitive state contract;

11. Educational training and related resources (except equipment) used to enhance the performance of state employees and good standing of state agencies, including memberships in and accreditations by professional societies and organizations, except for customized training which is covered under R.S. 39:1481, *et seq.*;

12. Purchases for clients of Blind and Vocational Rehabilitation programs not covered by competitive state contract which are federally funded at a rate of at least 78.7%, regulated by Title 34, Parts 361, 365, 370, and 395 of the Code of Federal Regulations, and in accordance with OMB Circular A-102;

13. Materials, supplies, exhibitor fees, and exhibit booths for conferences, seminars, and workshops, or similar events (business, educational, promotional, cultural, etc.) for participation in promotional activities which enhance economic development or further the department's mission, duties and/or functions, with the approval of the department secretary, or agency equivalent, if not covered by competitive state contract;

14. Wire, related equipment, time and material charges to accomplish repairs, adds, moves, and/or changes to telecommunications systems not exceeding two thousand five hundred dollars (\$2,500).

15. Working class animals trained to perform special tasks, including but not limited to narcotics detection, bomb detection, arson investigation, and rescue techniques;

16. Food, materials and supplies for teaching and training where the purchasing, preparing, and serving of food is part of the regularly prescribed course;

17. Shipping charges and associated overseas screening and broker fees from between international and domestic origins and destinations;

18. Parcel services, including but not limited to Federal Express, United Parcel Service, Airborne Express, and Express Mail;

19. Renewal of termite service contracts;

20. Purchase of supplies, operating services, or equipment for Louisiana Rehabilitation Services, Traumatic Head and Spinal Cord Injury Trust Fund Program. Although competitive bidding is not required under this paragraph, whenever practicable, three (3) quotations from *bona fide*, qualified vendors should be obtained. Whenever possible, and at least one (1) of the *bona fide*, qualified vendors shall be a certified small and emerging business or a small entrepreneurship;

21. Purchasing of clothing at retail necessary to individualize clients at state developmental centers in compliance with Federal Regulations for ICF/MR facilities;

22. Health insurance for the managers of Randolph-Sheppard programs, as defined by 20 U.S.C. §107, *et seq.*, and paid from income generated by unmanned vending locations;

23. Purchases made to resell as part of a merchandising program with the written approval on file from the secretary of the department, or agency equivalent, when it is not practical or feasible to obtain competitive price quotations;

24. Commercial Internet Service not exceeding one thousand five hundred dollars (\$1,500) per subscription per year;

25. Advertising, where permitted by law and the head of an agency or designee certifies that specific media is required to reach targeted audiences;

26. Scientific and laboratory supplies and equipment when procured by colleges and universities for laboratory or scientific research not to exceed twenty-five thousand dollars (\$25,000) per transaction;

27. Publication of articles, manuscripts, etc. in professional scientific, research, or educational journals/media and/or the purchase of reprints;

28. Livestock sperm and ova;

29. Royalties and license fees for use rights to intellectual property, including but not limited to patents, trademarks, service marks, copyrights, music, artistic works, trade secrets, industrial designs, domain names, etc.;

30. Equipment moves by the original equipment manufacturer or authorized dealer to ensure equipment operation to original equipment manufacturer specifications, calibration, warranty, etc.;

31. Mailing list rentals or purchases; and

32. Art Exhibition rentals and/or loan agreements and associated costs of curatorial fees, transportation and installation.

**EXECUTIVE ORDER BJ 08-68**

The Board of Parole

B. For the following items, telephone or facsimile price quotations shall be solicited, where feasible, to at least three (3) *bona fide*, qualified vendors. Whenever possible, at least one (1) of the *bona fide*, qualified vendors shall be a certified small and emerging business or a small entrepreneurship.

1. Farm products including, but not limited to, fresh vegetables, milk, eggs, fish, or other perishable foods, when it is determined that market conditions are unstable and the competitive sealed bidding process is not conducive for obtaining the lowest prices;

2. Food, materials, and supplies needed for:

a. Operation of boats and/or facilities in isolated localities where only limited outlets of such supplies are available; and/or

b. Juvenile detention homes and rehabilitation facilities/homes where the number of inmates, students, or clients is unstable and unpredictable;

3. Convention and meeting facilities, provided that any associated food or lodging must be in accordance with Policy & Procedure Memorandum No. 49 – General Travel Regulations;

4. Gasoline and fuel purchases not covered by competitive state contract;

5. Equipment for blind-operated facilities not covered by competitive state contract;

6. Feed commodities, including but not limited to soybean meal, cottonseed meal, and oats;

7. Aircraft parts, repairs, inspections, and modifications approved by the head of the agency, head of Division of Administration Flight Operations or the head’s designee, and performed by an FAA-certified mechanic and/or at an FAA certified repair station in accordance with FAA requirements; and

8. Air and bus charters in accordance with PPM 49, including group travel that does not qualify for commercial rates available to individual travelers.

SECTION 6: In the absence of a good faith business basis, no purchase or procurement shall be artificially divided within a cost center, or its equivalent, to avoid the competitive process or the solicitation of competitive sealed bids.

SECTION 7: 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 this Order.

SECTION 8: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 22nd day of August, 2008.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Jay Dardenne  
Secretary of State  
0809#060

WHEREAS, Executive Order No. KBB 2004-16, issued on July 6, 2004, reestablished the position of vice-chair within the Board of Parole (hereafter “the Board”);

WHEREAS, the Board, created within the Department of Public Safety and Corrections by R.S. 15:574.2, consists of seven (7) members appointed by and serving at the pleasure of the governor;

WHEREAS, R.S. 15:574.2 (A)(3) provides that the actual salaries of each of the members shall be authorized by executive order; and

WHEREAS, it is necessary to modify the duties of the vice-chair of the Board and to authorize the actual salaries of the chair, vice-chair and other members of the Board;

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

SECTION 1: The position of vice-chair of the Board is hereby re-created. The governor shall select the vice-chair from its membership.

SECTION 2: The vice-chair shall preside in the absence of the chair and shall, in addition to such other duties assigned by the governor, assist the chair in developing and administering the schedule of parole hearings in accordance with R.S. 15:574.4(B)(1), and assist the chair in the preparation for the Board, for its adoption, such rules, regulations, and procedures deemed necessary and proper to facilitate the effective operation of the Board.

SECTION 3: Members of the Board shall, in accordance with the compensation limits set forth in R.S. 15:574.2(A)(3), receive the following annual salaries:

A. The chair of the Board shall receive an annual salary of fifty thousand dollars (\$50,000);

B. The vice-chair of the Board shall receive an annual salary of forty-seven thousand dollars (\$47,000);

C. Each of the other members of the Board shall receive an annual salary of forty-four thousand dollars: (\$44,000);

D. The chair, vice-chair and other members of the Board shall be reimbursed for necessary travel and other expenses actually incurred in the discharge of his/her duties.

SECTION 4: The chair and the vice-chair shall work with the Governor’s executive counsel and assistant executive counsel in accomplishing the duties set forth in Section 2 of this Order.

SECTION 5: Executive Order No. KBB 2005-3, issued on January 14, 2005, is hereby rescinded.

SECTION 6: The provisions of this Order are effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 22nd day of August, 2008.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Jay Dardenne  
Secretary of State  
0809#061

### EXECUTIVE ORDER BJ 08-69

#### State Employee Drug Testing Policy

WHEREAS, the Office of the Governor and the state of Louisiana have a long-standing commitment to working toward a drug-free Louisiana;

WHEREAS, the employees of the state of Louisiana are among the state's most valuable resources, and the physical and mental well-being of these employees is necessary for them to properly carry out their responsibilities;

WHEREAS, substance abuse causes serious adverse consequences to users, impacting on their productivity, health and safety, dependents, and co-workers, as well as the general public;

WHEREAS, to curb the use of illegal drugs by employees of the state of Louisiana, the Louisiana Legislature enacted laws which provide for the creation and implementation of drug testing programs for state employees; and

WHEREAS, the citizens of the state of Louisiana would best be served by a statewide policy on rules and procedures for drug testing state employees;

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

#### SECTION 1:

A. All executive departments and all other agencies, boards, commissions, and entities of state government in the executive branch over which the governor has appointing authority or, as chief executive officer of the state, has general executive authority, which are not authorized by the Louisiana Constitution of 1974, as amended, or legislative act to manage and supervise their own system, (hereafter "executive agency") shall promulgate a written policy which mandates drug testing of employees, appointees, prospective employees, and prospective appointees, pursuant to R.S. 49:1001, *et seq.*, as set forth in this Order.

B. All executive departments which operate under the authority of another statewide elected official or which are authorized by the Louisiana Constitution of 1974, as amended, or legislative act to manage and supervise its own system, (hereafter "executive agency") are requested to promulgate a written policy which mandates drug testing of employees, appointees, prospective employees, and prospective appointees pursuant to R.S. 49:1001, *et seq.*, as set forth in this Order.

#### SECTION 2:

A. The appointing authority of each executive agency shall duly promulgate a written policy in compliance with R.S. 49:1001, *et seq.*, which *at a minimum* mandates drug testing of an employee or appointee (hereafter "employee") or a prospective employee or prospective appointee (hereafter "prospective employee") as follows:

1. When individualized, reasonable suspicion exists of an employee's drug use;

2. Following an accident that occurs during the course and scope of an employee's employment that a) involves circumstances leading to a reasonable suspicion of the employee's drug use; b) results in a fatality; or c) results in or causes the release of hazardous waste as defined in R.S. 30:2173(2) or hazardous materials as defined in R.S. 32:1502(5);

3. Randomly, as a part of a monitoring program established by the executive agency to assure compliance with terms of a rehabilitation agreement;

4. Prior to hiring or appointing a prospective employee, except employees transferring from one executive agency to another without a lapse in service;

5. Prior to promoting an employee to a safety-sensitive or security-sensitive position or to a higher safety-sensitive or security-sensitive position; and

6. Randomly, for all employees in safety-sensitive or security-sensitive positions.

B. The appointing authority of each executive agency shall determine which positions within their agency, if any, are "safety-sensitive or security-sensitive positions," by considering statutory law, jurisprudence, the practices of the executive agency, and the following *non-exclusive list of examples* of safety-sensitive and/or security-sensitive positions:

1. Positions with duties that may require or authorize the safety inspection of a structure;

2. Positions with duties that may require or authorize access to a prison or an incarcerated individual;

3. Positions with duties that may require or authorize carrying a firearm;

4. Positions with duties that may allow access to controlled substances (drugs);

5. Positions with duties that may require or authorize inspecting, handling, or transporting hazardous waste as defined in R.S. 30:2173(2) or hazardous materials as defined in R.S. 32:1502(5);

6. Positions with duties that may require or authorize any responsibility over power plant equipment;

7. Positions with duties that may require instructing or supervising any person to operate or maintain, or that may require or authorize operating or maintaining, any heavy equipment or machinery; and

8. Positions with duties that may require or authorize the operation or maintenance of a public vehicle, or the supervision of such an employee.

C. Prior to the appointing authority of an executive agency promulgating its drug testing policy regarding safety-sensitive and/or security-sensitive positions, the appointing authority shall consult with the Louisiana Department of Justice.

SECTION 3:

A. No drug testing of an employee or a prospective employee shall occur in the absence of a duly promulgated written policy which is in full compliance with the provisions of R.S. 49:1001, *et seq.*

B. Any employee drug testing program in existence on the effective date of this Order shall not be supplanted by the provisions of this Order, but shall be supplemented, where appropriate, in accordance with the provisions of this Order and R.S. 49:1001, *et seq.*

SECTION 4: All information, interviews, reports, statements, memoranda, and/or test results received by the executive agency through its drug testing program are confidential communications, pursuant to R.S. 49:1012, and may not be used or received in evidence, obtained in discovery, or disclosed in any public or private proceedings, except in an administrative or disciplinary proceeding or hearing, or civil litigation where drug use by the tested individual is relevant.

SECTION 5:

A. Pursuant to R.S. 49:1011, an executive agency may, but is not required to, afford an employee whose drug test result is certified positive by the medical review officer, the opportunity to undergo rehabilitation without termination of employment.

B. Pursuant to R.S. 49:1008, if a prospective employee tests positive for the presence of drugs in the initial drug screening, the positive drug test result shall be the cause of the prospective employee's elimination from consideration for employment or appointment.

SECTION 6: Each executive agency shall procure employee drug testing services through the Office of State Purchasing, Division of Administration, pursuant to applicable bid laws.

SECTION 7: Each executive agency shall submit to the Office of the Governor, through the commissioner of the Division of Administration, a report on its written policy and drug testing programs, describing the progress of its programs, the number of employees affected by the programs, the categories of testing being conducted, the associated costs of testing, and the effectiveness of the programs, by February 1, 2009. Each executive agency shall annually update its report by December 1.

SECTION 8: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed (or requested pursuant to Subsection 1B) to cooperate with the implementation of the provisions in this Order.

SECTION 9: 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 22 day of August, 2008.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Jay Dardenne  
Secretary of State  
0809#062

**EXECUTIVE ORDER BJ 08-70**

Governor's Task Force on DWI—Vehicular Homicide

WHEREAS, currently, Louisiana ranks twenty-fifth in the United States in population, but ranks fifth in the nation in alcohol-related fatalities and sixteenth in the nation in fatal crashes;

WHEREAS, early forty-eight percent of Louisiana's traffic fatalities are alcohol-related, as compared to the national average of forty-one percent;

WHEREAS, Louisiana automobile owners pay high premiums for public liability insurance. Our state ranks fourth in the nation in costs for insurance, with an average premium of \$1230.44; and

WHEREAS, there is a possible correlation between Louisiana's unusually high percentage of alcohol-related traffic fatalities and the unusually high insurance premiums paid by Louisiana motorists;

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

SECTION 1: The Governor's Task Force on DWI-Vehicular Homicide (hereafter "Task Force") is reestablished within the executive department, Office of the Governor.

SECTION 2: The duties and functions of the Task Force shall include, but are not limited to, the following:

A. Addressing problems in the following areas:

1. Unusually high incidence of drunk or drugged driving;
2. Difficulty in proving identification of multiple DWI offenders for the purposes of enhanced penalties;
3. Refusing to submit to breath and/or field sobriety tests;
4. Obtaining evidence from drivers who cause alcohol involved fatal or serious injury crashes; and
5. Arrest and prosecution of drug-impaired drivers;

B. Soliciting input and recommendations from all agencies, departments, commissions, boards, or offices which are involved in DWI enforcement and countermeasures, particularly law enforcement officers at the state, parish, and local levels to aid in the implementation of the provisions of this Order; and

C. Acting in an advisory capacity to the governor, the Highway Safety Commission, the Alcohol and Tobacco Control Commission, and any other agency, department, commission, board, or office that are involved directly or peripherally with DWI issues.

SECTION 3: By March 1, 2010, the Task Force shall submit a comprehensive written report to the governor on the issues set forth in Section 2 of this Order. A preliminary report, which shall include recommended legislation, shall be submitted to the governor by January 15, 2010.

SECTION 4: The Task Force shall be composed of a maximum of twenty-one (21) members who, unless otherwise specified, shall be appointed by and serve at the pleasure of the governor. The membership of the Task Force shall be selected as follows:

- A. The governor, or the governor's designee;
- B. The attorney general, or the attorney general's designee;
- C. The speaker of the Louisiana House of Representatives, or the speaker's designee;
- D. The president of the Louisiana State Senate, or the president's designee;
- E. A member of the Louisiana House of Representatives appointed by the speaker of the Louisiana House of Representatives;
- F. A member of the Louisiana State Senate appointed by the president of the Louisiana State Senate;
- G. The commissioner of the Office of Alcohol and Tobacco Control, Department of Revenue, or the commissioner's designee;
- H. The assistant secretary of the Department of Public Safety, Office of Motor Vehicles, or the assistant secretary's designee;
- I. The executive director of the Louisiana Highway Safety Commission, or the executive director's designee;
- J. The assistant secretary of the Department of Health and Hospitals, Office of Addictive Disorders, or the assistant secretary's designee;
- K. A representative of the Louisiana State Police;
- L. A representative of the Louisiana State Police Crime Lab;
- M. The secretary of the Department of Transportation and Development, or the secretary's designee;
- N. The director of the Louisiana Property and Casualty Insurance Commission, or the director's designee;
- O. A representative of the Louisiana District Attorneys Association;
- P. A representative of the Louisiana Sheriff's Association;
- Q. A representative of the Municipal Police Officers Association of Louisiana;
- R. A representative of Mothers Against Drunk Driving;
- S. A representative of the Louisiana Restaurant Association; and
- T. Two (2) at-large members.

SECTION 5: The chair of the Task Force shall be appointed by the governor from the membership of the Task Force. All other officers, if any, shall be elected by the members of the Task Force from its membership.

SECTION 6: The Task Force shall meet at regularly scheduled intervals and at the call of the chair.

SECTION 7:

A. Task Force members shall not receive additional compensation or a per diem from the Office of the Governor for serving on the Task Force.

B. Task Force members who are employees or elected public officials of the state of Louisiana or a political subdivision thereof may seek reimbursement of travel expenses, in accordance with PPM 49, from their employing and/or elected department, agency and/or office.

C. Task Force members who are also members of the Louisiana Legislature may seek a per diem from the Louisiana State Senate or House of Representatives, as appropriate, for their attendance.

SECTION 8: Support staff, facilities, and resources for the Task Force shall be provided by the Office of the Governor.

SECTION 9: 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 with the Task Force in implementing the provisions of this Order.

SECTION 10: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 22nd day of August, 2008.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Jay Dardenne  
Secretary of State  
0809#063

**EXECUTIVE ORDER BJ 08-71**

Louisiana Rehabilitation Council

WHEREAS, the State Rehabilitation Advisory Council was originally established by executive order to provide Louisiana's citizens with disabilities assistance in their pursuit of meaningful careers and gainful employment through specific programs;

WHEREAS, the Rehabilitation Act of 1973, 29 U.S.C.A. §701, *et seq.*, as amended by the Workforce Investment Act (Public Law 105-220), and the Rehabilitation Act Amendments of 1998 and subsequent 1999 amendments to 29 U.S.C.A. §725, provide the state of Louisiana with financial assistance to promote effective programs of vocational rehabilitation services for individuals with disabilities; and

WHEREAS, it is in the best interest of the citizens of the state of Louisiana to continue providing its citizens with disabilities vocational rehabilitation services and/or programs by the continuation of a rehabilitation council;

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

SECTION 1: The Louisiana Rehabilitation Council (hereafter "Council") is reestablished within the executive department, Department of Social Services;

SECTION 2: The duties of the Council shall include, but are not limited to, the following:

A. Reviewing, analyzing, and advising the Department of Social Services, Office of Louisiana Rehabilitation Services (hereafter "Louisiana Rehabilitation Services"), regarding the performance of its responsibilities, particularly the responsibilities relating to:

1. Eligibility (including order of selection);

2. The extent, scope, and effectiveness of services provided; and

3. Functions performed by state agencies that affect or potentially affect the ability of individuals with disabilities in achieving employment under 29 U.S.C.A. §720 *et seq.*

B. In partnership with Louisiana Rehabilitation Services:

1. Developing, agreeing to, and reviewing the state goals and priorities for rehabilitation services in accordance with 29 U.S.C.A. §721(a)(15)(E); and

2. Evaluating the effectiveness of the vocational rehabilitation program and submitting progress reports to the commissioner of the Rehabilitation Service Administration, Department of Education, Washington, D.C.;

C. Advising Louisiana Rehabilitation Services regarding activities authorized to be carried out under the Rehabilitation Act, and assisting in the preparation of and amendments to the state plan, together with the necessary applications, reports, needs assessments, and evaluations as required by 29 U.S.C.A. §720, *et seq.*

D. To the extent feasible, conducting a review and analysis of the effectiveness of, and consumer satisfaction with:

1. The functions performed by Louisiana Rehabilitation Services;

2. The vocational rehabilitation services provided by Louisiana Rehabilitation Services and other public and private entities responsible for providing vocational rehabilitation services to individuals with disabilities under 29 U.S.C.A. §701, *et seq.*; and

3. The employment outcomes achieved by eligible individuals receiving services under 29 U.S.C.A. §725, including the availability of health and other employment benefits in connection with such employment outcomes.

E. Preparing and submitting an annual report to the governor and the commissioner of the Rehabilitation Service Administration, Washington, D.C., on the status of vocational rehabilitation programs operating within the state, and making the report available to the public;

F. To avoid duplication of efforts and enhance the number of individuals served, by coordinating activities with the activities of other councils within the state, including the Statewide Independent Living Council, established under 29 U.S.C.A. §796d; the advisory panel established under §612(a)(21) of the Individuals with Disabilities Education Act (as amended by §101 of the Individuals with Disabilities Education Act Amendments of 1997; Public Law 105-17), [20 U.S.C.A. §1412 (a)(21)]; the State Developmental Disabilities Council described in §124 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C.A. §6024); the State Mental Health Planning Council established under §1914(a) of the Public Health Service Act (42 U.S.C.A. §300x-4(a)); and the State Workforce Investment Board;

G. Providing for coordination and the establishment of working relationships between Louisiana Rehabilitation Services, the Statewide Independent Living Council, and the Centers for Independent Living within the state;

H. Preparing, in conjunction with Louisiana Rehabilitation Services, a plan for the provision of such

resources, including such staff and other personnel, as may be necessary and sufficient to carry out the functions of the Council under this section. The resource plan shall, to the maximum extent possible, rely on the use of resources in existence during the period of implementation of the plan;

I. Supervising and evaluating such staff and other personnel as may be necessary to carry out its functions; and

J. Performing such other functions as the State Rehabilitation Council determines to be appropriate, that are comparable to the other functions performed by the Council.

SECTION 3: Members of the Council shall be selected from all areas of the state and shall be knowledgeable of the vocational rehabilitation services offered to individuals with disabilities. The majority of the membership of the Council shall be composed of Louisiana citizens with disabilities, representing a broad range of disabilities, and who are not employed by Louisiana Rehabilitation Services or any state agency.

SECTION 4: The Council shall consist of twenty-five (25) members who shall be appointed by the governor for a term of up to three (3) years, including:

A. Twenty-three (23) voting members selected as follows:

1. One (1) representative from a parent training and information center established pursuant to §682(a) of the Individuals with Disabilities Education Act (as added by §101 of the Individuals with Disabilities Education Act Amendments of 1997; Public Law 105-17) [20 U.S.C.A. §1482(a)];

2. One (1) representative from the Statewide Independent Living Council, established under 29 U.S.C.A. §796d, who must be the chairperson or other designee of the Statewide Independent Living Council;

3. One (1) representative of the Client Assistance Program established under 29 U.S.C.A. §732;

4. One (1) representative from the service providers for the community rehabilitation program;

5. Four (4) representatives of business, industry, and labor;

6. Twelve (12) members representing a cross section of the following categories:

a. Individuals with physical, cognitive, sensory, and mental disabilities;

b. Representatives of individuals with disabilities who have difficulty representing themselves; and

c. Current or former applicants for, or recipients of, vocational rehabilitation services.

7. One (1) representative of the State Workforce Investment Board;

8. One (1) representative of the state educational agency responsible for the public education of students with disabilities who are eligible to receive services under 29 U.S.C.A. §720 and part B of the Individuals with Disabilities Education Act; and

9. One (1) representative of the directors of a project carried out under §121 of the Federal Rehabilitation Act Amendments of 1998.

B. Two (2) non-voting members, selected as follows:

1. One (1) vocational rehabilitation counselor with knowledge of and experience with vocational

**EXECUTIVE ORDER BJ 08-72**

Louisiana Emergency Response Commission

rehabilitation programs shall serve as an ex officio, non-voting member of the Council; and

2. The director of the Louisiana Rehabilitation Services shall serve as an ex officio, non-voting member of the Council.

SECTION 5: The voting members of the Council shall select a chair from among its voting membership.

SECTION 6: No member of the Council, other than the representative of the Client Assistance Program and the representative of the Sect. 121 project, may serve more than two consecutive full terms.

SECTION 7: The Council shall coordinate its activities with the Office of Disability Affairs, Office of the Governor. The Council shall follow all rules and regulations of the state of Louisiana, including those concerning purchasing, procurement, hiring, and ethics.

SECTION 8:

A. Council members shall not receive additional compensation or a per diem from the Office of the Governor for serving on the Council;

B. Council members who are not employees of the state of Louisiana or any of its political subdivisions thereof, contingent upon availability of funds, may seek reimbursement for travel expenses, in accordance with PPM 49, and with advance written approval of the commissioner of the Division of Administration;

C. Council members who are employees or elected public officials of the state of Louisiana or a political subdivision thereof may seek reimbursement of travel expenses, in accordance with PPM 49, from their employing and/or elected department, agency and/or office; and

D. Council members who are also members of the Louisiana Legislature may seek a per diem from the Louisiana State Senate or House of Representatives, as appropriate, for their attendance.

SECTION 9: The Council shall convene, a minimum of four (4) meetings a year, in such places as it determines to be necessary to conduct Council business and conduct such forums or hearings as the Council considers appropriate.

SECTION 10: Support staff, facilities, and resources for the Council shall be provided by the Louisiana Rehabilitation Services.

SECTION 11: 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 with the Council in implementing the provisions of this Order.

SECTION 12: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 22nd day of August, 2008.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Jay Dardenne  
Secretary of State  
0809#064

WHEREAS, the ability to protect the citizens of the state of Louisiana depends, in part, upon the adequacy of local community emergency response plans;

WHEREAS, the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C.A. §11001-11050, requires the states to establish and maintain an emergency response commission which has technical expertise in the field of emergency response to notify and protect the public in the event of a release of an extremely hazardous substance into the environment; and

WHEREAS, through the enactment of R.S. 30:2364, the Louisiana Legislature created the Emergency Response Commission within the Department of Public Safety and Corrections to (1) establish emergency planning districts; (2) appoint local emergency planning committees; (3) supervise and coordinate the activities of local emergency planning committees; (4) provide the Environmental Protection Agency with information concerning notification received on certain releases of hazardous materials and substances; (5) designate, as necessary, facilities subject to hazardous material reporting procedures; (6) recommend a standardized inventory form for gathering required information and develop reporting procedures which reduce duplication of reporting; (7) recommend, as necessary, additional substances which should be defined as hazardous materials; (8) act as the central advisory body for coordinating state and federal Right-to-Know activities with regard to hazardous substances; (9) establish procedures for recalling and processing public requests for information; and (10) review local emergency planning committee emergency response plans and recommend revisions as necessary.

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

SECTION 1: The Louisiana Emergency Response Commission (hereafter "Commission") is reestablished and continued; it shall be composed of nineteen (19) members appointed by and serving at the pleasure of the governor, selected as follows:

- A. The deputy secretary of the Department of Public Safety, or the deputy secretary's designee;
- B. The secretary of the Department of Environmental Quality, or the secretary's designee;
- C. The secretary of the Department of Agriculture and Forestry, or the secretary's designee;
- D. The director of the Governor's Office of Homeland Security and Emergency Preparedness, or the director's designee;
- E. A representative of the Right-To-Know Unit, Department of Public Safety, Office of State Police;
- F. A representative of the Louisiana Emergency Preparedness Association;
- G. A member of the Louisiana State University Firearm Training Program;
- H. A representative of environmental interests;

I. A representative of the chemical industry nominated by the Louisiana Chemical Association; and

J. Ten (10) at-large members.

SECTION 2: The governor shall select the chair of the Commission from its membership. All other officers, if any, shall be elected by members of the Commission from its membership.

SECTION 3: The Commission shall have authority to receive grants, donations, or gifts of money, equipment, supplies, or services from any public or private source to enable it to fulfill the duties and responsibilities specified in Title 30 of the Louisiana Revised Statutes of 1950, as amended.

SECTION 4: The Commission shall meet quarterly and at the call of the chair.

SECTION 5:

A. Commission members shall not receive additional compensation or a per diem from the Office of the Governor for serving on the Commission.

B. Commission members who are employees or elected public officials of the state of Louisiana or a political subdivision thereof may seek reimbursement of travel expenses, in accordance with PPM 49, from their employing and/or elected department, agency and/or office.

C. Commission members who are also members of the Louisiana Legislature may seek a per diem from the Louisiana State Senate

SECTION 6: 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 with the Commission in implementing the provisions of this Order.

SECTION 7: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 22nd day of August, 2008.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Jay Dardenne  
Secretary of State  
0809#065

### EXECUTIVE ORDER BJ 08-73

#### Louisiana Statewide Independent Living Council

WHEREAS, the state of Louisiana promotes a philosophy of independent living in order to maximize the leadership, empowerment, independence, and productivity of individuals with disabilities;

WHEREAS, the state of Louisiana also supports the integration and full inclusion of individuals with disabilities into the mainstream of American society;

WHEREAS, the federal Rehabilitation Act of 1973 as amended, (the Act), 29 U.S.C.A. §701, *et seq.*, includes the following provisions to carry out this effort:

A. Providing financial assistance to states for providing, expanding, and improving the provision of independent living services;

B. Providing financial assistance to develop and support statewide networks of centers for independent living; and

C. Providing financial assistance to states for improving working relationships among independent living partners; and

WHEREAS, to be eligible to receive financial assistance under this chapter, each state must establish a Statewide Independent Living Council;

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

SECTION 1: The Louisiana's Statewide Independent Living Council (hereafter "Council") is reestablished and recreated in accordance with the Act, 29 U.S.C.A. §701, *et seq.*

SECTION 2: The duties of the Council shall include, but are not limited to, the following:

A. Jointly develop and sign (in conjunction with Louisiana Rehabilitation Services) the State Plan for Independent Living as mandated in §704 of the Act;

B. Monitor, review, and evaluate the implementation of the State plan;

C. Coordinate activities with the State Rehabilitation Council and other councils which address the needs of specific disability populations and issues under other federal law;

D. Ensure that all regularly scheduled meetings of the Council are open to the public and sufficient advance notice is provided; and

E. Submit periodic reports to the federal government, as required by law, regulation, and/or rule.

SECTION 3: The Council shall be composed of twenty-one (21) members who shall be appointed by the Governor. The membership of the Council shall include four (4) members meeting the following membership criteria:

A. One (1) director of a center for independent living, chosen by the directors of centers for independent living within the state;

B. As ex officio, nonvoting members:  
a. One representative from Louisiana Rehabilitation Services (the designated state unit); and  
b. One representative from other state agencies that provide services for individuals with disabilities.

C. One (1) representative of the directors of the projects carried out under §121 of the Act.

The remaining seventeen (17) members of the Council include:

A. Two (2) representatives from centers for independent living;

B. Two (2) parents and guardians of individuals with disabilities;

C. Eight (8) advocates of and for individuals with disabilities;

D. Three (3) representatives from private businesses; and

E. Two (2) representatives from organizations that provide services for individuals with disabilities.

SECTION 4: The Council shall be composed of members who provide statewide representation; who represent a broad range of individuals with disabilities from diverse backgrounds; who are knowledgeable about centers for independent living and independent living services; and a majority of whom are persons who are individuals with disabilities described in §7(20)(B) of the Act; and are not employed by any state agency or center for independent living.

SECTION 5: Each member of the Council shall serve for a term of three (3) years, except that A) a member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed, shall be appointed for the remainder of such term; and B) the terms of service of the member initially appointed shall be, as specified by the appointing authority, for such fewer number of years as will provide for the expiration on a staggered basis. No member shall serve more than two (2) consecutive full terms.

SECTION 6: The Council shall not be an entity within any state agency, including LRS, and is independent of LRS and all other state agencies. The Council shall coordinate its activities with the Office of Disability Affairs, Office of the Governor. The executive director of the Office of Disability Affairs will provide administrative oversight to ensure that the Council is compliant with all rules and regulations of the state of Louisiana, including those concerning purchasing and procurement, hiring, firing, and evaluating staff, and ethical behavior and practices.

SECTION 7: The Council shall, consistent with state law, supervise and evaluate its staff and other personnel as may be necessary to carry out the functions of the Council.

SECTION 8:

A. Council members shall not receive additional compensation or a per diem from the Office of the Governor for serving on the Council;

B. Council members may be reimbursed for reasonable and necessary expenses of attending Council meetings and performing Council duties (including child care and personal assistance services);

C. Council members who are employees or elected public officials of the state of Louisiana or a political subdivision thereof may seek reimbursement of travel expenses, in accordance with PPM 49, from their employing and /or elected department, agency and/or office; and

D. Council members who are also members of the Louisiana Legislature may seek a per diem from the Louisiana State Senate or House of Representatives, as appropriate, for their attendance.

SECTION 9: Support staff, facilities, and resources for the Council shall be provided by the Office of the Governor.

SECTION 10: 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 with the Council in implementing the provision of this Order.

SECTION 11: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 22nd day of August, 2008.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Jay Dardenne  
Secretary of State  
0809#066

**EXECUTIVE ORDER BJ 08-74**

Governor's Advisory Council on  
Disability Affairs

WHEREAS, the Governor's Advisory Council on Disability Affairs was originally established by executive order to monitor state compliance with the Americans with Disabilities Act and to advise the governor on the needs of individuals with disabilities and/or on other relative concerns;

WHEREAS, citizens of the state of Louisiana with disabilities have unique needs including, but not limited to, access to continued education concerning compliance with the Americans with Disabilities Act, The Rehabilitation Act, and No Child Left Behind;

WHEREAS, the state of Louisiana and its political subdivisions have an affirmative duty to remove any barriers that may prohibit individuals with disabilities from living a full and active life; and

WHEREAS, it is in the best interests of the citizens of the state of Louisiana to continue the centralized and coordinated effort of compliance with the Americans with Disabilities Act and Rehabilitation Act by serving the Louisiana citizens with disabilities through the continuance of the Governor's Advisory Council on Disability Affairs;

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

SECTION 1: The Governor's Advisory Council on Disability Affairs (hereafter "Council") is reestablished and recreated within the executive department, Office of the Governor, Office of Disability Affairs.

SECTION 2: The duties of the Council shall include, but are not limited to, the following:

A. Advising the governor, through the Office of Disability Affairs, on issues of concern to the Louisiana citizens with disabilities;

B. Identifying the needs, issues, and solutions relative to persons with disabilities;

C. Assisting the Office of Disability Affairs, when requested, in the resolution of state disabilities issues; and

D. Providing education, communication, and networking services concerning disability issues and needs for all Louisiana citizens.

SECTION 3: On or before January 5, the Council shall submit to the governor annual reports regarding the issues set forth in Section 2 of this Order.

SECTION 4: The Council shall be composed of a maximum of thirty-nine (39) members who, unless otherwise specified, shall be appointed by and serve at the pleasure of the governor.

- A. The governor, or the governor's designee;
- B. The lieutenant governor, or the lieutenant governor's designee;
- C. The attorney general, or the attorney general's designee;
- D. The secretary of state, or the secretary's designee;
- E. The state treasurer, or the state treasurer's designee;
- F. The secretary of the Department of Health and Hospitals, or the secretary's designee;
- G. The secretary of the Louisiana Workforce Commission, or the secretary's designee;
- H. The secretary of the Department of Social Services, or the secretary's designee;
- I. The secretary of the Department of Transportation and Development, or the secretary's designee;
- J. The secretary of the Department of Wildlife and Fisheries, or the secretary's designee;
- K. The director of the Governor's Office of Homeland Security and Emergency Preparedness, or the director's designee;
- L. The commissioner of the Department of Agriculture and Forestry, or the commissioner's designee;
- M. The commissioner of the Department of Insurance, or the commissioner's designee;
- N. One (1) member of the Louisiana State Senate, designated by the president of the Louisiana Senate;
- O. One (1) member of the Louisiana House of Representatives, designated by the speaker of the Louisiana House of Representatives;
- P. The superintendent of the Department of Education, or the superintendent's designee;
- Q. The state fire marshal, or the state fire marshal's designee;
- R. The director of the Office of Elderly Affairs, or the director's designee;
- S. The director of the Office of Facility Planning and Control, or the director's designee;
- T. The chair of the Developmental Disabilities Council, or the chair's designee;
- U. The chair of the Advocacy Center, or the chair's designee;
- V. The chair of the Louisiana Assistive Technology Access Network, or the chair's designee;
- W. The chair of the Louisiana Rehabilitation Council, or the chair's designee;
- X. The chair of the Statewide Independent Living Council, or the chair's designee;
- Y. The chair of the Mental Health Planning Council, or the chair's designee;
- Z. The executive director of The Arc of Louisiana, or the executive director's designee;
- AA. One (1) representative of disability services from an institution of higher education; and
- BB. One (1) representative from the Uniform Construction Code Council;

CC. One (1) representative from the Louisiana Recovery Authority, and

DD. Ten (10) at-large members who have disabilities or have family members with disabilities.

SECTION 5: The chair of the Council shall be appointed by the governor from the membership of the Council. All other officers, if any, shall be elected by and from the membership of the Council.

SECTION 6: The Council shall meet at regularly scheduled intervals and at the call of the chair.

SECTION 7:

A. Council members shall not receive additional compensation or a per diem from the Office of the Governor for serving on the Council.

B. Council members who are an employee or an elected public official of the state of Louisiana or a political subdivision of the state of Louisiana may seek reimbursement of travel expenses, in accordance with PPM 49, from their employing and/or elected department, agency and/or office.

C. Council members who are also a member of the Louisiana Legislature may seek a per diem from the Louisiana State Senate or House of Representatives, as appropriate, for their attendance.

SECTION 8: Support staff, facilities, and resources for the Council shall be provided by the Office of Disability Affairs, Office of the Governor.

SECTION 9: 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 with the Council in implementing the provisions of this Order.

SECTION 10: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 22 day of August, 2008.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Jay Dardenne  
Secretary of State  
0809#067

**EXECUTIVE ORDER BJ 08-75**

Louisiana D.A.R.E. Advisory Board

WHEREAS, the Congress of the United States has enacted the Anti-Drug Abuse Act of 1988, 21 U.S.C.A. §861, *et seq.*, as generally amended, in recognition of the serious problems occurring within the United States due to the increase of drug abuse;

WHEREAS, the Louisiana Commission on Law Enforcement has been created within the Office of the Governor to operate as a forum on drug abuse issues and to coordinate drug abuse projects;

WHEREAS, two-thirds of Louisiana's public, private, and parochial school systems have executed written agreements with law enforcement agencies to implement a Drug Abuse Resistance Education (D.A.R.E.) program; and

WHEREAS, the D.A.R.E. Program is a nationally recognized and copyrighted drug education effort with specific criteria for implementation which requires strict replication

of the parent project;

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

SECTION 1: The Louisiana D.A.R.E. Advisory Board (hereafter "Board") is reestablished within the executive department, Office of the Governor.

SECTION 2: The duties of the Board shall include, but are not limited to, the following:

A. Develop, promote, monitor and evaluate the D.A.R.E. Program throughout the state of Louisiana; and

B. Serve as an advisory body to the Louisiana Commission on Law Enforcement regarding the performance of its duties in relation to the D.A.R.E. Program.

SECTION 3: The Board shall consist of thirteen (13) members, who shall be appointed by and serve at the pleasure of the governor, selected as follows:

A. The president of the Louisiana D.A.R.E. Officers' Association, or the president's designee;

B. One (1) representative from the Governor's Drug Policy Board;

C. Two (2) members from the Louisiana Sheriff's Association;

D. Two (2) members from the Louisiana Chiefs of Police Association;

E. Two (2) members from the Louisiana Commission on Law Enforcement;

F. One (1) principal representing a Louisiana public school;

G. One (1) teacher representing a Louisiana elementary school; and

H. Three (3) members representing community interests.

SECTION 4: The chair of the Board shall be appointed by the governor from the membership of the Board. All other officers, if any, shall be elected by the members of the Board from its membership.

SECTION 5: The Board shall meet at regularly scheduled intervals and at the call of the chair.

SECTION 6:

A. Board members shall not receive additional compensation or a per diem from the Office of the Governor for serving on the Board.

B. Board members who are employees or elected public officials of the state of Louisiana or a political subdivision thereof may seek reimbursement of travel expenses, in accordance with PPM 49, from their employing and/or elected department, agency and/or office.

C. Board members who are also members of the Louisiana Legislature may seek a per diem from the Louisiana State Senate or House of Representatives, as appropriate, for their attendance.

SECTION 7: Support staff, facilities, and resources for the Board shall be provided by the Office of the Governor.

SECTION 8: 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 with the Board in implementing the provisions of this Order.

SECTION 9: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 22nd day of August, 2008.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR

Jay Dardenne  
Secretary of State  
0809#068

#### EXECUTIVE ORDER BJ 08-76

Executive Department—Grants Portal

WHEREAS, the state of Louisiana desires to effectively maximize the use of federal, state and private grant funds available to local governments, nonprofits and private citizens;

WHEREAS, the state of Louisiana desires to increase the awareness of availability of such funds and programs available to agencies of the state, units of local government, as well as nonprofit and faith-based organizations;

WHEREAS, the state of Louisiana desires to reduce duplication of effort among the agencies of the state;

WHEREAS, there are a multitude of existing federal and state grants available;

WHEREAS, the state of Louisiana seeks to encourage the use of competitive grant funding by local governments as well as nonprofit and faith-based organizations;

WHEREAS, the state of Louisiana seeks to make searching for grant funding easier by consolidating application information into a single location;

WHEREAS, citizens, local governments and nonprofit organizations should be able to find information on available grants in a single location;

WHEREAS, the Division of Administration is part of the executive branch of the state of Louisiana;

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

SECTION 1: The Division of Administration shall create an online grants portal. This portal shall contain information on all grants the state distributes to other parties. This shall include federal grants that are administered by the state of Louisiana. This portal is to be created by March 2, 2009.

SECTION 2: The Division of Administration shall create policies and procedures as necessary to create the grants portal.

SECTION 3: Each department of the executive branch of state government shall assign a single point of contact that will be responsible for providing the information necessary for the grants portal for that department.

SECTION 4: The Board of Regents in conjunction with the management board of the institutions of post-secondary education shall submit a plan to the Commissioner of Administration, which outlines how such institutions will comply with the objectives set forth in this Order. This plan shall be submitted to the Commissioner by January 15, 2009.

SECTION 5: 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 with the implementation of the provisions of this Order.

SECTION 6: 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 27th day of August, 2008.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Jay Dardenne  
Secretary of State  
0809#069

#### EXECUTIVE ORDER BJ 08-77

##### Emergency Procedures for Conducting State Business

WHEREAS, pursuant to the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, *et seq.*, a state of emergency/disaster was declared through Proclamation No. 51 BJ 2008;

WHEREAS, Hurricane Gustav and its aftermath has the potential to cause unprecedented and extensive damage in the state of Louisiana and these tragic events has significant consequences on the financial conditions of the state; and

WHEREAS, the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, *et seq.*, confers upon the governor of the state of Louisiana emergency powers to deal with emergencies and disasters, including those caused by fire, flood, earthquake or other natural or man-made causes, to ensure that preparations of this state will be adequate to deal with such emergencies or disasters, and to preserve the lives and property of the citizens of the state of Louisiana;

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

SECTION 1: For procurement and contracting, strict compliance with R.S. 39:1481, *et seq.*, and R.S. 39:1551, *et seq.*, shall not be required. However, all state agencies should comply with the following conditions:

A. An appointed official within the agency, or the equivalent for elected officials in higher education, must determine that the failure to strictly comply with the statutory restriction is necessary due to the emergency;

B. A centralized point of contact for each agency must monitor all transactions conducted without strict statutory compliance, maintaining copies of all documentation. Documentation should specify whether the purchase falls into the "emergency" or "permanent" category and whether the purchase relates to Hurricane Gustav and all documentation must be maintained and available for audit and FEMA reimbursement purposes;

C. Written competitive quotes and/or offers must be obtained whenever possible and agencies must take the necessary steps to assess that fair and equitable pricing is being offered;

D. Performance-based contracting should be used where practical;

E. Statewide contracts should be used where practical;

F. To the maximum extent possible, such emergency contracts should be only for the duration of the emergency or to allow the agency time to comply with normal competitive bidding requirements if the goods or services will be required for an extended period of time;

G. Copies of contracts which would otherwise require approval by the Office of Contractual Review or the Office of State Purchasing and the supporting documentation discussed above must be provided to these agencies within 30 days or sooner, if practical. Additionally, ISIS agencies should enter small purchases into the AGPS/CFMS database as soon as practical. The Office of Contractual Review or the Office of State Purchasing shall review the contracts and documentation to determine compliance with this Executive Order; and

H. Payments to contractors should be made only after verification that all goods and services meet contract requirements.

SECTION 2: The inspector general is directed and authorized to monitor those transactions conducted outside the scope of regulatory statutes, orders, rules and regulations to insure that those transactions are directly related to the emergency situation and are prudently handled and, if any inappropriate transactions are noted, those situations shall be reported directly to the governor.

SECTION 3: All cabinet members, statewide elected officials and department heads are authorized to transfer the directions, job assignments, personnel, and functions of their departments for the purpose of performing or facilitating emergency services as necessary.

SECTION 4: All available resources of state government should be utilized as reasonably necessary to cope with this emergency.

SECTION 5: This Order is effective upon signature and shall be made applicable August 29, 2008 and continue in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 29th day of August, 2008.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Jay Dardenne  
Secretary of State  
0809#070

### EXECUTIVE ORDER BJ 08-78

#### DOTD Guidelines for Vehicles, Trucks and Loads

WHEREAS, the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, *et seq.*, confers upon the governor of the state of Louisiana emergency powers to deal with emergencies and disasters, including those caused by fire, flood, earthquake or other natural or man-made causes, to ensure that preparations of this state will be adequate to deal with such emergencies or disasters, and to preserve the lives and property of the citizens of the state of Louisiana;

WHEREAS, pursuant to Proclamation No. 51 BJ 2008, a state of emergency was declared and is currently in effect and as a result has requested the assistance of other states;

WHEREAS, the safety and welfare of the inhabitants of the affected areas of Louisiana and surrounding states, require that the movements of operators of commercial motor carriers traveling on the public highways of the state of Louisiana for the purpose of emergency preparedness and disaster relief efforts be expedited;

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

SECTION 1: The following size and weight for vehicles on roadways maintained by the state of Louisiana shall not exceed the following limitations:

A. Maximum gross vehicle weight for vehicles equipped with five (5) or more weightbearing axles with outer bridge spans of not less than forty (40) feet, but less than fifty-one (51) feet, shall not exceed ninety thousands (90,000) pounds. No single axle vehicle shall exceed twenty thousands (20,000) pounds in weight. No group of two (2) axles vehicles shall exceed forty thousand (40,000) pounds in weight. No group of three (3) axles vehicles shall exceed forty-eight thousands (48,000) pounds in weight except with a permit issued by the Louisiana Department of Transportation and Development (hereafter "Department");

B. Maximum gross vehicle weight for vehicles equipped with five (5) or more weightbearing axles with outer bridge spans of not less than fifty-one (51) feet shall not exceed ninety-five thousands (95,000) pounds. No single axle vehicle shall exceed twenty thousand (20,000) pounds

in weight. No group of two (2) axles vehicles shall exceed forty thousand (40,000) pounds in weight. No group of three (3) axles vehicles shall exceed forty-eight thousand (48,000) pounds in weight, except with a permit issued by the Department;

C. Maximum gross vehicle weight for vehicles equipped with four (4) weight-bearing axles with outer bridge spans of not less than forty-three (43) feet shall not exceed eighty thousand (80,000) pounds. No single axle vehicle shall exceed twenty thousand (20,000) pounds in weight. No group of two (2) axles vehicles shall exceed forty thousand (40,000) pounds in weight. No group of three (3) axles vehicles shall exceed forty-eight thousand (48,000) pounds in weight, except with a permit issued by the Department.

D. Maximum dimensions shall not exceed fourteen (14) feet wide, fourteen (14) feet high, and ninety-five (95) feet long on Interstate highways and fourteen (14) feet wide, thirteen (13) feet six (6) inches high, and ninety-five (95) feet long on non-Interstate highways. Carriers, owners, and/or drivers of any vehicle being operated under this Order are responsible for verifying in advance that the actual dimensions and weight of the vehicle/load are acceptable for all routes being traveled. This includes, but is not limited to, areas deemed by Federal, state, or local officials as inaccessible due to damages caused by Hurricane Katrina, overhead structures and/or construction areas; and

E. Any vehicle greater than eight (8) feet six (6) inches wide and less than or equal to fourteen (14) feet wide may travel during daylight hours only, beginning thirty (30) minutes before sunrise and ending thirty (30) minutes after sunset.

SECTION 2: The commercial vehicle regulatory requirements regarding the purchase of trip permits for registration and fuel for commercial motor carriers engaged in disaster relief efforts in the state of Louisiana shall be waived. This permit waiver also applies to such vehicles/loads with weights and dimensions not exceeding those described in Section 1(A) through (D) above. However, such permits must be obtained from the Louisiana Department and Transportation and Development for vehicles exceeding those weights.

SECTION 3: Nothing in this Order shall be construed to allow any vehicle to exceed weight limits posted for bridges and like structures, or relieve any vehicle or carrier, owner or driver of any vehicle from compliance with any restrictions other than those specified, or from any statute, rule, order, or other legal requirement not specifically waived herein.

SECTION 4: Nothing in this Order shall be construed or interpreted as being applicable to travel on nonstate maintained highways, or as being applicable to construction and building projects that are not in support of Hurricane Katrina recovery and repair efforts.

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 29th day of August, 2008.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Jay Dardenne

#### EXECUTIVE ORDER BJ 08-79

Hours of Service of Drivers of Telecommunications, Water  
and/or  
Wastewater Utility Service Vehicles

WHEREAS, the welfare of the citizens of the state of Louisiana is jeopardized by any occurrence, natural or man-made, that interrupts the delivery of telecommunications, water and/or wastewater (collectively referred to herein as "utilities") services;

WHEREAS, 49 C.F.R. §350.201, *et seq.*, of the Federal Motor Carrier Safety Regulations, requires each state to assume responsibility for improving motor carrier safety and adopting and enforcing safety laws and regulations that are compatible with new federal hours of service regulations as soon as practical, but no later than June 27, 2006, as a condition for Commercial Motor Carrier Safety Assistance Program funding;

WHEREAS, transportation performed by state, federal and local governments is exempt from the new federal hours of service regulations by 49 C.F.R. §390.3(f)(2); and

WHEREAS, application of the new federal hours of service regulations to the drivers of utility service vehicles engaged solely in intrastate commerce within the state of Louisiana may impair the ability of such utilities from expeditiously restoring services by prohibiting drivers from working extended hours while assisting in the restoration of their services;

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

SECTION 1: Notwithstanding any provision of the Louisiana Administrative Code to the contrary, during the declared state of emergency for Hurricane Gustav, Proclamation No. 51 BJ 2008, issued August 27, 2008, 49 CFR §390.23 is now applicable to the drivers of utility service vehicles, which are engaged solely in intrastate commerce within the state of Louisiana and operated by utilities regulated by the Louisiana Public Service Commission or the city of New Orleans (hereafter "Drivers of Utility Service Vehicles"), while this Order is in effect.

SECTION 2: Any rule and/or regulation promulgated by the Department of Public Safety and Corrections after this Order is issued, which adopts the Federal Hours of Service Regulations, shall not be applicable to drivers of utility service vehicles while this Order is in effect.

SECTION 3:

A. 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.

B. This Order shall be immediately terminated upon a finding by or notification from the U.S. Department of Transportation that the application of Section 1 of this Order will result in the loss of Federal Motor Carrier Safety Assistance Program funding.

SECTION 4: 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 29th day of August, 2008.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Jay Dardenne  
Secretary of State  
0809#071

#### EXECUTIVE ORDER BJ 08-80

Temporary Housing of Displaced Youth

WHEREAS, pursuant to the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, *et seq.*, a state of emergency was declared through Proclamation No.51 BJ 2008;

WHEREAS, it appears that Hurricane Gustav will make landfall along the Gulf Coast between Texas and Florida, most likely Louisiana according to weather information available at this time. In which event, severe flooding and damage to the southern part of the state, will threaten the safety, health, and security of the citizens of the state of Louisiana, along with private property and public facilities;

WHEREAS, emergency situations that may be caused by Hurricane Gustav, and the subsequent flooding and damage that is likely to ensue, will cause youth to be evacuated from juvenile detention centers from areas affected by Hurricane Gustav and placed in facilities operated by DPS&C Youth Services, in detention facilities unaffected by the hurricane, or in other residential facilities operated by Youth Services contractors;

WHEREAS, R.S. 15:901 authorizes DPS&C Youth Services to house youth committed to the custody of the agency;

WHEREAS, if the anticipated temporary evacuation of youth to other facilities occurs, DPS&C Youth Services, and other facilities not operated by the Department of Public Safety and Corrections, will be temporarily housing juveniles who are pre-trial, adjudicated, and/or pre-disposition detainees;

WHEREAS, in order to safely and effectively house these youth, provide for their medical treatment, contact

their families, make informed decisions about their care and placement and provide for the public safety, Youth Services will require that the detention centers provide information about the youth's criminal history, current charges, protection concerns, family contact information, and medical history, as well as at least a fifteen (15) day supply of any medications the youth is currently taking, if needed;

WHEREAS, pursuant to Executive Order No. BJ 2008-77, issued on August 29, 2008, cabinet members, statewide elected officials, and state agency heads are/will be authorized and empowered to use their best judgment in purchasing goods and services necessary to satisfy the situation caused by this emergency;

WHEREAS, the facilities that may temporarily house youth evacuated from other areas will experience additional costs and expenses due to the evacuation of the affected youth because of the increased population and the special needs of those youth, as well as the extraordinary medical care that may be required for some of the temporarily evacuated youth;

WHEREAS, R.S. 46:1906 (B)(2) authorizes the payment of a daily rate to any non-state owned facility for feeding and maintaining each child who is adjudicated delinquent and committed to the department by a court to be held in a secure environment, and who is held in such a secure facility for any reason, an amount equal to ninety percent of the current weighted average of the amount paid state detention facilities, determined to be \$96.43 for the year 2001, to be adjusted yearly on July first, pursuant to the consumer price index (\$106.24 effective 7/1/2008);

WHEREAS, for housing the affected youth; DPS&C Youth Services will make payments to detention centers in accordance with R.S. 46:1906, and make payments to residential programs at the current Youth Services contract rate with that program as authorized by R.S. 15:1081, *et seq.*;

WHEREAS, when Youth Services house the evacuated youth or is authorized to pay for the housing of evacuated youth, Youth Services will bill, and local governments will pay, the daily rate that the governmental entity currently pays the pertinent detention center for housing youth from that parish or governmental subdivision effective the fourth (4) day that the youth is housed at any location except for youth committed to the custody of Youth Services;

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

SECTION 1: Whether those youth have been committed to DPS&C Youth Services or not, R.S. 15:901 is hereby suspended to the extent that DPS&C Youth Services is granted the authority to bring into its temporary, constructive custody, youth evacuated from detention facilities in the parishes affected by Hurricane Gustav;

SECTION 2: Any detention center evacuating youth to Youth Services will send the youth's records including information about the youth's criminal history, current charges, protection concerns, family contact information, and medical history, as well as at least a fifteen (15th) day supply of any medications the youth is currently taking, if needed;

SECTION 3: Any extraordinary medical expenses incurred for the care of youth temporarily transferred from one of the affected parishes will be reimbursed in accordance with R.S. 15:824(B)(1)(c);

SECTION 4: DPS&C Youth Services is authorized to pay detention facilities the daily rate of \$106.24 for the housing of evacuated youth;

SECTION 5: DPS&C Youth Services is authorized to pay residential programs the current Youth Services contract rate with that program for the housing of evacuated youth;

SECTION 6: When Youth Services house the evacuated youth or is authorized to pay for the housing of evacuated youth, Youth Services will bill, and local governments will pay the daily rate that the governmental entity currently pays the pertinent detention center for housing youth from that parish or governmental subdivision effective the fourth (4th) day the youth is housed at any location, except for youth committed to the custody of Youth Services;

SECTION 7: 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 with the implementations of the provisions of this Order; and

SECTION 8: This Order is effective upon signature and shall apply unless amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 30th day of August, 2008.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Jay Dardenne  
Secretary of State  
0809#073

### EXECUTIVE ORDER BJ 08-81

#### Licensed Bed Capacity for Nursing Homes

WHEREAS, the state of Louisiana desires to promote and protect the health, safety, and well-being of all Louisiana residents, and specifically those residents in nursing facilities;

WHEREAS, the state of Louisiana desires to ensure the protection of such residents in nursing facilities in times of declared emergencies;

WHEREAS, R.S. 40:2116(D)(2) prohibits the Department of Health and Hospitals from approving additional beds in nursing facilities;

WHEREAS, the state of Louisiana desires that residents in nursing facilities be able to temporarily evacuate to safe sheltering locations during an emergency; and

WHEREAS, the state of Louisiana, recognizing the potential significance of Hurricane Gustav, desires to minimize the impact of the hurricane on the residents of nursing facilities;

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

SECTION 1: The secretary of the Department of Health and Hospitals may, at his discretion, establish such protocols, policies, and procedures as to allow a licensed nursing facility which accepts or receives evacuated residents to temporarily exceed its licensed bed capacity in the event of a declared emergency.

SECTION 2: The secretary of the Department of Health and Hospitals may establish such protocols, policies, and procedures without strict compliance with the requirements and provisions of the Administrative Procedure Act.

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 30th day of August, 2008.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Jay Dardenne  
Secretary of State  
0809#074

**EXECUTIVE ORDER BJ 08-82**

Use of State Vehicles to Transport  
Non-State Employees during Emergency

WHEREAS, pursuant to the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, *et seq.*, a state of emergency/disaster was declared through Proclamation No 51 BJ 2008;

WHEREAS, Hurricane Gustav and its aftermath has the potential to cause unprecedented and extensive damage in the state of Louisiana and these tragic events has significant consequences on the financial conditions of the state;

WHEREAS, the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, *et seq.*, confers upon the governor of the state of Louisiana emergency powers to deal with emergencies and disasters, including those caused by fire, flood, earthquake or other natural or man-made causes, to ensure that preparations of this state will be adequate to deal with such emergencies or disasters, and to preserve the lives and property of the citizens of the state of Louisiana;

WHEREAS, R.S. 29:724 (D)(1), allows the governor of the state of Louisiana to suspend the provisions of any order, rule or regulation of any state agency if strict compliance with the provisions of the order, rule or regulation would in any way prevent, hinder, or delay necessary action in coping with the emergency; and

WHEREAS, R.S. 29:735 (A)(1), provides immunity to the state and its agencies for the death of or injury to persons or damage to property as a result of engaging in homeland security or emergency preparedness activities;

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

SECTION 1: For the purpose of (1) evacuations; (2) shelter operations; and (3) obtaining medication, personal supplies, medical care and other critical services, strict compliance with Louisiana Administrative Code Title 34, Part XI, Section 103, and any other rule, regulation, policy or practice of any agency which limits travel in state-owned vehicles to state employees unless specific permission is given and procedures are followed, shall not be required during the existence of this declared state of emergency for Hurricane Gustav, Proclamation No. 51 BJ 2008.

SECTION 2: Non-state employees may travel as passengers in state-owned vehicles only during the existence of this declared state of emergency for the specific purposes outlined above. All other travel by non-state employees in state-owned vehicles shall be in compliance with Louisiana Administrative Code Title 34, Part XI, Section 103, and any other rule, regulation, policy or practice of any agency.

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 30th day of August, 2008.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Jay Dardenne  
Secretary of State  
0809#075

**EXECUTIVE ORDER BJ 08-83**

Public Health Emergency

WHEREAS, the Louisiana Health Emergency Powers Act, R.S. 29:760, *et seq.*, confers upon the Governor of the state of Louisiana emergency powers to deal with public health emergencies, including those caused by a disaster, such as hurricane, tornado, storm, flood, high winds, and other weather related events, that poses a high probability of a large number of deaths in the affected population or a large number of serious or long-term disabilities in the affected population in order to ensure that preparations of this state will be adequate to deal with such emergencies or disasters and to preserve the health and lives of the people of the state of Louisiana;

WHEREAS, when the Governor after consultation with the public health authority determines that a public

**EXECUTIVE ORDER BJ 08-84**

Emergency Closure of Schools

health emergency has occurred, or the threat thereof is imminent, R.S. 29:766(A) empowers him to declare a state of emergency by executive order or proclamation;

WHEREAS, Hurricane Gustav is expected to impact the coastal parishes of Louisiana with hurricane strength winds, wave surges, high tides, torrential rain and tornado activity. The storm is expected to make landfall on the Louisiana coast on or about September 1, 2008, with the expectation that hurricane force winds will reach the Louisiana coast prior to landfall;

WHEREAS, the forecast from the National Weather Service indicates that the coastal parishes of Louisiana will be subjected to hurricane conditions to such a degree that life, health and safety will be placed in jeopardy;

WHEREAS, the coastal parishes of Louisiana are expected to issue parish declarations of emergency and widespread evacuations and temporary relocations of the coastal population will occur, resulting in a potential disruption of health care by those relocating to an area outside their homes;

WHEREAS, a declaration of public health emergency is necessary to allow state agencies to thoroughly prepare for any eventuality related to public health needs and to allow federal agencies and federal resources to be deployed if necessary; and

WHEREAS, the secretary of the Department of Health and Hospitals and the state health officer have requested that a public health emergency be declared;

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

SECTION 1: Pursuant to the Louisiana Health Emergency Powers Act, R.S. 29:760, *et seq.*, a state of public health emergency is declared to exist in the state of Louisiana as a result of forecasted hurricane activity which has created emergency conditions that threaten the lives and health of the citizens of the state.

SECTION 2: The state of public health emergency extends from August 30, 2008, through September 29, 2008, unless terminated sooner.

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 30th day of August, 2008.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Jay Dardenne  
Secretary of State  
0809#076

WHEREAS, the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, *et seq.*, confers upon the governor of the state of Louisiana emergency powers to deal with emergencies and disasters, including those caused by fire, flood, earthquake or other natural or man-made causes, to ensure that preparations of this state will be adequate to deal with such emergencies or disasters, and to preserve the lives and property of the citizens of the state of Louisiana;

WHEREAS, R.S. 29:724(A) confers upon the governor the power to issue executive orders which shall have the force and effect of law;

WHEREAS, pursuant to Proclamation No.51 BJ 08, a state of emergency was declared and is currently in effect;

WHEREAS, R.S. 29:724 (D)(2) confers upon the governor the power to utilize all available resources of the state government and of each political subdivision of the state as reasonably necessary to cope with the disaster or emergency;

WHEREAS, R.S. 29:724 (D)(3) confers upon the governor the power to transfer the direction, personnel, or functions of state departments and agencies or units thereof for the purpose of performing or facilitating emergency services; and

WHEREAS, R.S. 29:724(D)(7) confers upon the governor the power to make provision for the availability and use of temporary emergency housing;

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

SECTION 1: The following thirty (30) school districts will suspend classes for Tuesday, September 2, 2008, and Wednesday, September 3, 2008: Avoyelles, Bienville, Bossier, Caddo, Caldwell, Catahoula, Claiborne, Concordia, DeSoto, East Baton Rouge, East Carroll, Franklin, Grant, Jackson, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Ouachita, Rapides, Red River, Richland, Sabine, Tensas, Union, Vernon, Webster, West Carroll, and Winn.

SECTION 2: As determined by the Office of Homeland Security and Emergency Preparedness, Hurricane Gustav could possibly move into Central and North Louisiana bringing substantial rain and possible flooding.

SECTION 3: The governor is authorized to close schools for emergency purposes to protect public health and safety of the citizens of Louisiana.

SECTION 4: Each Superintendent of Education for each school district in the above-referenced parishes shall order the closure of each educational facility under its direction.

SECTION 5: The Office of Homeland Security and Emergency Preparedness shall make efforts to work with the superintendents and local boards of education to minimize any disruption which may result from this Executive Order.

SECTION 6: 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 30th day of August, 2008.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Jay Dardenne  
Secretary of State  
0809#077

### EXECUTIVE ORDER BJ 08-85

#### Postponement of Primary and Proposition Elections for Certain Parishes

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

WHEREAS, on September 2, 2008, pursuant to the provisions of R.S. 18:401.1(B), the Secretary of State certified to the Governor that as a result of Hurricane Gustav a state of emergency exists in the parishes of Allen, Avoyelles, Beauregard, Bienville, Bossier, Caddo, Caldwell, Catahoula, Claiborne, Concordia, DeSoto, East Carroll, Evangeline, Franklin, Grant, Iberville, Jackson, Jefferson, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Orleans, Ouachita, Pointe Coupee, Rapides, Red River, Richland, Sabine, St. Charles, St. Landry, St. Tammany, Tangipahoa, Tensas, Union, Vernon, Washington, Webster, West Carroll, and Winn, and recommends that the primary and proposition elections to be held on Saturday, September 6, 2008, be delayed until such time as may be rescheduled in those parishes;

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: Under the authority of R.S. 18:401.1(B), and based on the September 2, 2008 certification from the Secretary of State that a state of emergency exists in the above mentioned parishes, and the recommendation that the elections for U.S. Representative, 1st Congressional District – Democratic Party in the Parishes of Jefferson, Orleans, St. Charles, St. Tammany, Tangipahoa, and Washington; U.S. Representative, 2nd

Congressional District – Democratic Party in the Parishes of Jefferson and Orleans; U.S. Representative, 4th Congressional District – Democratic Party and U.S. Representative, 4th Congressional District – Republican Party in the Parishes of Allen, Beauregard, Bienville, Bossier, Caddo, Claiborne, DeSoto, Grant, Natchitoches, Red River, Sabine, Vernon, and Webster; U.S. Representative, 5th Congressional District – Republican Party in the Parishes of Allen, Avoyelles, Caldwell, Catahoula, Concordia, East Carroll, Evangeline, Franklin, Iberville, Jackson, LaSalle, Lincoln, Madison, Morehouse, Ouachita, Pointe Coupee, Rapides, Richland, Tensas, Union, West Carroll, and Winn; Ivan Fire Protection District No. 3 in the Parish of Bossier; and Prairie Bass Gravity Drainage District in the Parish of St. Landry, all scheduled for September 6, 2008, are hereby postponed indefinitely and shall be rescheduled as soon as practicable.

SECTION 2: This Order is effective upon signature.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 3rd day of September, 2008.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Jay Dardenne  
Secretary of State  
0809#107

### EXECUTIVE ORDER BJ 08-86

#### Suspension of Requirements for Special Officer Commissions

WHEREAS, a state of emergency was declared on August 27, 2008, Proclamation No. 51 BJ 2008, as Hurricane Gustav posed an imminent threat to the state of Louisiana;

WHEREAS, subsequently, Hurricane Gustav struck the state of Louisiana causing severe flooding and damage to the southern part of the state, which have threatened the safety and security of the citizens of the affected areas of the state of Louisiana, along with private property and public facilities;

WHEREAS, law enforcement manpower currently available to the state to respond to this emergency are insufficient and there is a need to immediately supplement the law enforcement presence in the area of the disaster;

WHEREAS, the superintendent of state police is authorized by R.S. 40:1379.1 to issue a special officer's commission from the division of state police;

WHEREAS, R.S. 40:1379.1 also provides that such person must display the need for statewide police power and power to arrest, be bonded, and adhere to all restrictive stipulations, as set forth in the special officer's commission; and

WHEREAS, the superintendent of state police has requested that the requirement of bonding of special commissioned officers be suspended temporarily so as not to

delay necessary multi-jurisdictional actions in coping with the emergency;

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: Pursuant to the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:724, *et seq.*, and more specifically R.S. 29:724(D), the requirement of persons issued a special officer's commission by the superintendent of state police to be bonded shall be suspended.

SECTION 2: The only requirement of R.S. 40:1379.1 which shall be suspended is the requirement of the bond and proof thereof, and all other requirements shall remain in full force and effect.

SECTION 3: The qualification and requirements as required by the Louisiana Administration Code Title 55, Part 1, §1303(G) shall also be suspended.

SECTION 4: The suspension of the bond requirement by a person receiving a special officer's commission from the superintendent of state police and LAC 55:1303(G) shall extend through October 1, 2008.

SECTION 5: This Order is effective upon signature, retroactive to September 1, 2008, and shall continue in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, in the city of Baton Rouge, on this 4th day of September, 2008.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Jay Dardenne  
Secretary of State  
0809#108

**EXECUTIVE ORDER BJ 08-87**

Emergency Suspension of Certain  
Workers' Compensation Laws

WHEREAS, pursuant to the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, *et seq.*, a state of emergency was declared through Proclamation No. 51 BJ 2008;

WHEREAS, Hurricane Gustav struck the state of Louisiana causing severe flooding and damage which has threatened the safety, health, and security of the citizens of the state of Louisiana, along with private property and public facilities;

WHEREAS, Hurricane Gustav, and its aftermath, has displaced workers, employers, healthcare professionals and workers' compensation payors;

WHEREAS, in addition to the displaced individuals and businesses, there are thousands of individuals impacted by Hurricane Gustav who have numerous communication challenges due to the mass extended interruption of mail service, phone service and electricity;

WHEREAS, the evacuations, displacements, communication issues, as well as the inability of workers' compensation claimants, payors, and their representatives to gain access to their files has resulted in challenges to the administration of the workers' compensation system;

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

WHEREAS, the executive director of the Louisiana Workforce Commission has requested, due to the mass displacement of claimants across our state and our nation, as well as displacement of employers and payors across our state and our nation, that portions of R.S. 23:1124, regarding consequences for failure to timely submit to a medical examination, R.S. 23:1203(A), regarding out-of-state healthcare providers, and portions of Office of Workers Compensation Hearing Rule 6009 be suspended;

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: R.S. 23:1124 which suspends an employee's right to workers' compensation benefits for failure to timely submit to a medical examination, and provides employers and insurers the right to an expedited hearing for the purpose of seeking an order compelling an employee's compliance with a medical examination, is hereby suspended for those persons for whom a medical examination is not reasonably possible due to the effects of the storm.

SECTION 2: R.S. 23:1203(A) is hereby suspended to the extent that such statute differentiates between in-state and out-of-state providers and facilities. The suspension shall only apply for a claimant who evacuated to a location outside of Louisiana and for the time period that such claimant remains residing outside of Louisiana. In such instances, medical care, services and treatment shall be provided as though the provider or facility was located in Louisiana.

SECTION 3: The portion of Office of Workers' Compensation Hearing Rule 6009 which requires that the parties to workers' compensation mediation conferences appear in person is hereby suspended. The suspension of this portion of the rule will minimize disruption to the orderly conduct of mediations in instances in which Hurricane Gustav has displaced the parties too far to participate in person, and will allow them to participate in the mediation via telephone instead.

SECTION 4: This Order is effective upon signature and shall apply retroactively from Thursday, August 28, 2008, through Sunday, September 21, 2008, unless amended, modified, terminated, or rescinded by the governor, or otherwise terminated prior thereto.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state

of Louisiana, at the Capitol, in the city of Baton Rouge, on this 4th day of September, 2008.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Jay Dardenne  
Secretary of State  
0809#109

**EXECUTIVE ORDER BJ 08-88**

Emergency Authority for Call of  
Meetings of the State Mineral Board

WHEREAS, the State Mineral Board, created and established by Act No. 93 of the 1936 Regular Legislative Session, R.S. 30:121, *et seq.*, meets at the call of the Governor pursuant to the provisions of R.S. 30:123;

WHEREAS, the customary meeting schedule for the State Mineral Board is impracticable at times, due to holidays, special events, and/or special circumstances;

WHEREAS, the widespread damage occasioned by Hurricane Gustav has made impracticable the call of certain meetings of the State Mineral Board; and

WHEREAS, it is essential to the functioning of government that the State Mineral Board be able to reschedule or cancel its meetings expeditiously in a time of crisis, special event, or special circumstances;

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

SECTION 1: During a declaration of emergency, the Chair of the Board is hereby delegated the Governor's authority to cancel, reschedule, or consolidate any Board meeting.

SECTION 2: During a declaration of emergency, the Chair of the Board is also hereby authorized to issue for the Governor the call of a special meeting of the Board that is in addition to the Board's monthly meeting, when special circumstances necessitate that an additional meeting be held and when it is impracticable for a quorum of the Board to meet to make such a call.

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

SECTION 4: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

SECTION 5: The provisions of Order BJ 2008-31 shall remain in effect, except as otherwise amended or modified herein.

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 September, 2008.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Jay Dardenne  
Secretary of State  
0809#110

**EXECUTIVE ORDER BJ 08-89**

Rescheduling of the 2008 Primary, General  
and Proposition Elections Postponed by BJ 08-85

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

WHEREAS, on September 2, 2008, pursuant to the provisions of R.S. 18:401.1(B), the Secretary of State certified to the Governor that as a result of Hurricane Gustav a state of emergency exists in the parishes of Allen, Avoyelles, Beauregard, Bienville, Bossier, Caddo, Caldwell, Catahoula, Claiborne, Concordia, DeSoto, East Carroll, Evangeline, Franklin, Grant, Iberville, Jackson, Jefferson, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Orleans, Ouachita, Pointe Coupee, Rapides, Red River, Richland, Sabine, St. Charles, St. Landry, St. Tammany, Tangipahoa, Tensas, Union, Vernon, Washington, Webster, West Carroll and Winn;

WHEREAS, pursuant to the Secretary of State's September 2, 2008 certification, the following elections were postponed by Executive Order No. BJ 08-85: the elections for U.S. Representatives, 1st Congressional District – Democratic Party in the Parishes of Jefferson, Orleans, St. Charles, St. Tammany, Tangipahoa and Washington; U.S. Representatives, 2nd Congressional District – Democratic Party in the Parishes of Jefferson and Orleans; U.S. Representatives, 4th Congressional District – Democratic Party and U.S. Representatives, 4th Congressional District – Republican Party in the Parishes of Allen, Beauregard, Bienville, Bossier, Caddo, Claiborne, DeSoto, Grant, Natchitoches, Red River, Sabine, Vernon, and Webster; U.S. Representatives, 5th Congressional District – Republican Party in the Parishes of Allen, Avoyelles, Caldwell, Catahoula, Concordia, East Carroll, Evangeline, Franklin, Iberville, Jackson, LaSalle, Lincoln, Madison, Morehouse,

Ouachita, Pointe Coupee, Rapides, Richland, Tensas, Union, West Carroll and Winn; Ivan Fire Protection District No. 3 in the Parish of Bossier; and Prairie Bass Gravity Drainage District in the Parish of St. Landry, all scheduled for September 6, 2008; and

WHEREAS, on September 4, 2008, the Secretary of State recommended that an executive order be issued to reschedule the elections postponed by Executive Order No. BJ 08-85;

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

SECTION 1: Under the authority of R.S. 18:401.1(B) and based on the September 2, 2008 certification of the secretary of state that a state of emergency exists in the parishes of Allen, Avoyelles, Beauregard, Bienville, Bossier, Caddo, Caldwell, Catahoula, Claiborne, Concordia, DeSoto, East Carroll, Evangeline, Franklin, Grant, Iberville, Jackson, Jefferson, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Orleans, Ouachita, Pointe Coupee, Rapides, Red River, Richland, Sabine, St. Charles, St. Landry, St. Tammany, Tangipahoa, Tensas, Union, Vernon, Washington, Webster, West Carroll and Winn and the September 4, 2008 recommendation that the postponed elections be rescheduled, the elections postponed by Executive Order No. BJ 08-85 are rescheduled as follows:

A. U.S. Representative, 1st Congressional District – Democratic Party in the Parishes of Jefferson, Orleans, St. Charles, St. Tammany, Tangipahoa and Washington, First Party Primary to be rescheduled October 4, 2008, with early voting reopened September 20-27, 2008; and the General Elections to be held as scheduled November 4, 2008, with early voting as scheduled by law, October 21-28, 2008;

B. U.S. Representative, 2nd Congressional District – Democratic Party in the Parishes of Jefferson and Orleans, First Party Primary to be rescheduled October 4, 2008, with early voting reopened September 20-27, 2008; the Second Party Primary to be rescheduled November 4, 2008, with early voting as scheduled by law, October 21-28, 2008; and the General Election to be rescheduled December 6, 2008, with early voting to be held November 18-25, 2008, or the General Election on November 4, 2008, if no Second Party Primary is necessary, with early voting as scheduled by law, October 21-28, 2008;

C. U.S. Representative, 4th Congressional District – Democratic Party and U.S. Representative, 4th Congressional District – Republican Party in the Parishes of Allen, Beauregard, Bienville, Bossier, Caddo, Claiborne, DeSoto, Grant, Natchitoches, Red River, Sabine, Vernon and Webster, First Party Primary to be rescheduled October 4, 2008, with early voting reopened September 20-27, 2008; the Second Party Primary to be rescheduled November 4, 2008, with early voting as scheduled by law, October 21-28, 2008; and the General Election to be rescheduled December 6, 2008, with early voting to be held November 18-25, 2008, or the General Election on November 4, 2008, if no Second Party Primary is necessary, with early voting as scheduled by law, October 21-28, 2008;

D. U.S. Representative, 5th Congressional District – Republican Party in the Parishes of Allen, Avoyelles, Caldwell, Catahoula, Concordia, East Carroll, Evangeline, Franklin, Iberville, Jackson, LaSalle, Lincoln, Madison, Morehouse, Ouachita, Pointe Coupee, Rapides, Richland, Tensas, Union, West Carroll and Winn, First Party Primary to be rescheduled October 4, 2008, with early voting reopened September 20-27, 2008; and the General Election to be held as scheduled on November 4, 2008, with early voting as scheduled by law, October 21-28, 2008;

E. The proposition election for Ivan Fire Protection District No. 3 in the Parish of Bossier to be rescheduled October 4, 2008, with early voting reopened September 20-27, 2008; and

F. The proposition election for Prairie Bass Gravity Drainage District in the Parish of St. Landry to be rescheduled October 4, 2008, with early voting reopened September 20-27, 2008.

SECTION 2: Executive Order No. BJ 2008-85, issued on September 3, 2008, is hereby rescinded and terminated.

SECTION 3: This Order is effective upon signature.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 4th day of September, 2008.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Jay Dardenne  
Secretary of State  
0809#111

#### **EXECUTIVE ORDER BJ 08-90**

##### **Emergency Occupation of Hotels and Motels by Utility Restoration Personnel**

WHEREAS, the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, *et seq.*, confers upon the governor of the state of Louisiana emergency powers to deal with emergencies and disasters, including those caused by fire, flood, earthquake or other natural or man-made causes, to ensure that preparations of this state will be adequate to deal with such emergencies or disasters, and to preserve the lives and property of the citizens of the state of Louisiana;

WHEREAS, under the provisions of Louisiana Homeland Security and Emergency Assistance and Disaster Act, and R.S. 29:724(A) in particular, the governor is responsible for meeting the dangers to the state and people presented by emergencies or disasters and may issue executive orders, proclamations, and regulations which shall have the effect of law;

WHEREAS, the welfare of the citizens of the state of Louisiana is jeopardized by any disaster, natural or manmade, that interrupts the delivery of electric, gas, telecommunications, water and/or wastewater (collectively referred to herein as "utilities") services;

WHEREAS, R.S. 45:859 provides that the swift restoration of electric and gas utility service following natural disasters can minimize the effects of such disasters and therefore the restoration and rebuilding of the utilities is a valid public purpose and in the best interests of the citizens and businesses of this state; and

WHEREAS, during the restoration and recovery of utility infrastructure, it is necessary that hotel and motel rooms and other commercial lodging facilities ("lodging facilities") be made available for employees and/or contract employees of utilities ("utility restoration personnel") many of whom travel to the affected areas from out of state or out of the area;

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

SECTION 1: During this declaration of emergency for Hurricane Gustav, Proclamation No. 51 BJ 2008, all lodging facilities shall make every effort to allow utility restoration personnel to occupy and/or continue to occupy such rooms or facilities under the normal terms, conditions and rates of the lodging facility.

SECTION 2: During this declaration of emergency for Hurricane Gustav, Proclamation No. 51 BJ 2008, no utility restoration personnel shall be replaced by non-utility restoration personnel as long as such person currently occupying the lodging facility is able to pay the nightly rates, including applicable taxes, or is able to guarantee payment during such time as said personnel are performing restoration and recovery of utility infrastructure activities.

SECTION 3: The attorney general, state police, and local governmental authorities are authorized and mandated to assist in ensuring compliance with this Order while it is in effect.

SECTION 4: 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 September, 2008.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Jay Dardenne  
Secretary of State  
0809#112

#### **EXECUTIVE ORDER BJ 08-91**

##### **Emergency Suspension of Certain Unemployment Insurance Laws**

WHEREAS, pursuant to the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, *et seq.*, a state of emergency was declared through Proclamation No. 51 BJ 2008;

WHEREAS, subsequently, Hurricane Gustav struck the state of Louisiana causing severe flooding and damage to

the state which threatens the safety, health, and security of the citizens of the state of Louisiana, along with private property and public facilities;

WHEREAS, Hurricane Gustav, and its aftermath, has displaced thousands of workers and employers from their homes and places of business;

WHEREAS, in addition to the displaced individuals, Hurricane Gustav has caused numerous communication challenges due to the interruption of mail service, phone service and electricity;

WHEREAS, the evacuations, displacements, communication issues, the inability of employers to access personnel files, and the extraordinary volume of resulting unemployment claims pose serious challenges to the effective and timely administration of the unemployment compensation system;

WHEREAS, the Louisiana Workforce Commission has consulted with the United States Department of Labor to assure the actions being taken in this order conform to federal unemployment compensation laws and regulations;

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

WHEREAS, the executive director of the Louisiana Workforce Commission has requested that Governor Jindal, due to the extreme volume of claims to be processed, suspend R.S. 23:1533, 1552, 1600(2) and (3), and 1601(1), (2) and (7)(a), (b) and (d) for disaster-related claims, so as to allow the timely and fair administration of the unemployment insurance program;

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

SECTION 1: For the purpose of this executive order, "disaster-related claims" shall mean claims for unemployment compensation filed by persons whose unemployment is directly due to the effects of Hurricane Gustav or due to their inability to get to their job or worksite because they cannot travel through a disaster parish, as determined by the administrator of the state's unemployment compensation program, i.e., the executive director of the Louisiana Workforce Commission. Disaster-related claims will not necessarily include all claims in all parishes included in Hurricane Gustav disaster proclamations, declarations or orders.

SECTION 2: The following statutes relative to unemployment insurance are hereby suspended to the extent and in the manner described below:

A. R.S. 23:1533, which provides for claimants' benefits to be charged against base period employers for purposes of employers' tax experience rating and the protesting of such charges by employers, shall be suspended for disaster-related claims made during the effective period of this Order.

B. R.S. 23:1552, which provides for the charging of claimants' benefits to certain employers, shall be suspended

for disaster-related claims made during the effective period of this Order.

C. R.S. 23:1600(2) and (3) shall be suspended while this Order is in effect for disaster-related claims to the extent that they require claimants to register and search for work, but the requirements in R.S. 23:1600(2) that claimants continue to report at an employment office in the manner prescribed by the administrator, and in R.S. 23:1600(3) that claimants be able to work and be available for work, are not waived. The requirement to continue to report at an employment office, which is accomplished through either an automated telephone system or the Internet, is not impractical and avoids overpayments, which claimants would be liable to repay. In the immediate aftermath of Hurricane Gustav the waived requirements are not practical for claimants without fixed temporary or permanent housing and verification of such activities is not practical in many areas affected by Hurricane Gustav.

D. R.S. 23:1601(1), (2) and (7)(a), (b) and (d), which provide certain disqualifications for otherwise eligible claimants, shall be suspended for disaster-related claims beginning while this Order is in effect. Persons having disaster-related claims were not discharged from their employment nor did they quit or leave their employment as contemplated by R.S. 23:1601(1) and (2), and the case-by-case adjudication of these issues would be an unproductive and unnecessary use of agency resources that should be devoted to processing the extraordinary high volume of disaster-related claims that will be filed. Calculation of the waived §1601(7) offsets from unemployment benefits would unduly delay payment, given the volume of claims and the volume of employers and claimants without access to the pertinent records. Regardless of the waiver of R.S. 23:1601(7), the requirement in R.S. 23:1600, that a claimant be "unemployed" as defined in R.S. 23:1472(19), is not waived. Persons who are paid by their employers, but who performed no services for the week(s) paid, are not unemployed and therefore are not eligible to receive unemployment benefits for any such week. Also, this waiver shall not affect the offset of wages from a claimant's weekly benefit amount pursuant to R.S. 23:1593.

SECTION 3: This Order is effective upon signature for those parishes already covered by the Major Disaster Presidential Declaration dated September 1, 2008, and to those parishes covered by any subsequent expansion of the September 1, 2008 Declaration. This shall apply retroactively from the date of the first evacuation, i.e., Friday, August 29, 2008, and shall continue through Sunday, September 21, 2008, unless amended, modified, terminated, or rescinded by the governor, or otherwise prior thereto.

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 5th day of September, 2008.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Jay Dardenne  
Secretary of State  
0809#113

## EXECUTIVE ORDER BJ 08-92

### Emergency Suspension of Deadlines in Legal, Administrative, and Regulatory Proceedings

WHEREAS, the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, *et seq.*, confers upon the governor of the state of Louisiana emergency powers to deal with emergencies and disasters, including those caused by fire, flood, earthquake or other natural or man-made causes;

WHEREAS, Hurricane Gustav struck the state of Louisiana causing severe flooding and damage to the state, which has threatened the safety and security of the citizens in the affected areas, along with private property and public facilities;

WHEREAS, pursuant to Proclamation No. 51 BJ 2008, a state of emergency was declared for the entire state on August 27, 2008, and is currently in effect;

WHEREAS, as a direct consequence of the disaster, evacuation, and subsequent flooding and power outages, there are extreme challenges to communication networks between citizens, which has created an obstruction to citizens attempting to timely exercise their rights to effectively pursue or defend claims in legal, administrative, and regulatory proceedings;

WHEREAS, La. Constitution Art. I §22 provides that all courts shall be open, and every person shall have an adequate remedy by due process of law and justice, administered without denial, partiality, or unreasonable delay, for injury to him in his person, property, reputation, or other rights;

WHEREAS, Hurricane Gustav has also rendered several court houses and other state facilities temporarily inoperable and/or not fit for occupancy;

WHEREAS, the destruction and disruption of services and infrastructure to our system of justice caused by Hurricane Gustav will have a profound impact on the basic rights to an untold number of persons unless action is taken to suspend the effects of the tolling of legal delays during the period of this emergency; and

WHEREAS, the Speaker of the House of Representatives, the President of the Senate, the Louisiana State Bar Association, the Louisiana Association of Justice, and the Louisiana Association of Defense Counsel have each requested the governor to suspend all deadlines applicable to legal, administrative, and regulatory proceedings, including prescription and peremption, in all Louisiana state courts, administrative agencies and boards;

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: All deadlines in legal, administrative, and regulatory proceedings, including liberative prescriptive and preemptive periods in all courts, administrative agencies, and boards are hereby suspended until Friday, September 12, 2008, including, but not limited to, any such deadlines set for in the following:

- A. Louisiana Civil Code;
- B. Louisiana Code of Civil Procedure;
- C. R.S. Title 9, Civil Code Ancillaries;

- D. R.S. Title 13, Courts and Judicial Procedure;
- E. R. S. Title 18, Chapter 11, Election Campaign Finance;
- F. R.S. Title 23, Chapter 10, Worker's Compensation;
- G. R.S. Title 40, Chapter 5 Part XXI-A, Malpractice Liability for State Services;
- H. R.S. Title 40, Chapter 5, Part XXIII, Medical Malpractice; and
- I. R.S. Title 49, Chapter 13, Administrative Procedure.

SECTION 2: This Order is effective upon signature and shall apply retroactively from Friday, August 29, 2008, through Friday, September 12, 2008, unless amended, modified, terminated, or rescinded by the governor, or terminated by operation of law prior to such time.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, in the city of Baton Rouge, on this 5th day of September, 2008.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Jay Dardenne  
Secretary of State  
0809#114

**EXECUTIVE ORDER BJ 08-93**

Limited Transfer of Authority to Commissioner of Insurance for Emergency Rules for Hurricane Gustav

WHEREAS, pursuant to the Louisiana Homeland Security and Emergency Assistance Act, R.S. 29:721, *et seq.*, a state of emergency was declared through Proclamation No. 51 BJ 2008;

WHEREAS, subsequently, Hurricane Gustav struck the state of Louisiana resulting in severe flooding and damage to the southern part of the state, which has threatened the safety and security of the citizens of the affected areas of the state of Louisiana, along with private property and public facilities;

WHEREAS, the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, *et seq.*, confers upon the governor of the state of Louisiana emergency powers to deal with emergencies and disasters, including those caused by fire, flood, earthquake or other natural or man-made causes, to ensure that preparations of this state will be adequate to deal with such emergencies or disasters, and to preserve the lives and property of the citizens of Louisiana;

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

WHEREAS, pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C.

5121-5206, a similar federal declaration of emergency was declared for affected parishes;

WHEREAS, thousands of families and businesses have suffered damages due to Hurricane Gustav and its aftermath. Many of such families and businesses have had to re-locate temporarily due to mandatory or voluntary evacuations and/or damage to their dwellings or offices that render them uninhabitable. Also, certain healthcare provider networks, or portions thereof, have collapsed;

WHEREAS, in addition to the displacement of thousands of citizens, Hurricane Gustav has also resulted in mass interruption of communications, including phone service, internet service and the delivery of mail in numerous areas throughout Louisiana;

WHEREAS, in the ordinary course of business, insurance companies send notices to their insureds, of which many of such notices are required by law to be responded to within specified time limits with consequences for failure to do so;

WHEREAS, state law also provides requirements for the approval and denial of claims by insurers of which compliance therewith is not practical for the thousands of displaced insureds and necessary third parties such as healthcare provider networks;

WHEREAS, Commissioner of Insurance James J. Donelon has advised the governor that citizens in Louisiana are at risk with regard to any and all kinds of insurance; and

WHEREAS, Commissioner of Insurance James J. Donelon has requested that the governor use his authority to authorize him to suspend laws regarding legal deadlines and certain processes and procedures as it applies to Louisiana citizens who on 12:01 A.M., August 30, 2008, resided in certain parishes regarding any and all insurance matters, including, but not limited to, flood insurance, homeowners insurance, life insurance, health and accident insurance, limited benefit insurance, vehicle insurance, liability insurance, workers' compensation insurance, burglary and forgery insurance, glass insurance, fidelity and surety insurance, title insurance, fire and extended coverage insurance, steam boiler and sprinkler leakage insurance, crop and livestock insurance, marine and transportation insurance, credit life insurance, medical supplement insurance, credit property and casualty insurance, annuity insurance, HMOs, professional and medical malpractice liability insurance, property and casualty insurance, all surplus lines insurance, self insurance funds, disability insurance, reciprocal insurance, long term care insurance, short term health insurance, stop loss insurance, excess loss insurance, commercial general insurance, Medicare supplement insurance, preferred provider organizations, managed care organizations and any and all other insurance related entities licensed by the Commissioner or doing business in Louisiana;

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: Commissioner of Insurance James J. Donelon shall have limited transfer of authority to act only according to the requirements for implementation of Emergency Rule 24 (Title 37, Part XI, Chapter 44). The governor's authority pursuant to R.S. 29:724 to suspend

provisions of any regulatory statute prescribing the procedures for conduct of state business, or the orders, rules or regulations of the Department of Insurance is transferred to Commissioner of Insurance James J. Donelon for purposes of enacting and enforcing Emergency Rule 24 (Title 37, Part XI, Chapter 44).

SECTION 2: Commissioner of Insurance James J. Donelon shall have limited transfer of authority to act only according to the requirements for implementation of Emergency Rule 25 (Title 37, Part XI, Chapter 45). The governor's authority pursuant to R.S. 29:724 to suspend provisions of any regulatory statute prescribing the procedures for conduct of state business, or the orders, rules or regulations of the Department of Insurance is transferred to Commissioner of Insurance James J. Donelon for purposes of enacting and enforcing Emergency Rule 25 (Title 37, Part XI, Chapter 45).

SECTION 3: This limited transfer of authority referenced in Sections 1 and 2 specifically includes, but is not limited to, the authority to suspend applicable statutes, issue any rules, regulations, directives or take any other actions that Commissioner James J. Donelon deems necessary for purposes of Emergency Rules No. 24 and 25 to protect the public health, safety, and welfare of the citizens of Louisiana, who were affected by Hurricane Gustav, and on 12:01 AM, August 30, 2008, resided in those parishes of Louisiana specified in Emergency Rules No. 24 and 25.

SECTION 4: Any rules, regulations, directives or any other actions taken by Commissioner of Insurance James J. Donelon to effectuate Emergency Rules No. 24 and 25 shall have the full force and effect as if said rules, regulations, directives or any other actions were issued by the governor of the state of Louisiana.

SECTION 5: The governor of the state of Louisiana shall retain his power, coterminous with the power transferred to Commissioner of Insurance James J. Donelon, to issue any rules, regulations, directives or take any other actions with regard to any and all insurance matters necessary to protect the public health, safety and welfare of the citizens of Louisiana.

SECTION 6: This limited transfer of authority shall remain in full force and effect for the duration of Emergency Rules No. 24 and 25, which is until October 1, 2008.

SECTION 7: The Department of Insurance Emergency Rules No. 24 and 25 are hereby declared to be part of this Order.

SECTION 8: All emergency orders, rules, regulations, directives or any other actions taken by Commissioner of Insurance James J. Donelon referenced in this Order shall be publicized according to law and posted on the Department of Insurance website at [www.ldi.state.la.us](http://www.ldi.state.la.us).

SECTION 9: 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 with the implementation of the provisions of this Order.

SECTION 10: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 9th day of September, 2008.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Jay Dardenne  
Secretary of State  
0809#115

#### **EXECUTIVE ORDER BJ 08-94**

Emergency Operations Plan—Amendment  
to Executive Order No. BJ 2008-32

WHEREAS, the state of Louisiana must be prepared to respond in a coordinated, effective and efficient manner to all the emergencies and disasters to which it is subjected;

WHEREAS, it is the policy of the state of Louisiana for all homeland security and emergency preparedness functions to follow the principles outlined in the National Incident Management System, or its successor, and La. R.S. 29:722(C); and

WHEREAS, the state of Louisiana will best achieve effective coordinated emergency planning by updating the state's current emergency operations order through the amendment of Executive Order No. BJ 08-32, issued on August 22, 2008, and by the Governor's Office of Homeland Security and Emergency Preparedness updating its emergency operations plan to expand the support agencies assigned to ESF-6 Function;

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

SECTION 1: The ESF 6 function is amended as follows:

ESF 6	Mass Care, Housing and Human Services	Department of Social Services	P
		Department of Corrections	P
		Governor's Office of Homeland Security and Emergency Preparedness	S
		Louisiana Family Recovery Corps	S
		Louisiana Housing Finance Agency	S
		Louisiana National Guard	S
		Department of Agriculture and Forestry	S
		Department of Culture, Recreation and Tourism	S
		Department of Education	S
		State Fire Marshal	S
		Governor – Office of Disability Affairs	S
		Governor – Office of Elderly Affairs	S
		Department of Health and Hospitals	S
		Louisiana State University System	S
		Department of Insurance	S
		Department of Labor	S
		Department of Natural Resources	S
		Louisiana Board of Regents	S
		Department of Veterans Affairs	S
		Department of Revenue	S
		Volunteer Organizations	S
		Department of Economic Development	S
		Department of Environmental Quality	S
		Department of Justice (Attorney General)	S
		Department of Treasury (State Treasurer)	S
		Department of Wildlife and Fisheries	S

		Public Service Commission	S
		Department of State (Secretary of State)	S
		Department of Civil Service	S
		Department of Transportation and Development	S

SECTION 2: All departments, commissions, boards, agencies and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate in the implementation of this Order.

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 9th day of September, 2008.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Jay Dardenne  
Secretary of State  
0809#116

**EXECUTIVE ORDER BJ 08-95**

Hurricane Gustav Oyster  
Lease Damage Inspection

WHEREAS, on September 1, 2008, high winds and storm surges associated with Hurricane Gustav prompted the Department of Health and Hospitals to order a precautionary closure of molluscan shellfish growing areas 1 through 28 on September 2, 2008, until such time as it could determine no health dangers exist in those areas;

WHEREAS, the Department of Wildlife and Fisheries has conducted dredge sampling on public reefs in portions of those molluscan shellfish growing areas, and has found silt and vegetative overburden present;

WHEREAS, the Department of Health and Hospitals has not reopened molluscan shellfish growing areas at this time;

WHEREAS, the oyster industry is important to the culture and economy of the state of Louisiana, and silt and vegetative overburden potentially may cause widespread mortality within oyster populations; and

WHEREAS, the best interests of the citizens of the state of Louisiana are served by allowing oyster lessees with leases located in molluscan shellfish growing areas 1 through 28 which remain closed at this time, pursuant to the precautionary closure ordered by the Department of Health and Hospitals on September 2, 2008, a one (1) day damage inspection period to inspect for silt and vegetative overburden on their oyster leases;

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: Pursuant to R.S. 29:724 and notwithstanding any other provision of state law, regulation, and/or precautionary closure order, an oyster lessee and/or a licensed oyster harvester having written permission from the oyster lessee, of an oyster lease located in molluscan shellfish growing areas 1 through 28 which remains subject to precautionary closure at this time by order of the Department of Health and Hospitals dated September 2, 2008, (hereafter "oyster lease holder") shall be allowed to conduct oyster lease damage inspection activities on such oyster lease on Friday, September 12, 2008, under the following conditions and in accordance with the following procedures:

A. No vessel used by an oyster lease holder for oyster lease damage inspection activities shall have on board or use more than one (1) statutorily authorized dredge;

B. No vessel used by an oyster lease holder for oyster lease damage inspection activities shall have any sacks or containers on board;

C. A vessel used by an oyster lease holder for oyster lease damage inspection activities may have on board not more than a standard measurement of one (1) barrel of oysters as described in R.S. 56:440. All oysters must be returned to the water prior to the vessel departing the oyster lease;

D. Under no circumstances shall an oyster lease holder and/or the vessel of an oyster lease holder remove or transport any oyster or oysters to or from an oyster lease located in a molluscan shellfish growing area closed on Friday, September 12, 2008, pursuant to precautionary closures ordered on September 2, 2008;

E. An oyster lease holder may conduct oyster lease damage inspection activities pursuant to this Order only between 7:00 a.m. and 5:00 p.m. on Friday, September 12, 2008; and

F. For oyster lease damage inspection activities to be conducted on an oyster lease by any person other than the oyster lessee, the person shall have on board the vessel the written permission of the oyster lessee authorizing the oyster lease damage inspection activities on the oyster lease.

SECTION 2: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate with the Departments of Health and Hospitals and Wildlife and Fisheries in implementing the provisions of this Order.

SECTION 3: This Order is effective upon signature and, unless rescinded sooner, shall expire at 5:00 p.m. on Friday, September 12, 2008.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of

Louisiana, at the Capitol, in the city of Baton Rouge, on this 10th day of September, 2008.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Jay Dardenne  
Secretary of State  
0809#117

# Emergency Rules

## DECLARATION OF EMERGENCY

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

#### Fixed Wing Aircraft; Standards for Commercial Aerial Pesticide Applications (LAC 7:XXIII.145)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and under the authority of R.S. 3:3203, the Commissioner of Agriculture and Forestry declares an emergency to exist and adopts by emergency process the attached rules and regulations for the application of an ultra low volume insecticide to be applied to cotton fields infested with boll weevils.

The applications of insecticides in accordance with the current concentration regulations have not been sufficient to control plant bugs. Failure to allow the concentrations in ultra low volume (ULV) malathion and a pyrethroid application (tank mixed) will allow the plant bugs the opportunity to destroy the cotton during the growing season, effectively destroying the cotton crop. The destruction of the cotton crop or a substantial portion of the cotton crop will cause irreparable harm to the economy of Northern Louisiana and to Louisiana Agricultural producers thereby creating an imminent peril to the health and safety of Louisiana citizens.

This Emergency Rule becomes effective upon the signature of the commissioner, August 21, 2008, and shall remain in effect until 11:59 p.m. on September 15, 2008.

### Title 7

## AGRICULTURE AND ANIMALS

### Part XXIII. Pesticides

#### Chapter 1. Advisory Commission on Pesticides

##### Subchapter I. Regulations Governing Application of Pesticides

#### §145. Fixed Wing Aircraft; Standards for Commercial Aerial Pesticide Applications

A. - A.5.b.xxxvi. ...

c. malathion and a pyrethroid insecticide (tank mixed) applied with the following conditions to control plant bugs in cotton;

i. The commissioner hereby declares that prior to making any aerial application of ULV malathion and a pyrethroid (tank mixed) to cotton, the aerial owner/operator must first register such intent by notifying the Division of Pesticides and Environmental Programs ("DPEP") in writing.

ii. Spray shall be applied, handled, and stored in accordance with all conditions specified by State or Federal regulations, including the strict observance of any buffer zones that may be implied.

iii. Aerial applicators shall strictly comply with any and all restrictions or mitigating factors, in regard to sensitive areas, including occupied buildings (churches, schools, hospitals, and homes), lakes, reservoirs, farm ponds, parks, and recreation areas that may be identified by the

Commissioner, and such restriction and mitigation are to be strictly complied with and observed by said aerial applicators.

iv. Aerial applicators will adjust flight patterns, to the degree possible, to avoid or minimize flying over sensitive areas. This restriction does not apply to over flight between take-off and the commencement of spray operations, or over flight between termination of spray operations and landing.

v. Aerial applicators shall be alert to all conditions that could cause spray deposit outside field boundaries and use their good faith efforts, including adjustment or termination of operations, to avoid spray deposit outside field boundaries.

vi. Aerial spraying shall not be conducted when wind velocity exceeds 10 m.p.h.

vii. Aerial applicators will terminate application if rainfall is imminent.

viii. Insecticide spray will not be applied in fields where people or animals are present. It is the applicator's responsibility to determine if people are present prior to initiating treatment.

ix. Spraying shall not be conducted in fields where other aircraft are working.

x. All mixing, loading, and unloading will be in an area where an accidental spill can be contained and will not contaminate a stream or other body of water.

xi. All aerial applications of insecticide shall be at an altitude not to exceed five feet above the cotton canopy. However, in fields that are not near sensitive areas, if infield obstructions make the five-foot aerial application height not feasible, then the aerial height may be extended to such height above the cotton canopy as is necessary to clear the obstruction safely.

xii. The aircraft tank and dispersal system must be completely drained and cleaned before loading. All hoses shall be in good condition and shall be of a chemical resistant type.

xiii. Insecticide tank(s) shall be leak-proof and spray booms of corrosion resistant materials, such as stainless steel, aluminum, or fiberglass. Sealants will be tested before use.

xiv. The tank(s) in each aircraft shall be installed so the tank(s) will empty in flight. Sight gauges or other means shall be provided to determine the quantity contained in each tank before reloading.

xv. A drain valve shall be provided at the lowest point of the spray system to facilitate the complete draining of the tanks and system while the aircraft is parked so any unused insecticide can be recovered.

xvi. A pump that will provide the required flow rate at not less than 40 pounds per square inch (psi) during spraying operation to assure uniform flow and proper functioning of the nozzles. Gear, centrifugal or other rotary types, will be acceptable on aircraft with a working speed above 150 miles per hour.

xvii. ULV spraying systems with a pumping capacity that exceeds the discharge calibration rate shall have the bypass flow return to the tank bottom in a manner that prevents aeration and/or foaming of the spray formulation. Pumps utilizing hydraulic drive or other variable speed drives are not required to have this bypass, provided the pump speed is set to provide only the required pressure and the system three-way valve is used for on/off control at full throw position. Any bypass normally used to circulate materials other than the ULV will be closed for ULV spraying.

xviii. Spray booms will be equipped with the quantity and type of spray nozzles specified by the Boll Weevil Eradication Program. The outermost nozzles (left and right sides) shall be equal distance from the aircraft centerline and the distance between the two must not exceed three-fourths of the overall wing span measurement. For helicopters, the outermost nozzles must not exceed three-fourths of the rotor span. For both fixed wing and helicopters, the program will accept the outermost nozzles between 60 percent and 75 percent of the wingspan/rotor span. Longer spray booms are acceptable provided modifications are made to prevent the entrapment of air in the portion beyond the outermost nozzle. Fixed wing aircraft not equipped with a drop type spray boom may require drop nozzles in the center section that will position the spray tips into smoother air to deliver the desired droplet size and prevent spray from contacting the tail wheel assembly and horizontal stabilizer. Most helicopters will be required to position the center nozzles behind the fuselage and dropped into smooth air in order to achieve the desired droplet size.

xix. Nozzles, diaphragms, gaskets, etc. will be inspected regularly and replaced when there is evidence of wear, swelling, or other distortion in order to assure optimum pesticide flow and droplet size. Increasing pressure to compensate for restricted flow is unacceptable. A positive on/off system that will prevent dribble from the nozzles is required.

xx. A positive emergency shut-off valve between the tank and the pump, as close to the tank as possible. This valve shall be controllable from the cockpit and supplemented by check valves and flight crew training which will minimize inadvertent loss of insecticide due to broken lines or other spray system malfunction.

xxi. Bleed lines in any point that may trap air on the pressure side of the spraying system.

xxii. An operational pressure gauge with a minimum operating range of 0 to 60 psi and a maximum of 0 to 100 psi visible to the pilot for monitoring boom pressure.

xxiii. A 50-mesh in-line screen between the pump and the boom and nozzle screens as specified by the nozzle manufacturer.

xxiv. Aircraft equipped so nozzle direction can be changed from 45 degrees down and back to straight back when it is necessary to change droplet size.

xxv. All nozzles not in use must be removed and the openings plugged.

xxvi. Nozzle tips for all insecticides shall be made of stainless steel.

xxvii. Aircraft shall have an operational Differentially Corrected Global Positioning System (DGPS) and flight data logging software that will log and display the date and time

of the entire flight from take-off to landing and differentiate between spray-on and spray-off.

xxviii. Aircraft shall have a DGPS with software designed for parallel offset in increments equal to the assigned swath width of the application aircraft. Fixed towers, portable stations, satellite, Coast Guard, or other acceptable methods may provide differential correction. However, the differential signal must cover the entire project area. In fringe areas from the generated signal, an approved repeater may be used. The system shall be sufficiently sensitive to provide immediate deviation indications and sufficiently accurate to keep the aircraft on the desired flight path with an error no greater than 3 feet. Systems that do not provide course deviation updates at one-second intervals or less will not be accepted.

xxix. A course deviation indicator (CDI) or a course deviation light bar (also CDI) must be installed on the aircraft and in a location that will allow the pilot to view the indicator with direct or peripheral vision without looking down. The CDI must be capable of pilot selected adjustments for course deviation indication with the first indication at 3 feet or less.

xxx. The DGPS must display to the pilot a warning when differential correction is lost, the current swath number, and cross-track error. The swath advance may be set manually or automatically. If automatic is selected, the pilot must be able to override the advance mode to allow respraying of single or multiple swaths.

xxxi. The DGPS must be equipped with a software for flight data logging that has a system memory capable of storing a minimum of three hours of continuous flight log data with the logging rate set at one second intervals. The DGPS shall automatically select and log spray on/off at one-second intervals while ferry and turnaround time can be two-second intervals. The full logging record will include position, time, date, altitude, speed in M.P.H., cross-track error, spray on/off, aircraft number, pilot, job name or number, and differential correction status. The flight data log software shall be compatible with DOS compatible PC computers, dot matrix, laser, or ink jet printers and plotters. The system must compensate for the lag in logging spray on/off. The system will display spray on/off at the field boundary without a sawtooth effect. Must be capable to end log files, rename, and start a new log in flight.

xxxii. The software must generate the map of the entire flight within a reasonable time. Systems that require five minutes or more to generate the map for a three-hour flight on a PC (minimum a 386 microprocessor with 4 MB of memory) will not be accepted. The flight path must clearly differentiate between spray on and off when viewed on the monitor or the printed hard copy. The software must be capable of replaying the entire flight in slow motion; stopping and restarting the replay at any point during the flight; zooming to any portion of the flight for viewing in greater detail and printing the entire flight or the zoomed-in portion. It must have a measure feature that will measure distance in feet between swaths or any portion of the screen and to be able to determine the exact latitude/longitude at any point on the monitor.

xxxiii. Flight information software provided by the applicator must have the capability to interface with MapInfo (version 3.0 or 4.0). The interface process must be

"user friendly", as personnel will be responsible to operate the system in order to access the information.

xxxiv. Application of ULV malathion and a pyrethroid (tank mixed) shall be at an application rate of 12 oz. per acre with no other dilutions or tank mixes.

xxxv. Applications of ULV malathion and a pyrethroid (tank mixed) shall not be made prior to sunrise on June 30, 2004 and shall not be made after sunset on September 15, 2004.

xxxvi. Applications of ULV malathion and a pyrethroid (tank mixed) shall be restricted to seven day intervals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:953 (September 1992), amended LR 21:927 (September 1995), amended LR 26:1964 (September 2000), LR 34:

Mike Strain, DVM  
Commissioner

0808#003

## DECLARATION OF EMERGENCY

### Department of Agriculture and Forestry Office of Agriculture and Environmental Sciences

#### Petroleum Products (LAC 7:XXXV.303)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953 (B), and under the authority of R.S. 3:4608 and 4680, the Commissioner of Agriculture and Forestry declares an emergency to exist and adopts by emergency process the attached regulations for the suspension of rules governing the sale of gasoline with greater than 7.8 Reid vapor pressure (RVP).

On August 27, 2008, Governor Bobby Jindal declared a state of emergency in Louisiana for purposes of preparing for Hurricane Gustav. The hurricane could potentially make landfall in Louisiana on or about September 2, 2008 and create emergency conditions that threaten the lives and property of the citizens of the state. The state of emergency extends from August 27, 2008 through September 26, 2008, unless terminated sooner.

The Department of Agriculture and Forestry has adopted rules and regulations adopting the ASTM International standards for gasoline Reid vapor pressure (RVP). Certain geographic areas of the state are in a non-attainment area as set out in Federal Register 56, 215, 56694, November 6, 1991. These areas are required to have a 7.8 RVP gasoline from June 1 to September 15 of each year while the remainder of the areas in the state may sell gasoline with up to 9.0 RVP. During the state of emergency it will be necessary to supplement the supply of gasoline in the geographic areas required to have 7.8 RVP gasoline to ensure an adequate supply for the evacuation of persons from the path of the hurricane and for operation of emergency personnel. There is not a sufficient supply of 7.8 RVP gasoline in the state to ensure an adequate supply of gasoline for these purposes. Gasoline with a greater than 7.8 RVP will have to be transported into the affected areas from

other geographic areas. A temporary suspension of these rules and regulations during the emergency is necessary to provide for an adequate supply of gasoline. Failure to suspend these rules and regulations creates an imminent peril to the public health, safety, and welfare of the citizens of this state.

This Emergency Rule becomes effective upon the signature of the commissioner, August 29, 2008 and shall remain in effect until the state of emergency declared by the governor on August 27, 2008 terminates or until 11:59 p.m. on September 15, 2008, whichever date occurs first.

## Title 7

### Agriculture and Animals

#### Part XXXV. Agro-Consumer Services

#### Chapter 3. Petroleum Products and Motor Fuels

#### §303. Standard Fuel Specifications for Gasoline and Gasoline-Oxygenate Blends

A. - A.8. ...

9. The ASTM D 4814, "Standard Specifications for Automotive Spark-Ignition Engine Fuel" seasonal volatility standards for the sale of greater than 7.8 RVP gasoline in non-attainment areas of the state of Louisiana are hereby suspended until termination of the state of emergency declared by the governor on August 27, 2008 terminates or until 11:59 p.m. on September 15, 2008, whichever date occurs first.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 31:29 (January 2005), amended LR 34:

Mike Strain, DVM  
Commissioner

0809#079

## DECLARATION OF EMERGENCY

### Student Financial Assistance Commission Office of Student Financial Assistance

#### Health Care Educator Loan Forgiveness Program (LAC 28:IV:Chapter 16)

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

The Emergency Rule implements Chapter 16 of LOSFA's Scholarships/Grants rules to provide for the administration of the Health Care Educator Loan Forgiveness Program in accordance with a Memorandum of Understanding between the Louisiana Student Financial Assistance Commission and the Louisiana Board of Regents.

This Declaration of Emergency is effective August 22, 2008, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act. (SG0998E)

**Title 28  
EDUCATION**

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

**Scholarship and Grant Programs**

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

**§1601. General Provisions**

A. The Health Care Educator Loan Forgiveness Program is administered by the Louisiana Office of Student Financial Assistance (LOSFA) in accordance with a Memorandum of Understanding by and between the Louisiana Board of Regents and the Louisiana Student Financial Assistance Commission (LASFAC).

B. Description, History and Purpose. The Health Care Educator Loan Forgiveness Program (Program) is established to provide funding to individuals to pursue an advanced degree, either masters or doctoral degree, in nursing or allied health. The purpose of the program is to provide an incentive for individuals who receive an advanced degree in nursing or allied health education to become postsecondary education faculty members in the field of registered nursing or top demand allied health education.

C. Effective Date. Health care educator loans shall be disbursed by LASFAC beginning with the 2008-2009 academic year.

D. Eligible Semesters/Terms. Health care educator loans will be disbursed to recipients seeking a masters degree in August and January. Health care educator loans will be disbursed to recipients pursuing a doctoral degree in August, January, and June, if applicable.

E. Award Amount. A Health Care Educator Loan Forgiveness Program recipient may receive up to \$20,000 per academic year. Recipients pursuing a masters degree may receive a lifetime maximum loan of \$40,000 and may receive two disbursements of \$10,000, one in August and one in January. Recipients pursuing a doctoral degree may receive a lifetime maximum loan of \$60,000 and may receive up to three disbursements per academic year, depending upon whether he is enrolled full-time or at least 2/3 time. A recipient pursuing a doctoral degree may receive \$10,000 if he is enrolled full-time and \$5,000 if he is enrolled at least 2/3 time, one disbursement in August and one disbursement in January. A recipient who has not received \$20,000 during the academic year and who enrolls during the summer term will receive \$5,000 in June.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 34:

**§1603. Definitions**

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

*Academic Year*—the academic year begins with the fall semester or term of the award year, includes the winter term, if applicable, the spring semester or term, and concludes with the completion of the summer term, if applicable.

*Enrolled Full-Time*—the student is enrolled for at least 9 semester hours in the fall or spring (or equivalent for term), 6 semester hours in the summer or equivalent as determined by the program in which he is enrolled

*Enrolled 2/3 Time*—the student is enrolled for at least 6 semester hours in the fall or spring (or equivalent for term)

*Participating Institution*—a postsecondary institution in Louisiana selected by the Board of Regents to participate in the Health Care Educator Loan Forgiveness Program.

*Recipient*—a masters or doctoral degree student who has been nominated by a participating institution to participate in the Health Care Educator Loan Forgiveness Program and who has completed a master promissory note to receive program funds.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 34:

**§1605. Participation in the Program**

A. To participate in the Health Care Educator Loan Forgiveness Program, a student must be nominated to participate in the Program by a participating institution.

B. Once nominated, a student must complete and return a master promissory note to the Louisiana Office of Student Financial Assistance. By signing the master promissory note, the student agrees that:

1. for students seeking a masters degree:

a. he will enroll full-time in the degree program during the fall, winter, if applicable, and spring semesters/terms;

b. he will remain enrolled full-time unless granted an exception to this requirement by the Board of Regents;

c. upon completion of his degree program, he will become a full-time Nurse or Allied Health faculty member at the institution which nominated him for the Health Care Educator Loan;

d. he will remain a full-time Nurse or Allied Health education faculty member until he teaches one year for each \$10,000 he received;

2. for students seeking a doctoral degree:

a. he will enroll full-time, or at least two-thirds time, in the degree program during the fall, winter, if applicable, and spring semesters/terms;

b. he will remain enrolled full-time, or at least two-thirds time, unless granted an exception to this requirement by the Board of Regents;

c. upon completion of his degree program, he will become a full-time nurse or allied health faculty member at the institution which nominated him for the Health Care Educator Loan;

d. he will remain a full-time nurse or allied health education faculty member until he teaches one full year for each \$10,000 he received.

C. A recipient will be eligible to continue to receive Health Care Educator Loan Forgiveness Program loans until he obtains his masters or doctoral degree, provided that he continues to maintain full time enrollment, or at least two-thirds time enrollment for doctoral degree students, unless an exception to this requirement is granted for cause in accordance with §1607.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 34:

### §1607. Exceptions to Program Requirements

A. Exception to the full time enrollment requirement, or two-thirds time enrollment for those seeking a doctoral degree.

1. The Board of Regents may grant an exception to the full-time enrollment requirement or two thirds time for doctoral students, if all of the following conditions are met:

a. The recipient has a temporary mental or physical disability, or other circumstance for which the board may deem an exception is appropriate;

b. The recipient requests an exception and provides such documentation as the board requires in order to evaluate whether an exception should be granted;

c. The recipient requests and obtains approval for the exception prior to withdrawing from enrollment or decreasing the number of hours in which he is enrolled.

2. The Board of Regents may grant an exception to the requirement to become a full-time nurse or allied health education faculty member if the following conditions are met.

a. The recipient has a temporary mental or physical disability or other circumstance for which the board may deem an exception is appropriate.

b. The recipient requests an exception and provides such documentation as the board requires to evaluate whether an exception should be granted.

c. The recipient requests and obtains approval for the exception prior to terminating his employment or otherwise fails to meet the requirement to teach full-time as a registered nursing or allied health education faculty member.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 34:

### §1609. Discharge of Obligation

A. The obligations of the recipient may be discharged by cancellation, teaching for the required period of obligation, or by monetary repayment.

B. Cancellation. The Board of Regents may discharge the requirement to maintain full-time enrollment, or two-thirds time for doctoral degree students, the requirement to complete the degree program in which the Recipient is enrolled, or the requirement to teach full-time as a Registered Nurse or Allied Health education faculty member under the following circumstances:

1. The recipient has a permanent mental or physical disability, or other circumstance for which the Board may deem discharge is appropriate; and

2. The recipient provides such documentation as the Board requires in order to evaluate whether a discharge should be granted; or

3. The participating institution at which the recipient is employed requests that the Board discharge the teaching requirement and provides such documentation that the Board requires to make a determination that the obligation should be discharged.

C. Fulfillment of teaching requirement. The obligation may be discharged under the following conditions:

1. The recipient secures full-time employment as a Nurse or Allied Health program faculty member at the institution which nominated him for the loan program or at another participating institution with the assistance and approval of the institution which nominated him for the loan program; and

2. The recipient begins teaching full-time as a Nurse or Allied Health program faculty member no later than the semester following the semester the student obtains his masters or doctoral degree; or

3. If the student is unable to secure employment as a fulltime faculty member at the institution which nominated him for the loan program or at another participating institution with the assistance and approval of the institution which nominated him for the loan program, the recipient may fulfill the teaching obligation by working in a public health facility, state office, or other alternative service as the Board may deem appropriate. The student must seek and obtain Board approval prior to undertaking such an alternative service position.

4. Each year of full time teaching or other alternative service as approved by the Board will discharge \$10,000 of the obligation.

D. Monetary Repayment. A recipient may be terminated from participation in the program either with or without default.

1. Termination without default.

a. Termination without default occurs when:

i. the recipient's enrollment in the degree program for which he received Program funds is discontinued;

ii. the recipient fails to remain enrolled on a full-time basis, or 2/3 time for doctoral students; or

iii. the recipient fails to maintain good academic standing.

b. In the event of termination without default, the recipient must repay the total of program funds received plus interest to LOSFA within 90 days of the date an event listed in §1609.C.1.a.(i)-(iii) occurs.

c. Interest will accrue at the prime interest rate at the time the condition in §1609.C.1.a.(i)-(iii) occurs plus 3 percent. Interest will accrue from the date of each disbursement.

2. Termination with Default

a. Termination with default occurs:

i. if, upon completion of the degree, the recipient fails to obtain a full-time faculty position in a nurse or allied health education program or fails to obtain approval for an alternative service position without just cause; or

ii the recipient is terminated from his employment for cause or voluntarily leaves his employment prior to fulfillment of the teaching obligation;

b. in the event of termination with default, the principal due at the time of default will be calculated in accordance with the following formula:

(i).  $[(a/b) \times (b-c)]^3 = d$ ;

(ii). for purposes of the formula above, "a" is equal to the total of the loans disbursed; "b" is equal to the months of service obligation required; "c" is equal to the number of months of the teaching obligation that were fulfilled; and "d" is equal to the total principal balance at the time repayment begins;

c. interest will accrue on the principal due at the prime rate at the time of default plus 3 percent;

d. interest will begin to accrue sixty days following the board's determination that the recipient is in default and shall accrue for the duration of the repayment period;

e. the recipient must make payment in full of the total amount due or begin making monthly payments no later than 60 days after the date of default and shall pay at least twenty five percent of the total amount, including interest, due each calendar year.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 34:

### **§1611. Responsibilities of Program Fund Recipients**

A. Each recipient of program funds shall:

1. provide LOSFA with a completed master promissory note and W-9 form;

2. provide the board with documentation that he was enrolled, in good academic standing, full-time, or 2/3 time for doctoral students, not later than August 15, January 15, or June 15, if applicable, of each academic year during which he is to receive program funds;

3. provide the board with documentation that he has undertaken to discharge his obligation:

a. by teaching full-time as a Nurse or Allied Health program faculty member; or

b. by working in a public health facility, state office, or other alternative service as the board previously approved in accordance with §1615.F;

4. provide any other information to the board or LOSFA as deemed necessary to process a request for an exception to the program requirements or a request for discharge of the obligations of the recipient in connection with the receipt of program funds.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 34:

### **§1613. Responsibilities of Participating Institutions**

A. Each participating institution shall:

1. nominate individuals to participate in the Health Educator Loan Forgiveness Program in accordance with specifications to be provided to it by the Board of Regents.

2. provide the board with the following information on each nominee:

a. name;

b. current address;

c. Social Security number;

d. program of study; and

e. anticipated graduation date.

f. other information as requested by the board.

C. At the request of the board, provide documentation that recipients enrolled full-time, or at least two-thirds time for doctoral students, if the recipient is enrolled at that institution, and that the student is in good academic standing.

D. At the request of the board, provide documentation that a recipient is or was employed as a full-time registered nurse or allied health education faculty member.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 34:

### **§1615. Responsibilities of the Board of Regents**

A. The Board of Regents shall notify each institution that is eligible to participate in the program of its eligibility, the number of students it may nominate for the academic year, and the number of those students nominated which may be enrolled as a masters or doctoral degree students.

B. The board shall collect information from the participating institutions as set forth in §1613.A-D. The board shall notify all participating institutions if additional information is required.

C. The board shall provide the information collected from participating institutions regarding nominees to LOSFA within 30 days of receipt in a format to be agreed upon between the board and LOSFA.

D. In the event a recipient is terminated from participation in the program, the board will determine whether it is with or without default, determine the date the termination if without default or the date of default if with default and immediately notify LOSFA.

E. The board will receive requests for exception to program requirements and requests for discharge from participating institutions and recipients. It will evaluate the requests and notify the participating institution and/or recipient if additional information is needed to process the request and what that information is. It will notify the participating institution, the recipient, and LOSFA of any determination regarding a request for exception to program requirements or for discharge.

F. The board will evaluate a request by a recipient to undertake to discharge his obligation by a form of service other than as a full-time registered nurse or allied health education faculty member and approve or deny such request in writing.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 34:

### **§1617. Responsibilities of LOSFA**

A. LOSFA shall:

1. obtain program nominee information from the board and provide the nominee with a master promissory note, written instructions, and a W-9 form;

2. LOSFA will pay program funds directly to the student when all of the following have been satisfied:

a. it has received a completed, signed master promissory note;

b. it has received a completed W-9; and

c. It has received confirmation from the Board that a recipient was enrolled full-time, or at least 2/3 time for doctoral degree students in accordance with §1611.B.

3. LOSFA will maintain a secure database of all information collected on recipients and former recipients, including name, address, social security number, program of study, name of the institution which nominated the student for the loan program, name of the institution at which a recipient was enrolled when receiving program funds, anticipated graduation date, amount disbursed, and maximum amount available.

4. Upon notification by the board that a recipient has been terminated from the program without default, LOSFA will:

- a. calculate the total amount due;
- b. notify recipient of the date of the event listed in §1609.C.1.a.(i)-(iii) and that he has 90 days from that date to pay the full amount due;
- c. if payment is not received within 90 days of the date of termination as determined by the Board of Regents, LOSFA will institute collection activities and forward the file to the collection division of the Louisiana Attorney General's office.

5. Upon notification by the board that a recipient has been terminated from the program with default, LOSFA will:

- a. calculate the total amount due;
- b. notify recipient of the date of default and that he has 60 days from the date of default to pay the full amount due or begin making monthly payments in amount sufficient to pay at least 25 percent of the total amount due, including interest, each calendar year.
- c. if payment of the total amount due or repayment does not begin within 60 days of the date of default, LOSFA will institute collection activities, including forwarding the file to the collection division of the Louisiana Attorney General's office.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 34:

#### **§1619. Responsibilities of LASFAC**

A. LASFAC shall promulgate administrative rules in accordance with the Louisiana Administrative Procedure Act, in consultation with the Louisiana Board of Regents and in accordance with a memorandum of understanding entered into by and between LASFAC and the Louisiana Board of Regents.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 34:

George Badge Eldredge  
General Counsel

0809#007

### **DECLARATION OF EMERGENCY**

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

##### **Scholarship/Grant Programs**

(LAC 28:IV.103, 301, 504, 701, 703, 803, 1001, 1401, 1403, 1405, 1407, 1409, 1413, 1415, 1417, 1705, and 1901)

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

The Emergency Rule implements Acts 460, 652, and 754 of the 2008 Regular Session of the Louisiana Legislature.

These Acts (1) allow eligible nonpublic high school and home school students to participate in the Early Start program; (2) extend the alternative eligibility requirements for students displaced by Hurricanes Katrina and Rita to students graduating from high school or completing the 12<sup>th</sup> grade level of a BESE approved home study course during the 2006-2007, 2007-2008 and 2008-2009 high school academic years; (3) rename the TOPS program as the Taylor Opportunity Program for Students; and (4) authorize the use of the TOPS Tech award at certain cosmetology and proprietary schools beginning the 2009-2010 academic year.

The emergency rulemaking also amends Chapter 14 to LASFAC's Scholarship/Grants rules to rename the Dual Enrollment Program as the Early Start Program; amend the initial eligibility requirements; provide definitions for Career Area of Concentration, Census Day, and LAICU; and add LAICU members to the postsecondary institutions authorized to participate in the program.

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

This Declaration of Emergency is effective August 22, 2008, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act. (SG0997E).

### **Title 28**

### **EDUCATION**

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

#### **Chapter 1. Scope**

#### **§103. Purpose**

A. - C. ...

D. LAC 28:IV shall be amended and updated as necessary. Such updates will be forwarded to institutions in the form of Scholarship and Grant Program Memoranda (SGPM), or Taylor Opportunity Program for Students (TOPS) Bulletins. These memoranda and bulletins will cover additions, deletions, revisions and clarifications to the rules and regulations. In compliance with Act 1302 of the 1999 Regular Session of the Legislature, information shall be mailed to the president and superintendent of each city and parish school board in the state, the principal and counselors of each high school in the state, the chancellor, director of financial aid, business office, auditor and registrar of each public post-secondary school in the state and each regionally accredited independent college or university which is a member of the Louisiana Association of Independent Colleges and Universities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:632 (April 1998), amended LR 24:1897 (October 1998), LR 26:65 (January 2000), repromulgated LR 27:1841 (November 2001), LR 34:

### Chapter 3. Definitions

#### §301. Definitions

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

\* \* \*

*Eligible Colleges or Universities*—Louisiana public colleges or universities and regionally accredited independent colleges or universities in the state that are members of the Louisiana Association of Independent Colleges and Universities; and, for recipients of the TOPS Tech Award only, beginning with the 2009-2010 Academic Year (College), any school that has a valid and current certificate of registration issued by the State Board of Cosmetology in accordance with law and that is accredited by an accrediting organization recognized by the United States Department of Education and any proprietary school that has a valid and current license issued by the Board of Regents in accordance with law and that is accredited by an accrediting organization recognized by the United States Department of Education.

\* \* \*

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

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

### Chapter 5. Applications, Federal Grant Aid and ACT Test

#### §504. Out-of-State and Out-of-Country High School Graduates and Eligible Non-Graduates

A. - A.1. ...

2. enter a Louisiana postsecondary institution and/or 1595 (code for the Louisiana Taylor Opportunity Program-Students, Baton Rouge, LA.) in the "score report choices" section of the ACT and/or 9019 (code for Taylor Opportunity Program for Students) in the "send scores" section of the SAT registration form.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 30:2017 (September 2004), amended LR 31:36 (January 2005), LR 34:

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

#### §701. General Provisions

A. Legislative Authority. Awards under the Louisiana Taylor Opportunity Program for Students (TOPS), the Opportunity, Performance and Honors Awards, are established as set forth in R.S. 17:3048.1 et seq., as amended.

B. Description, History and Purpose. The Taylor Opportunity Program for Students (TOPS) is a comprehensive, merit-based student aid program consisting of a series of components, with each component having its own eligibility criteria and titled award. The purpose of TOPS is to provide an incentive for Louisiana residents to academically prepare for and pursue post-secondary education in this state, resulting in an educated work force enabling Louisiana to prosper in the global market of the future. The major components of TOPS are the Opportunity Award, the Performance Award and the Honors Award.

C. - G.2. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), amended LR 23:1645-1648 (December 1997), repromulgated LR 24:635 (April 1998), amended LR 24:1901 (October 1998), LR 25: 256 (February 1999), LR 26:67 (January 2000), LR 26:1262 (June 2000), LR 26:1995 (September 2000), LR 26:2000 (September 2000), repromulgated LR 27:1848 (November 2001), amended LR 28:447 (March 2002), LR 28:2331 (November 2002), LR 29:880 (June 2003), LR 29:2372 (November 2003), LR 30:1161 (June 2004), LR 31:2213 (September 2005), LR 34:

#### §703. Establishing Eligibility

A. - A.5.a.i(d). ...

(e). beginning with the graduates of academic year (high school) 2007-2008, at the time of high school graduation, an applicant must have successfully completed 17.5 units of high school course work that constitutes a core curriculum and is documented on the student's official transcript as approved by the Louisiana Department of Education as follows.

Units	Course
1	English I
1	English II
1	English III
1	English IV
1	Algebra I (1 unit) or Applied Algebra 1A and 1B (2 units)
1	Algebra II
1	Geometry, Calculus or comparable Advanced Mathematics
1	Biology
1	Chemistry
1	Earth Science, Environmental Science, Physical Science, Biology II, Chemistry II, Physics, Physics II, or Physics for Technology or Agriscience I and II (both for 1 unit; provided however, that such Agriscience unit shall not be considered a science elective for the purpose of the math or science elective requirement below)

Units	Course
1	An elective from among the following math subjects: Geometry, Calculus, Pre-Calculus, Algebra III, Probability and Statistics, Discrete Mathematics, Applied Mathematics III, Advanced Mathematics I [beginning with the 2008-2009 academic year (high school) this course is renamed Advanced Math – Pre-Calculus], Advanced Mathematics II [beginning with the 2008-2009 academic year (high school) this course is renamed Advanced Math – Functions and Statistics], Integrated Mathematics III or the following science subjects: Biology II, Chemistry II, Physics or Physics II
1	American History
1	World History, Western Civilization or World Geography
1	Civics and Free Enterprise (1 unit combined) or Civics (1 unit, nonpublic)
1	Fine Arts Survey; (or substitute 2 units performance courses in music, dance, or theater; or 2 units of studio art or visual art; or 1 elective from among the other subjects listed in this core curriculum)
2	Foreign Language, both units in the same language
½	Computer Science, Computer Literacy or Business Computer Applications (or substitute at least one-half unit of an elective course related to computers that is approved by the State Board of Elementary and Secondary Education (BESE) or substitute at least one-half unit of an elective from among the other subjects listed in this core curriculum). BESE has approved the following courses as computer related for purposes of satisfying the 1/2 unit computer science requirement for all schools (courses approved by BESE for individual schools are not included): Advanced Technical Drafting (1/2 or 1 credit) Business Computer Applications (1/2 or 1 credit) Computer Applications or Computer/Technology Applications (1/2 or 1 credit) Computer Architecture (1/2 or 1 credit) Computer Electronics I (1/2 or 1 credit) Computer Electronics II (1/2 or 1 credit) Computer/Technology Literacy (1/2 or 1 credit) Computer Science I (1/2 or 1 credit) Computer Science II (1/2 or 1 credit) Computer Systems and Networking I (1/2 or 1 credit) Computer Systems and Networking II (1/2 or 1 credit) Database Design and Programming (1/2 or 1 credit) Database Programming with PL/SQL (1/2 credit) Desktop Publishing (1/2 or 1 credit) Digital Graphics & Animation (1/2 credit) Digital Media I (1/2 or 1 credit) Digital Media II (1/2 or 1 credit) Introduction to Business Computer Applications (1/2 or 1 credit) Java Programming (1/2 or 1 credit) Multimedia Productions or Multimedia Presentations (1/2 or 1 credit) Technology Education Computer Applications (1/2 or 1 credit) Telecommunications (1/2 credit) Web Mastering or Web Design (1/2 credit) Word Processing (1/2 or 1 credit) Independent Study in Technology Applications (1/2 or 1 credit)

ii.(a). For students graduating in academic year (high school) 2007-2008 and prior, for purposes of satisfying the requirements of §703.A.5.a.i above, or §803.A.6.a, the following courses shall be considered equivalent to the identified core courses and may be substituted to satisfy corresponding core courses.

Core Curriculum Course	Equivalent (Substitute) Course
Physical Science	General Science, Integrated Science
Algebra I	Algebra I, Parts 1 and 2, Integrated Mathematics I
Applied Algebra IA and IB	Applied Mathematics I and II

Core Curriculum Course	Equivalent (Substitute) Course
Algebra I, Algebra II and Geometry	Integrated Mathematics I, II and III
Algebra II	Integrated Mathematics II
Geometry	Integrated Mathematics III
Geometry, Trigonometry, Calculus, or Comparable Advanced Mathematics	Pre-Calculus, Algebra III, Probability and Statistics, Discrete Mathematics, Applied Mathematics III*, Advanced Mathematics I, Advanced Mathematics II
Chemistry	Chemistry Com
Fine Arts Survey	Speech Debate (2 units)
Western Civilization	European History
Civics	AP American Government
*Applied Mathematics III was formerly referred to as Applied Geometry	

(b). For students graduating in academic year (high school) 2006-2007 and after, for purposes of satisfying the requirements of §703.A.5.a.i above, or §803.A.6.a, the following courses shall be considered equivalent to the identified core courses and may be substituted to satisfy corresponding core courses.

Core Curriculum Course	Equivalent (Substitute) Course
Physical Science	Integrated Science
Algebra I	Algebra I, Parts 1 and 2, Integrated Mathematics I
Applied Algebra IA and IB	Applied Mathematics I and II
Algebra I, Algebra II and Geometry	Integrated Mathematics I, II and III
Algebra II	Integrated Mathematics II
Geometry	Integrated Mathematics III
Geometry, Trigonometry, Calculus, or Comparable Advanced Mathematics	Pre-Calculus, Algebra III, Probability and Statistics, Discrete Mathematics, Applied Mathematics III*, Advanced Mathematics I [beginning with the 2008-2009 academic year (high school) this course is renamed Advanced Math – Pre-Calculus], Advanced Mathematics II [beginning with the 2008-2009 academic year (high school) this course is renamed Advanced Math – Functions and Statistics]
Chemistry	Chemistry Com
Fine Arts Survey	Speech III and Speech IV (both units)
Western Civilization	European History
Civics	AP American Government
*Applied Mathematics III was formerly referred to as Applied Geometry	

A.5.a.iii - I.8. ...

#### J. Natural Disaster Initial Eligibility Requirements

1. To establish eligibility for a TOPS Opportunity, Performance or Honors Award, a displaced student graduating from high school or completing a BESE approved home study program at the 12th grade level during the 2005-2006, 2006-2007, 2007-2008, and 2008-2009 academic years (high school) must meet all of the requirements of §703.A - I.8 above, except as follows:

a. A displaced student who has been certified by the principal or headmaster to have graduated during the 2005-2006, 2006-2007, 2007-2008, and 2008-2009 school years from an out-of-state high school that meets the criteria of an eligible out-of-state high school as provided in §1701.A.4 and 5 shall not be required to have for the respective awards a higher minimum composite score on the ACT or on the Scholastic Aptitude Test than required for a student who graduates from an eligible Louisiana high school provided

such student has, for an opportunity award, a cumulative high school grade point average on all courses on the high school transcript of at least 2.50 calculated on a 4.00 scale or, for a performance or honors award, a cumulative high school grade point average on all courses on the high school transcript of at least 3.50 calculated on a 4.00 scale.

b. The requirement that a student who graduates from an eligible Louisiana high school during the 2005-2006, 2006-2007, 2007-2008, and 2008-2009 school years must have successfully completed the applicable core curriculum shall be waived for a displaced student based upon a sworn affidavit by the student's high school principal or headmaster or authorized designee that failure to comply with such requirement is due solely to the fact that the required course or courses were not available to the student at the school attended.

c. A displaced student shall be deemed to meet the Louisiana residency requirement if:

i. such dependent or independent student actually resided in Louisiana during the entire 2004-2005 academic year (high school) and was enrolled for such time in an eligible Louisiana high school and graduated from high school during the 2005-2006, 2006-2007, 2007-2008, or 2008-2009 academic year (high school); or

J.1.c.ii. - J.1.d.ii. ...

e. A displaced student who during the 2005-2006, 2006-2007, 2007-2008, and 2008-2009 academic years (high school) successfully completes at the 12th grade level a home study program approved by the State Board of Elementary and Secondary Education shall not be required to have also completed the 11th grade level of an approved home study course.

J.2 - J.4.b.ii. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3042.1, R.S. 17:3048.1 and R.S. 17:3048.6.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:636 (April 1998), amended LR 24:1902 (October 1998), LR 24:2237 (December 1998), LR 25:257 (February 1999), LR 25:655 (April 1999), LR 25:1794 (October 1999), LR 26:64, 67 (January 2000), LR 26:689 (April 2000), LR 26:1262 (June 2000), LR 26:1602 (August 2000), LR 26:1996, 1999, 2001 (September 2000), LR 26:2268 (October 2000), LR 26:2753 (December 2000), LR 27:36 (January 2001), LR 27:702 (May 2001), LR 27:1219, 1219 (August 2001), repromulgated LR 27:1850 (November 2001), amended LR 28:772 (April 2002), LR 28:2330, 2332 (November 2002), LR 29:125 (February 2003), LR 29:2372 (November 2003), LR 30:1162 (June 2004), LR 30:1471 (July 2004), LR 30:2019 (September 2004), LR 31:37 (January 2005), LR 31:2213 (September 2005), LR 31:3112 (December 2005), LR 32:2239 (December 2006), LR 33:435 (March 2007), LR 33:2357 (November 2007), LR 33:2612 (December 2007), LR 34:

**Chapter 8. TOPS-Tech Award**  
**§803. Establishing Eligibility**

A. - A.6.a.i. ...

ii. for students graduating in the 2000-2001 school year and thereafter, the high school course work documented on the student's official transcript as approved by the Louisiana Department of Education constituting the following TOPS-Tech core curriculum.

Core Curriculum—TOPS-Tech Award	
Units	Course
1	English I
1	English II
1	English III
1	English IV or substitute 1 unit of Business English
1	Algebra I; or both Algebra I, Part 1 and Algebra I, Part 2; or both Applied Mathematics I and Applied Mathematics II
2	Geometry, Applied Mathematics III, Algebra II, Financial Mathematics, Advanced Mathematics I [beginning with the 2008-2009 academic year (high school) this course is renamed Advanced Math – Pre-Calculus], Advanced Mathematics II [beginning with the 2008-2009 academic year (high school) this course is renamed Advanced Math – Functions and Statistics], Discrete Mathematics, or Probability and Statistics (2 units). Integrated Mathematics I, II, and III may be substituted for Algebra I, Geometry and Algebra II, and shall be considered the equivalent of the 3 required math units
1	Biology
1	Chemistry or Applied Chemistry
1	Earth Science, Environmental Science, Physical Science, Integrated Science, Biology II, Chemistry II, Physics, Physics II, or Physics for Technology or Agriscience I and II (both for 1 unit)
1	American History
1	World History, Western Civilization, or World Geography
1	Civics and Free Enterprise (1 unit combined) or Civics (1 unit, nonpublic)
Remaining Core Courses Shall Be Selected from One of the Following Options:	
<b>Option 1</b>	<b>Total of 17 units</b>
1	Fine Arts Survey or substitute 2 units of performance courses in music, dance, or theater; or substitute 2 units of visual art courses; or substitute 2 units of studio art courses; or a course from the Career and Technical Program of studies that is approved by the BESE (must be listed under the Vocational Education Course Offerings in Bulletin 741 or the updates to Bulletin 741); or substitute 1 unit as an elective from among the other subjects listed in this core curriculum
2	Foreign Language, Technical Writing, Speech I or Speech II
1	One unit from the secondary computer education program of studies that is approved by the BESE
or	
<b>Option 2</b>	<b>Total of 19 Units</b>
4	In a career major comprised of a sequence of related specialty courses. In order for a student to use this option, the courses for the career major must be approved by BESE.
1	Credit in a basic computer course.
1	In related or technical fields. A related course includes any course which is listed under the student's major. A technical course is one that is listed in the approved career option plan for the high school at which the course is taken.

or

A.6.a.iii - A.10. ...

**B. Natural Disaster Initial Eligibility Requirements**

1. To establish eligibility for a TOPS Tech Award, a displaced student graduating from high school or completing a BESE approved home study program at the 12th grade level during the 2005-2006, 2006-2007, 2007-2008, and 2008-2009 academic years (high school) must meet all of the requirements of §803.A above, except as follows.

a. A displaced student who has been certified by the principal or headmaster to have graduated during the 2005-2006, 2006-2007, 2007-2008, and 2008-2009 school years

from an out-of-state high school that meets the criteria of an eligible out-of-state high school as provided in §1701.A.4 and 5 shall not be required to have a higher minimum composite score on the ACT or on the Scholastic Aptitude Test than required for a student who graduates from an eligible Louisiana high school provided such student has a cumulative high school grade point average on all courses on the high school transcript of at least 2.50 calculated on a 4.00 scale.

b. The requirement that a student who graduates from an eligible Louisiana high school during the 2005-2006, 2006-2007, 2007-2008, and 2008-2009 school years must have successfully completed the applicable core curriculum shall be waived for a displaced student based upon a sworn affidavit by the student's high school principal or headmaster or authorized designee that failure to comply with such requirement is due solely to the fact that the required course or courses were not available to the student at the school attended.

c. A displaced student shall be deemed to meet the Louisiana residency requirement if:

i. such dependent or independent student actually resided in Louisiana during the entire 2004-2005 academic year (high school) and was enrolled for such time in an eligible Louisiana high school and graduated from high school during the 2005-2006, 2006-2007, 2007-2008, or 2008-2009 academic year (high school); or

B.1.c.ii. - B.1.d.ii. ...

e. A displaced student who during the 2005-2006, 2006-2007, 2007-2008, and 2008-2009 academic years (high school) successfully completes at the 12th grade level a home study program approved by the State Board of Elementary and Secondary Education shall not be required to have also completed the 11th grade level of an approved home study course.

B.2. - B.4.b.ii. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3042.1, R.S. 17:3048.1 and R.S. 17:3048.6.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:1904 (October 1998), amended LR 24:2237 (December 1998), LR 25:1795 (October 1999), LR 26:65 and 67 (January 2000), LR 26:1602 (August 2000), LR 26:1997 (September 2000), LR 26:2269 (October 2000), LR 26:2754 (December 2000), LR 27:36 (January 2001), LR 27:1220 (August 2001), repromulgated LR 27:1854 (November 2001), amended LR 28:447 (March 2002), LR 28:773 (April 2002), LR 28:2330 (November 2002), LR 29:554 (April 2003), LR 30:1164 (June 2004), LR 30:2019 (September 2004), LR 31:39 (January 2005), LR 31:3114 (December 2005), LR 33:437 (March 2007), LR 33:2614 (December 2007), LR 34:

## **Chapter 10. TOPS-Tech Early Start Award**

### **§1001. General Provisions**

A. Legislative Authority. The TOPS-Tech Early Start Award was created by Act 348 of the 2005 Regular Session of the Louisiana Legislature.

B. Description, History and Purpose. The TOPS-Tech Early Start Award is established as part of the Taylor Opportunity Program for Students (TOPS) to provide grants for Louisiana residents pursuing occupational or vocational training while being dually enrolled in a state public high school at the 11th and 12th grade levels and at a Louisiana public postsecondary institution that offers an occupational or vocational education credential in a top demand occupation. The purpose of TOPS-Tech Early Start is to

provide an incentive for qualified Louisiana public high school students to prepare for and pursue an industry-based occupational or vocational education credential in a top demand occupation while still in high school.

C. - E. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 31:3109 (December 2005), LR 34:

## **Chapter 14. Early Start Program**

### **§1401. General Provisions**

A. The Early Start Program is administered by the Louisiana Office of Student Financial Assistance (LOSFA) in accordance with a memorandum of understanding by and between the Louisiana Board of Regents and the Louisiana Student Financial Assistance Commission (LASFAC).

B.1. Description. The Early Start Program is established to provide funding to eligible Louisiana postsecondary institutions that enroll eligible 11th and 12th grade Louisiana public high school students in college degree, developmental, or work skills courses.

2. History. The program was established by the Board of Regents as the Dual Enrollment Program to provide funding to public postsecondary institutions that enroll eligible public high school students. Beginning the 2008-2009 academic year (college), the Board of Regents expanded the program to include members of LAICU that enroll eligible public high school students. Act 460 of the 2008 Regular Session of the Legislature provided for participation in the program by students enrolled in nonpublic high schools and home school programs.

3. Purpose. The purpose of the Early Start Program is to provide an incentive for qualified Louisiana high school students to prepare for a postsecondary education or career.

C. Effective Date. Early Start Program payments shall be made beginning with the 2007-2008 award year to postsecondary institutions for 11th and 12th grade students meeting the eligibility criteria set forth in this Chapter.

D. Eligible Semesters/Terms. The Early Start Program will pay for enrollment in each college course during each semester or term of the academic year. Early Start Program will not pay for summer semesters or sessions.

E. Award Amount. The Early Start Program will pay postsecondary institutions \$100 per college credit hour, not to exceed \$300 per course, for each course in which a student enrolled in a Louisiana public high school is eligible to enroll. The award amount shall not be paid on behalf of students enrolled in nonpublic high schools or in home school; however, beginning with the 2008-2009 Academic Year (College), the program allows participating eligible Louisiana postsecondary institutions to enroll eligible 11th and 12th grade Louisiana nonpublic high school and home school students at the same rate as the award amount that funding is provided for public high school students at these institutions.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 33:2609 (December 2007), amended LR 34:240 (February 2008), LR 34:

### §1403. Definitions

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

\* \* \*

*Career Area of Concentration*—a coherent sequence of courses or field of study approved by BESE that prepares a high school student for a first job and/or further education and training. It includes four sequential related credits in a specific area plus two credits in a related field; one must be a basic computer course.

*Census Day*—14th class day (or equivalent) of current term enrollment.

*College Degree Course*—a course in an academic subject at a Louisiana postsecondary institution that generates postsecondary institutional credit and:

a. appears on the current Board of Regents' Statewide General Education Course Articulation Matrix for public postsecondary institutions; or

b. appears on a list of courses approved by the Board of Regents for LAICU postsecondary institutions.

*Eligible Postsecondary Institution*—Louisiana public colleges or universities and regionally accredited independent colleges or universities which are members of the LAICU.

*Enrichment/Developmental Course*—an English or mathematics course at an eligible Louisiana postsecondary institution that generates postsecondary institutional credit, but not degree credit, and is designed to prepare the student for college-level instruction.

*Home School Students*—Students enrolled in BESE approved home study programs and students enrolled in nonpublic (private) schools that have not sought approval from but are registered with BESE.

*LAICU*—Louisiana Association of Independent Colleges and Universities.

*On Track to Graduate from High School*—a student has earned at least 11 Carnegie units if a junior, or at least 16 Carnegie units if a senior.

*Work Skills Course*—a course at an eligible Louisiana postsecondary institution in a skill or occupational training area that is designed to lead to an industry-based certificate and, for students required to have a declared Career Area of Concentration, will contribute to the student's Career Area of Concentration.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 33:2610 (December 2007), amended LR 34:240 (February 2008), LR 34:

### §1405. Establishing Eligibility

A. To establish eligibility for the Early Start Program, all student applicants must meet the following criteria:

1. be in the 11th or 12th grade in a Louisiana public high school and beginning with the 2008-2009 Academic Year (College) in a nonpublic high school or in home school;

2. be at least 15 years of age;

3. have taken either the PLAN<sup>®</sup> or ACT assessment (or SAT) and those scores are on file at the high school or in the student's home school records;

4. have completed and submitted an Early Start Program application to the high school in which the student is enrolled or to the parent of the student in home school;

5. be approved by the high school in which the student is enrolled, or the parent of the student in home school, to participate in the program and to enroll in the course or courses; and

6.a. be enrolled in a course for which both public high school and college credit is attempted and for which an Early Start Program payment is made: or

b. be enrolled in a course for which both nonpublic high school or home school and college credit is attempted and for which an amount equal to the award amount of an Early Start Program payment is made.

B. Enrollment in a College Degree Course. In addition to the eligibility criteria in Paragraphs A.1-6::

1. a. for students graduating from high school or completing the twelfth grade level of home school in academic years (high school) 2008-2009 through 2010-2011, the student must be working towards completing the Regents/TOPS core curriculum by high school graduation; or

b. for students graduating from high school or completing the twelfth grade level of home school in academic years (high school) 2011-2012 and thereafter, the student must be working towards completing the Louisiana Core 4 curriculum as approved by the Board of Elementary and Secondary Education;

2.a. through the fall semester or fall and winter term of the 2008-2009 academic year (college) have a PLAN<sup>®</sup> or ACT (or an equivalent SAT) composite score of at least 17 to enroll in a college degree course unless the postsecondary institution requires the student to meet the criteria in §1405.B.2.b. below;

b. for the spring semester or term of the 2008-2009 academic year (college) and thereafter, have a PLAN<sup>®</sup> composite score of at least 17 or ACT (or an equivalent SAT) composite score of at least 18 to enroll in a college degree course;

3. have a PLAN<sup>®</sup> or ACT (or an equivalent SAT) English sub-score of at least 18 or meet the postsecondary institution's pre-requisite requirement to enroll in an entry level English college degree course;

4. have a PLAN<sup>®</sup> or ACT (or an equivalent SAT) mathematics sub-score of at least 18 or meet the postsecondary institution's pre-requisite requirement to enroll in an entry level mathematics college degree course.

C. Enrollment in an Enrichment/Developmental Course. In addition to the eligibility criteria in Paragraphs A.1-6:

1.a. for students graduating from high school or completing the twelfth grade level of home school in academic years (high school) 2008-2009 through 2010-2011, the student must be working towards completing the Regents/TOPS core curriculum by high school graduation; or

b. for students graduating from high school or completing the twelfth grade level of home school in academic years (high school) 2011-2012 and thereafter, the student must be working towards completing the Louisiana Core 4 curriculum as approved by the Board of Elementary and Secondary Education;

2.a. through the fall semester or fall and winter term of the 2008-2009 academic year (college), have a PLAN<sup>®</sup> or ACT (or an equivalent SAT) composite score of at least 12 to enroll in an enrichment/developmental course unless the postsecondary institution requires the student to meet the criteria in §1405.C.2.b. below;

b. for the spring semester or term of the 2008-2009 academic year (college) and thereafter, have a PLAN<sup>®</sup> composite score of at least 14 or ACT (or an equivalent SAT) composite score of at least 15 to enroll in an enrichment/developmental course or meet the postsecondary institution's pre-requisite requirement to enroll in the course;

D. Enrollment in a Work Skills Course. In addition to the eligibility criteria in Paragraphs A.1-6, a student must have:

1.a through the fall semester or fall and winter term of the 2008-2009 academic year (college), a PLAN<sup>®</sup> or ACT Composite score (or an equivalent SAT score) of at least 12 unless the postsecondary institution requires the student to meet the criteria in §1405.D.1.b. below or a WorkKeys Bronze Certificate.

b. for the spring semester or term of the 2008-2009 academic year (college) and thereafter, PLAN<sup>®</sup> composite score of 14 or ACT Composite score (or an equivalent SAT score) of at least 15 or a WorkKeys Bronze Certificate.

2. a. for students graduating from high school or completing the twelfth grade level of home school in academic years (high school) 2008-2009 through 2010-2011 and thereafter:

i. be working towards completing the Regents/TOPS core curriculum by high school graduation; or

ii. be working towards and on track to graduate from high school and have a declared Career Area of Concentration;

b. for students graduating from high school or completing the twelfth grade level of home school in academic year (high school) 2011-2012 and thereafter:

i. be working towards completing the Louisiana Core 4 curriculum as approved by the Board of Elementary and Secondary Education, or

ii. be working towards and on track to graduate from high school and have declared a Career Area of Concentration;

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 33:2610 (December 2007), amended LR 34:240 (February 2008), LR 34:

#### **§1407. Continuing Enrollment**

A. To continue enrollment in subsequent semesters/terms in the Early Start Program, the student must:

1. have successfully completed and earned credit in the last course(s) in which a student enrolled through the Early Start Program. If the student resigns, or withdraws from a course or the student's registration in the course is cancelled, the student must receive permission from both the high school and college to continue enrollment in subsequent semesters/terms;

2. be in good standing at the postsecondary institution;

3. continue to meet eligibility requirements in §1405.A.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 33:2610 (December 2007), amended LR 34:241 (February 2008), LR 34:

#### **§1409. Responsibilities of High Schools and School Boards and Parents of Home School Students**

A. The student's high school or the parent of a home school student shall:

1. determine whether the student meets the initial eligibility criteria provided in §1405.A;

2. approve or disapprove the student's participation in the program;

3. approve the course or courses in which the student will enroll;

4. provide to the postsecondary institution at which the student will be dually enrolled:

a. the student's approved application; and

b. the student's PLAN and/or ACT test scores, including sub-scores on those tests required to enroll in specific courses as provided in §1405.B-D.

B. By forwarding the student's application to the postsecondary institution, the student's high school or the parent of a home school student certifies that it has determined that the student has met all criteria in §1405.A to participate in the Early Start Program and has approved the student's participation in the program and the course or courses in which the student will be enrolled.

C. Student must be enrolled in a college course for which high school or home school credit is attempted and recorded on the student's secondary permanent academic record, including the high school course, units attempted, units earned, and course grade, unless the student withdraws before the college's census date or the student's enrollment is cancelled.

D. At the end of each semester or term of participation in the program, the student's high school or the parent of a home school student shall determine whether the student has met the criterion in §1407.A.1 for continued enrollment in the Early Start Program. If the student is determined eligible and the high school or the parent of a home school student approves the student's continued participation in the program, it shall so notify the postsecondary institution and provide the course or courses approved for enrollment.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 33:2610 (December 2007), amended LR 34:241 (February 2008), LR 34:

#### **§1413. Responsibilities of Eligible Louisiana Postsecondary Institutions**

A. Each eligible Louisiana postsecondary institution that participates in the Early Start Program shall:

1. be responsible for determining that the student meets the PLAN or ACT eligibility criteria provided in §1405.B-D;

2. reserve Early Start Program funds when the student enrolled in a public high school is accepted and enrolled in an appropriate course;

3. submit a payment request to LOSFA for public high school students enrolled at the institution for whom a reservation was made as follows:

a. for each public high school student eligible for the Early Start Program who is enrolled at the end of the 14th class day or later for semester schools, or the 9th class day or later for quarter and term schools;

b. payment request amount. Each semester or term, the postsecondary institution in which a student is enrolled in an Early Start course shall submit a payment request to LOSFA during the period the billing portal is open for each semester/term for which the student is enrolled in the amount of \$100 per credit hour in which the student is enrolled, not to exceed \$300 for each college course. Payment requests received outside of these timeframes will not be paid unless approved by the Louisiana Board of Regents;

c. the postsecondary institution may not charge the student any mandatory institutional and tuition fees for enrollment in a course paid for by the Early Start Program;

d. the payment request shall include the social security number, college code, high school code, term, date, college course type, hours attempted, and amount requested for each student;

4. for each nonpublic high school student and each home school, submit to LOSFA within 30 days of the census date of the semester/term for which the student is accepted in the Early Start Program the student's name, social security number, college code, high school code, term, date, college course type, hours attempted,

5. for students who have been previously enrolled in the Early Start Program, determine whether the student is in good standing at that institution;

6. by submitting a payment request to LOSFA, the postsecondary institution certifies that:

a. the student meets the eligibility criteria provided in 1405.B-D for the college course in which the student is dually enrolled;

b. the student was enrolled at the end of the 14th class day or later for semester schools, or the 9th class day or later for quarter and term schools;

c. the student's high school or the parent of a home school student has provided notice that the student is eligible for and has been approved to continue participation in the program; and

d. the student's high school or the parent of a home school student has provided notice of the course or courses approved for enrollment;

e. the student is in good standing at the institution;

7. Verify that the student is enrolled in a college course for which college credit is attempted and recorded on the student's postsecondary permanent academic record, including the college course, credit attempted, credit earned, and course grade, unless the student withdraws before the college's census date or the student's enrollment is cancelled.

8. Report student level outcome data to the Board of Regents according to specifications defined by the Board of Regents.

#### B. Records Retention

1. Records pertaining to the Early Start Program are subject to audit as required by LOSFA, LASFAC, the

Louisiana Board of Regents, and the Louisiana Legislative Auditor. Postsecondary institutions shall maintain all records for a minimum of three years. All such records shall be made available upon request by LOSFA, LASFAC, the Louisiana Board of Regents and the Louisiana Legislative Auditor.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 33:2611 (December 2007), amended LR 34:241 (February 2008), LR 34:

#### §1415. Responsibilities of the Board of Regents

A. The Board of Regents shall provide a student application to participate in the Early Start Program.

B. The Board of Regents shall maintain a Statewide General Education Course Articulation Matrix.

C. The Board of Regents shall list the courses offered by LAICU postsecondary institutions that are approved for use in the Early Start Program. The Board of Regents shall review the list of LAICU courses at least on an annual basis and shall post the list on the Board of Regents web site.

D. In the event that the funds appropriated for the Early Start Program are insufficient to pay for all eligible public high school students, the Board of Regents shall develop, approve and deliver a plan to LOSFA to address the shortfall.

E. The Board of Regents shall provide specifications for submitting student level outcome data as required by §1413.A.8.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 33:2611 (December 2007), amended LR 34:242 (February 2008), LR 34:

#### §1417. Responsibilities of LOSFA

A. Upon receipt of payment requests from institutions submitted in accordance with §1413.A, LOSFA shall pay the institution for each eligible student in accordance with §1413.

B. LOSFA shall conduct audits of the participating eligible Louisiana postsecondary institutions to ensure compliance with program requirements.

C. LOSFA shall provide the information necessary to fully inform Louisiana public high school students and their parents on the requirements of and procedures for applying for and maintaining eligibility for the Early Start Program.

D. LOSFA shall audit high schools and postsecondary institutions to ensure compliance with these rules.

E. LOSFA shall maintain a database of all students who have participated in the Early Start Program, including social security number, college code, high school code, term, date, college course type, hours attempted, payment amount, and aggregate amount paid.

F.1. After the receipt of fall semester or term payment requests, but no later than October 15 of each year, LOSFA shall determine whether sufficient funds are available for all anticipated program payments for subsequent semesters and terms of the academic year.

2. In the event projections indicate sufficient funds are not available, LOSFA shall notify the Board of Regents.

3. In the event additional funds are not allocated for all program payments anticipated for subsequent semesters

and terms during the academic year, the Board of Regents shall develop, approve and deliver a plan to LOSFA to address the shortfall.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3023 and R.S. 17:3129.7.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 33:2611 (December 2007), amended LR 34:242 (February 2008), LR 34:

**Chapter 17. Responsibilities of High Schools, School Boards, Special School Governing Boards, the Louisiana Department of Education and LASFAC on Behalf of Eligible Non-Louisiana High Schools**

**§1705. Notification of Certified Students**

A. Through the 2002 academic year (high school), if the certifying authority elects to notify students of their certification, then the following disclaimer shall be included in any communication to the student: "Although you have been certified as academically eligible for a Taylor Opportunity Program for Students (TOPS) Award, you must satisfy all of the following conditions to redeem a scholarship under this program:

1. you must be a Louisiana resident as defined by the Louisiana Student Financial Assistance Commission; and

2. you must be accepted for enrollment by an eligible Louisiana college and be registered as a full-time undergraduate student; and

3. you must annually apply for federal student aid, if eligible for such aid, by the deadline required for consideration for state aid; and

4. you must have met all academic and nonacademic requirements and be officially notified of your award by the Louisiana Student Financial Assistance Commission (LASFAC)."

B. Commencing with the 2003 academic year (high school), if the certifying authority elects to notify students of their potential eligibility for an award, then the following disclaimer shall be included in any communication to the student: "Although it appears that you have satisfied the academic requirements for a Taylor Opportunity Program for Students (TOPS) Award based on this school's review of the core curriculum courses you have completed and calculation of your TOPS cumulative high school grade point average, you must satisfy all of the following conditions to redeem a scholarship under this program:

1. the Louisiana Student Financial Assistance Commission (LASFAC) must determine that you have in fact completed the TOPS core curriculum courses;

2. LASFAC must determine that your TOPS cumulative high school grade point average based on the TOPS core curriculum meets the statutory requirements;

3. you must be a Louisiana resident as defined by LASFAC;

4. you must be accepted for enrollment by an eligible Louisiana postsecondary institution and be registered as a full-time undergraduate student no later than the next semester following the first anniversary of your graduation from high school;

5. you must apply for federal student aid, if eligible for such aid, by the deadline required for consideration for state aid; and

6. you must have met all academic and nonacademic requirements and be officially notified of your award by LASFAC."

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:644 (April 1998), amended LR 24:1913 (October 1998), repromulgated LR 27:1864 (November 2001), amended LR 29:126 (February 2003), LR 29:882 (June 2003), LR 30:1166 (June 2004), LR 34:

**Chapter 19. Eligibility and Responsibilities of Post-Secondary Institutions**

**§1901. Eligibility of Post-Secondary Institutions to Participate**

A. Undergraduate degree granting schools which are components of Louisiana public university medical centers and two- and four-year public colleges and universities are authorized to participate in the Taylor Opportunity Program for Students (TOPS), TOPS-Tech, TOPS-Tech Early Start, Rockefeller State Wildlife Scholarship, Leveraging Educational Assistance Partnership (LEAP) Program and the GO-Youth Challenge Program.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1 and R.S. 17:3050.1-3050.4.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:645 (April 1998), amended LR 24:1914 (October 1998), LR 25:1459 (August 1999), LR 26:1998 (September 2000), repromulgated LR 27:1864 (November 2001), amended LR 28:448 (March 2002), LR 30:784 (April 2004), LR 31:3111 and 3114 (December 2005), LR 34:

George Badge Eldredge  
General Counsel

0809#009

**DECLARATION OF EMERGENCY**

**Office of the Governor  
Board of Architectural Examiners**

Architects Selection Board—Vacancies (LAC 46:I.2117)

The Louisiana State Board of Architectural Examiners (LSBAE) is exercising the emergency provisions of the Administrative Procedure Act (R.S. 49:953.B) to amend its rules pertaining to vacancies occurring on the Louisiana Architects Selection Board (LASB).

The LASB is composed of eight members, five of whom are regular members and architects. (R.S. 38:2311.A.1) Each of the five architectural members is elected from one of five districts. *Id.* The LSBAE conducts the elections under rules and regulations which it has promulgated and adopted pursuant to the authority and responsibility set forth in R.S. 38:2311.A.1. The rules are contained in LAC 46:I Chapter 21, Architects Selection Board.

The LSBAE rules provide that an architect desiring nomination for election to the LASB must deliver a written nomination to the LSBAE between May 1 and May 31 preceding the election. During May of 2008, the LSBAE

received nominations for election from Districts 3, 4, and 5 for terms commencing September 15, 2008; however, the LSBAE did not receive any nominations at all for election from Districts 1 or 2. Commencing September 15, 2008, vacancies for Districts 1 and 2 of the LASB will occur.

Existing LSBAE Rule §2117.A sets forth a procedure for filling a vacancy occurring with respect any person *elected* to the LASB. The LSBAE currently has no rule concerning any vacancy that may occur because no one submits a nomination for election at all. More specifically, the LSBAE has no rule concerning the vacancies for Districts 1 and 2 of the LASB that will occur commencing September 15, 2008, because no architect submitted a nomination for election to either of these two districts.

R.S. 38:2311(B) provides that a member of the LASB may be removed for just and reasonable cause during his or her term at the discretion of the respective appointing authority, in which event the appointing authority shall appoint a new member to fill the unexpired term of the removed member. This statute provides further that, “[a]ll other vacancies shall be filled by the appointing authority for the unexpired term.” Attorney General Opinion No. 77-1716 dated January 5, 1978, issued to the LSBAE provides that, if an *elected* member of the LASB is unable or unwilling to serve, the LSBAE is the appointing authority authorized to appoint a qualified person to fill the unexpired term and that it should do so “as expeditiously as possible.”

It is critical that the LASB perform its duties and responsibilities with a full board. If the LSBAE follows the non-emergency procedures set forth in the Administrative Procedures Act (R.S. 49:953.A) for amending Rule §2117 to handle the present situation (two vacancies that will occur next month because no one submitted a nomination to be elected to the LASB from either of two districts), the LASB will be required to function for months without a full board. This will have an adverse impact on the financial welfare of the State of Louisiana in the design and construction of buildings intended for human habitation, as well as on architects and their families who may be interested in pursuing professional service contracts from the state. The LSBAE has, therefore, determined that this emergency rule is necessary in order to prevent imminent financial peril to the welfare of the state and affected architects.

This Declaration of Emergency is effective August 15, 2008, and it shall remain in effect for the maximum period allowed under the Administrative Procedures Act.

#### **Title 46**

### **PROFESSIONAL AND OCCUPATIONAL STANDARDS**

#### **Part I. Architects**

#### **Chapter 21. Architect Selection Board**

#### **§2117. Vacancies**

A. Any vacancy occurring with respect to any person elected shall be filled in the following manner:

1. the executive director shall give notice of the vacancy to any person who has previously requested such notice in writing; and

2. the executive director shall also publish in the official journal of the state an advertisement which will appear for a period of not less than 10 calendar days.

a. The advertisement in the official journal of the state need not appear more than three times during the 10 day period.

b. The executive director may publish other such advertisements in his or her discretion.

c. The advertisements shall:

i. identify the district in which a vacancy has occurred; and

ii. state that any resident architect in that district holding a current Louisiana license desiring nomination:

(a). must furnish a nomination signed by not less than 10 resident architects holding a current Louisiana license by certified mail to the board office;

(b). that a sample of the nomination may be obtained upon request from the board office, the deadline for filing the nomination; and

(c). any other information the board may consider necessary.

3. The deadline for filing a nomination to fill a vacancy shall be at least 10 calendar days subsequent to the expiration of the last advertisement appearing in the official journal of the state.

4. The board shall appoint one of the nominees to fill the vacancy, which appointee shall serve the unexpired term. If only one qualified architect submits a nomination to fill the vacancy, the executive director shall send a letter to that architect advising of his or her appointment to the Architects Selection Board, and no further board action shall be necessary to confer such appointment.

B. If the deadline for submission of nominations has passed and:

1. the board has not received a nomination from a qualified architect for election to a district that will become vacant on September 15; or

2. no architect has been nominated or elected to fill a vacancy on the Architects Selection Board that will occur on September 15 for some other reason, the board shall fill the upcoming vacancy by the procedures described in the preceding Paragraph.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners, LR 29:576 (April 2003), amended LR 34:

Interested persons may submit written comments on this proposed rule to Ms. Mary "Teeny" Simmons, Executive Director, Board of Architectural Examiners, 9625 Fenway Avenue, Suite B, Baton Rouge, LA 70809.

Mary "Teeny" Simmons  
Executive Director

0808#002

## DECLARATION OF EMERGENCY

### Department of Health and Hospitals Board of Veterinary Medicine

Temporary Registration during a  
Declared Public Health Emergency  
(LAC 46:LXXXV.309)

The Department of Health and Hospitals, Board of Veterinary Medicine (the "Board") has adopted this Emergency Rule 2008-Gustav 1 effective August 28, 2008, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953, and the Veterinary Practice Act, R.S. 37:1569 and Rule 309, as well as R.S. 29:769(E) as amended in the 2006 Regular Session of the Louisiana Legislature. The Emergency Rule is to remain in effect for a period of 30 days, or until September 26, 2008.

In keeping with its function as set forth by the State Legislature in R.S. 29:769(E), as amended in the 2006 Regular Session, and based on the declaration of public health emergency by the Governor of Louisiana, issued on August 27, 2008, 2008 Proclamation #51 BJ 2008, (effective through September 26, 2008), the Board has developed and adopted this Emergency Rule hereby implementing temporary registration in Louisiana for out of state veterinarians or veterinary technicians whose licenses, certifications or registrations are current and unrestricted in another jurisdiction of the United States pursuant to the criteria set forth in existing Board Rule 309.

The Emergency Rule will not limit or adversely impact the practices of Louisiana licensed veterinarians or Louisiana registered veterinary technicians in hospitals, clinics or mobile clinics during the declared state of public health emergency.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part LXXXV. Veterinarian

#### Chapter 3. License Procedures

#### §309. Temporary Registration during Declared Public Health Emergency

A. A veterinarian and/or veterinary technician not licensed/registered in Louisiana, but currently licensed/registered/certified in good standing and unrestricted in another jurisdiction of the United States may gratuitously practice veterinary medicine if:

1. the veterinarian and/or veterinary technician has photo identification and verification of a current license/registration/certification in good standing and unrestricted in another jurisdiction of the United States, and properly applies and obtains registration from the LBVM prior to providing any veterinary services in Louisiana;

2. the veterinarian or veterinary technician is engaged in a legitimate relief effort during the emergency period, and provides satisfactory documentation to the LBVM of the location site(s) that he will be providing gratuitous veterinary services (applicants are requested to contact LA Incident Command Post at martha@ldaf.state.la.us or 225-925-3980 regarding deployment orders and emergency training credentials);

3. the veterinarian or veterinary technician shall comply with the LA Veterinary Practice Act, LBVM's Rules,

and other applicable laws, as well as practice in good faith, and within the reasonable scope of his skills, training, and ability; and

4. The veterinarian or veterinary technician renders veterinary services on a gratuitous basis with no revenue of any kind to be derived whatsoever from the provision of veterinary services within the state of Louisiana.

B. The authority provided for in this Emergency Rule shall cease on September 26, 2008, unless this Emergency Rule is renewed, modified, or extended, or earlier rescinded by the LBVM. Please monitor the LBVM's website at lbvm@eatel.net for future updates.

C. All out of state licensed/registered/certified veterinarians and/or veterinary technicians shall submit a copy of their respective licenses/registrations/certifications and photograph identification, as well as other requested information, to the LA Board of Veterinary Medicine office at lbvm@eatel.net, 225-342-2176, or fax 225-342-2142, for registration with this agency. Please mail the original application from with supporting documentation (faxed form not accepted).

D. Should a qualified veterinarian or veterinarian technician registered with the Board thereafter fail to comply with any requirement or condition established by this rule, the LBVM may terminate his registration upon notice and expedited hearing.

E. In the event a veterinarian or veterinarian technician fails to register with the LBVM, but practices veterinary medicine, whether gratuitously or otherwise, then such conduct will be considered the unlawful practice of veterinary medicine and prosecuted accordingly.

AUTHORITY NOTE: Promulgated in accordance with RS 37:1518 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 32:1900 (December 2005), amended LR 34:

Wendy D. Parrish  
Administrative Director

0809#017

## DECLARATION OF EMERGENCY

### Department of Health and Hospitals Licensed Professional Counselors Board of Examiners

Requirements for Licensure (LAC 46:LX.3303-3315)

In accordance with the emergency provisions of the Administrative Procedures Act, R.S. 49:953(B) et seq., the Licensed Professional Counselors Board of Examiners is declaring an Emergency Rule to revise Sections 3303 and 3307-3313 of the Board Rules (Title 46, Part LX of the La. Administrative Codes), relative to the academic requirements for licensure of Marriage and Family Therapists.

The effective date of this Emergency Rule is August 20, 2008, and it shall be in effect for 120 days, or until a final Rule is promulgated, whichever occurs first.

The Emergency Rule is necessary to clarify requirements for Licensed Marriage and Family Therapists and Marriage and Family Therapy Interns as to graduate degrees and academic clinical supervision.

There will be no adverse fiscal impact on the state as a result of this Rule insasmuch as the Licensed Professional Counselors Board of Examiners operates solely on self-generated funds. Further, it will benefit the consumer by helping to assure strict and definite academic requirements for licensure of Licensed Marriage and Family Therapists.

#### **Title 46**

### **PROFESSIONAL AND OCCUPATIONAL STANDARDS**

#### **Part LX. Licensed Professional Counselors Board of Examiners**

##### **Subpart 2. Professional Standards for Licensed Marriage and Family Therapists**

#### **Chapter 33. Requirements for Licensure**

##### **§3303. Definitions**

*Allied Mental Health Discipline*—Repealed.

\* \* \*

*Appropriate Graduate Degree*—Repealed.

\* \* \*

*Marriage and Family Therapist Intern or MFT Intern*—a person registered with the board who is receiving MFT approved post-graduate supervision.

*Recognized Educational Institution*—Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:155 (February 2003), amended LR 29:2784 (December 2003), LR 34:

##### **§3307. Specific Licensing Requirements for**

###### **Applications Made on or before June 30, 2004**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:155 (February 2003), amended LR 29:2785 (December 2003), LR 34:

##### **§3309. Specific Licensing Requirements for**

###### **Applications Made on or before June 30, 2004**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:156 (February 2003), amended LR 29:2785 (December 2003), LR 34:

##### **§3311. Academic Requirements**

A. The advisory committee and board have determined that *meets the standards* as provided in RS 37:1101(12) means:

1. a master's or doctoral degree in marriage and family therapy from a program accredited by the Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE) in a regionally accredited educational institution or a certificate in marriage and family therapy from a post-graduate training institute accredited by COAMFTE; or

2. a master's or doctoral degree in marriage and family therapy or marriage and family counseling from a program accredited by the Council for Accreditation of Counseling and Related Educational Programs (CACREP) in a regionally accredited educational institution with a minimum of 6 graduate courses in marriage and family therapy

including coursework on the AAMFT Code of Ethics and a minimum of 500 supervised direct client contact hours, with a minimum of 250 hours of these 500 hours with couples and families, and a minimum of 100 hours of face-to-face supervision. The training of the supervisor must be equivalent to that of an AAMFT Approved Supervisor or AAMFT Supervisor Candidate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:156 (February 2003), amended LR 29:2785 (December 2003), LR 34:

##### **§3313. Examination Requirements**

A. The examination for licensure shall be the national marriage and family therapy examination as determined by the advisory committee. No other examination will be accepted.

B. Applicants for licensure are not eligible for examination until approved by the advisory committee.

C. Passing scores on the examination are determined by the testing agency.

D. Any person who fails an examination shall not be admitted to a subsequent examination for at least six months.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:158 (February 2003), LR 34:

##### **§3315. Supervision Requirements**

###### **A. General Provisions**

1. Applicants who meet the degree or certification requirements must successfully complete a minimum of two years of work experience in marriage and family therapy under qualified supervision in accordance with COAMFTE supervision standards as described in this Section.

###### **B. Definitions for Supervision**

\* \* \*

*MFT Intern*—a person registered with the board who is receiving supervision from an LMFT-approved supervisor or LMFT-registered supervisor candidate.

\* \* \*

###### **C. Supervision Requirements for Licensure**

1. A registered MFT intern must complete a minimum of two years of post-graduate work experience in marriage and family therapy that includes at least 3,000 hours of clinical services to individuals, couples, or families.

1.a. - 7.e. ...

D. Qualifications of an LMFT-Approved Supervisor and an LMFT-Registered Supervisor Candidate

1. - 2. ..

3. A person who wishes to become an LMFT-approved supervisor must be a licensed marriage and family therapist and must submit a completed application that documents that he or she meets the requirements. in one of two ways.

a. The applicant may meet the requirements by meeting the following coursework, experience, and supervision of supervision requirements.

###### **i. Coursework requirements:**

(a). a one-semester graduate course in marriage and family therapy supervision from a regionally accredited institution; or

(b). an equivalent course of study consisting of a 15-hour didactic component and a 15-hour interactive component in the study of marriage and family therapy supervision approved by the advisory committee. The interactive component must include a minimum of four persons.

ii. Experience requirements:

(a). has a minimum of two years experience as a licensed marriage and family therapist.

iii. Supervision of Supervision requirements:

(a). 36 hours of supervision of supervision for marriage and family therapy must be taken from an LMFT-approved supervisor.

(b). Repealed.

b. ...

4. LMFT-registered Supervisor Candidate

a. ...

i. includes documentation of a minimum of two years of experience as a licensed marriage and family therapist;

a.ii. - d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:158 (February 2003), amended LR 29:2787 (December 2003), LR 34:

Eddy Boeneke  
Executive Director

0809#001

## DECLARATION OF EMERGENCY

### Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends LAC 50:XV.7107 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions establishing early intervention services for infants and toddlers with disabilities under the Early and Periodic Screening, Diagnoses and Treatment (EPSDT) Program in conjunction with the transfer of Louisiana's early intervention system under Part C of the Individuals with Disabilities Education Act (IDEA) to the Department of Health and Hospitals (*Louisiana Register*, Volume 30,

Number 4). The April 20, 2004 Rule was amended to reduce the reimbursement rates paid through the EarlySteps Program (Part C of IDEA) for health services rendered to infants and toddlers with disabilities (*Louisiana Register*, Volume 31, Number 8).

During the 2008 Regular Session of the Louisiana Legislature, additional funds were allocated to increase the reimbursement rate paid for services provided to infants and toddlers with disabilities who receive services through the EarlySteps Program. As a result of the allocation of additional funds, the Bureau proposes to increase the reimbursement rate paid for certain services provided to infants and toddlers in the EarlySteps Program.

This action is being taken to promote the health and welfare of Medicaid recipients and to maintain access to EPSDT services by encouraging the continued participation of providers in the Medicaid Program. It is estimated that implementation of this Emergency Rule will increase expenditures in the Medicaid Program by approximately \$987,285 for state fiscal year 2008-2009.

Effective September 1, 2008, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for certain Early and Periodic Screening, Diagnosis and Treatment health services provided to infants and toddlers in the EarlySteps Program.

## Title 50

### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part XV. Services for Special Populations

#### Subpart 5. Early and Periodic Screening, Diagnoses, and Treatment

#### Chapter 71. Health Services

#### §7107. EarlySteps Reimbursement

A. EarlySteps (Part C of IDEA). The reimbursement for health services rendered to infants and toddlers with disabilities who are 0 to 3 years old shall be the lower of billed charges or 75 percent of the rate (a 25 percent reduction) in effect on January 31, 2005.

B. EarlySteps (Part C of IDEA). Effective for dates of service on or after September 1, 2008, the reimbursement for certain health services rendered in a natural environment to infants and toddlers with disabilities who are 0 to 3 years old shall be increased by 25 percent of the rate in effect on August 31, 2008.

1. For purposes of these provisions, a natural environment may include a child's home or settings in the community that are natural or normal for the child's age and peers who have no disability (i.e. childcare facility, nursery, preschool program, or playground).

2. The following services rendered in a natural environment shall be reimbursed at the increased rate:

- a. occupational therapy;
- b. physical therapy;
- c. speech language pathology services;
- d. audiology services; and
- e. psychological services.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:800 (April 2004), amended LR 31:2030 (August 2005), amended, LR 34:

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

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

Alan Levine  
Secretary

0809#011

## **DECLARATION OF EMERGENCY**

### **Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing**

Hospital Licensing Standards  
Emergency Preparedness—Electronic  
Reporting Requirements (LAC 48:I.9335)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends LAC 48:I.9335 in the Medical Assistance Program as authorized by R.S. 36:254 and 40:2100-2115. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgated a Rule that established new regulations governing the licensing of hospitals (*Louisiana Register*, Volume 29, Number 11). The Department now proposes to amend the November 20, 2003 Rule to establish provisions requiring all hospitals licensed in Louisiana to file electronic reports of their operational status during declared disasters or other emergency situations.

This action is being taken to prevent imminent peril to the health and well-being of Louisiana citizens who depend on hospital services during declared disasters or other emergencies. It is estimated that implementation of this Emergency Rule will have no programmatic costs for state fiscal year 2008-2009.

Effective immediately, upon declaration of the Secretary and notification to the Louisiana Hospital Association, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the provisions governing emergency preparedness for all hospitals licensed in Louisiana.

## **Title 48 PUBLIC HEALTH—GENERAL Part I. General Administration Subpart 3. Health Standards**

### **Chapter 93. Hospitals Subchapter B. Hospital Organization and Services §9335. Emergency Preparedness**

A. - M. ...

N. Effective immediately, upon declaration of the Secretary and notification to the Louisiana Hospital Association, all hospitals licensed in Louisiana shall file an electronic report with the EMSsystem, or a successor operating system during a declared emergency, disaster or public health emergency.

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

2. The electronic report shall include, but not be limited to the following:

- a. status of operation (open, limited or closed);
- b. availability of beds by category (medical/surgery, intensive care unit, pediatric, psychiatric, etc.);
- c. other resources that may be needed by a hospital in an emergency (blood products, fuel, pharmaceuticals, personnel, etc.);
- d. generator status;
- e. evacuation status; and
- f. shelter in place status.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:177 (February 1995), amended LR 29:2409 (November 2003), LR 34:

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

Alan Levine  
Secretary

0809#120

## **DECLARATION OF EMERGENCY**

### **Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing**

Medicaid Eligibility—Family Opportunity Act  
Medicaid Program (LAC 50:III.2303)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt LAC 50:III.2303 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 Family Opportunity Act, signed into law by Congress as part of the Deficit Reduction Act of 2005, contains provisions which allow states to offer a Medicaid buy-in program for children with disabilities. This optional Medicaid coverage is available to families with income above the financial standards for Supplemental Security Income (SSI) but not more than 300 percent of the federal poverty level.

In compliance with the directives of the Family Opportunity Act, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing implemented a Medicaid buy-in program, known as the Family Opportunity Act Medicaid Program, to provide health care coverage to children with disabilities who were born on or after October 1, 1995 and who are not eligible for SSI disability benefits due to excess income or resources (*Louisiana Register*, Volume 34, Number 8). The Department now proposes to amend the August 20, 2008 Rule to expand coverage to include children born on or before October 1, 1989, up to age 19.

This action is being taken to secure enhanced federal revenue. It is estimated that implementation of this Emergency Rule will increase expenditures in the Medicaid Program by approximately \$893,917 for state fiscal year 2007-2008.

Effective October 1, 2008, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the provisions of the August 20, 2008 Rule governing the Family Opportunity Act Medicaid Program to expand coverage to children born on or before October 1, 1989 and who are under age nineteen.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part III. Eligibility**

#### **Subpart 3. Eligibility Groups and Factors**

#### **Chapter 23. Eligibility Groups and Programs**

#### **§2303. Family Opportunity Act Medicaid Program**

A. ...

B. Eligibility Requirements. Children born on or after October 1, 1989, up to age 19, who meet the following requirements may receive health care coverage through the Family Opportunity Act Medicaid Program.

B.1. - D.5.b. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1628 (August 2008), amended LR 34:

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

Alan Levine  
Secretary

0809#122

## **DECLARATION OF EMERGENCY**

### **Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing**

Medical Transportation Program  
Emergency Aircraft Transportation  
Rotor Winged Ambulance Rate Increase  
(LAC 50:XXVII.351 and 353)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 50:XXVII.351 and 353 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions in the Medical Transportation Program establishing a new reimbursement methodology for emergency air ambulance services, including helicopters and fixed winged aircrafts, and implemented standards for payment (*Louisiana Register*, Volume 22, Number 2). Reimbursement for these services is a base rate derived from the Medicare rates plus mileage.

Act 19 of the 2008 Regular Session of the Louisiana Legislature authorized expenditures to the Medical Vendor Program to increase the reimbursement rate paid for rotor winged ambulance services. In compliance with the directives of Act 19, the Bureau proposes to amend the February 20, 1996 Rule governing the reimbursement methodology for emergency air medical transportation to increase the reimbursement rate paid for rotor winged emergency ambulance services. The Bureau will also clarify and repromulgate the existing Rule in its entirety for the purpose of adopting these provisions in a codified format for inclusion in the *Louisiana Administrative Code*.

This action is being taken to promote the health and welfare of recipients and to maintain access to emergency air medical transportation services. It is estimated that implementation of this Emergency Rule will increase expenditures in the Medical Transportation Program by approximately \$638,605 for state fiscal year 2008-2009.

Effective September 16, 2008, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the reimbursement rate paid for rotor winged emergency ambulance services.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part XXVII. Medical Transportation Program**

#### **Chapter 3. Emergency Medical Transportation**

#### **Subchapter C. Aircraft Transportation**

#### **§351. Standards for Participation**

A. Rotor winged (helicopters) and fixed winged emergency aircraft must be certified by the Department of Health and Hospitals, Bureau of Health Services Financing

in order to receive Medicaid reimbursement. All air ambulance services must be provided in accordance with state laws and regulations governing the administration of these services.

B. All air ambulance services must comply with state laws and regulations governing the personnel certifications of the emergency medical technicians, registered nurses, respiratory care technicians, physicians and pilots as administered by the appropriate agency of competent jurisdiction.

C. Prior Authorization. The Prior Authorization Unit of the fiscal intermediary must approve the medical necessity for all air ambulance services.

1. Air ambulance claims will be reviewed and a determination will be made based on the following requirements. Air ambulance services are covered only if:

a. speedy admission of the patient is essential and the point of pick-up of the patient is inaccessible by a land vehicle; or

b. great distance or other obstacles are involved in getting the patient to the nearest hospital with appropriate services.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

### **§353. Reimbursement**

A. Fixed Winged Air Ambulance. The reimbursement for fixed winged air ambulance services is the Medicare base rate plus mileage in effect as of January 1, 1995.

1. Payment for air mileage will be limited to actual air mileage from the point of pick-up to the point of delivery of the patient.

2. Payment for a round trip transport on the same day between two hospitals is the base rate plus the round trip mileage.

B. Rotor Winged (Helicopters) Air Ambulance. Effective for dates of service on or after September 17, 2008, the reimbursement rate paid for rotor winged air ambulance services shall be increased to 100 percent of the 2008 Louisiana Medicare allowable rate.

C. If a land-based ambulance must be used for part of the transport, the land-based ambulance provider will be reimbursed separately according to the provisions governing emergency ground transportation.

D. Reimbursement for oxygen and disposable supplies will be made separately when the provider incurs these costs. Reimbursement for these services is based on Medicare rates as established in the state's fee schedule effective April 1, 1995.

AUTHORITY NOTE: Promulgated in 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:

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and

Medicaid Services (CMS) if it is determined that submission to CMS for review and approval is required.

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

Alan Levine  
Secretary

0809#121

## **DECLARATION OF EMERGENCY**

### **Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing**

Targeted Case Management  
Reimbursement Methodology  
(LAC 50:XV.10701-10703)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends LAC 50:XV.10701 and adopts §10703 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953.B(1) et seq., and shall be in effect for the maximum period allowed under the Administrative Procedure 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 rules governing optional targeted case management services under the Medicaid Program for inclusion in the Louisiana Administrative Code (*Louisiana Register*, Volume 30, Number 5). The department promulgated an Emergency Rule to amend the provisions of the May 20, 2004 Rule governing the reimbursement methodology for targeted case management services to require case management agencies to bill in 15 minute increments and to establish cost reporting requirements (*Louisiana Register*, Volume 34, Number 5).

During the 2008 Regular Session of the Louisiana Legislature, additional funds were allocated to increase the reimbursement rate paid for services provided to infants and toddlers with disabilities who receive services through the EarlySteps Program. As a result of the allocation of additional funds, the bureau now proposes to amend the May 1, 2008 Emergency Rule to increase the reimbursement rate paid for targeted case management services provided to infants and toddlers.

This action is being taken to promote the health and welfare of Medicaid recipients and to maintain access to targeted case management services by encouraging the continued participation of providers in the Medicaid Program. It is estimated that implementation of this

Emergency Rule will increase expenditures in the Medicaid Program by approximately \$693,000 for state fiscal year 2008-2009.

Effective September 1, 2008, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the reimbursement methodology governing targeted case management services provided to infants and toddlers.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part XV. Services for Special Populations**

**Subpart 7. Targeted Case Management**

**Chapter 107. Reimbursement**

**§10701. Reimbursement**

A. Effective for dates of service on or after May 1, 2008, reimbursement for case management services shall be a prospective rate for each approved unit of service provided to the recipient.

1. One quarter hour (15 minutes) is the standard unit of service which covers both service provision and administrative costs.

2. All services must be prior authorized.

B. ...

C. Effective for dates of service on or after February 1, 2005, the reimbursement rate for targeted case management services rendered to infants and toddlers shall be 75 percent of the rate (a 25 percent reduction) in effect on January 31, 2005.

D. Effective for dates of service on or after September 1, 2008, the reimbursement rate for targeted case management services rendered to infants and toddlers shall be increased by 25 percent of the rate in effect on August 31, 2008.

AUTHORITY NOTE: Promulgated in 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 34:

**§10703. Cost Reports**

A. Case management agencies shall provide annual cost reports based on the state fiscal year, starting with the period beginning July 1, 2008 and ending June 30, 2009. Completed reports are due within 90 calendar days after the end of each fiscal 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, Office of the Secretary, Bureau of Health Services Financing, LR 34:

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

Alan Levine  
Secretary

0809#012

**DECLARATION OF EMERGENCY**

**Department of Insurance  
Office of the Commissioner**

**Emergency Rule 24—Suspension of Certain Statutes and Regulations Regarding Cancellations, Non-Renewals, Reinstatements, Premium Payments, Claim Filings and Related Provisions Regarding Any and All Insurance Matters Affecting Insureds in Louisiana Caused by Hurricane Gustav  
(LAC 37:XI.Chapter 44)**

Emergency Rule 24 is issued to address Hurricane Gustav which made landfall in Louisiana on September 1, 2008. Emergency Rule 24 is issued pursuant to the plenary authority of the Commissioner of Insurance for the State of Louisiana, including, but not limited to, the following: Proclamation No. 51 BJ 2008 issued on August 27, 2008 by Governor Bobby Jindal declaring a State of Emergency extending from August 27, 2008 through September 26, 2008; Executive Order No. BJ 08-93 issued September 9, 2008 by Governor Bobby Jindal transferring authority over any and all insurance matters to Commissioner of Insurance James J. Donelon (commissioner); R.S. 29:724; R.S. 29:766; R.S. 22:2; R.S. 22:3; R.S. 22:1214.(7), (12) and (14); R.S. 49:950 et seq.

On August 27, 2008, Governor Bobby Jindal declared a State of Emergency within the state of Louisiana in response to the expected landfall of Hurricane Gustav. As a result of the hurricane's landfall, Hurricane Gustav caused extensive power outages and flooding that destroyed many homes and impacted the livelihood of the citizens of Louisiana. This State of Emergency extends from Wednesday, August 27, 2008 through Friday, September 26, 2008.

An estimated 3.1 million Louisiana citizens, which is approximately 73 percent of the population of Louisiana, may have suffered damage due to Hurricane Gustav. In some places, it could be several weeks before electricity is restored. The homes of many Louisiana citizens were destroyed precluding habitation. The damage caused by Hurricane Gustav has resulted in the closing of businesses and financial institutions, the temporary suspension of mail service, the temporary displacement of persons from their homes, loss of personal belongings and temporary loss of employment. This disruption has affected the ability of these citizens to timely pay their insurance premiums, access their insurance policies, and communicate with insurance agents and their respective insurance companies for insurance related matters. Hurricane Gustav has created a mass disruption to the normalcy previously enjoyed by Louisianans and produced an immediate threat to the public health, safety, and welfare of Louisiana citizens.

The commissioner will be hindered in the proper performance of his duties and responsibilities regarding this State of Emergency without the authority to suspend certain statutes in the Louisiana Insurance Code and the rules and

regulations that implement the Louisiana Insurance Code including, but not limited to, cancellation, nonrenewal, reinstatement, premium payment and claim filings with regard to any and all types of insurance subject to the Louisiana Insurance Code.

In light of this, Emergency Rule 24 is issued and shall apply to all insurers, health maintenance organizations (HMOs), health and accident insurers, property and casualty insurers, surplus lines insurers and any and all other entities doing business in Louisiana and/or regulated by the commissioner, including any entity enumerated in Emergency Rule 25, regarding any and all types of insurance, including, but not limited to, flood insurance (not issued pursuant to the NFIP), homeowners insurance, life insurance, group and individual health and accident insurance, limited benefit insurance, vehicle insurance, liability insurance, workers' compensation insurance, burglary and forgery insurance, glass insurance, fidelity and surety insurance, title insurance, fire and extended coverage insurance, steam boiler and sprinkler leakage insurance, crop and livestock insurance (not issued pursuant to a USDA program), marine and transportation insurance, credit life, medical supplement insurance, credit property and casualty insurance, annuity insurance, HMOs, professional and medical malpractice liability insurance, property and casualty insurance, all surplus lines insurance, self insurance funds, reciprocal insurance and any and all other insurance related entities licensed by the commissioner or doing business in Louisiana.

Emergency Rule 24 is applicable to insureds, as defined in Section 4401, from the following 36 parishes: Acadia, Allen, Ascension, Assumption, Avoyelles, Beauregard, Cameron, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Rapides, Sabine, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Vermilion, Vernon, West Baton Rouge, and West Feliciana. The zip codes applicable to these 36 parishes include, but may not be limited to, the list identified as "Hurricane Gustav Parish Zip Code List" found on the official Louisiana Department of Insurance Web site at [www.ldi.state.la.us](http://www.ldi.state.la.us). Insureds shall include, but not be limited to, any and all policyholders, members, subscribers, enrollees and certificate holders.

In the ordinary course of business, insurers, HMOs, group and individual health and accident insurers, property and casualty insurers, surplus lines insurers and any and all other entities doing business in Louisiana and/or regulated by the commissioner send notices to insureds, many of which are required by statute, giving the insured certain limited periods of time within which to pay premiums or otherwise respond. Hurricane Gustav and its aftermath have produced a disruption in the notification process because of the inability of insureds to receive mail due to mandatory and/or voluntary evacuations and/or the destruction or damage of their homes. Thus, many of Hurricane Gustav's victims are currently unable to timely act or respond to such notices or to timely pay insurance premiums and need additional time within which to act or respond. Some insurers, HMOs, group and individual health and accident insurers, property and casualty insurers, surplus lines insurers and any and all other

entities doing business in Louisiana and/or regulated by the commissioner may attempt to cancel, nonrenew or not reinstate such insurance policies. Additionally, some insureds with policies in force as of 12:01 a.m. on August 30, 2008, who wish to make timely payment, are also prevented from making such payment because of the aforementioned circumstances. This could result in an insured being without coverage and/or potentially uninsured. Emergency Rule 24 provides emergency relief to the insureds of Louisiana affected by Hurricane Gustav and its aftermath so that they will be insured and their coverage will continue under those policies that were in effect as of 12:01 a.m. on August 30, 2008.

**Title 37**  
**INSURANCE**  
**Part XI. Rules**

**Chapter 44. Emergency Rule 24—Suspension of Certain Statutes and Regulations Regarding Cancellations, Non-Renewals, Reinstatements, Premium Payments, Claim Filings and Related Provisions Regarding Any and All Insurance Matters Affecting Insureds in Louisiana Caused by Hurricane Gustav**

**§4401. Benefits, Entitlements, and Protections**

A. The benefits, entitlements and protections of Emergency Rule 24 shall be applicable to insureds who, as of 12:01 a.m. on August 30, 2008 had a policy or insurance contract for any of the types of insurance enumerated in §4403 and reside in one of the following parishes: Acadia, Allen, Ascension, Assumption, Avoyelles, Beauregard, Cameron, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Rapides, Sabine, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Vermilion, Vernon, West Baton Rouge, and West Feliciana. The zip codes applicable to these 36 parishes include, but may not be limited to, the list identified as "Hurricane Gustav Parish Zip Code List" found on the official Louisiana Department of Insurance Web site at [www.ldi.state.la.us](http://www.ldi.state.la.us).

B. The benefits, entitlements, and protections of Emergency Rule 24 shall be applicable to insureds who reside in a parish enumerated in §4401.A and obtain written documentation from either the chief executive officer of the applicable parish or municipality or other appropriate parish authority regarding the interruption of U.S. mail service; or insureds who provide written notice that said insured was impacted by Hurricane Gustav in a manner including, but not limited to, evacuation, displacement, temporary relocation, or loss of power.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-92.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

**§4403. Applicability**

A. Emergency Rule 24 shall apply to any and all types of insurance, including, but not limited to, flood insurance (not issued pursuant to the NFIP), homeowners insurance, life insurance, group and individual health and accident insurance, limited benefit insurance, vehicle insurance, liability insurance, workers' compensation insurance,

burglary and forgery insurance, glass insurance, fidelity and surety insurance, title insurance, fire and extended coverage insurance, steam boiler and sprinkler leakage insurance, crop and livestock insurance (not issued pursuant to a USDA program), marine and transportation insurance, credit life, medical supplement insurance, credit property and casualty insurance, annuity insurance, HMOs, professional and medical malpractice liability insurance, property and casualty insurance, all surplus lines insurance, self insurance funds, disability insurance, reciprocal insurance, long term care insurance, short term health insurance, stop loss insurance, excess loss insurance, Medicare supplement insurance, preferred provider organizations (PPOs), managed care organizations (MCOs) and any and all other insurance related entities licensed by the commissioner or doing business in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-92.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

#### **§4405. Suspension of Statutory or Regulatory Provisions**

A. Any statutory or regulatory provision, or any policy provision contained in any and all policies of insurance set forth in §4403 above, shall be suspended to the extent that said statutory or regulatory provision, or policy provision, imposed upon an insured a time limit to perform any act or transmit information or funds with respect to any insurance enumerated in §4403 above, which act or transmittal was to have been performed on or after 12:01 a.m. on August 30, 2008. The time limit for any such performance, act or transmittal shall be suspended until October 1, 2008.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-92.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

#### **§4407. Suspension of Notice of Cancellation, Notice of Nonrenewal, Nonreinstatement**

A. Emergency Rule 24 hereby suspends any notice of cancellation, notice of nonrenewal, nonreinstatement or any other notice related to any of the types of insurance enumerated in §4403 that was in force and effect as of 12:01 a.m. on August 30, 2008. Accordingly, any such notices that had not resulted in the actual cancellation, nonrenewal or nonreinstatement of the types of insurance enumerated in §4403 prior to 12:01 a.m. on August 30, 2008 shall be null and void. Furthermore, any such notice shall be reissued *de novo* to the insured in accordance with existing statutory requirements and any such notice shall not be issued to the insured until October 1, 2008 or thereafter.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-92.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

#### **§4409. Suspension of Louisiana Insurance Code Provisions**

A. Any and all provisions in the Louisiana Insurance Code relative to providing for a premium finance company to act on behalf of and/or as agent for an insurance company are hereby suspended. In furtherance thereof, the right, entitlement, legal provision or any other form of legal authority, including any policy provision, of any and all insurers to send a notice of cancellation is suspended

effective 12:01 a.m. on August 30, 2008 and shall remain suspended until October 1, 2008. The right of any insurer to utilize the services of a premium finance company to issue any such notice is suspended during the pendency of Emergency Rule 24.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-92.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

#### **§4411. Cancellation and Nonrenewal**

A. As set forth in R.S. 22:1471, no policy shall be cancelled or nonrenewed because of a claim resulting from Hurricane Gustav or its aftermath.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-92.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

#### **§4413. Suspension of Cancellation, Nonrenewal or Nonreinstatement**

A. Except as provided for in §4421, the cancellation, nonrenewal or nonreinstatement of any and all insurance enumerated in §4403 herein and in Emergency Rule 25 that was in effect as of 12:01 a.m. on August 30, 2008 is hereby suspended and shall be deferred until October 1, 2008.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-92.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

#### **§4415. Policy Copy Request**

A. If an insured requests from his insurer a copy of his policy, the insurer shall provide a copy of the requested policy to the insured without any charge or fee.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-92.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

#### **§4417. New Policies**

A. The provisions of Emergency Rule 24 shall not apply to any new policy of insurance for the types of insurance enumerated in §4403 and Emergency Rule 25 if said insurance policy was issued on or after 12:01 a.m. August 30, 2008.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-92.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

#### **§4419. Premium Offset**

A. All insurers regulated by Emergency Rule 24, including, but not limited to, property and casualty insurers, surplus lines insurers and any and all other entities doing business in Louisiana and/or regulated by the commissioner and other similar or related entities receiving a claim from an insured owing a premium may offset the premium that is owed by the insured from any claim payment made to the insured under the insurance policy. Section 4419 is not applicable to health insurance issuers, HMOs, PPOs, MCOs, third party administrators (TPAs) or any other health insurance entities doing business in Louisiana and/or regulated by the commissioner.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-92.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

**§4421. Policy Cancellation upon Request**

A. Nothing shall prevent an insurer from cancelling a policy upon the documented written request or written concurrence of the insured.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-92.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

**§4423. Insured's Obligation to Pay Premiums**

A. Unless otherwise cancelled pursuant to the provisions of §4421 herein, nothing in Emergency Rule 24 shall be construed to exempt or excuse an insured from the obligation to pay the premiums otherwise due for actual insurance coverage provided.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-92.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

**§4425. Cancellation for Fraud or Material Representation**

A. Emergency Rule 24 shall not prevent an insurer from canceling or terminating a policy of insurance for fraud or material misrepresentation on the part of the insured.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-92.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

**§4427. Insured's Obligation to Provide Information and Cooperation**

A. Emergency Rule 24 shall not relieve an insured who has a claim caused by Hurricane Gustav or its aftermath from compliance with the insured's obligation to provide information and cooperate in the claim adjustment process relative to the claim.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-92.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

**§4429. Interest, Penalties, Fees and Other Charges**

A. The right of an insurer to impose or levy any additional interest, penalty, fee or other charge is hereby suspended until October 1, 2008.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-92.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

**§4431. Petition for Exemption**

A. Notwithstanding any other provision contained herein, the commissioner may exempt any insurer from compliance with Emergency Rule 24 upon the insurer filing with the commissioner a written "Petition for Exemption from Emergency Rule 24" which unequivocally demonstrates that compliance with Emergency Rule 24 will result in said insurer being subject to undue hardship, impairment, or insolvency.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-92.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

**§4433. Intent and Purpose**

A. The provisions of Emergency Rule 24 shall be liberally construed to effectuate the intent and purposes expressed herein and to afford maximum consumer protection for the insureds of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-92.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

**§4435. Sanctions for Violations**

A. The commissioner retains the authority to enforce violations of Emergency Rule 24. Accordingly, any insurer enumerated in Emergency Rule 24 or other entity doing business in Louisiana and/or regulated by the commissioner who violates any provision of Emergency Rule 24 shall be subject to prosecution by the commissioner under any applicable provisions of the Louisiana Insurance Code, including the provisions of the R.S. 22:250.41, et seq., R.S. 22:1211, et seq., and specifically including, but not limited to, R.S. 22:1214(7), (12) and (14). Additionally, the penalty provisions set forth in LSA-R.S. 22:1217 shall be applicable. These provisions include penalties of \$1,000 for each separate act, or \$25,000 for each separate act if the violator knew or reasonably should have known he was in violation of Emergency Rule 24, as well as a cease and desist order and the imposition of other penalties and suspension or revocation of the license. Additionally, R.S. 22:1220, which, among other things, imposes the obligation of good faith and fair dealing shall also be subject to the enforcement authority of the commissioner. This law sets forth penalties and exemplary damages which shall be enforceable by the commissioner for any violation of Emergency Rule 24. Finally, the commissioner may impose any other applicable civil and criminal sanctions for violations of Emergency Rule 24.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-92.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

**§4437. Applying Provisions outside of Affected Parishes**

A. Nothing in Emergency Rule 24 shall preclude an insurer from voluntarily applying the provisions of Emergency Rule 24 relating to cancellation, nonrenewal and nonreinstatement to any other person who is an insured and who resides in any parish other than the parishes set forth in Section 4401.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-92.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

**§4439. Authority**

A. The commissioner reserves the right to amend, modify, alter or rescind all or any portions of Emergency Rule 24. Additionally, the commissioner reserves the right to extend Emergency Rule 24.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-92.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

**§4441. Severability Clause**

A. If any section or provision of Emergency Rule 24 is held invalid, such invalidity or determination shall not affect other sections or provisions, or the application of Emergency Rule 24, to any persons or circumstances that can be given effect without the invalid sections or provisions and the application to any person or circumstance shall be severable.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-92.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

**§4443. Effective Date**

A. Emergency Rule 24 shall become effective at 12:01 a.m. on August 30, 2008 and shall continue in full force and effect until October 1, 2008.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-92.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

James J. Donelon  
Commissioner

0809#118

**DECLARATION OF EMERGENCY**

**Department of Insurance  
Office of the Commissioner**

Emergency Rule 25—Suspension of Certain Statutes and Regulations Regarding Health Insurance and Related Provisions Regarding Any and All Health Insurance Matters Affecting Insureds in Louisiana Caused by Hurricane Gustav (LAC 37:XI.Chapter 45)

Emergency Rule 25 is issued to address Hurricane Gustav which made landfall in Louisiana on September 1, 2008. Emergency Rule 25 is issued pursuant to the plenary authority of the Commissioner of Insurance for the State of Louisiana, including, but not limited to, the following: Proclamation No. 51 BJ 2008 issued on August 27, 2008 by Governor Bobby Jindal declaring a State of Emergency extending from August 27, 2008 through September 26, 2008; Executive Order No. BJ 08-93 issued September 9, 2008 by Governor Bobby Jindal transferring authority over any and all insurance matters to Commissioner of Insurance James J. Donelon (commissioner); R.S. 29:724; R.S. 29:766; R.S. 22:2; R.S. 22:3; R.S. 22:1214.(7), (12) and (14); R.S. 49:950 et seq.

On August 27, 2008, Governor Bobby Jindal declared a State of Emergency within the state of Louisiana in response to the expected landfall of Hurricane Gustav. As a result of the hurricane's landfall, Hurricane Gustav caused extensive power outages and flooding that destroyed many homes and impacted the livelihood of the citizens of Louisiana. This State of Emergency extends from Wednesday, August 27, 2008 through Friday, September 26, 2008.

An estimated 3.1 million Louisiana citizens, which is approximately 73 percent of the population of Louisiana, may have suffered damage due to Hurricane Gustav. In some places, it could be several weeks before electricity is restored. The homes of many Louisiana citizens were destroyed precluding habitation. The damage caused by Hurricane Gustav has resulted in the closing of businesses and financial institutions, the temporary suspension of mail service, the temporary displacement of persons from their homes, loss of personal belongings and temporary loss of employment. This disruption has affected the ability of these citizens to timely pay their insurance premiums, access their insurance policies, and communicate with insurance agents and their respective insurance companies for insurance related matters. Hurricane Gustav has created a mass disruption to the normalcy previously enjoyed by

Louisianans and produced an immediate threat to the public health, safety, and welfare of Louisiana citizens.

The commissioner will be hindered in the proper performance of his duties and responsibilities regarding this State of Emergency without the authority to suspend certain statutes in the Louisiana Insurance Code and the rules and regulations that implement the Louisiana Insurance Code including, but not limited to, cancellation, nonrenewal, reinstatement, premium payment and claim filings with regard to any and all types of insurance subject to the Louisiana Insurance Code.

In light of this, I hereby issue Emergency Rule 25 to any and all health insurance issuers, Health Maintenance Organizations (hereinafter HMOs), Preferred Provider Organizations (hereinafter PPOs), Managed Care Organizations (hereinafter MCOs), Third Party Administrators (TPAs) and any other health insurance entities doing business in Louisiana and/or regulated by the commissioner pursuant to the Louisiana Insurance Code regarding any and all types of health insurance, including, but not limited to, group and individual health and accident insurance, limited benefit insurance, Medicare supplement insurance, Medicare select insurance, HMOs, PPOs, MCOs, excess loss insurance, stop loss insurance, disability income insurance, short-term health insurance, long-term care insurance, and any and all other types of health insurance regulated by the Louisiana Insurance Code.

Emergency Rule 25 is applicable to insureds, as defined in Section 4501(A), from the following 36 parishes: Acadia, Allen, Ascension, Assumption, Avoyelles, Beauregard, Cameron, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Rapides, Sabine, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Vermilion, Vernon, West Baton Rouge, and West Feliciana. The zip codes applicable to these 36 parishes include, but may not be limited to, the list identified as "Hurricane Gustav Parish Zip Code List" found on the official Louisiana Department of Insurance Web site at [www.lidi.state.la.us](http://www.lidi.state.la.us). Insureds shall include, but not be limited to, any and all policyholders, members, subscribers, enrollees and certificate holders.

In the ordinary course of business, health insurance issuers, HMOs, PPOs, MCOs, TPAs and any and all other health insurance entities doing business in Louisiana and/or regulated by the commissioner pursuant to the Louisiana Insurance Code regarding any and all types of health insurance, including, but not limited to, group and individual health and accident insurance, limited benefit insurance, Medicare supplement insurance, Medicare select insurance, HMOs, PPOs, MCOs, excess loss insurance, stop loss insurance, disability insurance, short-term care insurance, long-term care insurance and any and all other health insurance regulated by the Louisiana Insurance Code, are subject to certain requirements with regard to health insurance matters affecting insured citizens in Louisiana. Hurricane Gustav has produced a disruption in the health insurance industry. Thus, many of the insureds in the 36 parishes referenced above are currently unable to timely act or respond to their health insurance needs. Additionally, some insureds with policies in force as of 12:01 a.m. on

August 30, 2008, who wish to make timely premium payments, are also prevented from making such payment because of the aforementioned circumstances. This could result in an insured being without coverage and/or potentially uninsured. Emergency Rule 25 provides emergency relief to the insureds of Louisiana affected by Hurricane Gustav and its aftermath so that these insureds will be insured and their coverage will continue under those policies that were in effect as of 12:01 a.m. on August 30, 2008.

**Title 37**  
**INSURANCE**  
**Part XI. Rules**

**Chapter 45. Emergency Rule 25—Suspension of Certain Statutes and Regulations Regarding Health Insurance and Related Provisions Regarding Any and All Health Insurance Matters Affecting Insureds in Louisiana Caused by Hurricane Gustav**

**§4501. Benefits, Entitlements, and Protections**

A. The benefits, entitlements and protections of Emergency Rule 25 shall be applicable to insureds who, as of 12:01 a.m. on August 30, 2008 had a policy or insurance contract for any of the types of insurance enumerated in Section 4503, and resided in one of the following 36 parishes: Acadia, Allen, Ascension, Assumption, Avoyelles, Beauregard, Cameron, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Rapides, Sabine, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Vermilion, Vernon, West Baton Rouge, and West Feliciana. The zip codes applicable to these 36 parishes include, but may not be limited to, the list identified as "Hurricane Gustav Parish Zip Code List" found on the official Louisiana Department of Insurance Web site at [www.ildi.state.la.us](http://www.ildi.state.la.us). Insureds shall include, but not be limited to, any and all policyholders, members, subscribers, enrollees and certificate holders.

B. The benefits, entitlements and protections specified in Sections 4505, 4509, 4511, and 4519 of Emergency Rule 25 shall, by the issuance of Emergency Rule 25, be applicable to insureds who, as of 12:01 a.m. on August 30, 2008 had a policy or insurance contract for any of the types of insurance enumerated in §4503 and resided in one of the parishes enumerated in §4501.A.

C. The benefits, entitlements, and protections of Emergency Rule 25 shall be applicable to insureds who reside in a parish enumerated in §4501.A and obtain written documentation from either the chief executive officer of the applicable parish or municipality or other appropriate parish authority regarding the interruption of U.S. mail service; or insureds who provide written notice that said insured was impacted by Hurricane Gustav in a manner including, but not limited to, evacuation, displacement, temporary relocation, or loss of power.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-92.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

**§4503. Applicability**

A. Emergency Rule 25 shall apply to any and all types of health insurance, including, but not limited to, group and

individual health and accident insurance, limited benefit insurance, Medicare supplement insurance, Medicare select insurance, HMOs, PPOs, MCOs, excess loss insurance, stop loss insurance, disability income insurance, short-term health insurance, long-term care insurance and any and all other health insurance.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-92.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

**§4505. Suspension of Statutory or Regulatory Provisions**

A. All health insurance issuers, HMO's, PPOs, MCOs, TPAs, and any other health insurance entities doing business in Louisiana or regulated by the commissioner with insureds in the parishes enumerated in §4501.A shall waive any and all restrictions relative to out-of-network access to all covered health care services. To avoid delays in accessing care, all health insurance issuers, HMOs, PPOs, MCOs TPAs, and any other health insurance entities doing business in Louisiana or regulated by the commissioner shall waive requirements for medical certifications or pre-certifications, referrals, medical necessity reviews and notification of hospital admissions. The right of all health insurance issuers, HMOs, PPOs, MCOs TPAs, and any other health insurance entities doing business in Louisiana or regulated by the commissioner to conduct retrospective medical necessity reviews and retrospectively deny any and all claims is hereby suspended for non-elective health care services. Additionally, the right of all health insurance issuers, HMOs, PPOs, MCOs TPAs, and any other health insurance entities doing business in Louisiana or regulated by the commissioner to recoup or offset with regard to any and all claims for non-elective health care services is hereby suspended. Non-elective health care services are those that are urgent, emergent, or necessary in order to not place the health of the insured at risk.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-92.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

**§4507. Claim Rates and Allowances**

A. In the event health insurance issuers, HMOs, PPOs, MCOs, TPAs and another health insurance entities doing business in Louisiana or regulated by the commissioner pend a claim(s), as allowed pursuant to Emergency Rule 25, and is subsequently entitled to cancel or terminate a policy for non-payment of a premium, health insurance issuers, HMOs, PPOs, MCOs, TPAs and another health insurance entities doing business in Louisiana or regulated by the commissioner shall pay those claims to the health care professionals at the following rate or allowance.

1. For contracted health care providers or health care professionals, 50 percent of the contracted reimbursement rate.

2. For non-contracted health care providers or health care professionals, 50 percent of the non-participating rate or allowance.

3. With regard to claims submitted pursuant to §4507, when the underlying policy is cancelled or terminated for non-payment of premium, health insurance issuers, HMOs, PPOs, MCOs, TPAs and another health insurance entities doing business in Louisiana or regulated by the

commissioner shall be allowed to conduct medical necessity reviews on claims related to non-elective services. Non-elective services are those services that are emergent, urgent, or necessary in order to not place the health of the insured at risk.

4. With regard to any and all claims paid by health insurance issuers, HMOs, PPOs, MCOs, TPAs and another health insurance entities doing business in Louisiana or regulated by the commissioner pursuant to the requirements of §4507, the provisions of R.S. 22:250.38 and R.S. 22:250.39 are hereby suspended and recoupment is prohibited.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-92.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

#### **§4509. Emergency Health Care Services**

A. Section 4509 reiterates that R.S. 22:657 requires all health insurance issuers, HMOs, PPOs, MCOs TPAs, and any other health insurance entities doing business in Louisiana or regulated by the commissioner including, but not limited to group and individual health and accident insurance, limited benefit insurance, Medicare supplement insurance, Medicare select insurance, excess loss insurance, stop loss insurance, disability insurance, short-term care insurance, long-term care insurance and any and all other health insurance regulated by the Louisiana Insurance Code, to provide coverage and pay in full any and all billed charges submitted by health care providers for emergency health care services provided to an enrollee or insured rendered by an in network or out of network facility based physician or an in network or out of network base health care facility as defined pursuant to R.S. 22:250.42(2), (13), (16) and (17). This does not preclude a health insurance issuer, HMO, PPO, MCO, or TPA from paying a contracted health care provider the contracted reimbursement rate.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-92.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

#### **§4511. Compliance with Health Care Consumer Billing and Protection Act**

A. All health care professionals and health care providers rendering services to an insured from the parishes enumerated in §4501.A shall comply with the Health Care Consumer Billing and Protection Act pursuant to R.S. 22:250.41, et seq. Accordingly, health care providers and/or health care professionals who file a claim and/or accept payment for health care services shall have legally released the insureds from any further financial obligation for the health care services rendered. Health care providers and/or health care professionals shall be deemed to have released, discharged and waived any and all rights to take any legal action or redress, either in person or via transfer, assignment or subrogation, to collect any unpaid amounts from insureds and/or health insurance issuers, HMOs, PPOs, MCOs, TPAs or any or all other health insurance entities doing business in Louisiana or regulated by the commissioner. Any violation by health care providers and/or health care professionals of this provision may be deemed an unfair trade practice under R.S. 22:250.41 et seq. and may be referred to the Louisiana Attorney General. The Louisiana Attorney General may pursue remedies as provided for in R.S. 51:1401 et seq.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-92.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

#### **§4513. Assuring Portability—Compliance**

A. All health insurance issuers and HMOs shall maintain compliance with R.S. 22:250.1, et seq., titled Assuring Portability, Availability and Renewability of Health Insurance Coverage, and any applicable federal law.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-92.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

#### **§4515. Assuring Portability—Suspension**

A. All health insurance issuers and HMOs shall maintain compliance with R.S. 22:250.1, et seq., titled Assuring Portability, Availability and Renewability of Health Insurance Coverage, except for the time periods enumerated in the §4515 shall be suspended during the pendency of Emergency Rule 25. All such notices required in §4515.A-D must be reissued *de novo* on October 1, 2008.

1. The HIPAA portability provisions generally provide that a group health plan or group health insurance issuer may disregard a period of creditable coverage if there is a subsequent 63-day break in coverage.

2. Also, a newborn, adopted child, or child placed for adoption may not be subject to a preexisting condition exclusion period if covered under creditable coverage within 30 days of birth, adoption, or placement for adoption.

3. The HIPAA special enrollment provisions generally provide that employees must request enrollment within 30 days of a special enrollment trigger (including loss of eligibility of coverage for loss of employer contributions) to be eligible for special enrollment.

4. The HIPAA certification rules prescribe time periods for the provision of certificates of creditable coverage upon loss of coverage. Under the regulations, plans and issuers subject to COBRA continuation coverage provisions are required to provide an automatic certificate no later than the time for providing a COBRA election notice. Plans and issuers not subject to COBRA are required to provide the automatic certificate within a reasonable time after coverage ceases.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-92.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

#### **§4517. Suspension of Cancellation, Nonrenewal, and Nonreinstatement Provisions**

A. All cancellation, termination, nonrenewal and nonreinstatement provisions, including, but not limited to, R.S. 22:250.7, 22:250.13, 22:215.9, 22:213.3 and 22:2027 are hereby suspended. Additionally, all provisions of Emergency Rule 24 relating to notice of cancellation, termination, nonrenewal and nonreinstatement are incorporated herein by reference as if set forth herein *in extenso*.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-92.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

#### **§4519. Denying, Pending or Rejecting a Claim**

A. The commissioner hereby suspends the right of denying, pending or rejecting a claim from any pharmacists

or pharmacy for a 30 day supply of prescription medications, regardless of the date of the last refill. In furtherance of this suspension, health insurance issuers, HMOs, PPOs, MCOs, TPAs or any or all other health insurance entities doing business in Louisiana or regulated by the commissioner shall pay all such claims for reimbursement submitted by a pharmacist or pharmacy.

1. The commissioner hereby suspends any and all precertification or step-therapy procedures in order to fill a prescription. This authorization shall be for a thirty (30) day supply.

2. The commissioner hereby suspends any provisions in the Louisiana Insurance Code which place restrictions on replacement prescriptions pertaining to mail order prescriptions. Mail order prescriptions should be mailed to an alternate address if requested by the insured.

3. All health insurance issuers, HMOs, PPOs, MCOs, TPAs or any or all other health insurance entities doing business in Louisiana or regulated by the commissioner shall waive any and all restrictions relative to out-of-network access to pharmacy services or prescriptions.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-92.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

#### **§4521. Cancellation or Termination of Policy for Non-Payment**

A. Health insurance issuers, HMOs, PPOs, MCOs, TPAs or any or all other health insurance entities doing business in Louisiana or regulated by the commissioner may pend a claim(s), as required pursuant Emergency Rule 25, and may subsequently cancel or terminate a policy only for non-payment of premium in accordance with the procedure set forth in Emergency Rule 24 and Emergency Rule 25.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-92.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

#### **§4523. Discount Billing**

A. Those amounts representing coinsurance, copayments, deductibles, noncovered health care services or other amounts identified by the health insurance issuer, HMO, PPO, MCO, TPA or any or all other health insurance entity doing business in Louisiana or regulated by the commissioner on an explanation of benefits as the amount for which the insured is liable shall not be considered discount billing or dual billing pursuant R.S. 22:250.41 et seq., and remains the obligation of the insured.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-92.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

#### **§4525. Payment of Medicare Supplement Premiums— R.S. 22:224(K)**

A. The commissioner hereby suspends the requirements that the payment of Medicare supplement premiums can only be made pursuant to R.S. 22:224(K).

B. In furtherance of this suspension, any policies that contain restrictive language relative to modes of premium payment shall allow for the acceptance of other payment methods until October 1, 2008 including, but not limited to, credit card, debit card, FEMA voucher, federal assistance,

state assistance, or any and all other related or similar payment methods.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-92.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

#### **§4527. Suspension of Cancellations**

A. The commissioner hereby suspends any and all cancellations occasioned by the inability of an insured, or his representative, from complying with any policy provisions. In furtherance of this suspension, a cancellation or nonrenewal shall not occur prior to October 1, 2008, unless upon the documented written request or written concurrence of the insured.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-92.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

#### **§4529. Insured's Obligation to Provide Information and Cooperation**

A. Emergency Rule 25 shall not relieve an insured who has a claim caused by Hurricane Gustav, or its aftermath, from compliance with the insured's obligation to provide information and cooperate in the claim adjustment process relative to such claim.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-92.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

#### **§4531. Suspension of Interest, Penalty, or Other Charges**

A. The commissioner hereby suspends the imposition of any additional interest, penalty or other charge and declares that no interest, penalty or other charge shall accrue or be assessed against any insured as the result of the suspensions ordered herein.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-92.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

#### **§4533. Option for Continuation of Coverage**

A. The commissioner hereby suspends R.S. 22:215.13. In furtherance thereof, a health insurance issuer, HMO, PPO, MCO, or any or all other health insurance entity doing business in Louisiana or regulated by the commissioner who has issued a group health insurance policy shall provide to all members or certificate holders under said group policy the option for the continuation of coverage, which said option shall begin on October 1, 2008, or any renewal thereof. §4533 is only applicable in those situations where the employer to whom the group policy had been issued remains in business and continues to offer said group health insurance to active employees at any time between August 30, 2008 and October 1, 2008.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-92.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

#### **§4535. Exemption from Compliance**

A. Notwithstanding any other provision contained herein, the commissioner may exempt any insurer from compliance with Emergency Rule 25 upon the insurer filing with the commissioner a written "Petition for Exemption

from Emergency Rule 25" which unequivocally demonstrates that compliance with Emergency Rule 25 will result in said insurer being subject to undue hardship, impairment or insolvency.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-92.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

#### **§4537. Applicability**

A. The provisions of Emergency Rule 24 and Emergency Rule 25 shall not apply to any new policies of insurance for the types of health insurance enumerated in Emergency Rule 25 if said new health insurance policy was issued on or after 12:01 a.m. August 30, 2008.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-92.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

#### **§4539. Cancellation for Fraud or Material Misrepresentation**

A. The provisions of Emergency Rule 25 shall not prevent health insurance issuers, HMOs, PPOs, MCOs, TPAs or any or all other health insurance entities doing business in Louisiana or regulated by the commissioner from cancelling or terminating an insured based solely on fraud or material misrepresentation on the part of the insured.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-92.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

#### **§4541. Intent and Purpose**

A. The provisions of Emergency Rule 25 shall be liberally construed to effectuate the intent and purpose expressed herein and to afford maximum consumer protection for the insureds of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-92.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

#### **§4543. Notification**

A. If the applicable premium for the policy of health insurance is paid at any time prior to the termination of Emergency Rule 25 or applicable grace period, whichever occurs later, the HMO, PPO, MCO, TPA or any or all other health insurance entity shall send to any and all health care providers and/or health care professionals who have filed a claim with respect to insureds a notice in the form of an Explanation of Benefits, Explanation of Payments, Remittance Advice, or similar communication.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-92.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

#### **§4545. Applying Provisions outside of Affected Parishes**

A. Nothing in Emergency Rule 25 shall preclude health insurance issuers, HMOs, PPOs, MCOs, TPAs or any or all other health insurance entities doing business in Louisiana or regulated by the commissioner from voluntarily applying the provisions of Emergency Rule 25 relating to cancellation, nonrenewal and nonreinstatement to any other person who is an insured and who resides in any parish other than the parishes set forth in §4501.A.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-92.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

#### **§4547. Enforcement**

A. The commissioner retains the authority to enforce violations of Emergency Rule 25. Accordingly, any insurer, HMO, PPO, MCO, or other entity doing business in Louisiana and/or regulated by the commissioner who violates any provision of Emergency Rule 25 shall be subject to prosecution by the commissioner under any applicable provisions of the Louisiana Insurance Code, including the provisions of the R.S. 22:250.41, et seq., 22:1211, et seq., and specifically including, but not limited to, R.S. 22:1214(7), (12) and (14). Additionally, the penalty provisions set forth in R.S. 22:1217 shall be applicable. These provisions include penalties of \$1,000 for each separate act, or \$25,000 for each separate act if the violator knew or reasonably should have known he was in violation of Emergency Rule 25, as well as a cease and desist order and the imposition of other penalties and suspension or revocation of the license. Additionally, R.S. 22:1220, which, among other things, imposes the obligation of good faith and fair dealing shall also be subject to the sole enforcement authority of the commissioner. This law sets forth penalties and exemplary damages which shall be enforceable by the commissioner for any violation of Emergency Rule 25. Finally, the commissioner may impose any other applicable civil and criminal sanctions for violations of Emergency Rule 24.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-92.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

#### **§4549. Authority**

A. The commissioner reserves the right to amend, modify, alter or rescind all or any portion of Emergency Rule 25. Additionally, the commissioner reserves the right to extend Emergency Rule 25.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-92.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

#### **§4551. Severability Clause**

A. If any section or provision of Emergency Rule that is held invalid, such invalidity or determination shall not affect other sections or provisions, or the application of Emergency Rule 25, to any persons or circumstances that can be given effect without the invalid sections or provisions and the application to any person or circumstance shall be severable.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-92.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

#### **§4553. Effective Date**

A. Emergency Rule 25 shall become effective at 12:01 a.m. on August 30, 2008 and shall continue in full force and effect until October 1, 2008.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-92.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

James J. Donelon  
Commissioner

0809#119

## DECLARATION OF EMERGENCY

### Department of Social Services Office of Family Support

TANF—Domestic Violence Services and Teen Pregnancy Prevention Program (LAC 67:III.5509 and 5575)

The Department of Social Services, Office of Family Support, has exercised the emergency provision of R.S. 49:953(B), the Administrative Procedure Act, to amend LAC 67:III.5509 Domestic Violence Services and 5575 Teen Pregnancy Prevention Program. This amendment is necessary in order to expand Temporary Assistance for Needy Families (TANF) services by adding programs that address educating and providing training to males age 18 years and older, law enforcement officials, educators, and relevant counseling services concerning statutory rape, a requirement that must be met to remain in compliance with the regulations set forth in Title IV of the Social Security Act, Section 402.

This Emergency Rule, effective October 1, 2008, will remain in effect for a period of 120 days. This declaration is necessary to extend the original Emergency Rule effective June 4, 2008, since it is effective for a maximum of 120 days and will expire on October 1, 2008 before the final Rule takes effect. (The final Rule will be published in the November 2008 *Louisiana Register*.) The authorization for emergency action in this matter is contained in Act 18 of the 2007 Regular Session of the Louisiana Legislature.

#### Title 67

#### SOCIAL SERVICES

#### Part III. Office of Family Support

#### Subpart 15. Temporary Assistance for Needy Families (TANF) Initiatives

#### Chapter 55. TANF Initiatives

#### §5509. Domestic Violence Services

A. The Office of Family Support shall enter into Memoranda of Understanding or contracts to provide services for victims of domestic violence and their children, including rural outreach and community collaboration training for the purpose of educating attendees about domestic violence and the available services provided by the Department of Social Services including but not limited to TANF, Food Stamps, Child Care, and Employment Training. Additionally, these services will include education and training addressing the problem of statutory rape. These programs are designed to not only reach the public, but also law enforcement officials, educators, and relevant counseling services.

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; HB 1 2006 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 32:2099 (November 2006), amended LR 33:2205 (October 2007), LR 34:693 (April 2008), LR 34:

#### §5575. Teen Pregnancy Prevention Program

A. Effective July 1, 2003, The Office of Family Support shall enter into Memoranda of Understanding or contracts to prevent or reduce out-of-wedlock and teen pregnancies by enrolling individuals 8 through 20 in supervised, safe

environments, with adults leading activities according to a research-based model aimed at reducing teen pregnancy. These programs will consist of curriculums which include, but are not limited to, topics designed to educate males 18 years and older on the problem of statutory rape.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 14, 2003 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:502 (March 2004), amended LR 34:697 (April 2008), LR 34:

Ann S. Williamson  
Secretary

0809#029

## DECLARATION OF EMERGENCY

### Department of Wildlife and Fisheries Wildlife and Fisheries Commission

2008-2009 Waterfowl Hunting Season

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, and under the authority of R.S. 56:115, the Secretary of the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission hereby adopts the following Emergency Rule.

The hunting season for ducks, coots and geese during the 2008-2009 hunting season shall be as follows.

#### Ducks and Coots: 60 days

West Zone:	November 8 – November 30 December 13 - January 18
East Zone:	November 15 – November 30 December 13 - January 25

Youth Waterfowl Weekend - November 1-2 in West Zone, November 8-9 in East Zone.

Daily Bag Limits: **Canvasback Season Closed Statewide.** The daily bag limit on ducks is 6 and may include no more than 4 mallards (no more than 2 of which may be females), 1 pintail, 3 mottled ducks, 1 black duck, 3 wood ducks, and 2 redheads. The daily bag limit for scaup is 1 per day until December 30 in the West Zone and until January 6 in the East Zone. The daily bag limit is 2 per day on those dates in both zones and thereafter. Daily bag limit on coots is 15.

Mergansers - The daily bag limit for mergansers is 5, only 2 of which may be a hooded merganser. Merganser limits are in addition to the daily bag limit for ducks.

Possession Limit - The possession limit on ducks, coots and mergansers is twice the daily bag limit.

#### Geese: 72 Days

#### Light Geese (Snow, Blue and Ross's) and White-Fronted Geese

West Zone:	November 8 – November 30 December 13 - January 30
East Zone:	November 3 - November 30 December 13 - January 25

Daily bag limit on light geese  
(snow, blue and Ross's): 20

Possession limit on light geese  
(snow, blue and Ross's): None

Daily Limit on white-fronted geese: 2  
Possession Limit on white-fronted geese: 4

**Canada Geese:** Closed in the area described below  
January 10 - January 25  
Daily Limit on Canada geese: 1  
Possession limit on Canada geese: 2

The Canada Goose Season will be open statewide except for a portion of southwest Louisiana. The closed area is described as follows: Beginning at the Texas State Line, proceeding east along Hwy. 82 to the Calcasieu Ship Channel, then north along the Calcasieu Ship Channel to its junction with the Intracoastal Canal, then east along the Intracoastal Canal to its juncture with LA Hwy. 82, then south along LA Hwy. 82 to its juncture with Parish Road 3147, then south and east along Parish Road 3147 to Freshwater Bayou Canal, then south to the Gulf of Mexico, then west along the shoreline of the Gulf of Mexico to the Texas State Line, then north to the point of beginning at LA Hwy. 82. Open waters of Lake Arthur and the Mermentau River from the Highway 14 bridge southward will also be closed to Canada goose hunting.

A special permit shall be required to participate in the Canada Goose Season. A permit is required of everyone, regardless of age, and a non-refundable \$5 administrative fee will be charged. This permit may be obtained from any license vendor.

**Conservation Order for Light Geese  
(Snow, Blue and Ross's)**

West Zone: December 1 - December 12  
January 31 - March 8  
East Zone: December 1 - December 12  
January 26 - March 8

Only snow, blue and Ross's geese may be taken under the terms of the Conservation Order, which allows the use of electronic calls and unplugged shotguns and eliminates the daily bag and possession limits. During the Conservation Order, shooting hours begins one-half hour before sunrise and extends until one-half hour after sunset.

**Rails:** November 8 - December 31

King and Clapper: Daily bag limit 15 in the aggregate, possession 30.

Sora and Virginia: Daily bag and possession 25 in the aggregate.

**Gallinules:** November 8 - December 31

Daily bag limit 15, Possession limit 30

**Snipe:** November 1 - November 30

December 13 - February 27

Daily bag limit 8, Possession limit 16

Shooting Hours: One-half hour before sunrise to sunset, except at the Spanish Lake Recreation Area in Iberia Parish where shooting hours, including the Conservation Order, end at 2 p.m.

**Extended Falconry Seasons for Ducks, Rails  
and Gallinules:**

Statewide: November 1 - January 30

Sixteen days of the total season lengths for rails, gallinules and extended falconry seasons were used during the September teal season.

A Declaration of Emergency is necessary because the U.S. Fish and Wildlife Service establishes the framework for all migratory species. In order for Louisiana to provide hunting opportunities to the 200,000 sportsmen, selection of season dates, bag limits and shooting hours must be established and presented to the U.S. Fish and Wildlife Service immediately.

The aforementioned season dates, bag limits and shooting hours will become effective November 1, 2008 and extend through one-half hour after sunset on March 8, 2009.

Robert J. Barham  
Secretary

0809#081

**DECLARATION OF EMERGENCY**

**Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission**

Commercial Oyster Seed Ground Vessel Permit  
(LAC 76:VII.525)

On behalf of the Wildlife and Fisheries Commission, the Secretary does hereby promulgate a declaration of emergency relative to amending the Oyster Seed Ground Vessel Permit Notice of Intent (published in the *Louisiana Register* August 20, 2008) to clarify that the intent for the permit requirement is for commercial purposes only. Authority to establish such rules and regulations is vested in the Wildlife and Fisheries Commission by R.S. 36:610(L), R.S. 56:6, R.S. 56:433.1, and the secretary by R.S. 56:2(D)(2) (which allows the secretary to take action through a Declaration of Emergency on any items scheduled on the agenda for a cancelled Wildlife and Fisheries Commission Meeting if the governor declares a state of emergency pursuant to R.S. 29:721 et seq., and the chairman cancels the monthly meeting). The proposed rules contained in the Oyster Seed Ground Vessel Permit Notice of Intent are required by Act 922 of the 2008 Session which becomes effective for license year 2009 (January 1, 2009) and in order to have these rules in effect by January 1, 2009, the Secretary of the Department of Wildlife and Fisheries hereby declares:

**Title 76**

**WILDLIFE AND FISHERIES**

**Part VII. Fish and Other Aquatic Life**

**Chapter 5. Oyster**

**§525. Commercial Oyster Seed Ground Vessel Permit**

A. Policy. For license year beginning 2009 any oysters taken for commercial purposes from the public natural reefs or the oyster seed grounds or reservations, except those in Calcasieu Lake or Sabine Lake, shall be placed only on a vessel which has an oyster seed ground permit issued exclusively by the department. The permit does not grant any rights to the oyster resource or any rights to harvest oysters from the waters of the state and shall not be sold, exchanged, or otherwise transferred. No new applications for vessel permits shall be accepted after December 31, 2009. The permit shall be valid for up to one calendar year

beginning on January 1 and ending on December 31 of the same year, but may be made available for purchase beginning on November 15 for the immediately following license year. The cost per permit shall be \$15 for residents and \$60 for non-residents.

B. ...

C. Proof of Participation: In addition to the requirement in Subsection B herein, applicants must meet either Paragraph 1, 2 or 3 below to be issued a permit.

1. Applicant owned a vessel that was properly licensed and registered in applicant's name during a time in which department trip ticket records demonstrate that the vessel had commercial oyster landings in the state of Louisiana between January 1, 2004 and May 31, 2007;

C.2. - F.3. ...

G. Enforcement. The taking of oysters for commercial purposes from public natural reefs or oyster seed grounds or reservations without an oyster seed ground permit is a class 2 violation and upon conviction will require use of a vessel monitoring system for that vessel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:610(L), R.S. 56:6 and R.S. 56:433.1.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 34:

Robert J. Barham  
Secretary

0809#082

## **DECLARATION OF EMERGENCY**

### **Department of Wildlife and Fisheries Wildlife and Fisheries Commission**

#### **Lake Merchant Oyster Season Closure**

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B) and R.S. 49:967(D), and under the authority of R.S. 56:433(B)1 which provides that the Wildlife and Fisheries Commission may designate what parts or portions of the natural reefs may be fished for oysters and it may suspend the fishing of oysters altogether from natural reefs not leased by it when such reefs are threatened as determined by the department, and a resolution adopted by the Wildlife and Fisheries Commission on August 7, 2008 which authorized the Secretary of the Department of Wildlife and Fisheries to take emergency action if necessary to close areas if oyster mortalities are occurring or if oyster resources and/or reefs are being adversely impacted, the secretary hereby declares that the 2008/2009 oyster season in the Lake Merchant Public Oyster Seed Ground, originally scheduled for October 28-31, 2008, shall remain closed.

Biological sampling has recently documented average oyster mortality of nearly 60%, with some locations reaching as high as 100 percent. Commercial harvest may threaten the long-term sustainability of the remaining oyster resource in Lake Merchant and protection of these remaining oyster reef

resources from injury is in the best interest of the public oyster seed ground.

Robert J. Barham  
Secretary

0809#018

## **DECLARATION OF EMERGENCY**

### **Department of Wildlife and Fisheries Wildlife and Fisheries Commission**

#### **Sharks and Sawfishes—Harvest Regulations (LAC 76:VII.357)**

The shark fisheries in the Gulf of Mexico are cooperatively managed by the Louisiana Department of Wildlife and Fisheries (LDWF), the Wildlife and Fisheries Commission (LWFC) and the National Marine Fisheries Service (NMFS). Regulations promulgated by NMFS are applicable in waters of the Exclusive Economic Zone (EEZ) of the U.S., which in Louisiana is generally 3 miles offshore.

Rules have been promulgated by NMFS, effective on July 24, 2008, to modify existing rules for harvest of species in the Large Coastal Shark group in the Gulf of Mexico (NMFS Shark FMP Amendment 2). NMFS typically requests consistent regulations in order to enhance the effectiveness and enforceability of regulations for EEZ waters.

In order to enact regulations in a timely manner so as to have compatible regulations in place in Louisiana water to coincide with the regulation set forth by NMFS, it is necessary that emergency rules be enacted.

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 49:967 which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons and size limits and all rules and regulations pursuant thereto, and R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set possession limits, seasons, and daily take limits based upon biological and technical data for saltwater finfish taken or possessed in Louisiana waters, and R.S. 56:2(D)(2) (which allows the Secretary to take action through a Declaration of Emergency on any items scheduled on the agenda for a cancelled Wildlife and Fisheries Commission Meeting if the governor declares a state of emergency pursuant to R.S. 29:721 et seq., and the chairman cancels the monthly meeting), the Secretary of the Department of Wildlife and Fisheries hereby declares:

The commercial fishery for Large Coastal Shark in Louisiana state waters opened at 12:01 a.m. August 11, 2008. The pertinent parts of these rules were also effective for the recreational fishery for Large Coastal Shark at 12:01 a.m. August 11, 2008. Those regulations, as published, did not clearly specify that commercial trip limits were intended to be per vessel, per day. That clarification is described in this Declaration of Emergency, and is effective at 12:01 a.m.

September 11, 2008, and will supersede that published in the August 20, 2008 *Louisiana Register*.

## **Title 76**

### **WILDLIFE AND FISHERIES**

#### **Part VII. Fish and Other Aquatic Life**

#### **Chapter 3. Saltwater Sport and Commercial Fishery**

##### **§357. Sharks and Sawfishes—Harvest Regulations**

A. The following rules and regulations are established for the taking and possession of sharks (including sawfishes) (Class Elasmobranchiomorphi: Orders Hexanchiformes, Lamniformes, Squaliformes, and Rajiformes) from within or without Louisiana waters. The provisions of this Section shall not apply to shrimp or menhaden harvest, and nothing contained herein is intended or shall be construed to repeal, amend, or otherwise modify the provisions of law applicable to shrimp or menhaden fishing, except for provisions:

1. outlawing finning of shark;
2. requiring a Commercial State Shark Permit for sale, barter, trade, or exchange;
3. limiting sale, barter, trade, or exchange of sharks during closed seasons;
4. limiting shark retained by non-permit holders to be only as a mixed part of the total harvest, and only retained, held, or sold, purchased, bartered, traded, or exchanged as such; and
5. outlawing transfer of sharks between vessels at sea.

B. For management purposes, sharks are divided into the following categories:

1. small coastal sharks—bonnethead shark, Atlantic sharpnose shark, blacknose shark, finetooth shark;
2. large coastal sharks—great hammerhead, scalloped hammerhead, smooth hammerhead, nurse shark, blacktip shark, bull shark, lemon shark, sandbar shark, silky shark, spinner shark, tiger shark;
3. pelagic sharks—porbeagle shark, shortfin mako, blue shark, oceanic whitetip shark, thresher shark;
4. prohibited species—basking shark, white shark, bigeye sand tiger, sand tiger, whale shark, smalltooth sawfish, largetooth sawfish, Atlantic angel shark, Caribbean sharpnose shark, smalltail shark, bignose shark, Caribbean reef shark, dusky shark, Galapagos shark, narrowtooth shark, night shark, bigeye sixgill shark, bigeye thresher shark, longfin mako, sevengill shark, sixgill shark.

C. In addition to all other licenses and permits required by law, a valid original Commercial State Shark Permit shall be annually required for persons commercially taking shark from Louisiana waters and for persons selling, exchanging, or bartering sharks as required by law; the valid original permit shall be in immediate possession of the permittee while engaged in fishing for, possessing, selling, bartering, trading, or exchanging shark.

D. No person shall purchase, sell, exchange, barter or attempt to purchase, sell, exchange, or barter any sharks in excess of any possession limit for which a state or federal commercial permit was issued.

E.1. All persons who do not possess a Commercial State Shark Permit issued by the Department of Wildlife and Fisheries, and, if applicable, a Federal Commercial Directed or Incidental Limited Shark Permit or Federal Shark Research Permit issued by the National Marine Fisheries Service, are limited to a recreational possession limit. All persons who do not possess a Louisiana Commercial State

Shark Permit and, if applicable, a Federal Commercial Directed or Incidental Limited Shark Permit or Federal Shark Research Permit issued by the National Marine Fisheries Service under the Federal Fishery Management Plan for Atlantic Sharks, shall not sell, barter, trade, exchange or attempt to sell, barter, trade or exchange any sharks, or possess any sharks in excess of a recreational possession limit. Sharks taken incidental to menhaden fishing, that are retained on the vessel as part of the harvest, may be retained and sold only as a mixed part of the total harvest, and shall not be retained, held, or sold, purchased, bartered, traded, or exchanged separately. Sharks retained as a result of menhaden fishing shall not exceed legal bycatch allowances for menhaden fishing as provided for in R.S. 56:324.

2. Legally licensed Louisiana wholesale/retail seafood dealers, retail seafood dealers, restaurants, and retail grocers are not required to hold a Commercial State Shark Permit in order to purchase, possess, exchange, barter and sell any quantities of sharks, so long as they maintain records as required by R.S. 56:306.5 and R.S. 56:306.6.

F. Sharks taken under a recreational bag limit shall not be sold, purchased, exchanged, traded, bartered, or attempted to be sold, purchased, exchanged, traded, or bartered. A person subject to a bag limit shall not possess at any time, regardless of the number of trips or the duration of a trip, any shark in excess of the recreational bag limits or less than minimum size limits as follows.

1. All sharks taken under a recreational bag limit within or without Louisiana waters must be at least 54 inches fork length, except that the minimum size limit does not apply for Atlantic sharpnose or bonnethead sharks. No sandbar or silky shark may be retained under a recreational bag limit.

2. Owners/operators of vessels other than those taking sharks in compliance with a state or federal commercial permit are restricted to no more than one shark from either the large coastal, small coastal or pelagic group per vessel per trip within or without Louisiana waters, subject to the size limits described in LAC 76:VII.357.F.1, and, in addition, no person shall possess more than one Atlantic sharpnose shark and one bonnethead shark per person per trip within or without Louisiana waters, regardless of the length of a trip. No sandbar or silky shark may be retained by persons fishing under these limits.

3. All owners/operators of vessels recreationally fishing for and/or retaining regulated Atlantic Highly Migratory Species (Atlantic tunas, sharks, swordfish and billfish) in or from the EEZ must obtain and possess a Federal Atlantic Highly Migratory Species Angling permit.

G. Those persons possessing a Federal Commercial Directed or Incidental Limited Access Shark Permit or Federal Shark Research Permit issued by the National Marine Fisheries Service under the Federal Fishery Management Plan for Atlantic Sharks are limited to daily take, trip and possession limits as specified in that federal permit. Regardless of where fishing, a person aboard a vessel for which a Federal Shark Permit has been issued shall not retain, possess, barter, trade, or exchange shark of any species group for which the commercial quota has been reached and the season closed in federal waters.

H.1. A vessel that has been issued or possesses a Federal Commercial Directed or Incidental Limited Access Shark Permit or Federal Shark Research Permit issued by the National Marine Fisheries Service under the Federal Fishery Management Plan for Atlantic Sharks shall not possess on any trip, or land from any trip, or sell, barter, trade, or exchange large coastal species in excess of the designated trip limits, as established under the Atlantic Highly Migratory Species Plan and published in the Federal Register, regardless of where taken. Vessels that have been issued or that possess a Federal Commercial Directed or Incidental Limited Access Shark Permit or Federal Shark Research Permit may only possess or sell, barter, trade, or exchange one limit per vessel per day, where that limit is identified for that permit by NMFS. No person shall purchase, barter, trade, or exchange shark in excess of the designated trip limits or from any person who does not possess a Commercial State Shark Permit or Federal Commercial Directed or Incidental Limited Access Permit or Federal Shark Research Permit, if applicable.

2. Persons possessing a Commercial State Shark Permit but no Federal Shark permit shall not possess on any one day, or on any trip, or land from any trip, or sell, barter, trade, or exchange in excess of 33 sharks per vessel from the large coastal species group, taken from Louisiana state waters. Persons possessing a Commercial State Shark Permit shall not possess any sandbar sharks unless they also have in their name and in possession a valid Federal Shark Research Permit under 50 CFR 635.32(1).

3. Wholesale/retail seafood dealers who receive, purchase, trade for, or barter for Atlantic sharks, taken from the EEZ, from a fishing vessel must possess a valid Federal Dealer Permit.

I. A person aboard a vessel for which a Federal Commercial Directed or Incidental Limited Access Shark Permit or Federal Shark Research Permit has been issued, or persons aboard a vessel fishing for or possessing shark in the EEZ shall comply with all applicable federal regulations.

#### J. Fins

1. The practice of "finning," that is, removing only the fins and returning the remainder of the shark to the sea, is prohibited within and without Louisiana waters.

2. All sharks possessed by a recreational fisherman shall be maintained with head and fins intact and shall not be skinned until set or put on shore.

3. Dealers purchasing sharks from state or federal waters must report the landings by species, and must specify the total shark fin numbers, values and weights separately from the weights, values and numbers of the shark carcasses. If a harvester retains the fins after offloading from the fishing vessel, the harvester must also be licensed as a wholesale/retail dealer, and must complete and file a trip ticket that includes the numbers and weights of fins retained immediately after being offloaded from the fishing vessel. Later transactions of fins must have documentation referring to the original trip ticket number for those fins. Such numbers and weights must be recorded on dealer records in compliance with R.S. 56:306.5 and R.S. 56:306.6.

4. Shark fins shall not be possessed aboard a fishing vessel unless naturally attached to the original shark carcass by at least some portion of uncut skin.

5. All sharks possessed aboard a commercial fishing vessel shall have fins including the tail intact and naturally attached to the shark carcass by at least some portion of uncut skin.

6. It is illegal to replace sharks that are onboard a fishing vessel for retention with sharks of higher quality or size that are caught later in a particular trip.

#### K. Prohibited Species

1. No person shall take, possess, purchase, sell, barter, exchange or attempt to possess, purchase, sell, barter, or exchange any of the following species or parts thereof:

- a. basking shark—*Cetorhinus maximus*;
- b. white shark—*Carcharodon carcharias*;
- c. bigeye sand tiger—*Odontaspis noronhai*;
- d. sand tiger—*Odontaspis taurus*;
- e. whale shark—*Rhincodon typus*;
- f. smalltooth sawfish—*Pristis pectinata*;
- g. largetooth sawfish—*Pristis pristis*;
- h. Atlantic angel shark—*Squatina dumerili*;
- i. Caribbean sharpnose shark—*Rhizoprionodon porosus*;
- j. smalltail shark—*Carcharhinus porosus*;
- k. bignose shark—*Carcharhinus altimus*;
- l. Caribbean reef shark—*Carcharhinus perezi*;
- m. dusky shark—*Carcharhinus obscurus*;
- n. Galapagos shark—*Carcharhinus galapagensis*;
- o. narrowtooth shark—*Carcharhinus brachyurus*;
- p. night shark—*Carcharhinus signatus*;
- q. bigeye sixgill shark—*Hexanchus vitulus*;
- r. bigeye thresher shark—*Alopias superciliosus*;
- s. longfin mako shark—*Isurus paucus*;
- t. sevengill shark—*Heptranchias perlo*;
- u. sixgill shark—*Hexanchus griseus*.

2. Notwithstanding other provisions of this Part, a person may fish for, but not retain, white sharks (*Carcharodon carcharias*) with rod and reel only under a Catch and Release Program, provided the person releases and returns such fish to the sea immediately with a minimum of injury.

3. Notwithstanding other provisions of this Part, smalltooth sawfish or largetooth sawfish may be possessed as authorized by a special scientific and educational collecting permit issued by the department under R.S. 56:318, including whatever conditions that the department may deem necessary to ensure the maintenance and protection of the species. Nothing herein shall prohibit the possession of smalltooth sawfish or largetooth sawfish, or parts thereof, that were possessed prior to the effective date of this rule.

L. No person aboard any vessel shall transfer or cause the transfer of sharks between vessels on state or federal waters. Standard menhaden harvesting activities do not constitute transfer of sharks between vessels at sea.

#### M. Seasonal Closures

1. All Louisiana state waters out to the seaward boundary of the Louisiana Territorial Sea shall be closed to the recreational and commercial harvest of all sharks between April 1 and June 30 of each year. A holder of a Federal Commercial Directed or Incidental Limited Access Shark Permit or Federal Shark Research Permit may legally harvest sharks from federal waters beyond the Louisiana

Territorial Sea and bring those sharks into Louisiana waters for sale within the provisions of that Federal Shark Permit. Effective with this closure, no person shall commercially harvest, purchase, barter, trade, sell or attempt to purchase, barter, trade or sell sharks from the closed area. Effective with the closure, no person shall retain or possess any sharks in the closed area. Sharks taken incidental to shrimp or menhaden fishing in the closed area, that are retained on the vessel as part of the harvest, may be retained only as a mixed part of the total harvest, and shall not be retained, held, purchased, bartered, traded, exchanged, sold or attempted to be purchased, bartered, traded, exchanged or sold.

2. The Secretary of the Department of Wildlife and Fisheries is hereby authorized to close any recreational or commercial fishery for sharks, within and without Louisiana's territorial waters, when the secretary is notified by the National Marine Fisheries Service that the seasonal quota for that species group and fishery has been met. The closure order shall close the fishery until the date projected for the reopening of that fishery in the adjacent federal waters. The secretary is also hereby authorized to modify any such closure order to maintain consistency with reopening dates in the adjacent federal waters, should the federal closure dates be modified.

N. The fishing year for shark shall begin on January 1, 1998 and every January 1 thereafter.

O. No person who, pursuant to state or federal law, is subject to the jurisdiction of this state shall violate any federal law, rule or regulation particularly those rules and regulations enacted pursuant to the Magnuson-Stevens Fishery Conservation Act and published in the Code of Federal Regulations as amended Title 50 and 15, for sharks and sawfishes while fishing in the EEZ, or possess, purchase, sell, barter, trade, or exchange sharks and sawfishes within or without the territorial boundaries of Louisiana in violation of any state or federal law, rule or regulation particularly those rules and regulations enacted pursuant to the Magnuson-Stevens Fishery Conservation Act and published in the Code of Federal Regulations as amended Title 50 and 15 law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(10), R.S. 56:326(E)(2), R.S. 56:326.1, R.S. 56:326.3, R.S. 56:320.2(C), and R.S. 325.2(A).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 25:543 (March 1999), amended LR 27:2267 (December 2001), LR 30:1507 (July 2004), LR 34:

Robert J. Barham  
Secretary

0809#083

# Rules

## RULE

### Student Financial Assistance Commission Office of Student Financial Assistance

Scholarship/Grant Programs  
(LAC 28:IV.301, 507, and 1301)

The Louisiana Student Financial Assistance Commission (LASFAC) has amended its Scholarship/Grant rules (R.S. 17:3021-3025, R.S. 3041.10-3041.15, R.S. 17:3042.1, and R.S. 17:3048.1). (SG0895R)

#### Title 28 EDUCATION

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

#### Chapter 3. Definitions

#### §301. Definitions

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

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*Tuition*—the fee charged each student by a post-secondary institution to cover the student's share of the cost of instruction, including all other mandatory enrollment fees charged to all students except for the technology fee authorized by Act 1450 of the 1997 Regular Session of the Legislature:

- a. which were in effect as of January 1, 1998;
- b. any changes in the cost of instruction authorized by the legislature and implemented by the institution after that date; and
- c. for programs with alternative scheduling formats that are approved in writing by the Board of Regents after that date. Any payment for enrollment in one of these programs shall count towards the student's maximum eligibility for his award:
  - i. up to the equivalent of eight full time semesters of postsecondary education in full time semesters for the TOPS Opportunity, Performance and Honors Award; or
  - ii. up to the equivalent of two years of postsecondary education in full time semesters and summer sessions for the TOPS Tech Award.

\*\*\*

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 24:2237 (December 1998), LR 25:256 (February 1999), LR 25:654 (April 1999), LR 25:1458 and 1460 (August 1999), LR 25:1794 (October 1999), LR 26:65 (January 2000), LR 26:688 (April 2000), LR 26:1262 (June 2000), LR 26:1601 (August 2000), LR 26:1993, 1999 (September 2000), LR 26:2268 (October 2000), LR 26:2752 (December 2000), LR 27:36 (January 2001), LR 27:284 (March 2001), LR 27:1219 (August 2001), LR 27:1840 (November 2001), LR 27:1875

(November 2001), LR 28:45 (January 2002), LR 28:446 (March 2002), LR 28:772 (April 2002), LR 28:2330, 2331 (November 2002), LR 29:555 (April 2003), LR 29:879 (June 2003), LR 30:1159 (June 2004), LR 30:2015 (September 2004), LR 31:36 (January 2005), LR 31:3112 (December 2005), LR 33:86 (January 2007), LR 33:439 (March 2007), LR 33:1339 (July 2007), LR 33:2612 (December 2007), LR 34:234 (February 2008), LR 34:1388 (July 2008), LR 34:1884 (September 2008).

#### Chapter 5. Applications, Federal Grant Aid and ACT Test

#### §507. Final Deadline for Submitting Documentation of Eligibility

- A. - B.2. ...
- C. Returning Students

1 - 2. ...

3.a. Returning students, who enroll in an eligible college or university in academic year (college) 2005-2006 or academic year (college) 2006-2007, must submit an application to return from an out-of-state college no later than July 1 immediately following the academic year (college) the student enrolls as a full-time student in an eligible college or university and must submit any supporting documentation required by the application no later than April 15 following the July 1 deadline.

b. Returning students, who enroll in an eligible college or university in the fall semester of 2007 or later, must submit an application to return from an out-of-state college no later than July 1 immediately following the academic year (college) the student enrolls as a full-time student in an eligible college or university and must submit any supporting documentation required by the application no later than January 15 following the July 1 deadline.

#### c. Examples

i. A returning student who enrolled in an eligible college or university in the fall semester of 2005 must submit the application to return from an out-of-state college no later than July 1, 2006, and any required supporting documentation such as college transcripts no later than April 15, 2007.

ii. A returning student who enrolled in an eligible college or university in the spring semester of 2007 must submit the application to return from an out-of-state college no later than July 1, 2007, and any required supporting documentation such as college transcripts no later than April 15, 2008.

iii. A returning student who enrolled in an eligible college or university in the fall semester of 2007 must submit the application to return from an out-of-state college no later than July 1, 2008, and any required supporting documentation such as college transcripts no later than January 15, 2009.

iv. A returning student who enrolled in an eligible college or university in the spring semester of 2008 must submit the application to return from an out-of-state college no later than July 1, 2008, and any required supporting documentation such as college transcripts no later than January 15, 2009.

v. A returning student who enrolls in an eligible college or university in the fall semester of 2009 must submit the application to return from an out-of-state college no later than July 1, 2010, and any required supporting documentation such as college transcripts no later than January 15, 2011.

4.a. Beginning with the 2007-2008 academic year (college), all documentation and certifications necessary to establish a returning student's initial eligibility including, but not limited to, high school and/or college transcripts and certifications, copies of student aid reports, ACT and/or SAT scores, residency affidavits, proof of citizenship or permanent residency status and other documents that may be utilized in determining eligibility, must be received by LASFAC no later than January 15 immediately following the deadline for receipt of the student's FAFSA or on-line application.

b. Examples

i. If a returning student enrolls full time in an eligible Louisiana college or university for the fall semester of 2007, his deadline to file the FAFSA or on-line application is July 1, 2008. If his initial FAFSA or on-line application is received no later than July 1, 2008, and if all the necessary supporting documentation relevant to establishing eligibility is in LASFAC's possession by January 15, 2009, the student will receive his TOPS award (reduced by the number of semesters/terms he enrolled out-of-state) retroactively beginning the fall semester of 2007.

ii. If a returning student enrolls full time in an eligible Louisiana college or university for the spring semester of 2008, his deadline to file the FAFSA or on-line application is July 1, 2008. If his initial FAFSA or on-line application is received no later than July 1, 2008, and if all the necessary supporting documentation relevant to establishing eligibility is in LASFAC's possession by January 15, 2009, the student will receive his TOPS award (reduced by the number of semesters/terms he enrolled out-of-state) retroactively beginning the spring semester of 2008.

iii. If a returning student enrolls full time in an eligible Louisiana college or university for the spring semester of 2008, his deadline to file the FAFSA or on-line application is July 1, 2008. If his initial FAFSA or on-line application is received after July 1, 2008, but no more than 120 days later, and if all the necessary supporting documentation relevant to establishing eligibility is in LASFAC's possession by January 15, 2009, the student will receive his TOPS award (reduced by the number of semesters/terms he enrolled out-of-state and further reduced by one additional semester if 1 to 60 days late or by two additional semesters if 61 to 120 days late) retroactively beginning the spring semester of 2008.

D.1. - 3. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:635 (April 1998), amended LR 24:1901 (October 1998), repromulgated LR 27:1847 (November 2001), amended LR 28:447 (March 2002), LR 30:1161 (June 2004), LR 30:1471 (July 2004), LR 30:2019 (September 2004), LR 32:2238 (December 2006), LR 33:2357 (November 2007), LR 34:1389 (July 2008), LR 34:1884 (September 2008).

## Chapter 13. Leveraging Educational Assistance Partnership (LEAP)

### §1301. General Provisions

A. - A.2. ...

a. R.S. 17: 3031

A.2.b -F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:641 (April 1998), amended LR 24:1910 (October 1998), LR 25:1458 (August 1999), repromulgated LR 27:1860 (November 2001), amended LR 28:2332 (November 2002), LR 32:2239 (December 2006), LR 33:440 (March 2007), LR 34:240 (February 2008), LR 34:1885 (September 2008).

George Badge Eldredge  
General Counsel

0809#008

## RULE

### Tuition Trust Authority Office of Student Financial Assistance

START Savings Program  
(LAC 28:VI.107, 307, and 315)

The Louisiana Tuition Trust Authority has amended its START Savings Program rules (R.S. 17:3091 et seq.). (ST0894R)

## Title 28 EDUCATION

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

#### Chapter 1. General Provisions

##### Subchapter A. Tuition Trust Authority

### §107. Applicable Definitions

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

\* \* \*

*Earnings Enhancement Cap*—the maximum of deposits in an account for which Earnings Enhancements will be paid. The Earnings Enhancement Cap is reached when an account has a current value that is equal to or exceeds five times the annual qualified higher education expenses at the highest cost Louisiana public college or university, projected to the scheduled date of first enrollment. The projected qualified higher education expenses at each eligible educational institution shall be updated by the administering agency. On the date of the beneficiary's first enrollment in an eligible educational institution, the Earnings Enhancement Cap will be fixed at five times the annual qualified higher education expenses at the highest cost Louisiana public college or university, for the academic year of enrollment or the projected amount, whichever is greater.

\* \* \*

*Scheduled Date of First-Enrollment*, (for a dependent beneficiary)—the month and year in which the beneficiary turns 18 years of age. For an independent student over the age of 18, the scheduled date of first-enrollment is the date

the account is opened. This date is used to determine eligibility for EEs. See the term *earnings enhancement cap*.

\* \* \*

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:712 (June 1997), amended LR 24:1268 (July 1998), LR 25:1794 (October 1999), LR 26:2260 (October 2000), LR 27:37 (January 2001), LR 27:1222 (August 2001), LR 27:1876 (November 2001), LR 28:450 (March 2002), LR 28:777 (April 2002), LR 28:2334 (November 2002), LR 29:556 (April 2003), LR 30:786 (April 2004), LR 30:1169 (June 2004), LR 30:2302 (October 2004), LR 31:639 (March 2005), LR 32:1433 (August 2006), LR 32:2240 (December 2006), LR 33:443 (March 2007), LR 34:1885 (September 2008).

### **Chapter 3. Education Savings Account**

#### **§307. Allocation of Earnings Enhancements**

A. - F. ...

G. Restrictions on allocation of earnings enhancements to education savings accounts. The allocation of earnings enhancements is limited to education savings accounts which:

1. have not reached the earnings enhancement cap (see §107); and

G.2 - J.3. ...

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:715 (June 1997), amended LR 24:1271 (July 1998), LR 25:1794 (October 1999), LR 26:1263 (June 2000), LR 26:2263 (October 2000), LR 27:37 (January 2001), LR 27:1222 (August 2001), LR 27:1880 (November 2001), LR 28:779 (April 2002), LR 30:788 (April 2004), LR 30:2302 (October 2004), LR 34:1885 (September 2008).

#### **§315. Miscellaneous Provisions**

A. - B.5. ...

6. For the year ending December 31, 2001, the Savings Enhancement Fund earned an interest rate of 6.38 percent.

7. For the year ending December 31, 2002, the Louisiana Education Tuition and Savings Fund earned an interest rate of 5.82 percent.

8. For the year ending December 31, 2002, the Savings Enhancement Fund earned an interest rate of 5.91 percent.

9. For the year ending December 31, 2003, the Louisiana Education Tuition and Savings Fund earned an interest rate of 5.33 percent.

10. For the year ending December 31, 2003, the Savings Enhancement Fund earned an interest rate of 5.17 percent.

11. For the year ending December 31, 2004, the Louisiana Education Tuition and Savings Fund earned an interest rate of 4.72 percent.

12. For the year ending December 31, 2004, the Savings Enhancement Fund earned an interest rate of 5.12 percent.

13. For the year ending December 31, 2005, the Louisiana Education Tuition and Savings Fund earned an interest rate of 3.64 percent.

14. For the year ending December 31, 2005, the Savings Enhancement Fund earned an interest rate of 4.92 percent.

15. For the year ending December 31, 2006, the Louisiana Education Tuition and Savings Fund earned an interest rate of 5.11 percent.

16. For the year ending December 31, 2006, the Savings Enhancement Fund earned an interest rate of 4.67 percent.

17. For the year ending December 31, 2007, the Louisiana Education Tuition and Savings Fund earned an interest rate of 5.28 percent.

18. For the year ending December 31, 2007, the Savings Enhancement Fund earned an interest rate of 5.25 percent.

C. - P.1. ...

2. If the change in school results in a change in the account's earnings enhancement cap or maximum allowable account balance, the account owner will be notified.

Q. - S.2. ...

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:718 (June 1997), amended LR 24:1274 (July 1998), LR 26:1263 (June 2000), repromulgated LR 26:2267 (October 2000), amended LR 27:1221 (August 2001), LR 27:1884 (November 2001), LR 28:1761 (August 2002), LR 28:2335 (November 2002), LR 29:2038 (October 2003), repromulgated LR 29:2374 (November 2003), amended LR 30:791 (April 2004), LR 30:1472 (July 2004), LR 31:2216 (September 2005), LR 32:1434 (August 2006), LR 32:2240 (December 2006), LR 33:2359 (November 2007), LR 34:1885 (September 2008).

George Badge Eldredge  
General Counsel

0809#010

#### **RULE**

#### **Department of Environmental Quality Office of the Secretary Legal Affairs Division**

#### **DMR Submittal (LAC 33:IX.2701)(WQ074)**

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Water Quality regulations, LAC 33:IX.2701 (Log #WQ074).

The rule will ensure that permittees have the option to submit discharge monitoring reports (DMRs) electronically through an electronic document receiving system, as well as the current option of submitting them on paper. With the impending migration to EPA's new database, the Integrated Compliance Information System (ICIS), an increase in workload is a reality. Once migration is complete, all DMRs will have to be entered into the database. With this increase in workload, the need for a more efficient way to submit DMRs is required. The electronic submittal of DMRs is a way to effectively manage this increase in workload. The basis and rationale for this rule are to provide adequate resources to continue to meet regulatory requirements. This rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding

environmental/health benefits and social/economic costs is required.

**Title 33**  
**ENVIRONMENTAL QUALITY**  
**Part IX. Water Quality**

**Subpart 2. The Louisiana Pollutant Discharge  
Elimination System (LPDES) Program**

**Chapter 27. LPDES Permit Conditions**

**§2701. Conditions Applicable to All Permits**

The following conditions apply to all LPDES permits. Additional conditions applicable to LPDES permits are in LAC 33:IX.2703. All conditions applicable to LPDES permits shall be incorporated into the permits either expressly or by reference. If incorporated by reference, a specific citation to these regulations (or the corresponding approved state regulations) must be given in the permit.

A. – L.3....

4. Monitoring Reports. Monitoring results shall be reported at the intervals specified elsewhere in this permit and shall be submitted in paper format or through a department-approved electronic document receiving system in accordance with LAC 33:I.Chapter 21.

L.4.a. – N.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Water Pollution Control Division, LR 23:724 (June 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2553 (November 2000), LR 28:468 (March 2002), repromulgated LR 30:230 (February 2004), amended LR 30:1676 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2431, 2512 (October 2005), LR 32:1220 (July 2006), LR 33:2168 (October 2007), LR 34:1887 (September 2008).

Herman Robinson, CPM  
Executive Counsel

0809#095

**RULE**

**Department of Environmental Quality**  
**Office of the Secretary**  
**Legal Affairs Division**

Environmental Quality

(LAC 33:I.107, 502, 603, 905, 1302, 1407, 2003, 2503, 3703; III.504, 605, 2132, 2133, 2135, 2137, 2143, 2145, 2301, 5151; V.105, 109, 519, 529, 1529, 1709, 1711, 1741, 1907, 2230, 2246, 2247, 2306, 2311, 2503, 2508, 2906, 3025, 3105, 3111, 4003, 4357, 4367, 4437, 4459, 4545; VI.911; VII.711, 721; IX.301, 1123; XI.1139; and XV.609) (MM008)

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.107, 502, 603, 905, 1302, 1407, 2003, 2503, 3703; III.504, 605, 2132, 2133, 2135, 2137, 2143, 2145, 2301, 5151; V.105, 109, 519, 529, 1529, 1709, 1711, 1741, 1907, 2230, 2246, 2247, 2306, 2311, 2503, 2508,

2906, 3025, 3105, 3111, 4003, 4357, 4367, 4437, 4459, 4545; VI.911; VII.711, 721; IX.301, 1123; XI.1139; and XV.609 (Log #MM008).

This rule makes changes that were overlooked in a previous rulemaking, changing references to DEQ divisions in the regulations to references to the statutory office designations and updating some office designations to reflect the current organizational structure of the department. Miscellaneous typographical, grammatical, punctuation, and outline numbering corrections are made throughout the regulations. Outdated citations are corrected, and citation formatting is updated for consistency in the regulations. An introductory paragraph is added to several definition sections to clarify where the definitions that are presented in each corresponding section apply. This rule also corrects a mistake in a previous rule, WQ054, Water Quality Standards Triennial Revision; two changes left out of that rule are now being made. Other minor changes are made to the Air and Solid Waste regulations to clarify their meaning. The Environmental Quality Act requires the department to promulgate environmental regulations. Maintenance of these regulations is part of that responsibility. The basis and rationale for this rule are to maintain the regulations that protect the environment and public health of the state, as authorized by the Environmental Quality Act. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

**Title 33**

**ENVIRONMENTAL QUALITY**  
**Part I. Office of the Secretary**

**Subpart 1. Departmental Administrative Procedures**

**Chapter 1. Public Notification of Contamination**  
**§107. Definitions**

A. The following terms used in this Chapter shall have the meanings listed below, unless the context otherwise requires, or unless specifically redefined in a particular Section.

*Administrative Authority*—the Secretary of the Department of Environmental Quality or his designee or the appropriate assistant secretary or his designee.

*Applicable Federal or State Health and Safety Standard*—those health and/or safety standards promulgated under federal or state health or safety laws or other universally accepted health or safety standards that the department, based on its knowledge and expertise, reasonably determines are applicable to a particular release and release site. Examples of *applicable federal or state health and safety standards* include, but are not limited to:

a. USEPA maximum contaminant level (MCL) in a drinking water well or aquifer. MCLs are not applicable for non-potable groundwater or surface water;

b. Louisiana primary ambient air quality standards (LAC 33:III.Chapter 7); and

c. Agency for Toxic Substances and Disease Registry (ATSDR) minimal risk levels (MRLs) for air.

*Corrective Action*—activities conducted to protect human health and the environment.

*Department*—the Department of Environmental Quality.

*Off-Site*—areas beyond the property boundary of the release site.

*Person*—any individual, municipality, public or private corporation, partnership, firm, the state of Louisiana, political subdivision of the state of Louisiana, the United States government, and any agent or subdivision thereof or any other juridical person, which shall include, but not be limited to, trusts, joint stock companies, associations, commissions, and interstate bodies.

*Release*—the accidental or intentional spilling, leaking, pumping, pouring, emitting, escaping, leaching, or dumping of hazardous substances or other pollutants into or on any land, air, water, or groundwater. A release shall not include a federal or state permitted release or other release authorized by the department.

*Release Site*—area within the property boundary of the site where the release has occurred.

*Responsible Party*—any person required by law or regulation to undertake corrective action at a site.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 29:2039 (October 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 34:1887 (September 2008).

## **Chapter 5. Confidential Information Regulations**

### **§502. Definitions**

A. The following terms used in this Chapter shall have the meanings listed below, unless the context otherwise requires, or unless specifically redefined in a particular Section.

*Air Emission Data*—any information necessary or used to determine or calculate the identity, amount, frequency, concentration, or other characteristic of any emission or discharge that has been emitted or discharged by a source; or any information necessary or used to determine or calculate the identity, amount, frequency, concentration, or other characteristic of an emission that, under an applicable standard or limitation, a source was authorized to emit or discharge, including, to the extent necessary to identify the source and to distinguish it from other sources, a description of the device, installation, or operation constituting the source. This includes the calculation of an “allowable” emission limit for a permit.

*Complete*—in reference to a request for confidentiality of information or records, the request contains everything necessary for a determination to be made. Designating a request complete does not preclude the department from requesting or accepting an amended request.

*Financial Request*—a single character request that contains financial information or records only. This includes, but is not limited to, financial accounts statements, gross revenues statements, profit and loss statements, projected revenues statements, tax returns, financial/accounting statements, and financial audit documentation/reports.

*Mixed Character Record*—a record submitted as part of a request for confidentiality that, in addition to information that meets the criteria for confidentiality specified by law, also contains information that either does not meet the criteria for confidentiality specified by law or is prohibited by law or regulation from being classified as confidential.

*Mixed Character Request*—a request for confidentiality that contains one or more mixed character records.

*Single Character Request*—a request for confidentiality that contains only information or records that meet the criteria for confidentiality specified by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2030.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:2439 (November 2000), amended LR 30:742 (April 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 34:1888 (September 2008).

## **Chapter 6. Security-Sensitive Information**

### **§603. Definitions**

A. The following terms used in this Chapter shall have the meanings listed below, unless the context otherwise requires, or unless specifically redefined in a particular Section.

*Distribution or Dissemination via the Internet*—to make known to the public generally by posting to a web, FTP, database, or application server configured for anonymous public access under the direct control of the department.

*Security-Sensitive Information*—as defined in R.S. 44:3(A)(3), security procedures, criminal intelligence information pertaining to terrorist-related activity, or threat or vulnerability assessments created, collected, or obtained in the prevention of terrorist-related activity, including but not limited to physical security information, proprietary information, operational plans, and the analysis of such information, or internal security information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2030(D).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, LR 31:1322 (June 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 34:1888 (September 2008).

## **Chapter 9. Petition for Rulemaking**

### **§905. Definitions**

A. The following terms used in this Chapter shall have the meanings listed below, unless the context otherwise requires, or unless specifically redefined in a particular Section.

*Administrative Authority*—the Secretary of the Department of Environmental Quality or his designee, or the appropriate assistant secretary or his designee.

*Department*—the Department of Environmental Quality as created by R.S. 30:2001 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 23:297 (March 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2439 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 34:1888 (September 2008).

## **Chapter 13. Risk Evaluation/Corrective Action Program**

### **§1302. Definitions**

A. The following terms used in this Chapter shall have the meanings listed below, unless the context otherwise requires, or unless specifically redefined in a particular Section.

*Department*—the Department of Environmental Quality.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2272.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:2440 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 34:1888 (September 2008).

## **Chapter 14. Groundwater Fees**

### **§1407. Definitions**

A. The following terms used in this Chapter shall have the meanings listed below, unless the context otherwise requires, or unless specifically redefined in a particular Section.

*Assessment*—planning, data gathering and reporting, and other activities used to generate a report that appraises groundwater contamination and draws conclusions as to the need for further assessment and/or corrective action.

*Assessment Oversight*—departmental review and evaluation of a facility's assessment activities.

*Corrective Action Oversight*—departmental review and evaluation of corrective action plans and of remedial actions undertaken to restore the quality of contaminated groundwater.

*Corrective Action Plan*—a plan that details a schedule of remedial actions that will restore the quality of contaminated groundwater.

*Non-Regulated Facility*—a facility that is not classified as a solid or hazardous waste facility but under which groundwater contamination has been detected.

*Regulated Unit*—a solid waste facility or a hazardous waste facility under which groundwater contamination has been detected.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, Ground Water Protection Division, LR 18:729 (July 1992), amended by the Office of the Secretary, Legal Affairs Division, LR 34:1889 (September 2008).

## **Chapter 20. Records of Decision for Judicial Review**

### **§2003. Definitions**

A. The following terms used in this Chapter shall have the meanings listed below, unless the context otherwise requires, or unless specifically redefined in a particular Section.

*Record of Decision*—for purposes of this Chapter, all documents, evidence, and other items presented to, and/or actually considered by, the decision maker for the purpose of influencing the decision. This shall include, but is not limited to:

- a. the record of any hearing or other proceeding held in connection with the decision or action;
- b. any comments, written or oral, submitted to the department in connection with the decision or action;
- c. any response to such comments issued by the department;
- d. all matters officially noticed by the decision maker;
- e. any written statement of the decision or action and reasons therefor; and
- f. for permit actions:
  - i. the permit application, including all supplements and amendments thereto;
  - ii. any notices of deficiency issued by the department;

- iii. any responses to notices of deficiency;
  - iv. any correspondence relating to the permit application;
  - v. any public notices relating to the permit action;
- and
- vi. the final permit, if granted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular, 2050.20.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 25:857 (May 1999), amended by the Office of the Secretary, Legal Affairs Division, LR 34:1889 (September 2008).

## **Chapter 25. Beneficial Environmental Projects**

### **§2503. Definitions**

A. The following terms used in this Chapter shall have the meanings listed below, unless the context otherwise requires, or unless specifically redefined in a particular Section.

*Beneficial Environmental Project (BEP)*—a project that provides for environmental mitigation which the defendant/respondent is not otherwise legally required to perform, but which the defendant/respondent agrees to undertake as a component of a settlement of a violation or penalty assessment.

*Environmental Mitigation*—that which tends to lead in any way to the protection from, reduction of, or general awareness of potential risks or harm to public health and the environment. Environmental mitigation includes any and all projects that conform to the requirements set forth in LAC 33:I.2505.

*Not Otherwise Legally Required to Perform*—the approved project is not required of the defendant/respondent by any federal, state, or local law, regulation, or permit (except that early compliance may be allowed) or actions which the defendant/respondent may be required to perform as injunctive relief in the instant case or as part of a settlement or order in another action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1), 2031, and 2050.7(E).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:1603 (August 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 34:1889 (September 2008).

## **Chapter 37. Regulatory Innovations Programs**

### **§3703. Definitions**

A. The following terms used in this Chapter shall have the meanings listed below, unless the context otherwise requires, or unless specifically redefined in a particular Section.

*Administrative Authority*—the Secretary of the Department of Environmental Quality or his designee or the appropriate assistant secretary or his designee.

*Demonstration Project (DP)*—a project containing all the elements required in LAC 33:I.3705, intended to be implemented in exchange for regulatory flexibility.

*Final Project Agreement (FPA)*—the final document agreed upon between the secretary and a program participant that specifically states the terms and duration of the proposed project. The final project agreement is an enforceable document.

*Regulatory Flexibility*—the power of the Secretary of the Department of Environmental Quality to exempt a

qualified participant in a regulatory innovations program from regulations promulgated by the department under this Chapter, consistent with federal law and regulation.

*Stakeholders*—citizens in the communities near the project site, facility workers, government representatives, industry representatives, environmental groups, or other public interest groups with representatives in Louisiana and Louisiana citizens, or other similar interests.

*Superior Environmental Performance*—

a. a significant decrease of pollution to levels lower than the levels currently being achieved by the subject facility under applicable law or regulation, where these lower levels are better than required by applicable law and regulation; or

b. improved social or economic benefits, as determined by the secretary, to the state, while achieving protection to the environment equal to the protection currently being achieved by the subject facility under applicable law and regulation, provided that all requirements under current applicable law and regulation are being achieved by the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2561 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2197 (November 1999), repromulgated LR 25:2399 (December 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2442 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 34:1889 (September 2008).

### Part III. Air

#### Chapter 5. Permit Procedures

##### §504. Nonattainment New Source Review Procedures

A. – J.15.b. ...

K. Definitions. The terms in this Section are used as defined in LAC 33:III.111 with the exception of those terms specifically defined as follows.

\* \* \*

*Building, Structure, Facility, or Installation*—all of the pollutant-emitting activities that belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e., they have the same two-digit code) as described in the Standard Industrial Classification Manual, 1987.

\* \* \*

L. – M.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:176 (February 1993), repromulgated LR 19:486 (April 1993), amended LR 19:1420 (November 1993), LR 21:1332 (December 1995), LR 23:197 (February 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2445 (November 2000), LR 27:2225 (December 2001), LR 30:752 (April 2004), amended by the Office of Environmental Assessment, LR 30:2801 (December 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2436 (October 2005), LR 31:3123, 3155 (December 2005), LR 32:1599 (September 2006), LR 33:2082 (October 2007), LR 34:1890 (September 2008).

#### Chapter 6. Regulations on Control of Emissions through the Use of Emission Reduction Credits Banking

##### §605. Definitions

A. The terms used in this Chapter are defined in LAC 33:III.111 with the exception of those terms specifically defined as follows.

*Actual Emissions*—the actual rate of emissions of an air pollutant from a source operation, equipment, or control apparatus. *Actual emissions* shall be calculated using the actual operating hours, production rates, and types of materials used, processed, stored, or combusted during the baseline period. Acceptable methods for estimating the actual emissions may include, but are not limited to, any one or a combination of the following:

a. emission factors based on EPA's Compilation of Air Pollutant Emission Factors (AP-42) or other emission factors approved by the department, if better source specific data are not available;

b. fuel usage records, production records, purchase records, material balances, engineering calculations (approved by the department), source tests, waste disposal records, and emission reports such as emission inventory reports, SARA Title III, or MACT compliance certifications.

\* \* \*

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 20:874 (August 1994), LR 25:1622 (September 1999), LR 26:2448 (November 2000), LR 28:301 (February 2002), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2068 (October 2007), LR 34:1890 (September 2008).

#### Chapter 21. Control of Emission of Organic Compounds

##### Subchapter F. Gasoline Handling

##### §2132. Stage II Vapor Recovery Systems for Control of Vehicle Refueling Emissions at Gasoline Dispensing Facilities

A. – B.5. ...

6. The regulated facility shall submit the following application information to the Office of Environmental Assessment prior to installation of the Stage II Vapor Recovery System:

B.6.a. – C.2. ...

D. Testing

1. The owner/operator of the facility shall have the installed vapor recovery equipment tested prior to the start-up of the facility. The owner or operator shall notify the Office of Environmental Assessment at least five calendar days in advance of the scheduled date of testing. Testing must be performed by a contractor that is certified with the Department of Environmental Quality. Compliance with the emission specification for Stage II equipment shall be demonstrated by passing the following required tests or equivalent for each type of system:

1.a. – 2. ...

3. The department reserves the right to confirm the results of the aforementioned testing at its discretion and at any time. Within 30 days after installation or major system modification of a vapor recovery system, the owner or operator of the facility shall submit to the Office of

Environmental Assessment the date of completion of the installation or major system modification of a vapor recovery system and the results of all functional testing requirements.

E. - I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 18:1254 (November 1992), repromulgated LR 19:46 (January 1993), amended LR 23:1682 (December 1997), LR 24:25 (January 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2453 (November 2000), LR 29:558 (April 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2440 (October 2005), LR 33:2086 (October 2007), LR 34:1890 (September 2008).

### §2133. Gasoline Bulk Plants

A. - C.4. ...

#### D. Compliance

1. Compliance with this Section shall be determined by applying the following test methods, as appropriate:

a. leak tests for monitoring during loading, EPA, Appendix B, Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems (EPA 450/2-78-51);

b. Test Method 21 (40 CFR Part 60, Appendix A, as incorporated by reference at LAC 33:III.3003) for determination of volatile organic compound leaks.

2. Monitoring Requirements. Inspection for visible liquid leaks, visible fumes, or odors resulting from gasoline dispensing operations shall be conducted by the owner or the operator of the bulk plant or the owner or the operator of the tank truck. Gasoline loading or unloading through the affected transfer lines shall be discontinued immediately when a leak is observed and shall not be resumed until the observed leak is repaired.

E. - E.2. ...

3. data to document compliance with Subsection D of this Section;

E.4. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:610 (July 1990), LR 21:552 (June 1995), LR 22:1212 (December 1996), amended by the Office of the Secretary, Legal Affairs Division, LR 34:1891 (September 2008).

### §2135. Bulk Gasoline Terminals

A. - B.4. ...

5. A facility subject to this Section shall service only those delivery trucks/transport vessels complying with LAC 33:III.2137.

#### C. Exemptions

1. Gasoline distribution facilities that have a gasoline throughput less than 20,000 gallons (75,708 liters) per day averaged over any consecutive 30-day period shall meet the provisions of LAC 33:III.2133. Once a facility's throughput exceeds this rate, it shall become subject to and shall comply with this Section and shall remain so regardless of any fluctuations in throughput.

2. All loading and unloading facilities for crude oil and condensate, for ships and barges and for facilities loading and unloading only liquified petroleum gas are exempt from this Section.

3. Gasoline bulk terminals that are located in an attainment area and do not service facilities controlled by LAC 33:III.2131 and 2133 are exempt from the control requirements of Subsection B of this Section. Bulk terminals servicing exempted and controlled facilities are required to collect vapors from controlled facilities.

#### D. Compliance

1. Compliance with this Section shall be determined by applying the following test methods, as appropriate:

a. Test Methods 1-4 (40 CFR Part 60, Appendix A, as incorporated by reference at LAC 33:III.3003) for determining flow rates, as necessary;

b. Test Method 18 (40 CFR Part 60, Appendix A, as incorporated by reference at LAC 33:III.3003) for measuring gaseous organic compound emissions by gas chromatographic analysis;

c. Test Method 21 (40 CFR Part 60, Appendix A, as incorporated by reference at LAC 33:III.3003) for determination of volatile organic compound leaks;

d. Test Method 25 (40 CFR Part 60, Appendix A, as incorporated by reference at LAC 33:III.3003) for determining total gaseous nonmethane organic emissions as carbon;

e. EPA leak tests for monitoring during loading, Appendix B, Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems (EPA 450/2-78-051); and

f. additional performance test procedures, or equivalent test methods, approved by the administrative authority\*.

2. Monitoring Requirements. Inspection for visible liquid leaks, visible fumes, or odors resulting from gasoline dispensing operations shall be conducted by the owner or the operator of the terminal or the owner or the operator of the tank truck. Gasoline loading or unloading through the affected transfer lines shall be discontinued immediately when a leak is observed and shall not be resumed until the observed leak is repaired.

E. - E.2. ...

3. testing, sampling and analysis data to document compliance with Subsections B and D of this Section;

4. - 5.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 Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 16:611 (July 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:654 (July 1991), LR 18:1123 (October 1992), LR 22:1212 (December 1996), LR 24:25 (January 1998), amended by the Office of the Secretary, Legal Affairs Division, LR 34:1891 (September 2008).

### §2137. Gasoline Terminal Vapor-Tight Control Procedure

A. - A.1. ...

2. Inspection Sticker Required. All tank trucks must have a sticker displayed on each tank indicating the

identification number of the tank and the date each tank last passed the pressure and vacuum test described in Paragraph A.1 of this Section. Each tank must be certified annually and the sticker must be displayed near the Department of Transportation certification plate. Any repairs necessary to pass the specified requirements must be made within 15 days of failure.

B. - B.3.b. ...

C. Exemptions. All loading and unloading facilities for crude oil and condensate, for ships and barges and for facilities loading or unloading only liquified petroleum gas are exempt from this Section.

D. Recordkeeping Requirements. The gasoline terminal operator shall maintain records at the facility for at least two years indicating the last time the vapor collection facility passed the requirements specified in Paragraph B.1 of this Section. Items that required repair in order to pass the specified requirements must also be recorded during the annual test procedure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:612 (July 1990), LR 22:1212 (December 1996), amended by the Office of the Secretary, Legal Affairs Division, LR 34:1891 (September 2008).

#### **Subchapter H. Graphic Arts**

##### **§2143. Graphic Arts (Printing) by Rotogravure and Flexographic Processes**

A. - B. ...

C. Compliance. The owner/operator of any facility subject to this Section shall install and maintain monitors to accurately measure and record operational parameters of all required control devices as necessary to ensure the proper functioning of those devices in accordance with the design specification. Compliance with this Section shall be determined by certification from the ink manufacturer concerning the solvent makeup of the ink or by applying the following test methods as appropriate:

1. - 4. ...

D. Recordkeeping. The owner or operator of any graphic arts facility shall maintain records at the facility to verify compliance with or exemption from this Section. The records shall be maintained for at least two years and shall include, but not be limited to, the following:

1. records of any testing done in accordance with Subsection C of this Section;

D.2. - E....

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:964 (November 1990), LR 18:1123 (October 1992), LR 22:1212 (December 1996), LR 24:25 (January 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1796 (October 1999), LR 28:1765 (August 2002), LR 30:746 (April 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 34:1892 (September 2008).

#### **Subchapter I. Pharmaceutical Manufacturing Facilities**

##### **§2145. Pharmaceutical Manufacturing Facilities**

A. - A.1.e. ...

2. if equivalent controls are used, the VOC emissions must be reduced by at least as much as they would be by using a surface condenser that meets the requirements of Paragraph A.1 of this Section.

B. - F.4. ...

G. Recordkeeping. The owner or operator of a pharmaceutical manufacturing facility shall maintain the following records at the facility for at least two years:

1. the results of all tests conducted in accordance with Subsection F of this Section;

2. - 4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:964 (November 1990), LR 22:1212 (December 1996), LR 24:25 (January 1998), amended by the Office of the Secretary, Legal Affairs Division, LR 34:70 (January 2008), LR 34:1892 (September 2008).

#### **Chapter 23. Control of Emissions for Specific Industries<sup>1</sup>**

<sup>1</sup>Regulation of emissions of volatile organic compounds for certain industries are presented in Chapter 21.

##### **Subchapter A. Chemical Woodpulp Industry**

##### **§2301. Control of Emissions from the Chemical Woodpulp Industry**

A. - D.2....

3. Total Reduced Sulfur Emissions

a. Emissions of Total Reduced Sulfur (TRS) from existing sources specified below shall not exceed the following limits:

i. kraft recovery furnaces corrected to 8 percent oxygen by volume:

(a). new design straight kraft recovery furnaces, 5 parts per million (ppm);

(b). old design straight kraft recovery furnaces, 20 ppm;

(c). cross-recovery furnaces, 25 ppm;

(d). recovery furnaces constructed prior to 1960:

The department may establish emission limitations different from those specified above for the remaining useful life of the unit. The emissions limit established for each affected furnace will reflect the lowest levels of TRS emissions consistently achievable utilizing best practicable technology;

ii. digester systems, 5 ppm;

iii. multiple effect evaporator systems, 5 ppm;

iv. lime kilns, corrected to 10 percent oxygen by volume, 20 ppm;

v. condensate stripper systems, 5 ppm;

vi. smelt dissolving tanks, 0.016 grams per kilogram black liquor solids fired. Compliance with the particulate emission limits of Subparagraph D.1.b of this Section by a scrubbing device employing fresh water as the scrubbing medium make up will be accepted as evidence of adequate TRS control on smelt dissolving tanks. Emission limits are given in terms of 12-hour averages. For recovery furnaces, 1 percent, and for lime kilns, 2 percent of all 12-

hour TRS averages per quarter year above the specified level, under conditions of proper operation and maintenance, in the absence of start-ups, shutdowns and malfunctions, are not considered to be violations of the emission limitation. These are not running averages, but are instead for discrete contiguous 12-hour periods of time;

vii. in any facility with multiple sources subject to this Subchapter, alternative TRS emission limits from individual sources shall be established upon request, using the "Bubble Concept," provided that the total emissions from all the regulated sources do not exceed those permitted above;

viii. the department may establish alternative limits consistent with the purposes of this Section.

b Compliance. Affected sources shall achieve final compliance with the provisions of this Paragraph as expeditiously as practicable but not more than six years from the effective date of this Subchapter of the regulations.

#### 4. Opacity Limitation

a. The emission of smoke from the recovery furnace shall be controlled so that the shade or appearance of the emission is not darker than 40 percent average opacity as to obscure vision to a degree equivalent to the above (see LAC 33:III.1503.D, Table 4) except that emitted may have an average opacity in excess of 40 percent for not more than one six-minute period in any 60 consecutive minutes.

b. Compliance. Owners or operators shall conduct source tests of recovery furnaces pursuant to the provisions in LAC 33:III.1503.D, Table 4, to confirm particulate emissions are less than that specified in Paragraph D.1 of this Section. The results shall be submitted to the Office of Environmental Assessment as specified in LAC 33:III.919 and 918. The testing should be conducted as follows:

- i. four tests at six month intervals within 24 months of promulgation of this regulation; and
- ii. one test annually thereafter.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1564 (December 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2454 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2442 (October 2005), LR 32:1841 (October 2006), LR 33:2088 (October 2007), LR 34:1892 (September 2008).

### Chapter 51. Comprehensive Toxic Air Pollutant Emission Control Program

#### Subchapter M. Asbestos

##### §5151. Emission Standard for Asbestos

A. – F.2.c.iv.(a).(ii). ...

(b). when the asbestos stripping or removal operation or demolition operation covered by this Subsection will begin on a date earlier than the original start date:

(i). provide the Office of Environmental Services with a written notice of the new start date at least 10 working days before asbestos stripping or removal work begins;

(ii). for demolitions covered by Subparagraph F.1.b of this Section, provide the Office of

Environmental Services written notice of a new start date at least 10 working days before commencement of demolition. Delivery of the updated notice by U.S. Postal Service, commercial delivery service, or hand delivery is acceptable;

F.2.c.iv.(c). - P.2.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), repealed and repromulgated LR 18:1121 (October 1992), amended LR 20:1277 (November 1994), LR 24:27 (January 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2462 (November 2000), LR 30:1673 (August 2004), amended by the Office of Environmental Assessment, LR 30:2022 (September 2004), LR 31:1570 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2449 (October 2005), LR 33:2095 (October 2007), LR 34:1893 (September 2008).

### Part V. Hazardous Waste and Hazardous Materials

#### Subpart 1. Department of Environmental

#### Quality—Hazardous Waste

#### Chapter 1. General Provisions and Definitions

##### §105. Program Scope

These rules and regulations apply to owners and operators of all facilities that generate, transport, treat, store, or dispose of hazardous waste, except as specifically provided otherwise herein. The procedures of these regulations also apply to the denial of a permit for the active life of a hazardous waste management facility or TSD unit under LAC 33:V.706. Definitions appropriate to these rules and regulations, including *solid waste* and *hazardous waste*, appear in LAC 33:V.109. Wastes that are excluded from regulation are found in this Section.

A. - D.2.k. ...

1. injected groundwater that is hazardous only because it exhibits the toxicity characteristic (Hazardous Waste Codes D018-D043 only) in LAC 33:V.4903.E and that is re-injected through an underground injection well pursuant to free phase hydrocarbon recovery operations undertaken at petroleum refineries, petroleum marketing terminals, petroleum bulk plants, petroleum pipelines, and petroleum transportation spill sites until January 25, 1993. This extension applies to recovery operations in existence, or for which contracts have been issued, on or before March 25, 1991. Groundwater that is returned through infiltration galleries from such operations at petroleum refineries, marketing terminals, and bulk plants, is not a hazardous waste until January 1, 1993. New operations involving injection wells (beginning after March 25, 1991) will qualify for this compliance date extension (until January 25, 1993) only if:

D.2.l.i. - P.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790 (November 1988), LR 15:181 (March 1989), LR 16:47 (January 1990), LR 16:217, LR 16:220 (March 1990), LR 16:398 (May 1990), LR 16:614 (July 1990), LR 17:362, 368 (April 1991), LR 17:478 (May 1991), LR 17:883 (September 1991), LR 18:723 (July 1992), LR 18:1256

(November 1992), LR 18:1375 (December 1992), amended by the Office of the Secretary, LR 19:1022 (August 1993), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:813, 831 (September 1996), amended by the Office of the Secretary, LR 23:298 (March 1997), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:564, 567 (May 1997), LR 23:721 (June 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:952 (August 1997), LR 23:1511 (November 1997), LR 24:298 (February 1998), LR 24:655 (April 1998), LR 24:1093 (June 1998), LR 24:1687, 1759 (September 1998), LR 25:431 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:268 (February 2000), LR 26:2464 (November 2000), LR 27:291 (March 2001), LR 27:706 (May 2001), LR 29:317 (March 2003), LR 30:1680 (August 2004), amended by the Office of Environmental Assessment, LR 30:2463 (November 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2451 (October 2005), LR 32:605 (April 2006), LR 32:821 (May 2006), LR 33:450 (March 2007), LR 33:2097 (October 2007), LR 34:614 (April 2008), LR 34:1008 (June 2008), LR 34:1893 (September 2008).

### **§109. Definitions**

For all purposes of these rules and regulations, the terms defined in this Chapter shall have the following meanings, unless the context of use clearly indicates otherwise.

\* \* \*

*Corrosive Waste*—a waste subject to these regulations pursuant to provisions of LAC 33:V.4903.C which, because of such properties as acidity or alkalinity, would tend to weaken or erode a common construction material.

\* \* \*

*Ignitable Waste*—a waste subject to these regulations pursuant to provisions of LAC 33:V.4903.B of such properties as to constitute a potential fire hazard during its management.

\* \* \*

*Reactive Waste*—a waste subject to these regulations pursuant to provisions of LAC 33:V.4903.D which is normally unstable or which may endanger life or property in the presence of other substances likely to be encountered in the management of waste.

\* \* \*

*Toxic Waste*—a waste subject to these regulations pursuant to provisions of LAC 33:V.4903.E which, by its chemical properties, has the potential to endanger human health or other living organisms by means of acute or chronic adverse effects, including poisoning, mutagenic, teratogenic, or carcinogenic effects.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790, 791 (November 1988), LR 15:378 (May 1989), LR 15:737 (September 1989), LR 16:218, 220 (March 1990), LR 16:399 (May 1990), LR 16:614 (July 1990), LR 16:683 (August 1990), LR 17:362 (April 1991), LR 17:478 (May 1991), LR 18:723 (July 1992), LR 18:1375 (December 1992), repromulgated by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 19:626 (May 1993), amended LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:266

(March 1995), LR 21:944 (September 1995), LR 22:814 (September 1996), LR 23:564 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:655 (April 1998), LR 24:1101 (June 1998), LR 24:1688 (September 1998), LR 25:433 (March 1999), repromulgated LR 25:853 (May 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:269 (February 2000), LR 26:2465 (November 2000), LR 27:291 (March 2001), LR 27:708 (May 2001), LR 28:999 (May 2002), LR 28:1191 (June 2002), LR 29:318 (March 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2452 (October 2005), LR 31:3116 (December 2005), LR 32:606 (April 2006), LR 32:822 (May 2006), LR 33:1625 (August 2007), LR 33:2098 (October 2007), LR 34:71 (January 2008), LR 34:615 (April 2008), LR 34:1009 (June 2008), LR 34:1894 (September 2008).

## **Chapter 5. Permit Application Contents**

### **Subchapter E. Specific Information Requirements**

#### **§519. Contents of Part II: General Requirements**

A. Part II of the permit application consists of the general information requirements of this Section, and the specific information requirements in LAC 33:V.519, 520, 521, 523, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, and 706 applicable to the facility. The Part II information requirements presented in LAC 33:V.519, 520, 521, 523, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, and 706 reflect the standards promulgated in LAC 33:V.Chapters 15, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 35, and 37. These information requirements are necessary in order for the administrative authority to determine compliance with LAC 33:V.Chapters 15, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 35, and 37. If owners and operators of Hazardous Waste Management facilities can demonstrate that the information prescribed in Part II cannot be provided to the extent required, the administrative authority may make allowance for submission of such information on a case-by-case basis. Information required in Part II shall be submitted to the administrative authority and signed in accordance with requirements in Subchapter B of this Chapter. Certain technical data, such as design drawings and specifications and engineering studies, shall be certified by a Louisiana registered professional engineer. For post-closure permits, only the information specified in LAC 33:V.528 is required in Part II of the permit application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:280 (April 1984), amended by the Office of Waste Services, Hazardous Waste Division, LR 25:436 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1465 (August 1999), amended by the Office of the Secretary, Legal Affairs Division, LR 34:992 (June 2008), LR 34:1894 (September 2008).

#### **§529. Specific Part II Information Requirements for Incinerators**

Except as LAC 33:V.Chapter 31 and Subsection F of this Section provide otherwise, owners and operators of facilities that incinerate hazardous waste must fulfill the requirements of Subsection A, B, or C of this Section:

A. - A.1. . . .

2. documentation that the waste is listed as a hazardous waste in LAC 33:V.Chapter 49, solely because it is reactive (Hazard Code R) for characteristics other than

those listed in LAC 33:V.4903.D.4 and 5, and will not be burned when other hazardous wastes are present in the combustion zone; or

3. ...

4. documentation that the waste is a hazardous waste solely because it possesses the reactivity characteristics listed in LAC 33:V.4903.D.1, 2, 3, 6, 7, or 8, and that it will not be burned when other hazardous wastes are present in the combustion zone; or

B. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(24)(a) and 2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:280 (April 1984), LR 22:817 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 25:2199 (November 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:292 (March 2001), LR 29:319 (March 2003), amended by the Office of Environmental Assessment, LR 31:1571 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 34:620 (April 2008), LR 34:1011 (June 2008), LR 34:1894 (September 2008).

## **Chapter 15. Treatment, Storage, and Disposal Facilities**

### **§1529. Operating Record and Reporting Requirements**

A. - B.11. ...

12. records of the quantities (and date of placement) for each shipment of hazardous waste placed in land disposal units under an extension to the effective date of any land disposal prohibition granted in accordance with LAC 33:V.2239, a petition approved in accordance with LAC 33:V.2241 or 2271, a determination made under LAC 33:V.2273, or the applicable notice required by a generator under LAC 33:V.2245. This information must be maintained in the operating record until the closure of the facility;

13. for an off-site treatment facility, a copy of the notice, and the certification and demonstration, if applicable, required of the generator or the owner or operator under LAC 33:V.2245 or 2247;

14. for an on-site treatment facility, the information contained in the notice (except the manifest number), and the certification and demonstration, if applicable, required of the generator or the owner or operator under LAC 33:V.2245 or 2247;

15. for an off-site land disposal facility, a copy of the notice, and the certification and demonstration, if applicable, required of the generator or the owner or operator of a treatment facility under LAC 33:V.2245 or 2247, whichever is applicable;

16. for an on-site land disposal facility, the information contained in the notice required of the generator or owner or operator of a treatment facility under LAC 33:V.2245 or LAC 33:V.2247, except for the manifest number;

17. for an off-site storage facility, a copy of the notice, and the certification and demonstration, if applicable, required of the generator or the owner or operator under LAC 33:V.2245 or 2247;

18. for an on-site storage facility, the information contained in the notice (except the manifest number), and the certification and demonstration, if applicable, required of the generator or the owner or operator under LAC 33:V.2245 or 2247;

B.19. - E.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 15:378 (May 1989), LR 16:220 (March 1990), LR 16:399 (May 1990), LR 17:658 (July 1991), LR 18:1256 (November 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 22:832 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1695 (September 1998), LR 25:437 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1799 (October 1999), LR 26:278 (February 2000), LR 26:2473 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 32:827 (May 2006), LR 33:2104 (October 2007), LR 34:623 (April 2008), LR 34:993 (June 2008), LR 34:1895 (September 2008).

## **Chapter 17. Air Emission Standards**

### **Subchapter A. Process Vents**

#### **§1709. Standards: Closed-Vent Systems and Control Devices**

A. - D.6. ...

E. Visible Emissions

1. Reference Method 22 in 40 CFR Part 60, Appendix A, incorporated by reference in LAC 33:III.3003, shall be used to determine the compliance of a flare with the visible emission provisions of this Subchapter. The observation period is two hours and shall be used according to Method 22.

2. The net heating value of the gas being combusted in a flare shall be calculated using the following equation.

$$H_T = K \left[ \sum_{i=1}^n C_i H_i \right]$$

where:

$H_T$  = net heating value of the sample, MJ/scm; where the net enthalpy per mole of offgas is based on combustion at 25°C and 760 mm Hg, but the standard temperature for determining the volume corresponding to 1 mol is 20°C

$K$  = constant,  $1.74 \times 10^{-1}$  (1/ppm) (g mol/scm) (MJ/kcal), where standard temperature for (g mol/scm) is 20°C

$C_i$  = concentration of sample component  $i$  in ppm on a wet basis, as measured for organics by Reference Method 18 in 40 CFR Part 60, Appendix A, incorporated by reference in LAC 33:III.3003, and measured for hydrogen and carbon monoxide by ASTM D 1946-82

$H_i$  = net heat of combustion of sample component  $i$ , kcal/9 mol at 25°C and 760 mm Hg. The heats of combustion may be determined using ASTM D 2382-83 if published values are not available or cannot be calculated.

E.3. - O.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 17:658 (July 1991), amended LR 20:1000 (September 1994), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1698 (September 1998), LR 25:438 (March 1999), amended by the Office of the Secretary, Legal Affairs Division, LR 34:1895 (September 2008).

#### **§1711. Test Methods and Procedures**

A. - B. ...

1. Monitoring shall comply with Reference Method 21 in 40 CFR Part 60, Appendix A, incorporated by reference in LAC 33:III.3003.

B.2. - C.1. ...

a. Method 2 in 40 CFR Part 60, Appendix A, incorporated by reference in LAC 33:III.3003, for velocity and volumetric flow rate;

b. Method 18 or Method 25A in 40 CFR Part 60, Appendix A, incorporated by reference in LAC 33:III.3003, for organic content. If Method 25A is used, the organic hazardous air pollutants (HAP) used as the calibration gas must be the single organic HAP representing the largest percent by volume of the emissions. The use of Method 25A is acceptable if the response from the high-level calibration gas is at least 20 times the standard deviation of the response from the zero calibration gas when the instrument is zeroed on the most sensitive scale.

C.1.c. - F. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2180 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 17:658 (July 1991), amended LR 20:1000 (September 1994), LR 22:818 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1699 (September 1998), amended by the Office of the Secretary, Legal Affairs Division, LR 34:1012 (June 2008), LR 34:1895 (September 2008).

#### **§1741. Test Methods and Procedures**

A. - B. ...

1. Monitoring shall comply with Reference Method 21 in 40 CFR Part 60, Appendix A, incorporated by reference in LAC 33:III.3003.

B.2. - I. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2180 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 17:658 (July 1991), amended LR 20:1000 (September 1994), LR 22:819 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1701 (September 1998), amended by the Office of the Secretary, Legal Affairs Division, LR 34:1013 (June 2008), LR 34:1896 (September 2008).

#### **Chapter 19. Tanks**

##### **§1907. Containment and Detection of Releases**

A. In order to prevent the release of hazardous waste or hazardous constituents to the environment, secondary containment that meets the requirements of this Section must be provided (except as provided in Subsections F and G of this Section):

A.1. - E.3.c. ...

F. Ancillary equipment must be provided with secondary containment (e.g., trench, jacketing, double-walled piping) that meets the requirements of Subsections B and C of this Section, except for:

F.1. - G.2.a.v. ...

b. the potential adverse effects of a release on groundwater quality, taking into account:

b.i. - c.iv. ...

v. the existing quality of surface water, including other sources of contamination and the cumulative impact on surface water quality.

3. The owner or operator of a tank system, for which a variance from secondary containment has been granted in accordance with requirements of Paragraph G.1 of this Section, at which a release of hazardous waste has occurred from the primary tank system but has not migrated beyond

the zone of engineering control (as established in the variance), must:

a. comply with the requirements of LAC 33:V.1913, except 1913.D; and

b. decontaminate or remove contaminated soil to the extent necessary to:

i. enable the tank system for which the variance was granted to resume operation with the capability for the detection of releases at least equivalent to the capability it had prior to the release; and

ii. prevent the migration of hazardous waste or hazardous constituents to groundwater or surface water; or

c. if contaminated soil cannot be removed or decontaminated in accordance with Subparagraph G.3.b of this Section, comply with the requirements of LAC 33:V.1915.B.

4. The owner or operator of a tank system, for which a variance from secondary containment has been granted in accordance with the requirements of Paragraph G.1 of this Section, at which a release of hazardous waste has occurred from the primary tank system and has migrated beyond the zone of engineering control (as established in the variance), must:

a. comply with requirements of LAC 33:V.1913.A-D;

b. prevent the migration of hazardous waste or hazardous constituents to groundwater or surface water, if possible, and decontaminate or remove contaminated soil. If contaminated soil cannot be decontaminated or removed or if groundwater has been contaminated, the owner or operator must comply with requirements of LAC 33:V.1915.B; and

c. if repairing, replacing or reinstalling the tank system, provide secondary containment in accordance with the requirements of Subsections A-F of this Section or reapply for a variance from secondary containment and meet the requirements for new tank systems in LAC 33:V.1905 if the tank system is replaced. The owner or operator must comply with these requirements even if contaminated soil can be decontaminated or removed and groundwater or surface water has not been contaminated.

H. The following procedures must be followed in order to request a variance from secondary containment.

1. The Office of Environmental Assessment must be notified in writing by the owner or operator that he intends to conduct and submit a demonstration for a variance from secondary containment as allowed in Subsection G of this Section according to the following schedule:

a. for existing tank systems, at least 24 months prior to the date that secondary containment must be provided in accordance with Subsection A of this Section;

b. for new tank systems, at least 30 days prior to entering into a contract for installation.

2. As part of the notification, the owner or operator must also submit to the administrative authority a description of the steps necessary to conduct the demonstration and a timetable for completing each of the steps. The demonstration must address each of the factors listed in Paragraph G.1 or 2 of this Section.

3. The demonstration for a variance must be completed within 180 days after notifying the administrative authority of an intent to conduct the demonstration.

4. If a variance is granted under this Paragraph, the administrative authority will require the permittee to construct and operate the tank system in the manner that was demonstrated to meet the requirements for the variance.

I. – I.3. ...

4. The owner or operator must maintain on file at the facility a record of the results of the assessments conducted in accordance with Paragraphs I.1-3 of this Section.

5. If a tank system or component is found to be leaking or unfit for use as a result of the leak test or assessment in Paragraphs I.1-3 of this Section, the owner or operator must comply with the requirements of LAC 33:V.1913.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:651 (November 1987), LR 14:790 (November 1988), LR 16:614 (July 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2475 (November 2000), amended by the Office of Environmental Assessment, LR 31:1572 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2107 (October 2007), LR 34:624 (April 2008), LR 34:995 (June 2008), LR 34:1896 (September 2008).

## **Chapter 22. Prohibitions on Land Disposal**

### **Subchapter A. Land Disposal Restrictions**

#### **§2230. Treatment Standards for Hazardous Debris**

A. - B. ...

1. the contaminants subject to treatment for debris that exhibit the Toxicity Characteristic (TC) described in LAC 33:V.4903.E are those extraction procedure (EP) constituents for which debris exhibit the TC toxicity characteristic;

B.2. - D.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:266 (March 1995), amended LR 22:22 (January 1996), LR 23:565 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 25:445 (March 1999), amended by the Office of the Secretary, Legal Affairs Division, LR 34:1897 (September 2008).

#### **§2246. Special Rules Regarding Wastes That Exhibit a Characteristic**

A. - D.3. ...

E. Generators or treaters who first claim that hazardous debris is excluded from the definition of *hazardous waste* under LAC 33:V.109.*Hazardous Waste*.6 (i.e., debris treated by an extraction or destruction technology provided by LAC 33:V.2299.Appendix, Table 8, and debris that the administrative authority has determined does not contain hazardous waste) are subject to the following notification and certification requirements.

E.1. - F.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 16:1057 (December 1990), amended LR 17:658 (July 1991), LR 21:266 (March 1995), LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:669 (April 1998), LR 24:1730 (September 1998), LR 25:449 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning

Division, LR 26:281 (February 2000), LR 26:2478 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2459 (October 2005), LR 33:2109 (October 2007), LR 34:997 (June 2008), LR 34:1897 (September 2008).

#### **§2247. Owners or Operators of Treatment or Disposal Facilities: Testing, Waste Minimization, Recordkeeping and Notice Requirements**

A. – B.2.f. ...

C. The treatment facility must submit a one-time certification signed by an authorized representative with the initial shipment of waste or treatment residue of a restricted waste to the land disposal facility. The certification must state:

"I certify under penalty of law that I have personally examined and am familiar with the treatment technology and operation of the treatment process used to support this certification. Based on my inquiry of those individuals immediately responsible for obtaining this information, I believe that the treatment process has been operated and maintained properly so as to comply with the treatment standards specified in LAC 33:V.2223 without impermissible dilution of the prohibited waste. I am aware there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment."

A certification is also necessary for contaminated soil and it must state:

"I certify under penalty of law that I have personally examined and am familiar with the treatment technology and operation of the treatment process used to support this certification and believe that it has been maintained and operated properly so as to comply with treatment standards specified in LAC 33:V.2236 without impermissible dilution of the prohibited wastes. I am aware there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment."

C.1. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 21:266, 267 (March 1995), LR 21:1334 (December 1995), LR 22:22 (January 1996), LR 22:820 (September 1996), LR 23:566 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:670 (April 1998), LR 24:1730 (September 1998), LR 25:449 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:282 (February 2000), LR 26:2478 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2459 (October 2005), LR 32:607 (April 2006), LR 33:2110 (October 2007), LR 34:997 (June 2008), LR 34:1897 (September 2008).

## **Chapter 23. Waste Piles**

### **§2306. Response Actions**

A. - B. ...

1. notify the Office of Environmental Services in writing of the exceedance within seven days of the determination;

B.2. - C.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:266 (March 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2480 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2111 (October 2007), LR 34:1897 (September 2008).

**§2311. Special Requirements for Ignitable or Reactive Waste**

A. - A.1. ...

a. the resulting waste, mixture, or dissolution of material no longer meets the description of ignitable or reactive waste under the characteristics of ignitability or reactivity in LAC 33:V.4903.B or D; and

1.b. - 2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 16:1057 (December 1990), amended by the Office of the Secretary, Legal Affairs Division, LR 34:1898 (September 2008).

**Chapter 25. Landfills**

**§2503. Design and Operating Requirements**

A. - K.1.j. ...

k. it is not an ignitable waste as described in LAC 33:V.4903.B;

l. it is not a corrosive waste as characterized by the pH limits in LAC 33:V.4903.C;

m. it is not a reactive waste as described in LAC 33:V.4903.D;

K.1.n. - N.2.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 16:220 (March 1990), LR 17:368 (April 1991), LR 17:658 (July 1991), LR 18:1256 (November 1992), LR 20:1000 (September 1994), LR 21:266, 267 (March 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2480 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 34:1898 (September 2008).

**§2508. Response Actions**

A. - B. ...

1. notify the Office of Environmental Services in writing of the exceedance within seven days of the determination;

B.2. - C.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:266 (March 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2481 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2461 (October 2005), LR 33:2111 (October 2007), LR 34:1898 (September 2008).

**Chapter 29. Surface Impoundments**

**§2906. Response Actions**

A. - B. ...

1. notify the Office of Environmental Services in writing of the exceedance within seven days of the determination;

B.2. - C.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:266 (March 1995), amended by the Office of Environmental Assessment, Environmental Planning

Division, LR 26:2483 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2462 (October 2005), LR 33:2113 (October 2007), LR 34:1898 (September 2008).

**Chapter 30. Hazardous Waste Burned in Boilers and Industrial Furnaces**

**§3025. Regulation of Residues**

A residue derived from the burning or processing of hazardous waste in a boiler or industrial furnace is not excluded from the definition of a hazardous waste under LAC 33:V.105.D.2.d, h, and i unless the device and the owner or operator meet the following requirements.

A. - B.2.a.Note. ...

b. Metal Constituents. The concentration of metals in an extract obtained using the Toxicity Characteristic Leaching Procedure of LAC 33:V.4903.E must not exceed the levels specified in 40 CFR 266, Appendix VII, as adopted and amended at LAC 33:V.3099.Appendix G;

B.2.c. - C.2.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 18:1375 (December 1992), amended LR 21:266 (March 1995), LR 22:826 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1107 (June 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:300 (March 2001), repromulgated LR 27:513 (April 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 34:1015 (June 2008), LR 34:1898 (September 2008).

**Chapter 31. Incinerators**

**§3105. Applicability**

A. - C. ...

1. listed as a hazardous waste solely because it is ignitable or corrosive or both as described in LAC 33:V.4903.B and C; or

C.2. - E.Table 1.Footnote 1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 11:1139 (December 1985), LR 13:433 (August 1987), LR 14:424 (July 1988), LR 15:737 (September 1989), LR 16:399 (May 1990), LR 18:1256 (November 1992), LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 21:944 (September 1995), LR 22:835 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:318 (February 1998), LR 24:681 (April 1998), LR 24:1741 (September 1998), LR 25:479 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:301 (March 2001), LR 28:1004 (May 2002), LR 29:323 (March 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 32:830 (May 2006), LR 34:629 (April 2008), LR 34:1898 (September 2008).

**§3111. Performance Standards**

A. - A.3. ...

4. An incinerator burning hazardous waste must not emit particulate matter in excess of 180 milligrams per dry standard cubic meter (0.08 grains per dry standard cubic foot) when corrected for the amount of oxygen in the stack gas according to the following formula. This correction procedure is to be used by all hazardous waste incinerators except those operating under conditions of oxygen enrichment. For these facilities, the administrative authority

will select an appropriate correction procedure, to be specified in the facility permit.

$$P_c = P_m \times \frac{14}{21 - Y}$$

where:

$P_c$  = corrected concentration of particulate matter

$P_m$  = measured concentration of particulate matter

$Y$  = measured concentration of oxygen in the stack gas, using the Orsat method for oxygen analysis of dry flue gas, presented in 40 CFR Part 60, Appendix A, incorporated by reference in LAC 33:III.3003

a. Repealed.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 16:220 (March 1990), LR 20:1000 (September 1994), amended by the Office of the Secretary, Legal Affairs Division, LR 34:1000 (June 2008), LR 34:1898 (September 2008).

## **Chapter 40. Used Oil**

### **Subchapter A. Materials Regulated as Used Oil**

#### **§4003. Applicability**

This Section identifies those materials that are subject to regulation as used oil under this Chapter. This Section also identifies some materials that are not subject to regulation as used oil under this Chapter and indicates whether these materials may be subject to regulation as hazardous waste under this Subpart.

A. - B.2.b. ...

c. regulation as used oil under this Chapter if the mixture is of used oil and a waste which is hazardous solely because it exhibits the characteristic of ignitability (e.g., ignitable-only mineral spirits), provided that the resulting mixture does not exhibit the characteristic of ignitability under LAC 33:V.4903.B.

B.3. - I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:266 (March 1995), amended LR 22:828, 836 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1108 (June 1998), LR 25:481 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:713 (May 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2540 (October 2005), LR 34:631 (April 2008), LR 34:1017 (June 2008), LR 34:1899 (September 2008).

## **Chapter 43. Interim Status**

### **Subchapter D. Manifest System, Recordkeeping, and Reporting**

#### **§4357. Operating Record**

A. - B.9. ...

10. records of the quantities (and date of placement) for each shipment of hazardous waste placed in land disposal units under an extension to the effective date of any land disposal prohibition granted in accordance with LAC 33:V.2239, monitoring data required in accordance with an exemption under LAC 33:V.2241 or 2271 or the applicable notice required of a generator under LAC 33:V.2245. All of this information must be maintained in the operating record until closure of the facility;

11. - 17. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 15:378 (May 1989), LR 16:220 (March 1990), LR 17:658 (July 1991), LR 18:723 (July 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 22:837 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1744 (September 1998), LR 25:484 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1803 (October 1999), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1626 (August 2007), LR 34:633 (April 2008), LR 34:1018 (June 2008), LR 34:1899 (September 2008).

### **Subchapter E. Groundwater Monitoring**

#### **§4367. Applicability**

Facilities that have interim status must comply with this Subchapter in lieu of LAC 33:V.Chapter 33.

A. - C.5. ...

D. The groundwater monitoring requirements of this Subchapter may be waived with respect to any surface impoundment that is used to neutralize wastes which are hazardous solely because they exhibit the corrosivity characteristic under LAC 33:V.4903.C or listed as hazardous wastes in LAC 33:V.4901 only for the reason that they are corrosive and the surface impoundment contains no other hazardous wastes, if the owner or operator can demonstrate that there is no potential for migration of hazardous wastes from the impoundment. The demonstration must establish, based upon consideration of the characteristics of the wastes and the impoundment, that the corrosive wastes will be neutralized to the extent that they no longer meet the corrosivity characteristic before they can migrate out of the impoundment. The demonstration must be in writing and must be certified by a qualified professional and must be approved by the administrative authority.

E. - E.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended by the Office of Waste Services, Hazardous Waste Division, LR 25:484 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2499 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2126 (October 2007), LR 34:633 (April 2008), LR 34:1002 (June 2008), LR 34:1899 (September 2008).

### **Subchapter I. Tanks**

#### **§4437. Containment and Detection of Releases**

A. In order to prevent the release of hazardous waste or hazardous constituents to the environment, secondary containment that meets the requirements of this Section must be provided (except as provided in Subsections F and G of this Section):

A.1. - B.2. ...

C. To meet the requirements of Subsection B of this Section, secondary containment systems must be at a minimum:

1. constructed of or lined with materials that are compatible with the waste to be placed in the tank systems and must have sufficient strength and thickness to prevent failure due to pressure gradients (including static head and external hydrological forces), physical contact with the

waste to which they are exposed, climatic conditions, the stress of installation, and the stress of daily operation (including stresses from nearby vehicular traffic);

C.2. - D.4. ...

E. In addition to the requirements of Subsections B-D of this Section, secondary containment systems must satisfy the following requirements.

1. - 2.d....

e. provided with a means to protect against the formation of and ignition of vapors within the vault, if the waste being stored or treated:

i. meets the characteristics of ignitable waste under LAC 33:V.4903.B; or

ii. meets the characteristics of reactive waste under LAC 33:V.4903.D and may form an ignitable or explosive vapor; and

2.e.iii. - 3.c. ...

F. Ancillary equipment must be provided with full secondary containment (e.g., trench, jacketing, double-walled piping) that meets the requirements of Subsections B and C of this Section, except for:

F.1. - G.2.d.ii. ...

3. The owner or operator of a tank system, for which a variance from secondary containment has been granted in accordance with the requirements of Paragraph G.1 of this Section, at which a release of a hazardous waste has occurred from the primary tank system but has not migrated beyond the zone of engineering control (as established in the variance), must:

a. comply with the requirements of LAC 33:V.4441, except LAC 33:V.4441.D; and

b. decontaminate or remove contaminated soil to the extent necessary to:

i. enable the tank system, for which the variance was granted, to resume operation with the capability for the detection of and response to releases at least equivalent to the capability it had prior to the release; and

ii. prevent the migration of hazardous waste or hazardous constituents to groundwater or surface water; or

c. if contaminated soil cannot be removed or decontaminated in accordance with Subparagraph G.3.b of this Section, comply with the requirements of LAC 33:V.1915.B.

4. The owner or operator of a tank system, for which a variance from secondary containment had been granted in accordance with the requirements of Paragraph G.1 of this Section, at which a release of hazardous waste has occurred from the primary tank system and has migrated beyond the zone of engineering control (as established in the variance), must:

a. - b. ...

c. if repairing, replacing, or reinstalling the tank system, provide secondary containment in accordance with the requirements of Subsections A-F of this Section or reapply for a variance from secondary containment and meet the requirements for new tank systems in LAC 33:V.4435 if the tank system is replaced. The owner or operator must comply with these requirements even if contaminated soil can be decontaminated or removed, and groundwater or surface water has not been contaminated.

H. - H.1....

a. for existing tank systems, at least 24 months prior to the date that secondary containment must be provided in accordance with Subsection A of this Section; and

1.b. - 4. ...

5. The administrative authority will approve or disapprove the request for a variance within 90 days of receipt of the demonstration from the owner or operator and will notify in writing the owner or operator and each person who submitted written comments or requested notice of the variance decision. If the demonstration for a variance is incomplete or does not include sufficient information, the 90-day time period will begin when the administrative authority receives a complete demonstration, including all information necessary to make a final determination. If the public comment period in Paragraph H.4 of this Section is extended, the 90-day time period will be similarly extended.

I. - I.2. ...

3. The owner or operator must maintain on file at the facility a record of the results of the assessments conducted in accordance with Paragraphs I.1-2 of this Section.

4. If a tank system or component is found to be leaking or unfit-for-use as a result of the leak test or assessment in Paragraphs I.1-2 of this Section, the owner or operator must comply with the requirements of LAC 33:V.4441.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:651 (November 1987), LR 14:790 (November 1988), LR 16:614 (July 1990), LR 18:723 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2507 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2482 (October 2005), LR 33:2134 (October 2007), LR 34:1004 (June 2008), LR 34:1899 (September 2008).

## **Subchapter J. Surface Impoundments**

### **§459. Special Requirements for Ignitable or Reactive Waste**

A. ...

1. the waste is treated, rendered, or mixed before or immediately after placement in the impoundment so that the resulting waste, mixture, or dissolution of material no longer meets the characteristics of ignitable or reactive waste under LAC 33:V.4903.B and D, and 4321.B is complied with; or

2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 16:1057 (December 1990), amended by the Office of the Secretary, Legal Affairs Division, LR 34:1900 (September 2008).

## **Subchapter P. Chemical, Physical, and Biological Treatment**

### **§4545. Special Requirements for Ignitable or Reactive Waste**

A. ...

1. the waste is treated, rendered, or mixed before or immediately after placement in the treatment process or equipment so that the resulting waste, mixture, or dissolution

of material no longer meets the characteristics of ignitable or reactive waste under LAC 33:V.4903.B and D, and 4321.B is complied with; or

2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended by the Office of the Secretary, Legal Affairs Division, LR 34:1900 (September 2008).

## **Part VI. Inactive and Abandoned Hazardous Waste and Hazardous Substance Site Remediation**

### **Chapter 9. Voluntary Remediation**

#### **§911. Application Process**

A. – E. ...

F. Public Hearing and Comment

1. Comments on the voluntary remedial action plan shall be accepted by the Office of Environmental Assessment for a period of 30 days after the date of the public notice and shall be fully considered by the administrative authority prior to final approval of the plan. However, if the administrative authority determines a shorter or longer comment period is warranted, the administrative authority may provide for a shorter or longer comment period in the public notice described in Paragraph D.1 of this Section. Also, the comment period provided in the public notice may be extended by the administrative authority if the administrative authority determines such an extension is warranted.

F.2. – H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2285 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 27:516 (April 2001), amended by the Office of Environmental Assessment, LR 30:2024 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2485 (October 2005), LR 33:2139 (October 2007), LR 34:1901 (September 2008).

## **Part VII. Solid Waste**

### **Subpart 1. Solid Waste Regulations**

#### **Chapter 7. Solid Waste Standards**

##### **Subchapter A. Landfills, Surface Impoundments, Landfarms**

#### **§711. Standards Governing Landfills (Type I and II)**

A. – D.1.h....

i. No solid waste shall be deposited in standing water, and standing water in contact with waste shall be removed immediately.

D.1.j. – F.3.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, Solid Waste Division, LR 19:187 (February 1993), amended LR 19:1143 (September 1993), repromulgated LR 19:1316 (October 1993),

amended by the Office of the Secretary, LR 24:2251 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2523 (November 2000), repromulgated LR 27:704 (May 2001), amended LR 30:1676 (August 2004), amended by the Office of Environmental Assessment, LR 30:2024 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2492 (October 2005), LR 33:1047 (June 2007), LR 33:2145 (October 2007), LR 34:1901 (September 2008).

#### **Subchapter C. Minor Processing and Disposal Facilities**

#### **§721. Standards Governing Construction and Demolition Debris and Woodwaste Landfills (Type III)**

A. – C.1.f. ...

g. No solid waste shall be deposited in standing water, and standing water in contact with waste shall be removed immediately.

C.2. – E.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 20:1001 (September 1994), amended by the Office of the Secretary, LR 24:2252 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2527 (November 2000), repromulgated LR 27:705 (May 2001), amended by the Office of Environmental Assessment, LR 30:2025 (September 2004), LR 31:1577 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2495 (October 2005), LR 33:1067 (June 2007), LR 33:2149 (October 2007), LR 34:1901 (September 2008).

## **Part IX. Water Quality**

### **Subpart 1. Water Pollution Control**

#### **Chapter 3. Permits**

##### **Subchapter A. General Requirements**

#### **§301. Scope**

A. – G. ...

H. On the effective date of these regulations the status of state permits shall be as follows.

1. All LWDPs permits shall be issued for a period not to exceed five years.

H.2. – N. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:1066 (November 1985), amended by the Office of the Secretary, LR 22:344 (May 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2273 (October 2000), LR 26:2538 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2504 (October 2005), LR 33:2160 (October 2007), LR 34:1901 (September 2008).

#### **Chapter 11. Surface Water Quality Standards**

##### **§1123. Numerical Criteria and Designated Uses**

A. – E. ...

Table 3. Numerical Criteria and Designated Uses									
A-Primary Contact Recreation; B-Secondary Contact Recreation; C-Fish And Wildlife Propagation; L-Limited Aquatic Life and Wildlife Use; D-Drinking Water Supply; E-Oyster Propagation; F-Agriculture; G-Outstanding Natural Resource Waters									
Code	Stream Description	Designated Uses	Numerical Criteria						
			CL	SO <sub>4</sub>	DO	pH	BAC	°C	TDS
Atchafalaya River Basin (01)									
***									
[See Prior Text in 010101 – 110701]									
Terrebonne Basin (12)									
***									
[See Prior Text in 120102 – 120301]									
120302	Bayou Folse—From headwaters to Company Canal	A B C D F	500	150	5.0	6.5-9.0	1	32	1,000
120303	Bayou L'Eau Bleu—From Company Canal to ICWW	A B C	500	150	5.0	6.5-9.0	1	32	1,000
***									
[See Prior Text in 120304 – 120806]									

ENDNOTES:

[1] – [24] ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 15:738 (September 1989), amended LR 17:264 (March 1991), LR 20:431 (April 1994), LR 20:883 (August 1994), LR 21:683 (July 1995), LR 22:1130 (November 1996), LR 24:1926 (October 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2405 (December 1999), LR 27:289 (March 2001), LR 28:462 (March 2002), LR 28:1762 (August 2002), LR 29:1814, 1817 (September 2003), LR 30:1474 (July 2004), amended by the Office of Environmental Assessment, LR 30:2468 (November 2004), LR 31:918, 921 (April 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:815, 816, 817 (May 2006), LR 33:832 (May 2007), LR 34:1901 (September 2008).

**Part XI. Underground Storage Tanks**

**Chapter 11. Financial Responsibility**

**§1139. Bankruptcy or Other Incapacity of Owner or Operator or Provider of Financial Assurance**

A. – B. ...

C. An owner or operator who obtains financial assurance by a mechanism other than the financial test of self-insurance will be deemed to be without the required financial assurance in the event of a bankruptcy or incapacity of its provider of financial assurance, or a suspension or revocation of the authority of the provider of financial assurance to issue a guarantee, insurance policy, risk retention group coverage policy, surety bond, or letter of credit. The owner or operator must obtain alternate financial assurance as specified in this Chapter within 30 days after receiving notice of such an event. If the owner or operator does not obtain alternate coverage within 30 days after such notification, he must notify the Office of Environmental Assessment.

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 by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2562 (November 2000), amended by the Office of Environmental Assessment, LR 31:1578 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2522 (October 2005), LR 33:2174 (October 2007), LR 34:1902 (September 2008).

**Part XV. Radiation Protection**

**Chapter 6. X-Rays in the Healing Arts**

**§609. X-Ray and Electron Therapy Systems with Energies of 1 MeV and Above**

A. – E.1.a. ...

b. the registrant or licensee shall obtain a written report of the survey from the qualified expert, and a copy of the report shall be transmitted by the registrant or licensee to the Office of Environmental Compliance within 30 days of receipt of the report; and

c. ...

2. Calibrations shall be performed as follows:

a. the calibration of systems subject to this Section shall be performed in accordance with an established calibration protocol acceptable to the department before the system is first used for irradiation of a patient and thereafter at intervals that do not exceed 12 months, and after any change that might significantly alter the calibration, spatial distribution, or other characteristics of the therapy beam. The calibration protocol published by the American Association of Physicists in Medicine is accepted as an established protocol. For other protocols, the user shall submit that protocol to the Office of Environmental Compliance for written concurrence that the protocol is acceptable;

2.b. – 3. ...

a. the spot-check procedures shall be in writing and shall have been developed by a radiological physicist. A copy of the procedure shall be submitted to the Office of Environmental Compliance prior to its implementation;

3.b. – 4.c....

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2586 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2532 (October 2005), LR 34:1902 (September 2008).

Herman Robinson, CPM  
Executive Counsel

0809#094

## RULE

### Department of Environmental Quality Office of the Secretary Legal Affairs Division

Performance Testing Notifications and Reports  
(LAC 33:III.523, 2107, 2108, 2511,  
2521, 2531, and 5113)(AQ294)

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 Air regulations, LAC 33:III.523, 2107, 2108, 2511, 2521, 2531, and 5113 (Log #AQ294).

This rule amends the variety of timeframes in the regulations for submitting reports of results following the completion of performance testing so that all reports are due 60 days after the completion of testing. The 60-day timeframe is consistent with other state policy testing requirements and with the majority of federal testing requirements. This rule also requires submittal of testing notifications to the department at least 30 days prior to testing, where testing is required in the regulations. This requirement is already located in several places in the regulations and is included as a general condition in all air permits issued by the department. These changes will make the regulations more consistent. Requiring all performance testing reports to be submitted within the same timeframe reduces confusion for the regulated community. Currently, the department receives many requests for extensions to submit test results, especially for test results that are due within 30 days of testing. Thirty days can be a difficult timeframe in which to prepare a report or results, especially for testing that involves several methods or scenarios. Increasing the timeframe will reduce the burden to facilities. Clearly stating that notifications are required where testing is required in the regulations also reduces confusion and makes the regulations more consistent throughout and with air permits issued by the department. The basis and rationale for this rule are to make the regulations more consistent and to incorporate into the regulations a requirement of all air permits issued by the department. This rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

### Title 33 ENVIRONMENTAL QUALITY Part III. Air

#### Chapter 5. Permit Procedures

#### §523. Procedures for Incorporating Test Results

A. – B.2. ...

3. At least 30 days prior to performing any emission test, notification of testing shall be made to the Office of Environmental Assessment to afford the department the opportunity to conduct a pretest conference and to have an observer present.

4. Within 60 days of test completion, the administrative authority shall be given a report detailing the conditions that were found to exist. If there is to be no permanent change in emissions from pretest conditions, that should be stated.

5. If there is to be a permanent change made that increases emissions, all applicable requirements of this Chapter must be met. If emissions are to be reduced by the modification, the requirements of LAC 33:III.511 are applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), amended by the Office of the Secretary, Legal Affairs Division, LR 34:1903 (September 2008).

#### Chapter 21. Control of Emission of Organic Compounds

##### Subchapter A. General

#### §2107. Volatile Organic Compounds—Loading

A. – D.4. ...

E. Test Methods

1. Compliance with Subsection B of this Section shall be determined by applying the following test methods, as appropriate:

a. Test Methods 1-4 (40 CFR Part 60, Appendix A, as incorporated by reference in LAC 33:III.3003) for determining flow rates, as necessary;

b. Test Method 18 (40 CFR Part 60, Appendix A, as incorporated by reference in LAC 33:III.3003) for determining gaseous organic compounds emissions by gas chromatography;

c. Test Method 25 (40 CFR Part 60, Appendix A, as incorporated by reference in LAC 33:III.3003) for determining total gaseous non-methane organic emissions as carbon;

d. Test Method 25A or 25B (40 CFR Part 60, Appendix A, as incorporated by reference in LAC 33:III.3003) for determining total gaseous organic concentration using flame ionization or nondispersive infrared analysis; and

e. flaring devices, which shall be designed and operated according to 40 CFR 60.18.

2. At least 30 days prior to performing any emission test, notification of testing shall be made to the Office of Environmental Assessment to afford the department the opportunity to conduct a pretest conference and to have an observer present.

3. Within 60 days of test completion, a copy of the test results shall be submitted to the Office of Environmental Assessment for review and approval.

F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 16:116 (February 1990), amended by the Office of Air Quality and Radiation Protection, LR 17:360 (April 1991), LR 22:1212 (December 1996), LR 24:20 (January 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1442 (July 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 34:1903 (September 2008).

#### §2108. Marine Vapor Recovery

A. – E.5....

6. At least 30 days prior to performing any emission test, notification of testing shall be made to the Office of Environmental Assessment to afford the department the

opportunity to conduct a pretest conference and to have an observer present.

F. Reporting and Recordkeeping

1. The results of any testing done in accordance with Subsection E of this Section shall be reported to the Office of Environmental Assessment within 60 days of the test.

F.2. – H.2. ...

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 14:704 (October 1988), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:959 (November 1990), LR 22:1212 (December 1996), LR 23:1678 (December 1997), LR 24:20 (January 1998), LR 24:1285 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2452 (November 2000), LR 30:745 (April 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2439 (October 2005), LR 33:2085 (October 2007), LR 34:1903 (September 2008).

**Chapter 25. Miscellaneous Incineration Rules**

**Subchapter B. Biomedical Waste Incinerators**

**§2511. Standards of Performance for Biomedical Waste Incinerators**

A. – E.6.e. ...

7. At least 30 days prior to performing any emission test, notification of testing shall be made to the Office of Environmental Assessment to afford the department the opportunity to conduct a pretest conference and to have an observer present.

8. A copy of all monitoring and tests results shall be submitted to the Office of Environmental Assessment for review and approval within 60 days of completion of testing.

F. – L. ...

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 20:1098 (October 1994), amended LR 21:1081 (October 1995), LR 22:1212 (December 1996), LR 23:1680 (December 1997), LR 24:1286 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2455 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2442 (October 2005), LR 33:2089 (October 2007), LR 34:1904 (September 2008).

**Subchapter C. Refuse Incinerators**

**§2521. Refuse Incinerators**

A. – F.9.e. ...

10. At least 30 days prior to performing any emission test, notification of testing shall be made to the Office of Environmental Assessment to afford the department the opportunity to conduct a pretest conference and to have an observer present.

11. A copy of all monitoring and tests results shall be submitted to the Office of Environmental Assessment for review and approval within 60 days of completion of testing.

G. – H. ...

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 20:1100 (October 1994),

amended LR 22:1212 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2456 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2443 (October 2005), LR 33:2089 (October 2007), LR 34:1904 (September 2008).

**Subchapter D. Crematories**

**§2531. Standards of Performance for Crematories**

A. – I.1.f. ...

2. A copy of all test results shall be submitted to the Office of Environmental Assessment for review and approval within 60 days of completion of testing.

J. – J.2. ...

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 20:1107 (October 1994), amended LR 22:1127 (November 1996), LR 22:1212 (December 1996), LR 23:1509 (November 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2456 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2443 (October 2005), LR 33:2089 (October 2007), LR 34:1904 (September 2008).

**Chapter 51. Comprehensive Toxic Air Pollutant Emission Control Program**

**Subchapter A. Applicability, Definitions, and General Provisions**

**§5113. Notification of Start-Up, Testing, and Monitoring**

A. – A.2. ...

B. Emission Tests and Waiver of Emission Tests

1. The department may require any owner or operator to conduct tests to determine the emission of toxic air pollutants from any source whenever the department has reason to believe that an emission in excess of those allowed by this Subchapter is occurring. The department may specify testing methods to be used in accordance with good professional practice. The department may observe the testing. The Office of Environmental Assessment shall be notified at least 30 days prior to testing to afford the department the opportunity to conduct a pretest conference and to have an observer present. All tests shall be conducted by qualified personnel. The Office of Environmental Assessment shall be given a copy of the test results in writing signed by the person responsible for the tests within 60 days after completion of the test.

2. – 4.e. ...

5. Unless otherwise specified, samples shall be analyzed and emissions determined within 30 days after each emission test has been completed. The owner or operator shall report the determinations of the emission test to the Office of Environmental Assessment by a certified letter sent before the close of business on the sixtieth day following the completion of the emission test.

B.6. – C.7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 and 2060 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), amended LR 18:1364 (December 1992), LR 23:59 (January 1997), LR 23:1658 (December 1997), amended by the Office of

Environmental Assessment, Environmental Planning Division, LR 26:2461 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2448 (October 2005), LR 33:2094 (October 2007), LR 34:1904 (September 2008).

Herman Robinson, CPM  
Executive Counsel

0809#093

## RULE

### Department of Health and Hospitals Board of Medical Examiners

Adjudication (LAC 46:XLV.9905)

Editor's Note: This Rule was printed in error on page 1625 of the August 20, 2008 *Louisiana Register*. The correct effective and promulgation date for this Rule is September 20, 2008.

Pursuant to the authority vested in the Louisiana State Board of Medical Examiners (Board) by the Louisiana Medical Practice Act, R.S. 37:1261-1292, and in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., the board has amended LAC 46:XLV, Subpart 5, Chapter 99, §9905, of its rules of adjudication. The amendments are set forth below.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part XLV. Medical Professions Subpart 5. Rules of Procedure

#### Chapter 99. Adjudication §9905. Notice of Hearing

A. Upon the filing of an administrative complaint pursuant to §9903, the board shall docket the complaint and schedule the complaint for hearing before the board not less than 45 days nor more than 180 days thereafter; provided, however, that such time may be lengthened or shortened as the board determines may be necessary or appropriate to protect the public interest or upon motion of the investigating officer or respondent pursuant to a showing of proper grounds. In the event that the respondent's license, permit, certification, or registration has been suspended by the board pending hearing, pursuant to R.S. 49:961(C), evidentiary hearing on the complaint shall be noticed and scheduled not more than 60 days from the date of suspension, unless respondent waives convening a hearing during such period.

B ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:507 (June 1990), amended LR 34:1625 (August 2008), repromulgated LR 34:1905 (September 2008).

Robert L. Marier, M.D.  
Executive Director

0809#014

## RULE

### Department of Health and Hospitals Board of Medical Examiners

Dispensation of Medications  
(LAC 46:XLV.6503, 6505, 6506, and 6515)

Editor's Note: This Rule was printed in error on page 1626 of the August 20, 2008 *Louisiana Register*. The correct effective and promulgation date for this Rule is September 20, 2008.

In accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana State Board of Medical Examiners (board), pursuant to the authority vested in the board by the Louisiana Medical Practice Act, R.S. 37:1261-1292 and R.S. 37:1201, has amended its rules governing dispensation of medications, Title 46:XLV, Subpart 3, Chapter 65, §6503, §6505, §6506, and §6515. The amendments are set forth below.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part XLV. Medical Professions Subpart 3. Practice

#### Chapter 65. Dispensation of Medications Subchapter A. General Provisions

#### §6503. Definitions

A. As used in this Chapter, the following terms and phrases shall have the meanings specified.

\* \* \*

*Drugs of Concern*—carisoprodol, dezocine, nalbuphine and tramadol and such other non-controlled substances, as defined by rule, which demonstrate a potential for abuse.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, R.S. 37:1201.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:570 (October 1987), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:1193 (June 2004), LR 34:1626 (August 2008), repromulgated LR 34:1905 (September 2008).

#### Subchapter B. Prohibitions, Sanctions and Exceptions §6505. Prohibitions

A. - D. ...

E. Except as provided in §6506 of this Subchapter, a registrant shall not dispense any controlled substance or drug of concern.

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 Human Resources, Board of Medical Examiners, LR 13:571 (October 1987), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 34:1626 (August 2008), repromulgated LR 34:1905 (September 2008).

#### §6506. Exceptions

A. Notwithstanding §6505.E of this Subchapter, a registrant may dispense up to a single 48 hour supply of a single controlled substance or drug of concern to a patient.

B. The prohibition contained in §6505.E of this Subchapter shall not apply to a registrant:

1. practicing in a facility maintained or operated by the state of Louisiana or a governmental entity of this state;
2. practicing in a clinic maintained or operated by the United States or by any of its departments, offices or agencies;
3. practicing in a substance abuse or addiction treatment facility licensed by the Louisiana Department of Health and Hospitals; or
4. engaged in clinical research or investigational studies regulated by the U.S. Food and Drug Administration, in compliance with all applicable state and federal laws, rules and regulations.

C. Upon written application by a physician to the board made in accordance with this Subsection the board may, with respect to an identified individual patient:

1. authorize a physician to depart from the dispensing limitation prescribed by §6506.A of this Subchapter. Such application shall contain:

a. a statement by the physician of the specific manner in which the physician proposes to deviate from the provisions of this Subchapter respecting the dispensing limitation on controlled substances and drugs of concern, together with a statement by the physician of the medical facts and circumstances deemed by the physician to justify such departure; and

b. such other information and documentation as the board may request;

2. the board may deny, grant, or grant in part any application for exception in an individual case made under this Section. The board's action on any such application shall be stated in writing and shall specify the manner and extent to which the physician shall be authorized to depart from the provisions of §6506.A of this Subchapter and the period of time during which such authorized exception shall be effective. A physician who makes application to the board under this Section shall not deviate from the prohibitions, conditions, and limitations provided in §6506.A of this Subchapter except following receipt of written authorization from the board or other than pursuant to the specifications and limitations of such authorization.

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).

### **Subchapter C. Registration**

#### **§6515. Registration Procedure**

A. ...

B. Application forms and instructions pertaining thereto may be obtained upon written request directed to the office of the board.

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 Human Resources, Board of Medical Examiners, LR 13:571 (October 1987), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 34:1626 (August 2008), repromulgated LR 34:1906 (September 2008).

Robert L. Marier, M.D.  
Executive Director

0809#013

## **RULE**

### **Department of Health and Hospitals Board of Physical Therapy Examiners**

Licensure, Certification, and Practice  
(LAC 46:LIV.121, 127, 155, 167-173,  
303-311, 315, 321, 323, 327)

Notice is hereby given, in accordance with R.S. 49:950 et seq., and the Administrative Procedure Act, that the Louisiana State Board of Physical Therapy Examiners (Board), pursuant to the authority vested in the board by R.S. 2401.2A(3) and the provisions of the Administrative Procedures Act, has amended its existing rules as set forth below.

The Louisiana State Board of Physical Therapy Examiners Rule amendments are to clarify the application of the Physical Therapy Practice Act. The intent of the amendments is to clarify and enhance rules applicable to the supervision of Physical Therapy Assistants and other support personnel and to provide effective documentation of such supervision. Additionally, the Rule will reduce the potential for noncompliance with the Practice Act, thusly decreasing any potential expenses for disciplinary actions or loss of income as a result of disciplinary actions. Licensees and employers may incur a small indeterminable increase in costs for documenting supervision conferences in patient records as a result of the Rule.

#### **Title 46**

### **PROFESSIONAL AND OCCUPATIONAL STANDARDS**

#### **Part LIV. Physical Therapy Examiners**

##### **Subpart 1. Licensing and Certification**

#### **Chapter 1. Physical Therapists and Physical Therapist Assistants**

##### **Subchapter D. Licensure by Reciprocity**

#### **§121. Qualifications for Licensure by Reciprocity**

A. ...

B. A foreign Physical Therapy graduate who meets the requirements of Subsections 115.A and 121.A and who has practiced as a licensed physical therapist in another state for at least one year, may, with acceptable documentation of clinical experience, be eligible for licensure by reciprocity as a physical therapist at the discretion of the board. Licensure under this Subsection waives the period of supervised clinical practice set forth in Paragraph 115.A.3 of these rules.

C. To be eligible for licensure under Subsections A and B, all applicants shall have met the continuing education requirements contained in the Practice Act and/or the board rules within the 12 months preceding their application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:745 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:387 (May 1989), LR 17:663 (July 1991), LR 19:208 (February 1993), LR 34:1906 (September 2008).

## **Subchapter E. Application**

### **§127. Additional Requirements for Foreign Graduates**

A. ...

B. As a condition to the board's consideration of a foreign graduate application, the board must receive a comprehensive credential evaluation certificate, based upon the Credentialing Coursework Tool, from an approved credentialing agency which includes, but is not limited to, the Foreign Credentialing Commission on Physical Therapy (FCCPT).

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:745 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:387 (May 1989), LR 19:208 (February 1993), LR 26:1444 (July 2000), LR 34:1907 (September 2008).

## **Subchapter G. Temporary Permit**

### **§155. Permit Pending Re-Examination; Examination Limit; Additional Requirements**

A. An applicant who possesses all of the qualifications for licensure prescribed by §107 of this Chapter, except for Paragraphs 107.A.5 and 107.B.5, who has once failed the licensing examination, and who has applied to the board for re-examination within 10 days of receipt of written notice of failure and completed all requirements for re-examination shall be issued a new temporary permit to be effective for no more than 60 days.

B. If an applicant has failed to achieve a passing score on the required examination after three attempts, the applicant may again be examined only upon the board's approval, which approval may be conditioned upon the prior successful completion by the applicant of any additional education or clinical training prescribed by the board.

C. A physical therapist or physical therapist assistant holding a temporary permit issued under this Section may practice physical therapy only with continuous supervision as defined in Subsection 305.A.

D. A temporary permit issued under this Section shall expire upon the earliest of:

1. the expiration of the time period for which the permit was issued;
2. actual receipt by the permit holder of notice from the board that he has failed to achieve a passing score on the licensing examination;
3. the licensee's failure to claim notice of his failure, which was mailed to the licensee by certified mail, return receipt requested, within the time allowed after being notified by the United States Postal Service; or
4. failure of a permit holder to appear for and take the licensing examination within the 60 day permit period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3) and Act 731 of 1992.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:747 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:388 (May 1989), LR 17:664 (July 1991), LR 19:208 (February 1993), LR 26:1446 (July 2000), LR 34:1907 (September 2008).

## **Subchapter H. License and Permit Issuance, Termination, Renewal and Reinstatement**

### **§167. Reinstatement of License**

A. - C.2. ...

D. To be eligible for license reinstatement under this Section, all applicants shall have met the continuing education requirements contained in the rules within the 12 months preceding their application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:748 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:388 (May 1989), LR 28:1979 (September 2002), LR 34:1907 (September 2008).

## **Subchapter I. Continuing Education**

### **§169. Requirements**

A. Unless exempted under §173, licensees shall successfully complete, document and report to the board at least 1.2 units, or 12 hours of acceptable continuing education credit during each calendar year.

B. - B.3.f. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3) and Act 731 of 1992.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:388 (May 1989), amended LR 17:664 (July 1991), LR 19:208 (February 1993), LR 21:394 (April 1995), LR 21:1243 (November 1995), LR 26:1446 (July 2000), LR 28:1980 (September 2002), LR 34:1907 (September 2008).

### **§171. Report Requirements**

A. It is the responsibility of each licensee to assure that his continuing education hours are timely reported to the board.

B. The reporting of continuing education hours by course sponsors or licensees shall be made only on forms approved and available by the board. Forms filed by course sponsors or licensees shall be legibly printed or typewritten, and shall be completed and signed by the course sponsor or licensee.

C. Continuing education reporting forms shall be filed with the board no later than December 31 of each year.

D.1. The filing date of continuing education reporting forms, if mailed and properly addressed to the board with sufficient postage, shall be the earliest of:

- a. the legible date of the United States Postal Service postmark; or
- b. an official receipt or certificate from the United States Postal Service made at the time of mailing which indicates the date thereof; or
- c. the date of actual receipt by the board.

2. Legal holidays and days on which the office of the board is officially closed shall not extend the filing deadline specified in Subsection C hereof.

E. Original continuing education documentation, including, but not limited to, certificates of participation, signed by course instructors verifying course attendance and completion, and official college coursework transcripts shall be retained by course sponsors and licensees for a period of three years. Upon request, course sponsors and licensees shall supply the board with such documentation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 17:665 (July 1991), amended LR 19:208 (February 1993), LR 34:1907 (September 2008).

### §173. Exemptions

A. Physical therapists or physical therapist assistants licensed in Louisiana are exempt from the Subchapter I continuing education requirements during the calendar year in which they graduate from a program accredited pursuant to the Practice Act.

B. Upon approval by the board of a request made in compliance with Subsection C, the board may extend the period for compliance or exempt the following from compliance with the Subchapter I continuing education requirements:

1. licensees on extended active military service for a period in excess of three months during the applicable reporting period; or

2. licensees who are unable to fulfill the requirement because of illness or other personal hardship.

C. Written requests for an exemption under Subsection B, including supporting documentation, must be received by the board at least 90 days prior to the end of the calendar year for which the exemption is sought, or immediately after the licensee becomes aware of the facts or circumstances upon which the exemption is sought, whichever is later.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3) and Act 731 of 1992.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 17:665 (July 1991), amended LR 19:208 (February 1993), LR 21:394 (April 1995), LR 34:1908 (September 2008).

## Subpart 2. Practice

### Chapter 3. Practice

#### Subchapter A. General Provisions

### §303. Definitions

A. As used in this Chapter, the following terms and phrases shall have the meanings specified.

\* \* \*

*Nursing Home*—place of residence and not a health care facility.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Services, Board of Physical Therapy Examiners, LR 13:748 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 19:208 (February 1993), LR 21:394 (April 1995), LR 24:39 (January 1998), LR 34:1908 (September 2008).

### §305. Special Definition: Practice of Physical Therapy

A. As used in the definition of *practice of physical therapy* set forth in the Physical Therapy Practice Act, and as used in this Chapter, the following terms shall have their meanings specified.

*Consultative Services*—providing information, advice, or recommendations with respect to physical therapy, but does not include the administration of physical therapy treatment, and therefore, can be performed without referral or prescription.

*Continuous Supervision*—responsible, continuous, on-the-premises observation and supervision by a licensed

physical therapist of the procedures, functions and practice rendered by a physical therapy technician; student; physical therapist assistant permittee pending licensure by examination or re-examination; and physical therapist temporary permittee who has once failed the licensing examination.

*On Premises*—that the supervising physical therapist is personally present in the treating facility and immediately available to the treatment area.

*Passive Manipulation*—manipulation or movement of muscular or joints other than by the spontaneous function of the body or active effort on the part of the patient.

*Periodic Supervision*—as related to:

a. *temporary permit* holders who are graduates of APTA accredited programs, shall mean:

i. daily face to face or phone communication between the supervising physical therapist and permit holders; and

ii. on premises observation of patient care in each of the permittees' practice locations, a minimum of two hours per day with a minimum total of 10 hours per week;

b. foreign physical therapy graduates, holding a temporary permit, shall mean daily face to face communication and on premises observation of patient care in each of the permittees' practice settings for at least 1/2 of the hours worked each day until the permittee passes the licensing exam. After passing the examination, the permittee shall require on premises observation of patient care in each practice setting a minimum of one hour per day with a minimum total of five hours per week. If the permittee fails the examination on his first attempt, he shall require continuous supervision;

c. licensed physical therapist assistants and physical therapist assistant permittees pending approval of licensure by reciprocity shall vary according to the treatment facility as outlined in §321.

*Physical Therapy Evaluation*—the evaluation of a patient by the use of physical and mental findings, objective tests and measurements, patient history, and their interpretation, to determine musculoskeletal and biomechanical limitations, to determine his suitability for and the potential efficacy of physical therapy and the establishment or modification of treatment goals and a physical therapy treatment program.

*Physical Therapy Supportive Personnel*—

a. *Physical Therapy Technician*—a worker not licensed by this board who functions in a physical therapy clinic, department or business and assists with preparation of the patients for treatment and with limited patient care;

b. *Physical Therapist Assistant*—a person licensed by the board who is a graduate of an associate degree program in physical therapist assisting accredited by the Commission on Accreditation of Physical Therapy Education (CAPTE) or was granted licensure pursuant to R.S. 37:2403.D;

c. the level of responsibility assigned to physical therapy supportive personnel is at the discretion of the physical therapist, who is ultimately responsible for the care provided by these individuals. Supportive personnel may perform only those functions for which they have documented training and skills. The prohibitions for physical therapy supportive personnel shall include, but not be

limited to, interpretation of referrals; performance of evaluations; initiation or adjustment of treatment programs; assumption of the responsibility for planning patient care; or any other matters as determined by the board. The physical therapist shall only delegate portions of the treatment session to a technician only after the therapist has assessed the patient's status.

*Preventative Services*—the use of physical therapy knowledge and skills by a physical therapist to provide education or activities in a wellness setting for the purpose of injury prevention, reduction of stress and/or the promotion of fitness, but does not include the administrations of physical therapy treatment and, therefore, can be performed without referral or prescription.

*Topical Agents/Aerosols*—topical medications or aerosols used in wound care which are obtained over the counter or by physician prescription or order.

*Wound Care and Debridement*—a physical therapist, physical therapist permittee or student physical therapist may perform wound debridement and wound management that includes, but is not limited to, sharps debridement, debridement with other agents, dry dressings, wet dressings, topical agents including enzymes, and hydrotherapy. A physical therapist assistant, physical therapist assistant permittee or student physical therapist assistant shall not perform sharps debridement. The board's licensees and permittees, as well as students and supportive personnel, shall comply with the supervision requirements set forth in §321.

*Written Treatment Plan or Program*—written statements made by a physical therapist that specify the measurable goals, specific treatment to be used, and proposed duration and frequency of treatment. The written treatment plan or program is an integral component of a physical therapy evaluation, however, the written treatment plan or program must be completed by the physical therapist prior to delegation of appropriate treatment of a physical therapist assistant.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2(A)3.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:748 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 17:666 (July 1991), LR 19:208 (February 1993), LR 21:1243 (November 1995), LR 24:40 (January 1998), LR 26:1447 (July 2000), LR 28:1980 (September 2002), LR 34:1909 (September 2008).

## **Subchapter B. Prohibitions**

### **§307. Unauthorized Practice**

A. ...

B. A physical therapist shall exercise sound professional judgment based upon his knowledge, skill, education, training, and experience, and shall perform only those procedures for which he is competent. If diagnostically or otherwise the physical therapist becomes aware of findings and/or the need for treatment which are outside the scope of the physical therapist's knowledge, experience, or expertise, the physical therapist shall notify the patient/client and refer the patient/client to an appropriate practitioner.

C. A physical therapist shall use the letters "P.T." in connection with his name or place of business to denote

licensure. A physical therapist assistant shall use the letters "P.T.A." in connection with his name to denote licensure. No person shall hold himself out to the public, an individual patient, a physician, dentist or podiatrist, or to any insurer or indemnity company or association or governmental authority as a physical therapist, physiotherapist or physical therapist assistant, nor shall any person directly or indirectly identify or designate himself as a physical therapist, physiotherapist, registered physical therapist, licensed physical therapist, physical therapist assistant, or licensed physical therapist assistant, nor use in connection with his name the letters, P.T., L.P.T., R.P.T., or P.T.A., or any other words, letters, abbreviations, insignias, or sign tending to indicate or imply that the person constitutes physical therapy, unless such person possesses a current license or temporary permit duly issued by the board.

D. A physical therapy student who is pursuing a course of study leading to a degree as a physical therapist in a professional education program approved by the board as is satisfying supervised clinical education requirements related to his physical therapy education shall use the letters "S.P.T." in connection with his name while participating in this program. A physical therapist assistant student who is pursuing a course of study leading to a degree as a physical therapist assistant in a professional education program approved by the board and is satisfying supervised clinical education requirements related to his physical therapist assisting education shall use the letters "S.P.T.A." in connection with his name while participating in this program.

E. A licensed physical therapist is authorized to engage in the practice of physical therapy as set forth in the Physical Therapy Practice Act and the board's rules which includes, but is not limited to, the performance of physical therapy evaluations, consultative services, wound care and debridement, the storage and administration of aerosol and topical agents, the performance of passive manipulation, and preventative services all as more fully defined in §305.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2(A)3.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:749 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 21:395 (April 1995), LR 24:40 (January 1998), LR 26:1447 (July 2000), LR 34:1909 (September 2008).

### **§309. Exemptions**

A. The prohibitions of §307 of this Chapter shall not apply to a person employed by any department, agency, or bureau of the United States Government when acting within the course and scope of such employment, nor shall they prohibit a person from acting under and within the scope of a license issued by an agency of the state of Louisiana.

B. A student shall be exempt from licensure when pursuing a course of study leading to a degree in physical therapy or physical therapist assisting in a professional education program approved by the board and is satisfying supervised clinical education requirements related to his education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2(A)3.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:749 (December 1987), amended by the

Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 24:40 (January 1998), LR 34:1909 (September 2008).

**§311. Prohibitions: Licensed or Temporary Permit Physical Therapists**

A. A physical therapist shall not:

1. - 3. ...
4. undertake to concurrently supervise more than three physical therapy technicians and/or physical therapist assistants, so that the ratio of supportive personnel to supervising licensed physical therapists is not in excess of three-to-one.

B. A physical therapist shall not abuse or exploit the physical therapy provider/patient or client relationship, or his relationship with peers or subordinates for any purpose, including for the purpose of securing personal compensation, gratification, or gain or benefit of any kind or type, any or all of which are unrelated to the provision of physical therapy services, including engaging in inappropriate sexual or inappropriately intimate conduct, which shall include, but not be limited to:

1. engaging in or soliciting a sexual or inappropriately intimate relationship, whether consensual or non-consensual, while a physical therapist or physical therapist assistant/patient or client relationship exists. Termination of the physical therapist/patient or client relationship does not eliminate the possibility that a sexual or inappropriately intimate relationship may exploit the vulnerability of the former patient/client;
2. making sexual advances, requesting or offering sexual favors or engaging in any other verbal conduct or physical contact of a sexual or inappropriately intimate nature with patients or clients; or
3. intentionally viewing a completely or partially disrobed patient in the course of treatment, if such viewing is not reasonably related to patient diagnosis or treatment under current practice standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3) and Act 731 of 1992.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Services, Board of Physical Therapy Examiners, LR 13:749 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 17:667 (July 1991), LR 19:208 (February 1993), LR 21:1243 (November 1995), LR 34:1910 (September 2008).

**Subchapter C. Supervised Practice**

**§315. Scope of Chapter**

A. ...

B. Before working in a school or home health setting, a physical therapist assistant shall have one year of supervised work experience.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3) and Act 731 of 1992.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Services, Board of Physical Therapy Examiners, LR 13:749 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 19:208 (February 1993), LR 34:1910 (September 2008).

**§321. Supervision Requirements**

A. Licensed Physical Therapist Assistant

1. The level of responsibility assigned to the physical therapist assistant pursuant to §321.A is at the discretion of the physical therapist who is ultimately responsible for the care provided by this individual.

2. In acute care facilities, rehabilitation facilities, skilled nursing facilities and out-patient facilities, the supervising physical therapist shall:

- a. perform an evaluation and set up a written treatment plan on each patient prior to implementation of treatment;
- b. treat and reassess the patient and document on at least every sixth treatment day, but not less than once per month;
- c. treat and assess the patient at discharge and write a discharge summary;
- d. be on premises weekly (any seven consecutive days) for at least one-half of the physical therapy treatment hours in which the physical therapist assistant is rendering physical therapy treatment;
- e. be readily accessible by beeper or phone and available to the patient by the next scheduled treatment session upon request of the patient or physical therapist assistant.

3. In school and home health settings, the supervising physical therapist shall:

- a. perform an evaluation and set up a written treatment plan on each patient prior to implementation of treatment;
- b. treat and reassess the patient and document on at least every sixth treatment day but not less than once per month;
- c. treat and assess the patient at discharge and write a discharge summary;
- d. conduct, once weekly and document, a face to face patient care conference with each physical therapist assistant to review progress and modification of treatment programs for all patients;
- e. be readily accessible by beeper or phone and available to the patient by the next scheduled treatment session upon request of the patient or physical therapist assistant.

4. In client preventative services rendered by a licensed physical therapist assistant, the supervising physical therapist:

- a. shall perform an initial screening to determine if an individual qualifies for preventative services and document;
- b. shall provide education or activities in a wellness setting through the establishment of a program for the purpose of injury prevention, reduction of stress and/or the promotion of fitness;
- c. shall be readily accessible by beeper or mobile phone;
- d. shall conduct and document a face to face conference with the physical therapist assistant regarding each client at least every 30 days commencing with the initiation of the preventative services for that client; and
- e. may delegate only those functions to a physical therapist assistant for which he has documented training and skills.

B. - B.3. ...

C. Physical Therapy Technician

1. The level of responsibility assigned to a physical therapy technician is at the discretion of the physical therapist who is ultimately responsible for the care provided by the supervised individual(s).

2. In all practice settings, during the provision of physical therapy services, the supervising physical therapist shall provide continuous, in-person supervision of the physical therapy technician.

3. A physical therapy technician may assist a physical therapist assistant only with those aspects of patient treatment which have been assigned to the physical therapy technician by a physical therapist.

4. To ensure the safety and welfare of a patient during ambulation, transfers, or functional activities, the physical therapist assistant may utilize one or more physical therapy technicians for physical assistance.

5. The supervising physical therapist shall provide continuous, in-person supervision of client preventative services rendered by a physical therapy technician as follows:

- a. perform and document an initial screening to determine if an individual qualifies for preventative services;
- b. establish a wellness program, including education and activities, to promote injury prevention, reduction of stress and/or fitness;
- c. delegate only those functions to a physical therapy technician for which the physical therapist has documented the training and skills of the physical therapy technician;
- d. be available to the technician for direct and immediate verbal clarification.

D. Student. The supervising physical therapist shall provide continuous, on-premises supervision of a physical therapy or physical therapist assistant student in all practice settings.

E. Supervision Ratio. In any day, a supervising physical therapist shall not provide supervision for more than five individuals, nor exceed the following limitations as to supervised personnel:

1. more than three physical therapist assistants and/or technicians;
2. more than two permittees; or
3. more than five students.

F. Unavailability of Supervising Physical Therapist of Record for Permittees and Students. If, for any reason, a supervising physical therapist of record cannot fulfill his supervisory obligations:

1. for less than one week, a licensed physical therapist in good standing may supervise in his stead. In such case, the substitute physical therapist is not required to be approved by the board; however, the board approved supervisor, the substitute supervisor, as well as the supervised individual(s), shall be responsible for the care provided by those supervised;

2. for one week or more, the supervising physical therapist shall send written notification to the board for approval of a new supervising physical therapist during his period of absence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2(A)3.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:750 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:388 (May 1989), LR 19:208 (February 1993), LR 24:41 (January 1998), LR 26:1447 (July 2000), LR 28:1980 (September 2002), LR 34:1910 (September 2008).

### §323. Documentation Standards

A. A written record of physical therapy provided shall be kept on each patient or client served. A complete record shall include written documentation of prescription or referral, initial evaluation, treatment provided, P.T./P.T.A. conferences, progress notes, reassessment, and patient status at discharge.

1. - 2. ...

3. Progress note is the written documentation of the patient's subjective status, changes in objective findings, and progression or regression toward established goals. A progress note shall be written and signed by the attending physical therapist or physical therapist assistant and shall not be written or signed by a physical therapy technician. A progress note shall be written a minimum of once per week, or if the patient is seen less frequently, then at every visit.

4. - 5. ...

6. P.T./P.T.A. conference is the written documentation of the face-to-face conference held to discuss the status of the patient seen in the home health or school settings.

7. Discharge Summary is the written documentation of the reasons for discontinuation of care, degree of goal achievement and a discharge plan which shall be written and signed by the attending physical therapist. A discharge summary shall not be written or signed by a physical therapist assistant or other supportive personnel. A discharge summary shall be written at the termination of physical therapy care.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:750 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:389 (May 1989), LR 21:395 (April 1995), LR 26:1447 (July 2000), LR 28:1981 (September 2002), LR 34:1911 (September 2008).

### Subchapter D. Disciplinary Proceedings

#### §327. Definitions

A. - D. ...

E. As used in R.S. 37: 2413.A.7 of the Physical Therapy Practice Act, the term *unprofessional conduct* means:

1. departure from, or failure to conform to, the minimal standards of acceptable and prevailing physical therapy practice in the state of Louisiana, regardless of whether actual injury to a patient results therefrom, including, but not limited to:

- a. failure to use sound professional judgment;
- b. performing procedures for which the physical therapist is not competent; or
- c. failure to inform and refer the patient/client to an appropriate practitioner, when the physical therapist becomes aware of findings and/or the need for treatment which are outside the scope of the physical therapist's competence;

2. - 5. ...

6. abuse or exploitation of the physical therapy provider/patient or client relationship for the purpose of securing personal compensation, gratification, or gain or benefit of any kind or type, any or all of which are unrelated to the provision of physical therapy services, including

engaging in inappropriate sexual or inappropriately intimate conduct, which shall include, but not be limited to:

a. engaging in or soliciting a sexual or inappropriately intimate relationship, whether consensual or non-consensual, while a physical therapist or physical therapist assistant/patient or client relationship exists;

b. making sexual or inappropriately intimate advances, requesting or offering sexual favors or engaging in any other verbal conduct or physical contact of a sexual or inappropriately intimate nature with patients or clients; or

c. intentionally viewing a completely or partially disrobed patient in the course of treatment if such viewing is not reasonably related to patient diagnosis or treatment under current practice standards;

E.7 - F.1 ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2A(3) and Act 31 of 1992.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:389 (May 1989), amended LR 19:208 (February 1993), LR 28:1981 (September 2002), LR 34:1911 (September 2008).

Cheryl Gaudin  
Executive Director

0809#016

## RULE

### Department of Health and Hospitals Board of Practical Nurse Examiners

Adjudication and Records Protection  
(LAC 46:XLVII.306 and 917)

The Board of Practical Nurse Examiners hereby amends LAC 46:XLVII.101 et seq., in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Practical Nursing Practice Act, R.S. 37:961-979.

The purpose of the change to Section 306 is to add language which prohibits respondents and/or their attorneys from contacting board witnesses in order to protect board witnesses from harassment, threats, and/or other forms of intimidation which may be employed in an attempt to influence testimony and/or to prevent board witnesses from testifying at a hearing; to include denial in the listing of disciplinary actions that the board may impose as provided under R.S. 37:961 et seq.; and to define denial.

The purpose of the change to Section 917 is to delineate the records that schools must protect and retain for 60 years and to provide for all other records to be maintained and protected according to a record retention schedule submitted to the board for approval.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part XLVII. Nurses

#### Subpart 1. Nurses: Practical Nurses and Registered Nurses

### Chapter 3. Board of Practical Nurse Examiners

#### §306. Adjudication Proceedings

A. - M.3. ...

4. Prior to a formal hearing the respondent, his/her attorney, or any party representing his/her interest is

prohibited from having any contact whatsoever with any witness who will or may be called to give testimony in a formal hearing.

5. Depositions for the purposed of discovery are permitted and may also be allowed for the perpetuation of a witness' testimony upon good showing to the board that a witness will be unavailable to appear in person at a formal hearing. All costs of a deposition are borne by the requesting party.

6. Motions may be made before, during, and/or after a formal hearing. All motions made before or after a formal hearing shall be made in writing and in a timely manner in accordance with the nature of the request.

N. - Q. ...

R. Disciplinary action(s) imposed by the board may include reprimand, probation, suspension, revocation, denial, as well as penalties provided under R.S. 37:961 et seq., as amended and/or these rules and regulations of the Louisiana State Board of Practical Nurse Examiners and/or any combination thereof.

1. - 4. ...

5. Denial. An applicant may be denied licensure in the state of Louisiana. An applicant who has been denied licensure shall never be allowed to practice practical nursing in the state of Louisiana.

S. - U. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969 and 37:978 and Acts 675 and 827, 1993.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 2:275 (September 1976), amended LR 3:193 (April 1977), LR 10:336 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 18:1126 (October 1992), repromulgated LR 18:1259 (November 1992), amended LR 20:663 (June 1994), LR 26:2614 (November 2000), LR 28:2353 (November 2002), LR 30:1478 (July 2004), LR 34:1912 (September 2008).

### Chapter 9. Program Projection

#### Subchapter C. Records

#### §917. Protection

A. Administration shall provide for the protection of all student records and transcripts, faculty personnel records, contractual agreements, communications and other pertinent program information against loss, destruction and unauthorized use.

B. The following records shall be maintained and protected for a period of not less than 60 years in fireproof and waterproof storage:

1. a copy of the curriculum used for each class of students;

2. a list of the textbooks and references used for each class of students;

3. a list of the faculty employed to instruct each class of students;

4. the master rotation schedule for each class of students;

5. a copy of the student evaluation form for admittance into an approved PN program;

6. student transcripts;

7. licensure examination results for each graduate;

8. materials of historical interest.

C. All other records, contractual agreements, communications, and information shall be maintained and

protected according to a record retention schedule which schedule shall be submitted to the board for approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969 and 37:976.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 10:338 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 18:1127 (October 1992), repromulgated LR 18:1260 (November 1992), amended LR 34:1912 (September 2008).

Claire Doody Glaviano, MN, APRN  
Executive Director

0809#020

## RULE

### Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

#### Inpatient Hospital Services—Non-Rural, Non-State Hospitals—Distinct Part Psychiatric Unit Expansions (LAC 50:V.915)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted LAC 50:V.915 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. Changes in the Size of Distinct Part Psychiatric Units. For the purposes of Medicaid reimbursement, the number of beds and square footage of each distinct part psychiatric unit will remain the same throughout the cost reporting period. Any changes in the number of beds or square footage considered to be a part of a distinct part psychiatric unit may be made only at the start of a cost reporting period. Verification of these changes will be completed during the Medicaid agency's on-site survey at least 60 days prior, but no more than 90 days prior, to the end of the hospital's current cost reporting period with other information necessary for determining recognition as a distinct part psychiatric unit.

1. Exception. Effective for dates of service on or after January 1, 2008, a Medicaid enrolled non-state acute care hospital that signs an addendum to the Provider Enrollment form (PE-50) by March 1, 2008, with the Department of Health and Hospitals, Office of Mental Health may make a one-time increase in its number of beds with a resulting increase in the square footage of its current distinct part psychiatric unit or a one-time opening of a new distinct part psychiatric unit.

a. 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.

b. 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.

B. 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. Exception. In accordance with §915.A.1.a, a facility may take advantage of a one-time increase in its number of beds. If a facility does utilize the one-time increase provisions, the changes shall be effective for the remainder of the cost reporting period in which the one-time increase provisions are utilized. Any further changes can only be made at the start of the next cost reporting 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 20:49 (January 1994), amended LR 34:1913 (September 2008).

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

Alan Levine  
Secretary

0809#125

## RULE

### Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

#### Mental Health Rehabilitation Program (LAC 50:XV.Chapters 1-7 and 11)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has amended LAC 50:XV.Chapters 1-7 and 11 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 adopted in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

#### Title 50

### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part XV. Services for Special Populations

##### Subpart 1. Mental Health Rehabilitation

#### Chapter 1. General Provisions

#### §103. Definitions and Acronyms

*Approved Clinical Evaluator (ACE)*—an LMPH who has received training required by the bureau and demonstrated competency in completing assessments and reassessments.

*APRN - USPRA* ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1082 (May 2005), amended LR 32:2065 (November 2006), LR 34:1913 (September 2008).

### **Chapter 3. Covered Services and Staffing Requirements**

#### **Subchapter B. Mandatory Services**

##### **§311. Assessment**

A. - C.3.d. ...

NOTE: The provider must ensure and document that a recipient who chooses a non-MHR physician who is not a psychiatrist receives a face-to-face interview, review of Medical History Questionnaire section, review of the ISRP and review of the eCDI screen performed by a qualified psychiatrist.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1083 (May 2005), amended LR 32:2065 (November 2006), LR 34:1914 (September 2008).

##### **§323. Parent/Family Intervention (Counseling)**

A. - B.2. ...

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 31:1084 (May 2005), amended LR 32:2066 (November 2006), amended LR 34:1914 (September 2008).

### **Chapter 5. Medical Necessity Criteria**

#### **§501. General Provisions**

A. - C. ...

D. Initially all recipients must meet the medical necessity criteria for diagnosis, disability, duration and level of care. MHR providers shall rate recipients on the CALOCUS/LOCUS at 90 day intervals, or at an interval otherwise specified by the bureau, and these scores and supporting documentation must be submitted to the bureau or its designee upon request. Ongoing services must be requested every 90 days based on progress towards goals, individual needs, and level of care requirements which are consistent with the medical necessity criteria.

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 31:1086 (May 2005), amended LR 32:2067 (November 2006), LR 34:1914 (September 2008).

### **Chapter 7. Provider Participation Requirements**

#### **Subchapter A. Certification and Enrollment**

##### **§703. Application**

A. To be certified and enrolled as an MHR provider to offer one or more optional services, or recertified as a provider, requires that the provisions of this Subpart 1, the provider manual and the appropriate statutes are met.

B. Initial Certification and Enrollment. An applicant who elects to enroll with the department to provide MHR services shall apply to the Bureau of Health Services Financing or its designee for certification. The applicant shall create and maintain documents to substantiate that the applicant meets all prerequisites in order to enroll as a Medicaid provider of MHR services.

C. An applicant shall submit the following documents for certification:

1. MHR initial certification application;
2. Medicaid Basic Enrollment Packet for Entities/Businesses;
3. enrollment packet for the Louisiana Medical Assistance Program-Mental Health Rehabilitation;
4. enrollment packet for the Louisiana Medical Assistance Program-Physician, individual or group, if applicable;

5. proof of a request for accreditation and a copy of the completed application with a national accrediting body approved by the bureau and proof of payment to the accrediting body. Proof of full accreditation is required within nine months of issuance of a Medicaid provider enrollment number;

6. an affidavit that identifies the applicant's licensed mental health professional and psychiatrist, including verification of current licensure. The LMHP identified must be an employee of the applicant;

7. proof of the establishment and maintenance of a line of credit from a federally insured, licensed lending institution in an amount equal to three months of current operating expenses as proof of adequate finances. A budget showing actual or projected monthly expenses shall be attached. It is the MHR provider's responsibility to notify the bureau in the event that the financial institution cancels or reduces the upper credit limit.

a. Nonprofit agencies that have operated for five years or more and have an unqualified audit report for the most recent fiscal year prepared by a licensed certified public accountant, which reflects financial soundness of the nonprofit provider, are not required to meet this standard.

b. governmental entities or organizations are exempt from this requirement;

8. a statement identifying the population to be served:

a. adults with serious mental illness; or

b. children with an emotional/behavior disorder;

9. - 16. ...

17. proof of current inspection and approval by the Office of Public Health; and

18. a comprehensive administrative policy and procedure manual that describes an administrative structure to provide MHR services as defined and required by the bureau.

D. The MHR provider shall have a separate Medicaid provider number for each location where it routinely conducts business and provides scheduled services. This does not include those sites or locations that meet the definition of an off-site service delivery location.

E. Optional Services Certification. An applicant who elects to offer one or more optional services shall apply to the Bureau of Health Services Financing or its designee. The applicant shall create and maintain documents to substantiate that the provider meets all prerequisites for certification.

1. An applicant shall submit the following documents for certification:

a. MHR Optional Services Certification application;

b. comprehensive implementation plan;

c. proof of current inspection and approval of the site for psychosocial rehabilitation (PSR), by the Office of State Fire Marshal;

d. proof of current inspection and approval of the site for PSR, by the Office of Public Health; and

e. proof that the supervising LMHP for PSR is a Certified Psychosocial Rehabilitation Practitioner (CPRP). If the LMHP is not a CPRP, submit a written plan for achieving certification within 12 months of the provider's certification or within 12 months of being hired.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1086 (May 2005), amended LR 32:2069 (November 2006), LR 34:1914 (September 2008).

#### **§705. Application and Site Reviews**

A. An applicant shall undergo one or more of the following reviews by the department or its designee before certification to provide mandatory or optional services to ensure compliance with provider enrollment and operational requirements:

1. an application review;
2. a first site review; and if necessary
3. a second site review.

B. The bureau or its designee may conduct a review of all application documents for compliance with MHR requirements. The certification application must be approved by the bureau prior to the first site review of the applicant's physical location.

1. If the application documentation furnished by the applicant is not acceptable, the applicant will be notified of the deficiencies.

a. The applicant has 30 days to correct the documentation deficiencies. If the applicant fails to resubmit the application or if the application is not approved, certification may be denied.

2. Following approval of the application, the applicant will have 30 days to schedule the first site review.

a. If the applicant does not request a site visit within 30 days, certification may be denied.

b. If the applicant requests a site visit within 30 days a site review may be scheduled.

3. If the site meets all operational requirements, the certification request may be approved and forwarded to Provider Enrollment for further processing.

4. If at the site review all operational requirements are not met, the provider will be notified of the deficiencies.

a. The applicant will have 30 days from the date of the notice of deficiency to correct any deficiencies and request a second site review.

b. A second site review may be conducted if deemed necessary by the bureau.

c. If the applicant fails to correct all deficiencies or to schedule a second site review, certification may be denied.

d. If the application documentation furnished by the applicant is not acceptable, the applicant will be notified of the deficiencies.

e. The applicant has 30 days to correct the documentation deficiencies. If the applicant fails to resubmit the application or if the application is not approved, certification may be denied.

5. Following approval of the application, the applicant will have 30 days to schedule the first site review. If the applicant does not request a site visit within 30 days, certification may be denied.

6. If the applicant requests a site visit within 30 days a site review may be scheduled.

7. If the site meets all operational requirements, the certification request may be approved and forwarded to Provider Enrollment for further processing.

8. If at the site review all operational requirements are not met, the provider will be notified of the deficiencies.

a. The applicant will have 30 days from the date of the notice of deficiency to correct and deficiencies and request a second site review.

b. A second site review may be conducted if deemed necessary by the bureau.

c. If the applicant fails to correct all deficiencies or to schedule a second site review, certification may be denied.

C. A prospective provider that fails certification on its original or a subsequent application shall undergo the entire review process detailed above, if and when it reapplies for certification.

C.1. – 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 30:802 (April 2004), amended LR 31:1087 (May 2005), LR 32:2070 (November 2006), LR 34:1915 (September 2008).

#### **§707. Failure to Achieve Certification/Recertification**

A. If the applicant fails to meet any of the application or certification requirements, and certification is denied, they may not be enrolled as an MHR provider and may not reapply for one year from the date of the notice of failure to achieve certification.

B. If the applicant fails to meet any recertification requirements and recertification is denied, the provider may be terminated and may not reapply for one year from the date of the notice of termination.

C. There may be an immediate loss of certification if at any time the enrolled MHR provider fails to maintain program requirements or accreditation status. The provider may not reapply for certification for one year following the effective date of termination.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1087 (May 2005), amended LR 32:2070 (November 2006), LR 34:1915 (September 2008).

#### **Subchapter B. Accreditation**

##### **§719. Accreditation**

A. Currently enrolled providers and applicants to become providers of mental health rehabilitation service shall be accredited by a national accreditation organization for any services for which Medicaid reimbursement will be requested. The department shall only accept accreditation from the following national organizations for the purposes of enrolling a provider into the Mental Health Rehabilitation (MHR) Program:

A.1. - B.3. ...

C. If at any time, an MHR provider loses accreditation, an automatic loss of certification may occur. The applicant may not reapply for one year from the effective date of the termination.

D. Failure to notify the department of accreditation denial, loss of accreditation status or any negative change in accreditation status may result in sanctions to the mental health rehabilitation agency.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1088 (May 2005), amended LR 32:2071 (November 2006), LR 34:1916 (September 2008).

### Subchapter C. Provider Responsibilities

#### §731. General Provisions

A. - H.3.a. ...

b. has at least five active recipients authorized to receive services at the time of any monitoring review, other than the initial application review;

H.3.c. - J.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 31:1088 (May 2005), amended LR 32:2071 (November 2006), LR 34:1916 (September 2008).

#### §737. Staffing Qualifications

A. MHR services shall be provided by individuals who meet the following education and experience requirements.

1. Licensed Mental Health Professional (LMHP). A LMHP is a person who has a graduate degree in a mental health-related field from an accredited institution and is licensed to practice in the state of Louisiana by the applicable professional board of examiners. All college degrees must be from a nationally accredited institution of higher education as defined in Section 102(b) of the Higher Education Act of 1965 as amended. In order to qualify as a mental health-related field, an academic program must have curriculum content in which at least 70 percent of the required courses for the major field of study are based upon the core mental health disciplines. Additionally, an LMHP who conducts assessments or reassessments must meet all Approved Clinical Evaluator (ACE) standards and requirements specified by the bureau including, but not limited to, specialized training and demonstrated competency in completing valid assessments. The following professionals are considered to be LMHPs.

a. Psychiatrist. Each MHR provider shall implement and maintain a contract with a psychiatrist(s) to provide consultation and/or services on site as medically necessary. The psychiatrist must be a licensed medical doctor (M.D. or D.O.) who is board-certified or board-eligible, authorized to practice psychiatry in Louisiana, and enrolled to participate in the Louisiana Medicaid Program. A board eligible psychiatrist may provide psychiatric services to MHR recipients if he/she meets all of the following requirements.

i. The physician must hold an unrestricted license to practice medicine in Louisiana and unrestricted DEA and state and federal controlled substance licenses. If licenses are held in more than one state or jurisdiction, all licenses held by the physician must be documented in the employment record and also be unrestricted.

ii. The physician must have satisfactorily completed a specialized psychiatric residency training program accredited by the Accreditation Council for Graduate Medical Education (ACGME), as evidenced by a copy of the certificate of training or a letter of verification of training from the training director which includes the exact dates of training and verification that all ACGME

requirements have been satisfactorily met. If training was completed in child and adolescent psychiatry, the training director of the child and adolescent psychiatry program must document the child and adolescent psychiatry training. If training was completed in a psychiatric residency program not accredited by the ACGME, the physician must demonstrate that he/she meets the most current requirements as set forth in the American Board of Psychiatry and Neurology's Board Policies, Rules and Regulations regarding Information for Applicants for Initial Certification in Psychiatry.

NOTE: All documents must be maintained and readily retrieved for review by the bureau or its designee.

b. Psychologist—an individual who is licensed as a practicing psychologist under the provisions of R.S. 37:2351–2367;

c. Advanced Practice Registered Nurse (APRN)—an individual who is licensed as an advanced practice registered nurse by the Louisiana State Board of Nursing. An APRN must:

i. be certified by a nationally recognized certifying body such as the American Nurses Credentialing Center;

ii. be a clinical nurse specialist or nurse practitioner holding a master's degree with a concentration in one of the following specialties:

(a). adult psychiatric and mental health;

(b). child/adolescent psychiatric and mental health;

(c). family psychiatric and mental health; or

(d). psychiatric and mental health;

iii. operate under an approved collaborative practice agreement with a board-certified or board-eligible psychiatrist;

iv. be enrolled in the Louisiana Medicaid Program as a nurse practitioner or clinical nurse specialist; and

v. have two years of supervised post master's experience in the delivery of mental health services.

NOTE: Supervised experience is experience in mental health services delivery acquired while working under the formal supervision of a LMHP.

d. Social Worker—an individual who has a master's degree in social work from an accredited school of social work and is a licensed clinical social worker under the provisions of R.S. 37:2701–2723.

e. Licensed Professional Counselor—an individual who has a master's degree in a mental health related field, is licensed under the provisions of R.S. 37:1101–1115 and has two years post-masters experience in mental health.

2. Mental Health Professional (MHP). The MHP is an individual who has a master's degree in a mental health-related field, with a minimum of 15 hours of graduate-level course work and/or practicum in applied intervention strategies/methods designed to address behavioral, emotional and mental disorders as a part of, or in addition to, the master's degree.

NOTE: The MHP must be an employee of the MHR provider and work under the supervision of a LMHP.

3. Mental Health Specialist (MHS). The MHS is an individual who meets one or more of the following criteria:

a. a bachelor's degree in a mental health related field; or

b. a bachelor's degree, enrolled in college and pursuing a graduate degree in a mental health-related field,

and have completed at least two courses in that identified field; or

c. a high school diploma or a GED, and at least four years experience providing direct services in a mental health, physical health, social services, education or corrections setting.

NOTE: The MHS must be an employee of the MHR provider and work under the supervision of a LMHP.

4. Nurse. A registered nurse who is licensed by the Louisiana Board of Nursing or a licensed practical nurse who is licensed by the Louisiana Board of Practical Nurse Examiners may provide designated components of medication management services if he/she meets the following requirements.

a. A registered nurse must have:

i. a bachelor's degree in nursing and one year of supervised experience as a psychiatric nurse which must have occurred no more than five years from the date of employment or contract with the MHR provider; or

ii. an associate degree or diploma in nursing and two years of supervised experience as a psychiatric nurse which must have occurred no more than five years from the date of employment or contract with the MHR provider; and

NOTE: Supervised experience is experience in mental health services delivery acquired while working under the formal supervision of a LMHP.

iii. six CEUs regarding the use of psychotropic medications, including atypicals, prior to provision of direct service to MHR recipients.

b. A licensed practical nurse may perform medication administration if he/she has:

i. one year of experience as a psychiatric nurse which must have occurred no more than five years from the date of employment/contract with the MHR provider; and

ii. six CEUs regarding the use of psychotropic medications, including atypicals, prior to provision of direct service to any recipient.

NOTE: Every registered nurse and licensed practical nurse providing MHR services shall have documented evidence of five CEUs annually that are specifically related to behavioral health and medication management issues.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1089 (May 2005), amended LR 32:2072, LR 34:1916 (September 2008).

## **Chapter 11. Sanctions**

### **§1103. Applicable Sanctions**

A. - A.2 ...

3. Requests for new authorizations or reauthorizations may be denied until program compliance is verified.

4. - 5. ...

6. Individuals employed by the provider may be suspended or excluded from providing MHR services.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1091 (May 2005), amended LR 34:1917 (September 2008).

Alan Levine  
Secretary

0809#126

## **RULE**

### **Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing**

#### **Nursing Facility Minimum Licensing Standards Emergency Preparedness (LAC 48:I.9729)**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has amended LAC 48:I.9729 as authorized by R.S. 36:254 and R.S. 40:2009.1-2116.4. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

### **Title 48**

### **PUBLIC HEALTH—GENERAL**

#### **Part I. General Administration**

#### **Subpart 3. Licensing**

#### **Chapter 97. Nursing Homes**

#### **Subchapter B. Organization and General Services**

#### **§9729. Emergency Preparedness**

A. The nursing facility shall have an emergency preparedness plan which conforms to the current Louisiana Model Nursing Home Emergency Plan and these regulations. The plan shall be designed to manage the consequences of all hazards, declared disasters or other emergencies that disrupt the facility's ability to provide care and treatment or threatens the lives or safety of the residents. The facility shall follow and execute its emergency preparedness plan in the event of the occurrence of a declared disaster or other emergency.

1. All nursing facilities located in the parishes named in Louisiana R.S. 40:2009.25(A) shall submit their emergency preparedness information and documentation to the department for review. Upon request, all other nursing facilities shall forward their emergency preparedness information and documentation to the Department of Health and Hospitals (DHH) for review.

a. Emergency preparedness information and documentation shall, at a minimum, include:

i. a copy of the nursing facility's emergency preparedness plan;

ii. updates, amendments, modifications or changes to the nursing facility's emergency preparedness plan;

iii. the current census and number of licensed beds; and

iv. the facility location and current contact information.

2. After reviewing the nursing facility's plan, if the department determines that the plan is not viable or does not promote the health, safety and welfare of nursing facility residents, the facility shall, within 10 days of notification, respond with an acceptable plan of correction to amend its emergency preparedness plan.

B. A nursing facility shall enter current facility information into the Health Standards Section's (HSS) emergency preparedness webpage.

1. The following information shall be entered into the HSS Emergency Preparedness webpage before the fifteenth of each month:

- a. operational status;
- b. census;
- c. emergency contact and destination location information;
- d. emergency evacuation transportation needs categorized by the following types:
  - i. total number needing a coach or bus;
  - ii. total number needing a para-transit or wheelchair accessible vehicle;
  - iii. total number needing transportation other than car, coach, bus or wheelchair accessible vehicle, but do not need advanced life support; or
  - iv. total number needing an advance life support ambulance.

2. A facility shall also enter information within 24 hours of an emergency event. Emergency events include, but are not limited to hurricanes, floods, fires, chemical or biological hazards, power outages, tornados, tropical storms and severe weather.

3. In addition, a facility shall enter updated information requested by the department within 48 hours.

4. - 5. Repealed.

C. The emergency preparedness plan shall be individualized and site specific. All information submitted shall be current and correct. At a minimum, the nursing facility shall have a written emergency plan that addresses:

1. the procedures and criteria used for determining when the nursing facility will evacuate, including a listing of evacuation determinations;

2. the procedures and criteria used for determining when the nursing facility will shelter in place, including a listing of sheltering in place determinations;

3. a primary sheltering host site(s) and alternative sheltering host site(s) outside the area of risk. These host sites must be verified by written agreements or contracts that have been signed and dated by all parties. These agreements or contracts shall be verified annually;

4. the policies and procedures for mandatory evacuations:

a. if the state, parish, or local Office of Homeland Security and Emergency Preparedness (OHSEP) orders a mandatory evacuation of the parish or area in which the nursing facility is located, the facility shall evacuate unless the facility receives a written exemption from the ordering authority prior to the mandated evacuation;

5. the monitoring of weather warnings and watches as well as evacuation orders from local and state emergency preparedness officials:

a. this monitoring plan shall identify who will perform the monitoring, what equipment will be used for monitoring, and who should be contacted if needed;

6. the delivery of essential care and services to residents, whether the residents are housed in the nursing facility, at an off-site location, or when additional residents are housed in the nursing facility during an emergency;

7. the provisions for the management of staff, including provisions for adequate, qualified staff as well as for distribution and assignment of responsibilities and

functions, either within the nursing facility or at another location;

8. an executable plan for coordinating transportation services that are adequate for the resident census and staff. The vehicles required for evacuating residents to another location shall be air-conditioned when available. The plan shall include the following information:

a. a triage system to identify residents who require specialized transportation and medical needs including the number of residents who need:

- i. an ambulance for advanced life support;
- ii. an ambulance for basic life support;
- iii. a wheelchair accessible or para-transit vehicle;

and/or

- iv. a van, coach or bus;
- b. a written transportation contract(s) for the evacuation of residents and staff to a safe location outside the area of risk that is signed and dated by all parties. Vehicles that are owned by or at the disposal of the facility must have written usage agreements that are signed, dated and include verification of ownership;

NOTE: A copy of a vehicle's title or registration will be sufficient for verification of ownership.

c. The transportation contract and the written usage plans shall include:

i. the number and type of vehicles included in the contract;

ii. the capacity of each vehicle included in the contract; and

iii. a statement of whether each vehicle is air conditioned; and

d. plans to prevent and treat heat related medical illnesses due to the failure of or the lack of air conditioning during transport;

9. the procedures to notify the resident's family or responsible representative of the facility's intent to either shelter in place or evacuate. The facility shall have a designee(s) who will be responsible for this notification. If the facility evacuates, notification shall include:

a. the date and approximate time that the facility is evacuating;

b. the place or location to which the nursing facility is evacuating, including the:

- i. name;
- ii. address; and
- iii. telephone number;

c. a telephone number that the family or responsible representative may call for information regarding the facility's evacuation;

NOTE: Notification to the resident's family or responsible party shall be made as far in advance as possible, but at least within 24 hours of the determination to shelter in place or after evacuation.

10. the procedures or methods that will be used to attach identification to the nursing facility resident. The facility shall designate a staff person to be responsible for this identification procedure. This identification shall remain attached to the resident during all phases of an evacuation and shall include the following minimum information:

- a. current and active diagnosis;
- b. medications, including dosage and times administered;
- c. allergies;

- d. special dietary needs or restrictions; and
  - e. next of kin, including contact information;
11. the procedures for ensuring that an adequate supply of the following items accompany residents on buses or other transportation during all phases of evacuation:
- a. water;
  - b. food;
  - c. nutritional supplies and supplements;
  - d. medication; and
  - e. other necessary supplies;

NOTE: The facility shall designate a staff person to be responsible for ensuring that essential supplies are available during all phases of the evacuation.

12. the procedures for ensuring that all residents have access to licensed nursing staff and that appropriate nursing services are provided during all phases of the evacuation:
- a. for buses transporting 15 or more residents, licensed nursing staff shall accompany the residents on the bus:
    - i. a licensed therapist(s) may substitute for licensed nursing staff;

13. staffing patterns for sheltering in place and for evacuation, including contact information for such staff;

14. a plan for sheltering in place if the nursing facility determines that sheltering in place is appropriate:

NOTE: A nursing facility shall be considered sheltering in place if the facility elects to stay in place rather than evacuate when an executive order or proclamation of emergency or disaster is issued for the parish in which the facility is located pursuant to R.S. 29:724.

- a. if the nursing facility shelters in place, the facility's plan shall ensure that seven days of necessary supplies are on hand or have written agreements, including timelines, to have supplies delivered prior to the emergency event. Supplies should include, but are not limited to:
  - i. drinking water or fluids, a minimum of 1 gallon per day per person sheltering at the facility;
  - ii. water for sanitation;
  - iii. non-perishable food, including special diets;
  - iv. medications;
  - v. medical supplies;
  - vi. personal hygiene supplies; and
  - vii. sanitary supplies;
- b. if the nursing facility shelters in place, the facility's plan shall provide for a posted communications plan for contacting emergency services and monitoring emergency broadcasts. The facility shall designate a staff person to be responsible for this function. The communication plan shall include:
  - i. the type of equipment to be used;
  - ii. back-up equipment to be used if available;
  - iii. the equipment's testing schedule; and
  - iv. the power supply for the equipment being used;
- c. the facility's plan must include a statement indicating whether the facility has a generator for sheltering in place. If the facility has such a generator, the plan shall provide for a seven day supply of fuel, either on hand or delivered prior to the emergency event. If the facility has such a generator, the plan shall provide a list of the generator's capabilities including:
  - i. its ability to provide cooling or heating for all or designated areas in the facility;

- ii. the ability to power an OPH approved sewerage system;
  - iii. the ability to power an OPH approved water system;
  - iv. the ability to power medical equipment;
  - v. the ability to power refrigeration;
  - vi. the ability to power lights; and
  - vii. the ability to power communications;
- d. an assessment of the integrity of the facility's building to include, but not be limited to:
- i. wind load or ability to withstand wind;
  - ii. flood zone and flood plain information;
  - iii. power failure;
  - iv. age of building and type of construction; and
  - v. determinations of, and locations of interior safe zones;
- e. plans for preventing and treating heat related medical illnesses due to the failure of or the lack of air conditioning while sheltering in place; and
  - f. the facility's plan must include instructions to notify OHSEP and DHH of the facility's plan to shelter in place;

15. those nursing facilities that are subject to the provisions of R.S. 40:2009.25(A) shall perform a risk assessment to determine the facility's integrity. The integrity of the facility and all relevant and available information shall be used in determining whether sheltering in place is appropriate. All elevations shall be given in reference to sea level or adjacent grade as appropriate. The assessment shall be reviewed and updated annually. The risk assessment shall include the facility's determinations and the following documentation:

- a. the facility's latitude and longitude;
- b. flood zone determination for the facility and base flood elevation, if available:
  - i. the facility shall evaluate how these factors will affect the building;
  - c. elevations of the building(s), heating ventilation and air conditioning (HVAC) system(s), generator(s), fuel storage, electrical service, water system and sewer motor, if applicable:
    - i. the facility shall evaluate how these factors will affect the facility considering projected flood and surge water depths;
  - d. an evaluation of the building to determine its ability to withstand wind and flood hazards to include:
    - i. the construction type and age;
    - ii. roof type and wind load;
    - iii. windows, shutters and wind load;
    - iv. wind load of shelter building;
    - v. location of interior safe zones;

NOTE: If wind load determinations are not available, the facility shall give the reason.

- e. an evaluation of each generator's fuel source(s), including refueling plans, fuel consumption rate and a statement that the output of the generator(s) will meet the electrical load or demand of the required (or designated) emergency equipment;
- f. the determinations of an evaluation of surroundings, including lay-down hazards or objects that could fall on the building and hazardous materials, such as:

- i. trees;
  - ii. towers;
  - iii. storage tanks;
  - iv. other buildings;
  - v. pipe lines;
  - vi. chemical and biological hazards; and
  - vii. fuels;
- g. Sea, Lake and Overland Surge from Hurricanes (SLOSH) Modeling using the Maximum's of the Maximum Envelope of Waters (MOM) for the facility's specific location and the findings for all categories of hurricanes. The model will be done using both mean and high tides. The facility's plan must include an evaluation of how this will or will not affect the facility;

16. the facility's plan shall provide for an evaluation of security risks and corresponding security precautions that will be taken for protecting residents, staff and supplies during and after an emergency event;

17. the facility's plan shall include clearly labeled and legible floor plan(s) of the nursing facility's building(s). The facility's plan shall include the following:

- a. the areas being used as shelter or safe zones;
- b. the supply and emergency supply storage areas;
- c. the emergency power outlets;
- d. the communications center;
- e. the location of the posted emergency plan:
  - i. the posted location must be easily accessible to staff; and
  - f. a pre-designated command post.

D. Emergency Plan Activation, Review and Summary

1. The nursing facility's shelter in place and evacuation plan(s) shall be activated at least annually, either in response to an emergency or in a planned drill. The facility's performance during the activation of the plan shall be evaluated and documented. The plan shall be revised if a need is indicated by the nursing facility's performance during the emergency event or the planned drill.

2. Nursing facilities subject to the provisions of R.S. 40:2009.25(B) shall submit a summary of the updated plan to the department's nursing facility emergency preparedness manager by March 1 of each year. If changes are made during the year, a summary of the amended plan shall be submitted within 30 days of the modification. All agreements and contracts must be verified by all parties annually and submitted.

E. The nursing facility's plan shall be submitted to the parish or local OHSEP annually. Any recommendations by the parish or local OHSEP regarding the nursing facility's plan shall be documented and addressed by the facility.

1. For nursing facilities listed in the R.S. 40:2009.25(A), the following requirements must be met.

- a. The nursing facility's plan shall include verification of its submission to the parish or local OHSEP.
- b. A copy of any and all response(s) by the nursing facility to the local or parish OHSEP recommendations shall be forwarded to DHH nursing home preparedness manager.

F. The plan shall be available to representatives of the Office of the State Fire Marshal and the Office of Public Health.

1. - 2. Repealed.

G. The facility's plan shall follow all applicable laws, standards, rules or regulations.

1. - 2.c. Repealed.

H. Evacuation, Temporary Relocation or Temporary Cessation

1. The following applies to any nursing facility that evacuates, temporarily relocates or temporarily ceases operation at its licensed location an emergency event.

a. The nursing facility must immediately give written notice to the Health Standards Section by hand delivery, facsimile or email of the following information:

- i. the date and approximate time of the evacuation;
- ii. the sheltering host site(s) to which the nursing facility is evacuating; and
- iii. a list of residents being evacuated, which shall indicate the evacuation site for each resident.

b. Within 48 hours, the nursing facility must notify the Health Standards Section of any deviations from the intended sheltering host site(s) and must provide the Health Standards Section with a list of all residents and their locations.

c. If there was no damage to the licensed location due to the emergency event and there was no power outage of more than 48 hours at the licensed location due to the emergency event, the nursing facility may reopen at its licensed location and shall notify DHH Health Standards within 24 hours of reopening. For all other evacuations, temporary relocations, or temporary cessation of operations due to an emergency event, a nursing facility must submit to Health Standards a written request to reopen, prior to reopening at the licensed location. That request shall include:

- i. damage report;
- ii. extent and duration of any power outages;
- iii. re-entry census;
- iv. staffing availability;
- v. access to emergency or hospital services; and
- vi. availability and/or access to food, water, medications and supplies.

2. Upon receipt of a reopening request, the department shall review and determine if reopening will be approved. The department may request additional information from the nursing facility as necessary to make determinations regarding reopening.

3. After review of all documentation, the department shall issue a notice of one of the following determinations:

- a. approval of reopening without survey;
- b. surveys required before approval to reopen will be granted. Surveys may include OPH, Fire Marshall and Health Standards; or
- c. denial of reopening.

4. The purpose of the surveys referenced above is to assure that the facility is in compliance with the licensing standards including, but not limited to, the structural soundness of the building, the sanitation code, staffing requirements and the execution of emergency plans.

a. The Health Standards Section, in coordination with state and parish OHSEP, will determine the facility's access to the community service infrastructure, such as hospitals, transportation, physicians, professional services and necessary supplies.

b. The Health Standards Section will give priority to reopening surveys.

5. Upon request by the department, the nursing facility shall submit a written summary attesting how the facility's emergency preparedness plan was followed and executed. The initial summary shall contain, at a minimum:

- a. pertinent plan provisions and how the plan was followed and executed;
- b. plan provisions that were not followed;
- c. reasons and mitigating circumstances for failure to follow and execute certain plan provisions;
- d. contingency arrangements made for those plan provisions not followed; and
- e. a list of all injuries and deaths of residents that occurred during execution of the plan, evacuation and temporary relocation including the date, time, causes and circumstances of the injuries and deaths.

I. Sheltering in Place. If a nursing facility shelters in place at its licensed location during an emergency event, the following will apply.

1. Upon request by the department, the nursing facility shall submit a written summary attesting how the facility's emergency preparedness plan was followed and executed. The initial summary shall contain, at a minimum:

- a. pertinent plan provisions and how the plan was followed and executed;
- b. plan provisions that were not followed;
- c. reasons and mitigating circumstances for failure to follow and execute certain plan provisions;
- d. contingency arrangements made for those plan provisions not followed; and
- e. a list of all injuries and deaths of residents that occurred during the execution of the plan, including the date, time, causes and circumstances of these injuries and deaths.

J. Unlicensed Sheltering Sites

1. In the event that a nursing facility evacuates, temporarily relocates or temporarily ceases operations at its licensed location due to an emergency event, the nursing facility shall be allowed to remain at an unlicensed sheltering site for a maximum of five days. A nursing facility may request one extension, not to exceed 15 days, to remain at the unlicensed sheltering site.

a. The request shall be submitted in writing to the Health Standards Section and shall be based upon information that the nursing facility's residents will return to its licensed location, or be placed in alternate licensed nursing home beds within the extension period requested.

b. The extension shall only be granted for good cause shown and for circumstances beyond the control of the nursing facility.

c. This extension shall be granted only if essential care and services to residents are ensured at the current sheltering facility.

2. Upon expiration of the five days or upon expiration of the written extension granted to the nursing facility, all residents shall be relocated to a licensed nursing facility and the Health Standards Section and OHSEP shall be informed of the residents' new location(s).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

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

Services Financing LR 24:49 (January 1998), amended LR 32:2261 (December 2006), LR 34:1917 (September 2008).

Alan Levine  
Secretary

0809#127

## RULE

### Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Outpatient Hospital Services—Rehabilitation Services  
Reimbursement Methodology (LAC 50:V.5921 and 5923)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted LAC 50:V.5921 and 5923 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.

The department is repromulgating the provisions of the May 20, 2004 Rule (*Louisiana Register*, Volume 30, Number 5) governing outpatient hospital rehabilitation services to move the provisions to the appropriate place in the *Louisiana Administrative Code*.

#### Title 50

#### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part V. Medical Assistance Program—Hospital Services

#### Subpart 5. Outpatient Hospitals

#### Chapter 59. Rehabilitation Services

#### Subchapter A. General Provisions (Reserved)

#### Subchapter B. Reimbursement Methodology

#### §5921. Rehabilitation Services for Recipients Ages 0 up to Age 3

A. The following are reimbursement rates for rehabilitation services provided to Medicaid recipients up to the age of 3, regardless of the type of provider performing the services:

1. initial speech/language evaluation—\$70;
2. initial hearing evaluation—\$70;
3. initial occupational therapy evaluation—\$70;
4. occupational therapy, 15 minutes—\$15;
5. occupational therapy, 30 minutes—\$30;
6. occupational therapy, 45 minutes—\$45;
7. occupational therapy, 60 minutes—\$60;
8. physical therapy and rehab evaluation—\$75;
9. physical therapy, one modality—\$37;
10. physical therapy, two or more modalities—\$56;
11. physical therapy, one or more procedures, and/or modalities, 15 minutes—\$18.50;
12. physical therapy with procedures, 30 minutes—\$37;
13. physical therapy with procedures, 75 minutes—\$92.50;
14. procedures and modalities, 60 minutes—\$74;
15. speech and hearing therapy, 15 minutes—\$14;
16. speech and hearing therapy, 30 minutes—\$28;

17. speech and hearing therapy, 45 minutes—\$42;
18. speech and hearing therapy, 60 minutes—\$56;
19. speech/language/hearing therapy, 60 minutes—\$56;
20. visit with procedure(s), 45 minutes—\$56;
21. visit with procedure(s), 60 minutes—\$74; and
22. visit with procedure(s), 90 minutes—\$112.

AUTHORITY NOTE: Promulgated in 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 30:1034 (May 2004), repromulgated LR 34:1921 (September 2008).

**§5923. Rehabilitation Services for Recipients Ages 3 and Above (Reserved)**

Alan Levine  
Secretary

0809#128

**RULE**

**Office of the Governor  
Board of Examiners of Interior Designers**

Interior Designers

(LAC 46:XLIII.101, 107, 109, 117, 501, 701, 703, 704, 705, 802, 803, 804, 805, 901, 902, 903, 907, 909, 1001, 1003, 1005, 1101, 1104, 1106, 1108, 1110, 1201, and 1203)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 37:3171 that the Board of Examiners of Interior Designers has amended its existing rules and regulations to update name changes of professional organizations, clarify existing rules, and take care of basic housekeeping issues.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part XLIII. Interior Designers**

**Chapter 1. Composition and Operation of the Board**

**§101. Name**

A. The name of this board shall be the Board of Examiners of Interior Designers, hereinafter called the "board," as provided for by Act 227 of the 1984 Regular Legislative Session, hereinafter called the "Act."

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3171 et seq.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Interior Designers, LR 11:339 (April 1985), amended by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1073 (November 1991), amended by the Office of the Governor, Board of Examiners of Interior Designers, LR 34:1922 (September 2008).

**§107. Order of Business**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Interior Designers, LR 11:339 (April 1985), amended by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1073 (November 1991), repealed by the Office of the Governor,

Board of Examiners of Interior Designers, LR 34:1922 (September 2008).

**§109. Expenses of the Board**

A. Members of the board shall receive no compensation for their services but shall receive the same per diem and mileage as is provided by law for the members of the legislature for each day the board conducts business. Out of the funds of the board each board member shall be compensated at the legislative per diem rate for each day in attending board meetings and hearings, attending NCIDQ meetings, issuing certificates and licenses, reviewing examinations, necessary travel, and discharging other duties, responsibilities and powers of the board. In addition, out of said funds each board member shall be reimbursed actual travel, meals, lodging, clerical and other incidental expenses incurred while performing the duties, responsibilities, and powers of the boards, including but not limited to performing the aforesaid specific activities. Per Diem and travel expenses to attend NCIDQ meetings shall be paid to only the member appointed by the board to represent the board at the NCIDQ meeting and attend said meetings, unless otherwise specified by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174 and R.S. 37:3175.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Interior Designers, LR 11:339 (April 1985), amended by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1073 (November 1991), amended by the Office of the Governor, Board of Examiners of Interior Designers, LR 34:1922 (September 2008).

**§117. Staff**

A. The board may, at its discretion, employ an executive director, legal counsel, and such other assistants and clerical staff as it deems necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174(5).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Interior Designers, LR 11:339 (April 1985), amended by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1074 (November 1991), amended by the Office of the Governor, Board of Examiners of Interior Designers, LR 34:1922 (September 2008).

**Chapter 5. Fees and Charges**

**§501. Fees and Charges**

A. All fees and charges except for the annual renewal fee must be made by cashier's check or money order. The annual renewal fee may be paid by business or personal check, unless required otherwise by the board. The following fees and charges have been established.

Licensing	\$150
Annual Renewal Fee	\$150
Restoration of Expired License or Reactivation of Expired License	\$150
Replacing Lost Certificate	\$ 25
Restoration of Revoked or Suspended License	\$150
Failure to Renew License within the Time Limit Set by the Board	\$ 50

B. The fees and charges may be amended by the board in accordance with the Act and rules of the board.

C. The board has the right to waive any fees or other requirements upon written petition of the board by the applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3182 and R.S. 37:3174.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Interior Designers, LR 11:339 (April 1985), amended by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1075 (November 1991), amended by the Office of the Governor, Board of Examiners of Interior Designers, LR 30:1011 (May 2004), LR 34:1922 (September 2008).

## **Chapter 7. Issuance and Reinstatement of Licenses of Registration**

### **§701. Issuance**

A. Licenses of registration issued by the board shall run to and include December 31 of the calendar year following their issue. The initial registration fee payable by cashier's check or money order of \$150 should be submitted with the application to the board. Licenses must be renewed annually for the following calendar year, by the payment of a fee of \$150, provided that any approved applicant who has paid the initial registration fee within the past 6 months year shall not be required to pay the renewal fee until December 31 of the next succeeding calendar year. Licenses not renewed by December 31 shall become invalid, except as otherwise provided.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174 and R.S. 37:3179.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Interior Designers, LR 11:340 (April 1985), amended by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1075 (November 1991), LR 20:864 (August 1994), amended by the Office of the Governor, Board of Examiners of Interior Designers, LR 30:1011 (May 2004), LR 34:1923 (September 2008).

### **§703. Restoration of an Expired License**

A. A license expires on December 31 of each year. If renewing within 12 months of expiration, the licensee must pay the renewal fee plus the late fee.

B. If a licensee seeks to renew their license from 13–24 months past expiration, the licensee must pay the renewal fee plus the restoration fee.

C. If a licensee is a NCIDQ certificate holder and their license has expired for more than 24 months, the licensee must pay the restoration fee plus the renewal fee for each year lapsed.

D. If a licensee is not a NCIDQ certificate holder and their license has expired for more than 24 months, the person must apply for a new license meeting the current requirements.

E. A licensee may reinstate his or her license only with proof that he or she has completed the continuing education units equal to that number required for each year in which his or her license was invalid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174 and R.S. 37:3179.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Interior Designers, LR 11:340 (April 1985), amended by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1075 (November 1991), LR 20:864 (August 1994), amended by the Office of the Governor, Board of Examiners of Interior

Designers, LR 30:1011 (May 2004), LR 34:1923 (September 2008).

### **§704. Restoration of Expired Certificates**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174 and R.S. 37:3179.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1075 (November 1991), amended LR 20:864 (August 1994), amended by the Office of the Governor, Board of Examiners of Interior Designers, LR 30:1012 (May 2004), repealed LR 34:1923 (September 2008).

### **§705. Lost or Destroyed Certificates/ID Cards**

A. Lost or destroyed certificates or ID cards may be replaced on presentation of a sworn statement giving the circumstances surrounding the loss or destruction thereof, together with a fee of \$25. Such replaced certificates shall be marked "duplicate."

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Interior Designers, LR 11:340 (April 1985), amended by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1075 (November 1991), amended by the Office of the Governor, Board of Examiners of Interior Designers, LR 30:1012 (May 2004), LR 34:1923 (September 2008).

## **Chapter 8. Continuing Education**

### **§802. Continuing Education Units**

A. The definition of a continuing education unit will be the same definition used by the Interior Design Continuing Education Council (IDCEC) or a direct replacement entity, which has ruled that one "contact hour" will equal 0.1 continuing education unit, or "CEU."

B. The board will only approve continuing education units which build upon the basic knowledge of Interior Design and which also include topics which concentrate on the subjects of health, safety and welfare as defined by the Interior Design Continuing Education Council (IDCEC) or a direct replacement entity.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3179.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1075 (November 1991), amended by the Office of the Governor, Board of Examiners of Interior Designers, LR 30:1012 (May 2004), LR 34:1923 (September 2008).

### **§803. Verified Credit**

A. - B. ...

C. The board shall approve those programs submitted for board approval based upon the following factors:

1. the program must comply with The Interior Design Continuing Education Council (IDCEC) criteria;

C.2. - E. ...

F. Courses with current IDCEC (Interior Design Continuing Education Council) approvals must be submitted no less than 30 days in advance of the presentation. Courses not currently IDCEC approved must be submitted at least 75 days in advance of the presentation. Programs submitted for approval after they have been given will be reviewed by the board, but approval is not guaranteed. Further, programs which are not approved prior to the date scheduled for the program cannot publish that they have been approved by the

state of Louisiana as interior design continuing education units.

G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3179.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1076 (November 1991), amended by the Office of the Governor, Board of Examiners of Interior Designers, LR 30:1012 (May 2004), LR 34:1923 (September 2008).

#### **§804. Approved Programs**

A. Any HS (health, safety) program approved by the Interior Design Continuing Education Council (IDCEC) or any direct replacement entity will be pre-approved for credit by the board. W (welfare) programs approved by the Interior Design Continuing Education Council (IDCEC) are subject to review for approval. The board by majority vote shall appoint a Continuing Education Advisory Committee which shall solicit, examine, review and recommend for approval by the board all continuing education courses which may be used by registrants and licensees to meet the requirements of this Chapter and Section 3179 of Title 37 of the Louisiana Revised Statutes.

B. The membership of the Continuing Education Advisory Committee shall be appointed by the chair.

C. - D.4. ...

5. verification of course completion. The information must include the sponsor's method for verifying attendance, participation and achievement of program learning objectives; Online courses, magazine articles, and any other home study programs not already IDCEC approved will be required to have testing in place in order to qualify for the review/approval process.

C.6. - E.1. ...

a. Programs already approved by professional organizations including ASID, IIDA, IDEC, IFMA, BOMA, NFPA, SBC AIA, code councils or the IDCEC—\$10

b. Programs not already approved by an organization listed in this section requested for approval by individual licensee—\$25

c. Programs not already approved by an organization listed in this section requested for approval by the provider or sponsor—\$100.

2. - 3. ...

F. Committee Meetings

a. ...

b. Corresponding members will receive information regarding applications for CEU approval by electronic transfer and may respond via the same.

c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3179.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1076 (November 1991), amended by the Office of the Governor, Board of Examiners of Interior Designers, LR 30:1012 (May 2004), LR 34:1924 (September 2008).

#### **§805. Recording and Submission of Credits**

A. - C. ...

D. CEU courses may not be repeated within a 3-year period of time for credit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3179.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1076 (November 1991), amended by the Office of the Governor, Board of Examiners of Interior Designers, LR 34:1924 (September 2008).

### **Chapter 9. Examination and Registration**

#### **§901. Qualifications for Registration**

A. - A.4.

B. All such education shall have been obtained in a program, school, or college of interior design accredited by the Council for Interior Design Accreditation (CIDA) or any direct replacement entity or in an unaccredited program, school or college of interior design approved by the board. The unaccredited program, school or college of interior design will be evaluated on a case by case basis. The board shall review and approve interior design experience on a case by case basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174 and R.S. 37:3177.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Interior Designers, LR 11:340 (April 1985), amended by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1076 (November 1991), amended by the Office of the Governor, Board of Examiners of Interior Designers, LR 34:1924 (September 2008).

#### **§902. Licensing without Examination**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174 and 37:3178.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners of Interior Designers, LR 30:1013 (May 2004), repealed LR 34:1924 (September 2008).

#### **§903. Application Procedure**

A. Application must be made to the board on application forms obtained from the State Board of Examiners of Interior Designers and required fees filed. Application forms may be obtained by contacting the board office.

B. - B.9. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174 and R.S. 37:3179.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Interior Designers, LR 11:340 (April 1985), amended by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1077 (November 1991), amended by the Office of the Governor, Board of Examiners of Interior Designers, LR 30:1013 (May 2004), LR 34:0000 (September 2008).

#### **§907. Examination**

A. The examination for purposes of the Act shall be the National Council for Interior Design Qualification (NCIDQ) Examination, which shall be held at least twice a year in the state of Louisiana. Application forms for said examinations may be obtained by contacting NCIDQ directly. The applicant must pass all portions of the examination and submit proof of passage to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3177.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Interior Designers, LR 11:340 (April 1985), amended by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1077 (November 1991), amended by the Office of the Governor, Board of Examiners of Interior Designers, LR 34:1924 (September 2008).

## **§909. Seal and Display of License Number**

A. - B. ...

C. Any licensed or registered interior designer who advertises his services through any medium, including but not limited to advertising in newspapers, magazines or on television, websites and emails, and to stationery and business cards, shall indicate in such advertisement his name, business address and registration number.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3179.2.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Interior Designers, LR 11:340 (April 1985), amended by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1077 (November 1991), amended by the Office of the Governor, Board of Examiners of Interior Designers, LR 30:1013 (May 2004), LR 34:1925 (September 2008).

## **Chapter 10. Use of Term "Interior Design" and "Interior Designer"**

### **§1001. Limitation of Use of Term**

A. Only those who are licensed as a registered interior designer by the board may use the appellation interior designer, interior designer, licensed interior designer or registered interior designer or the plural thereof in advertising or in business usage when referring to themselves or services to be rendered.

B. - B. *Registered Interior Designer* ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3171 and R.S. 37:3176.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1078 (November 1991), amended by the Office of the Governor, Board of Examiners of Interior Designers, LR 30:1014 (May 2004), LR 34:1925 (September 2008).

### **§1003. Firm Practice**

A. ...

B. License numbers for interior designers in the State of Louisiana are assigned to individuals, not businesses. Only those to whom the number is issued may use that number on business cards or any printed materials, advertising, or signage of a firm. If someone in a firm is not yet licensed, that individual is never allowed to use the number of a licensed interior designer. Using someone else's number would be in violation of the law and would imply the number belongs to the person on the card. Doing so could be grounds for disciplinary action or fines by the state board. No number should appear on the business card of the person who is not yet licensed. If this person were questioned, he/she would provide the information of the licensee who is supervising their work.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3180.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1078 (November 1991), amended by the Office of the Governor, Board of Examiners of Interior Designers, LR 30:1014 (May 2004), LR 34:1925 (September 2008).

### **§1005. Use of Term by Business**

A. A firm shall be permitted to use in its title the term registered interior designer and to be so identified on any sign, card, stationery, device, or other means of identification if at least one partner, director, officer, or other supervisory agent of such firm is licensed as an interior

designer in this state, subject to the requirements of Subsection B of this Section.

B. The board requires a firm, partnership, corporation, or association that engages in the practice of interior design to register with the board under the title: Louisiana Registered Interior Design Firm. The Registered Interior Design Firm must have at least one Louisiana Registered Interior Designer in their employment at all times. The board requires that a firm that no longer employs a Louisiana Registered Interior Designer must notify the board and cease using the title Louisiana Registered Interior Design Firm.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3180.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1078 (November 1991), amended by the Office of the Governor, Board of Examiners of Interior Designers, LR 30:1014 (May 2004), LR 34:1925 (September 2008).

## **Chapter 11. Revocation or Suspension of Licenses of Registration**

### **§1101. Authority of Board of Suspend or Revoke**

A. The board may suspend for a definite period or revoke any license of registration on those grounds mentioned in the Act, which include:

A.1. - A.21. ...

B. - F. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3179 and R.S. 37:3181.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Interior Designers, LR 11:340 (April 1985), amended by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1078 (November 1991), amended by the Office of the Governor, Board of Examiners of Interior Designers, LR 30:1014 (May 2004), LR 34:1925 (September 2008).

### **§1104. Hearings**

A. ...

B. Proceedings to revoke, rescind or suspend the license of registration of an interior designer shall commence by any person filing a sworn affidavit with the board against the interior designer. A time and place for the hearing of the charges shall be fixed by the board. The board, upon its own motion, may investigate the actions of any interior designer and file a complaint against him.

C. - D. ...

E. No action shall be taken to rescind, revoke, or suspend the license of registration of any interior designer unless a quorum of the board is present at the hearing and then only by an affirmative vote of at least four of the members of the board present.

F. If the board determines upon the suspension of the license of registration of any interior designer, it shall fix the duration of the period of the suspension.

G. If the board revokes, rescinds, or suspends the license of registration of any interior designer, the secretary of the board shall give written notice of its action by registered or certified mail to the person against whom the complaint was filed at the last known address.

H. ...

I. Any licensed or registered interior designer who has been found guilty by the board of the charges filed against him and whose license of registration has been revoked, rescinded, or suspended, shall have the right to appeal to the

district court of the parish in which the hearing was held. The appeal shall be governed by the Administrative Procedure Act, R.S. 49:950 et seq.

J. The board shall have the power to issue a new license of registration, change a revocation to a suspension, or shorten the period of suspension, upon satisfactory evidence that proper reasons for such action exist, presented by any person whose license of registration as an interior designer has been revoked, rescinded or suspended. Any person whose license of registration has been suspended shall have his license of registration automatically reinstated by the board at the end of his period of suspension upon payment of the renewal fee. No delinquent fee shall be charged for reinstatement of license of registration under the provisions of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174, R.S. 37:3179 and R.S. 37:3181.

HISTORICAL NOTE: Promulgated the Office of the Governor, Board of Examiners of Interior Designers, LR 30:1015 (May 2004), amended LR 34:1925 (September 2008).

#### **§1106. Fine for Restoration of Revoked or Suspended License**

A. The board may require a licensee who has had his license revoked or suspended pursuant to the provisions of this Chapter to pay a fine of up to \$500 in addition to those charges contained in §703 to have his license restored to him.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3179 and R.S. 37:3182.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1079 (November 1991), amended by the Office of the Governor, Board of Examiners of Interior Designers, LR 30:1016 (May 2004), LR 34:1926 (September 2008).

#### **§1108. Disciplinary Committee**

A. ...

B. The chairman of the board shall appoint the members of the disciplinary committee.

C. All complaints filed with the board shall be reviewed by the disciplinary committee before submission to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3179.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners of Interior Designers, LR 30:1016 (May 2004), amended LR 34:1926 (September 2008).

#### **§1110. Prohibited Acts and Penalties**

A. Unless otherwise exempted, any person who knowingly engages in the practice of interior design without a valid license of registration violates this Chapter.

B. Any person who violates any provision of this Chapter or any rules and regulations adopted under its authority shall be fined not more than \$500 for each such violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3179.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners of Interior Designers, LR 34:1926 (September 2008).

#### **Chapter 12. Miscellaneous**

##### **§1201. Lending Books**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1079 (November 1991), repealed by the Office of the Governor, Board of Examiners of Interior Designers, LR 34:1926 (September 2008).

#### **§1203. Committee on Education**

A. There is hereby created a committee on education, the purpose of which is to provide a liaison with the Louisiana universities providing courses in interior design and their students in interior design.

B. The chairman shall appoint the members of the committee on education.

C. The chairman shall designate the mission of the committee on education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners of Interior Designers, LR 34:1926 (September 2008).

Sandy Edmonds  
Executive Director

0809#005

#### **RULE**

#### **Office of the Governor Board of Home Inspectors**

Home Inspectors Fees  
(LAC 46:XL.117)

The Board of Home Inspectors has amended LAC 46:XL.117, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Louisiana Home Inspector Licensing Law, R.S. 37:1471 et seq. The text has been adopted to provide additional revenue for the board during this period of a slumped housing market.

#### **Title 46**

#### **PROFESSIONAL AND OCCUPATIONAL STANDARDS**

#### **Part XL. Home Inspectors**

#### **Chapter 1. General Rules**

#### **§117. Fees; Submission of Report Fees; Timeliness of Filings**

A. Fees charged by LSBHI are as follows:

1. - 6. ...

7. Inspection Report \$ 7

B. Each home inspection performed by an inspector under this law shall be subject to a \$7 state inspection fee per home inspection. This fee is to be made payable to the LSBHI and is to be remitted monthly in the following manner.

B.1. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475-1477, and R.S. 37:1479.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2740 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 34:1926 (September 2008).

Albert J. Nicaud  
Board Attorney

0809#006

**RULE**

**Office of the Governor  
Commission on Law Enforcement and  
Administration of Criminal Justice**

Peace Officer Training  
(LAC 22:III.4709 and 4731)

In accordance with the provision of R.S. 40:2401 et seq., the Peace Officer Standards and Training Act, and R.S. 40:950 et seq., the Administrative Procedure Act, the Peace Officer Standards and Training Council has amended its rules and regulations relative to the training of peace officers.

**Title 22**

**CORRECTIONS, CRIMINAL JUSTICE AND  
LAW ENFORCEMENT**

**Part III. Commission on Law Enforcement and  
Administration of Criminal Justice**

**Subpart 4. Peace Officers**

**Chapter 47. Standards and Training**

**§4709. Interruption of Full-Time Service**

A. - A.2. ...

B. Any officer hired after January, 1986, who interrupts his full-time law enforcement service for a period not to exceed five years, must qualify with his/her firearms to reinstate their certification. If the officer fails to requalify, then the officer must attend a full 40 hour training course with firearms and successfully requalify to reinstate their certification. If the officer had interrupted his full time service for a period of five years, then the officer must meet the requirements for "refreshers" outlined in §4709.A.2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 13:434 (August 1987), amended LR 25:664 (April 1999), LR 31:3159 (December 2005), LR 34:1927 (September 2008).

**§4731. Revocation of Certification**

A. - C. ...

D. Any hearings conducted by the council shall be conducted according to guidelines established by the council.

E. Any peace officer whose certification has been revoked by the council may file an appeal under the provisions of the Administrative Procedure Act under R.S. 49:964.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 25:665 (April 1999), amended LR 34:1927 (September 2008).

Judy Dupuy  
Executive Director

0809#004

**RULE**

**Department of Public Safety and Corrections  
Corrections Services**

Offender Incentive Pay and Other Wage Compensation  
(LAC 22:I.331)

In accordance with the provisions of R.S. 15:871 and 15:873, the Department of Public Safety and Corrections, Corrections Services, hereby adopts Section 331, Offender Incentive Pay and Other Wage Compensation.

**Title 22**

**CORRECTIONS, CRIMINAL JUSTICE AND LAW  
ENFORCEMENT**

**Part I. Corrections**

**Chapter 3. Adult Services and Juvenile Services**

**Subchapter A. General**

**§331. Offender Incentive Pay and Other Wage  
Compensation**

A. Purpose. To establish the secretary's policy regarding payment of incentive wages and other wage compensations to offenders.

B. Applicability. Chief of Operations, Undersecretary, Assistant Secretary, Director of Prison Enterprises and all Wardens. Each unit head is responsible for ensuring that appropriate unit written policy and procedures are in place to comply with the provisions of this regulation.

C. Policy. It is the secretary's policy that compensation shall be paid to all offenders who have served at least three years of their sentence in the physical custody of the department and who have performed satisfactory work in the job assignment in which they have been classified (except those offenders who opt to receive good time in lieu of incentive wages in accordance with R.S. 15:571.3).

1. An offender sentenced or resentenced or who is returning to the physical custody of the department on or after the effective date of this regulation who is not eligible to earn good time at any rate shall serve three years from the date of reception before becoming eligible to earn compensation.

a. Grandfather Clause—the provisions of this regulation are applicable to offenders received at the reception and diagnostic centers on or after the effective date of this regulation. Offenders received at reception and diagnostic centers prior to this date shall be subject to the waiting period previously in effect for this regulation. Offenders who are currently receiving incentive pay will not be affected and will continue to be eligible to receive incentive pay as they did on the effective date of this regulation but shall be subject to the provisions of Paragraph C.2. as it applies to job changes.

2. Once eligible to earn incentive pay, each offender shall initially be paid an introductory pay level of \$0.02 per hour for a period of six months. After six months, the offender shall be paid at the lowest pay rate that is commensurate with the job assignment he is placed in by the

institution. In the event of a change in an offender's job assignment or custody status, the offender's rate of compensation shall automatically be adjusted to the lowest pay rate of the assigned job.

a. Grandfather Clause—offenders earning incentive pay at any rate, prior to the effective date of this regulation, shall continue to earn at these rates. If the offender is reassigned to a new job or vacates the job for any reason and it has been determined the rate of pay for the job that he is leaving should be lower, the next offender to fill that position will receive the adjusted lower rate.

3. An offender may receive a raise in his hourly pay rate of no greater than \$0.04 per hour on an annual basis unless specifically authorized by mutual agreement of the director of Prison Enterprises and the warden of the respective institution.

4. No offender shall earn more than 80 hours in a two-week period unless specifically authorized by mutual agreement of the director of Prison Enterprises and the warden of the respective institution.

a. Exception—offenders assigned to job duties at the governor's mansion will not be limited to 80 hours bi-weekly.

5. An offender sentenced or re-sentenced or who is returning to the physical custody of the department on or after the effective date of this regulation will not be eligible to earn incentive wages, if the offender is eligible to earn good time at any rate.

a. Grandfather Clause—offenders currently earning good time at a rate of three days for every seventeen days served in accordance with Act 1099 of the 1995 Regular Session who are also earning incentive pay will be allowed to continue to earn incentive pay at authorized rates.

6. Any offender who has his incentive pay forfeited as a disciplinary sanction shall return to the introductory pay level of \$0.02 per hour for a six month period upon reinstatement of his right to earn incentive pay. At the end of the six month period, the offender's pay will be automatically adjusted to the lowest pay rate for the assigned job.

7. A series of pay ranges and a standardized list of job titles will be established by the director of prison enterprises and approved by the secretary or designee. The institutions will be assigned limits on the total amount of incentive wages paid in certain pay ranges. These limits will be derived on a percentage basis determined by the total hours worked by offenders who are eligible to earn incentive pay at each institution and shall be approved by the director of prison enterprises and the secretary or designee. Prison enterprises will issue reports detailing each institution's status with regard to their limits on a quarterly basis. Offender banking will monitor the assigned limits to ensure that the institutions remain within their limits and report discrepancies to the chief of operations, the appropriate regional warden, the director of prison enterprises and the warden of the institution.

a. The regional wardens shall work closely with the director of Prison Enterprises to ensure that any institution that exceeds the established limits is brought back into compliance in an expeditious manner.

b. Exception—offenders who work in Prison Enterprises job titles will not affect an institution's pay range percentage limits.

8. Incentive wages shall not be paid for extra duty assignments that are imposed as sanctions through the offender disciplinary process.

9. All offenders classified in limited duty status (as defined in Health Care Policy HC-15) and who are eligible to earn incentive wages shall earn at a rate of no more than \$0.04 per hour. This excludes offenders classified as regular duty with restrictions or those with a temporary limited duty status.

10. All offenders classified in working cellblocks and maximum custody field lines who are eligible to earn incentive wages shall earn at the rate of \$0.02 per hour.

11. All offenders assigned to educational or vocational programs who are eligible to earn incentive wages shall be paid at the rate of \$0.04 per hour.

a. Exception—due to the importance of the New Orleans Baptist Theological Seminary program and its positive impact on the department, offenders enrolled in this program will earn incentive wages at the following rates.

- i. Freshmen: \$0.14
- ii. Sophomores: \$0.16
- iii. Juniors: \$0.18
- iv. Seniors: \$0.20

b. Upon completion of any educational or vocational program, the offender may, upon request and at the discretion of the warden and based upon availability, return to the same job at the same rate of pay he held prior to enrollment in the program.

12. Offenders who are eligible to earn incentive wages shall be paid only for actual hours worked in their job assignment. Offenders shall not be paid for time spent away from their job assignment due to circumstances such as holidays, callouts, duty status, weather, illness, etc.

13. For the purpose of this regulation, income earned from a private sector/prison industry enhancement (PS/PIE) program or a work release program is not incentive pay. Therefore, offenders employed in any of these programs may receive good time in accordance with the law. The director of prison enterprises shall establish record-keeping procedures relating to wages earned by offenders employed in a PS/PIE program that include all mandatory deductions from offender wages, other deductions such as child support or garnishment and the distribution of net offender wages to offender banking.

#### D. Sources of Funding

1. The Division of Prison Enterprises shall pay all incentive wages.

2. Offenders who are employed in a certified PS/PIE program shall be paid by the private business that employs them or by prison enterprises depending on the type of PS/PIE program that is in operation, in accordance with the terms stated in the employment agreement.

3. Offenders who are participating in a work release program shall be paid by the private business that employs them, in accordance with the terms outlined in the employment agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:871 and R.S. 15:873.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 34:1928 (September 2008).

James M. Le Blanc  
Secretary

0809#088

## RULE

### Department of Revenue Policy Services Division

#### Lessors of Motor Vehicles—Electronic Filing Requirement (LAC 61:III.1511)

Under the authority of R.S. 47:1511, 1520, and 48:77 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, adopts LAC 61:III.1511. This rule will require that rentors and lessors of motor vehicles electronically submit sales tax returns to the Louisiana Department of Revenue on which their revenues from motor vehicle leasing and renting, deductions, and tax collections pertaining thereto, are distinguishable on the electronic returns from revenues, deductions, and tax collections related to other sales taxable transactions of the dealers.

R.S. 47:1520(A) authorizes the secretary to mandate electronic filing of tax returns and reports under certain circumstances, including when the report is required for dedicated fund distribution. R.S. 47:1520(A)(2) provides that the electronic filing requirement be implemented by administrative rule. R.S. 47:1520(B) contains penalty provisions for dealers' failure to comply.

Acts 2008 2nd Ex. Sess., No. 11 enacted R.S. 48:77(A) to dedicate percentages of the sales tax collections from motor vehicle leases and rentals to the Transportation Trust Fund beginning July 1, 2008. This information is not separately reported on the sales tax return and there is no space to add the lines to the current tax return. Mandated electronic filing for motor vehicle leasing and renting dealers was selected because it is the most cost-effective means to obtain the required sales tax data.

#### Title 61

#### REVENUE AND TAXATION

#### Part III. Department of Revenue—Administrative Provisions and Miscellaneous

#### Chapter 15. Electronic Filing and Payments

#### §1511. Lessors of Motor Vehicles—Electronic Filing Requirement

##### A. Definitions

*Motor Vehicle*—any self-propelled device used to transport people or property on the public highways.

B. R.S. 48:77 dedicates a percentage of the sales tax collections from the motor vehicle leases and rentals to the Transportation Trust Fund effective July 1, 2008.

C. Beginning with the July 2008 filing period, dealers who collect sales tax on motor vehicle leases and rentals are required to file their sales tax returns electronically with the Department of Revenue using the electronic format prescribed by the department.

1. The electronic sales tax return will provide for the separate reporting of the sales tax collected on motor vehicle leases and rentals.

2. The electronic sales tax return will provide for separate reporting of exempt motor vehicle leases and rentals.

D. Failure to comply with this electronic filing requirement will result in the assessment of a penalty of \$100 or five percent of the tax, whichever is greater, as provided by R.S. 47:1520(B).

1. If it is determined that the failure to comply is attributable, not to the negligence of the taxpayer, but to other cause set forth in written form and considered reasonable by the secretary, the secretary may remit or waive payment of the whole or any part of the penalty.

2. If the penalty exceeds \$25,000, it may be waived by the secretary only after approval by the Board of Tax Appeals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511, 47:1520, and 48:77.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 34:1929 (September 2008).

Cynthia Bridges  
Secretary

0809#015

## RULE

### Department of Social Services Office of Family Support

#### Support Enforcement Services Program (LAC 67:III.2305)

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Social Services, Office of Family Support, amended the Louisiana Administrative Code, Title 67, Part III, Subpart 4, Support Enforcement Services (SES), Chapter 23, Subchapter A, which provides for designation of Support Enforcement Services staff. The 2006 Regular Session of the Louisiana Legislature passed Act 516 effective June 22, 2006, amending and reenacting R.S. 46:236.1.8(D) and (E) relative to child support programs, to authorize certain support enforcement service support personnel to administer oaths, and to provide for related matters.

Amendment of this Section was necessary to ensure continued compliance with Louisiana laws.

#### Title 67

#### SOCIAL SERVICES

#### Part III. Office of Family Support

#### Subpart 4. Support Enforcement Services

#### Chapter 23. Single State Agency Organization

#### Subchapter A. Designation, Authority, Organization and Staffing

#### §2305. Support Enforcement Services Staff

A. Support Enforcement Services program field officers responsible for supplying services shall be designated as support enforcement regional administrators, support enforcement district managers, social service analyst supervisors, and social service analysts.

B. Support Enforcement Services program field officers shall possess full notarial powers in connection with any document required in the course of providing services to enforce support obligations owed by non custodial parents to their family and children, to locate parents, or to establish paternity and obtain family, child, and medical support orders.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R. S. 46:236.1.8. (D) and (E).

HISTORICAL NOTE: Promulgated by the Health and Human Resources Administration, Division of Youth Services, LR 2:274 (September 1976), amended by the Department of Social Services, Office of Family Support, LR 34:1929 (September 2008).

Ann Silverberg Williamson  
Secretary

0809#103

## RULE

### Department of Social Services Office of Family Support

#### TANF—OCS Child Welfare Programs (LAC 67:III.5549)

In accordance with R.S.49:950 et seq., the Administrative Procedure Act, the Department of Social Services, Office of Family Support, amended the Louisiana Administrative Code, Title 67, Part III, Subpart 15, Chapter 55, Section 5549 Office of Community Services (OCS) Child Welfare Programs.

Pursuant to Act 18 of the 2007 Regular Session of the Louisiana Legislature, the agency amended §5549 OCS Child Welfare Programs to expand Temporary Assistance for Needy Families (TANF) services by adding Component 3—Services to Parents, which are services intended to help reunite the family or determine permanency for abused or neglected children when an allegation of neglect or abuse has been validated and temporary emergency removal of a child or children has occurred. Additionally, it is necessary to clarify allowable TANF funded services and the duration that temporary out-of-home placement may be used when determined necessary for the safety of children.

#### Title 67

#### SOCIAL SERVICES

#### Part III. Office of Family Support

#### Subpart 15. Temporary Assistance for Needy Families (TANF) Initiatives

#### Chapter 55. TANF Initiatives

#### §5549. OCS Child Welfare Programs

A. OFS shall enter into a Memorandum of Understanding with the Office of Community Services (OCS), the state child welfare agency, for collaboration in identifying and serving needy families where one or more minor children living in the home are at risk of abuse or neglect. The methods of collaboration include:

1. *Child Protection Investigation (CPI)*—comprises services to assess the validity of a report of child abuse or neglect involving a minor child or children residing with a custodial parent, an adult caretaker relative, or a legal guardian, to determine whether an emergency exists, and

when deemed necessary, to develop a safety plan which may include coordination of services, emergency removal and placement, referral to OCS Family Services or another appropriate agency, short term counseling, parenting guidance, and/or arrangements for concrete services, such as the Preventive Assistance Fund (PAF) and Reunification Assistance Fund (RAF).

2. *Family Services*—comprises services to needy families including a child or children and their parents or adult caretaker relatives, where one or more minor children living in the home are at risk of abuse or neglect, after an allegation of child neglect or abuse has been validated, to assist in preventing the removal of a child from his care giver or, where temporary emergency removal has already occurred in validated abuse and/or neglect cases, to help reunite the family by returning the child. Services are also provided to a family who requests protective services on its own when it is believed that a child in the family would be at risk of abuse or neglect. Elements of Family Services include problem identification, family assessment, risk assessment, safety planning, case planning, counseling, problem resolution, provision of or arrangements for needed services, and/or concrete aid through the Preventive Assistance Fund.

3. *Services to Parents*—comprises services to needy families, where one or more minor children living in the home are at risk of abuse or neglect, after an allegation of child neglect or abuse has been validated, and where temporary emergency removal has already occurred in validated abuse and/or neglect cases. Reasonable efforts to maintain the child or children in the home without further risk of harm will be assessed, the case will be staffed prior to removal, and an order will be obtained from the judiciary. Elements of Service to Parents are comprised of problem identification, family assessment, risk assessment, safety planning, problem resolution, provision of or arrangement for needed services, and/or concrete aid through the Preventive Assistance Fund. In any temporary emergency placement, priority will be given to relatives. These services can be provided when a child is absent from the home for a period of up to 180 days.

B. These services meet TANF goal 1, to provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives. The TANF grant may be used to provide services in any manner that is reasonably calculated to accomplish the purpose of the initiative.

C. - D. ...

E. Direct services which provide for basic needs, that may be provided in response to an episode of need or a specific crisis situation and are non-recurrent, such as but not limited to food, clothing, utilities, and shelter assistance, will not be provided beyond four months. Medical expenses and/or services are not eligible TANF funded services.

F. A family consists of a child or children and their parents or adult caretaker relatives within the fifth degree of relationship, where one or more minor children living in the home is at risk of abuse or neglect.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 16, 2005 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:2374 (November 2002), amended LR 31:486 (February 2005), LR 32:2099 (November 2006), LR 34:695 (April 2008), LR 34:1930 (September 2008).

Ann Silverberg Williamson  
Secretary

0809#104

# Notices of Intent

## NOTICE OF INTENT

### Office of the Governor Office of Financial Institutions

#### Residential Mortgage Lending Act Expired License Reinstatement Procedure (LAC 10:XII.301)

In accordance with the Louisiana Administrative Procedure Act, R.S. 49:950, et seq., R.S. 6:121, and the Residential Mortgage Lending Act, ("RMLA") R.S. 6:1081 et seq., particularly R.S. 6:1085, R.S. 6:1087, and R.S. 6:1088.1, the Office of Financial Institutions hereby gives Notice of Intent to amend LAC 10:XII:301, to update and clarify procedures regarding expired license reinstatement for mortgage lenders, brokers, and originators, under the RMLA in order that said procedures may comport with and accommodate the utilization of the online Nationwide Mortgage Licensing System. The proposed amendment extends the date for residential mortgage licensees to request reinstatement of their licenses from on or before January 15 to before March 1, clarifies the method by which such request is properly submitted, and removes the payment of the reinstatement penalty from the rule because it is already contained in R.S. 6:1088(F)(4). This Rule is being amended to further effectuate the purpose, administration, and enforcement of the RMLA.

#### Title 10

#### FINANCIAL INSTITUTIONS, CONSUMER CREDIT, INVESTMENT SECURITIES AND UCC

#### Part XII. Residential Mortgage Lending Act

#### Chapter 3. Residential Mortgage Lending Licenses §301. Expired License Reinstatement Procedure

A. Any license deemed to have expired automatically on January 1, pursuant to R.S. 6:1088(F)(4), shall not be eligible for reinstatement of said license, unless the request is received by the Office of Financial Institutions via submission to the Nationwide Mortgage Licensing System before March 1, of that year, and contains:

1. an electronic reinstatement request filed by the person named in the expired license, which contains such information as may be required by rule, or as the Commissioner of the Office of Financial Institutions (hereinafter referred to as "commissioner"), may direct;

2. evidence showing good cause for approval of a reinstatement request.

B. Any license deemed to have expired automatically on January 1, pursuant to R.S. 6:1088(F)(4), and as to which the requirements of Subsection A of this Section have not been met before March 1, of that year, shall remain expired, and shall not thereafter be eligible for reinstatement, however, an application for a new license may be filed, provided all the requirements for the filing of an application for a new license and of this Rule are met, and all required fees and penalties have been paid in full at the time of filing the application for a new license.

C. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121 and R.S. 6:1085.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 31:2893 (November 2005), amended LR 34:

#### Family Impact Statement

Pursuant to R.S. 49:972, and prior to the adoption of the proposed Rule LAC 10:XII:301, Expired License Reinstatement Procedure, the Office of Financial Institutions considered the impact of the proposed amendment, and found the same, if adopted, would have no effect on the stability or the functioning of the family, the authority and rights of parents regarding the education and supervision of their children, family earnings and family budget, the behavior and personal responsibility of children, or the ability of the family or a local government to perform the function as contained in the proposed Rule.

Interested persons may submit comments until 4:30 p.m., October 20, 2008, to Susan Rouprich, General Counsel, P.O. Box 94095, Baton Rouge, LA 70804-9095 or by hand delivery to 8660 United Plaza Blvd, Second Floor, Baton Rouge, LA. 70809.

John Ducrest  
Commissioner

#### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: Residential Mortgage Lending Act Expired License Reinstatement Procedure

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

In order to accommodate the utilization of the online Nationwide Mortgage Licensing System for the Office of Financial Institution to license residential mortgage lenders, brokers and originators, the proposed Rule change extends the date for the residential mortgage licensee to request reinstatement of their license from on or before January 15th to before March 1st. The payment of the reinstatement penalty is being removed from the Rule because it is already specifically stated in R.S. 6:1088.F(4). The proposed Rule will have no implementation costs or savings to the state of Louisiana or local government units.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed Rule change will have no effect on revenue collections for the state of Louisiana or any other government unit.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of this Rule change may provide an economic benefit to residential mortgage licensees which do not file a renewal application timely before December 31st and which file a request for reinstatement between January 16th and the last day of February. Licensees which file a request for reinstatement during this timeframe will not have to submit a new application and pay a new application fee of \$400 as would have been required under the existing rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed Rule change is not expected to have any impact on competition and employment in the public or private sector.

John Ducrest, CPA  
Commissioner  
0809#086

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Environmental Quality  
Office of the Secretary  
Legal Affairs Division**

Asbestos and Lead Fees (LAC 33:III.223) (AQ282)

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.223 (Log #AQ282).

This rule is being proposed to promulgate language consistent with department policy, clarify language for applicants, apply consistency within the asbestos and lead programs, and allow processing time for an increase in the number of persons applying for accreditation and for the entering of required information into the department's mainframe database by a support group. Fees have not been modified. The proposed rule clarifies existing language and promulgates existing department policy that certain fees are nontransferable and nonrefundable. Existing language that appeared confusing is clarified by the addition of the words "processing" or "application processing." Processing timeframes are changed for uniformity between the asbestos and lead programs for accreditations and training providers, and to allow for the entry of specific information by a support group into the Tools for Environmental Management and Protection Organizations (TEMPO) database, the LDEQ main database that maintains and validates basic information for all personnel and companies. The basis and rationale for this rule are to clarify the intent of the regulations. This proposed 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 2. Rules and Regulations for the Fee System of the Air Quality Control Programs**

**§223. Fee Schedule Listing**

Table 1. ...

Table 2		
Additional Fees		
Fee Number	Fee Description	Amount
* * *		
[See Prior Text in Fee Numbers 2000–2015]		
2020	The Issuance of an Asbestos Disposal Verification Form (ADVF)—(at least 10 working days notification given)—Fee is nontransferable and nonrefundable.	66.00
2030	The Issuance of an Asbestos Disposal Verification Form (ADVF)—(less than 10 working days notification given)—Fee is nontransferable and nonrefundable.	99.00
2040	Agent Accreditation for Asbestos: Includes Contractor/Supervisor, Inspector, Management Planner, or Project Designer—Normal Application Processing per Discipline (greater than five working days after receipt of required documentation and fees)—Fee is nontransferable and nonrefundable.	264.00
2050	Agent Accreditation for Asbestos: Includes Contractor/Supervisor, Inspector, Management Planner, or Project Designer—Emergency Application Processing per Discipline (less than or equal to five working days after receipt of required documentation and fees)—Fee is nontransferable and nonrefundable.	396.00
2060	Worker Accreditation for Asbestos—Normal Application Processing (greater than five working days after receipt of required documentation and fees)—Fee is nontransferable and nonrefundable.	66.00
2070	Worker Accreditation for Asbestos—Emergency Application Processing (less than or equal to five working days after receipt of required documentation and fees)—Fee is nontransferable and nonrefundable.	99.00
2080	Duplicate Certificate—Fee is nontransferable and nonrefundable.	33.00
2090	Asbestos Training Organization Recognition Plus Trainer Recognition per Trainer—Normal Application Processing (greater than five working days after receipt of required documentation and fees)—Fee is nontransferable and nonrefundable.	396.00 66.00
2100	Asbestos Training Organization Recognition Plus Trainer Recognition per Trainer—Emergency Application Processing (less than or equal to five working days after receipt of required documentation and fees)—Fee is nontransferable and nonrefundable.	594.00 99.00
* * *		
[See Prior Text in Fee Numbers 2200–2810]		
2900 *Note 19*	Lead Contractor License Evaluation Processing Fee—Fee is nontransferable and nonrefundable.	500.00
2901 *Note 19*	Lead Project Supervisor Accreditation Application Processing Fee—Fee is nontransferable and nonrefundable.	250.00
2902 *Note 19*	Lead Project Designer Accreditation Application Processing Fee—Fee is nontransferable and nonrefundable.	500.00
2903 *Note 19*	Lead Risk Assessor Accreditation Application Processing Fee—Fee is nontransferable and nonrefundable.	250.00
2904 *Note 19*	Lead Inspector Accreditation Application Processing Fee—Fee is nontransferable and nonrefundable.	150.00
2905 *Note 19*	Lead Worker Accreditation Application Processing Fee—Fee is nontransferable and nonrefundable.	50.00

Table 2		
Additional Fees		
Fee Number	Fee Description	Amount
2906 *Note 19*	Recognition Application Processing Fee for In-State Louisiana Lead Training Organizations per Training Organization—Fee is nontransferable and nonrefundable.	500.00
2907 *Note 19*	Recognition Application Processing Fee for Louisiana Lead Training Organizations per Instructor—Fee is nontransferable and nonrefundable.	50.00
2908 *Note 19*	Recognition Application Processing Fee for Out of State Lead Training Organizations per Out of State Training Organization—Fee is nontransferable and nonrefundable.	750.00
2909 *Note 19*	Recognition Application Processing Fee for Out of State Lead Training Organizations per Instructor—Fee is nontransferable and nonrefundable.	100.00
2910 *Note 19*	Lead Abatement Project Notification Processing Fee, 2000 Square Feet and under—Fee is nontransferable and nonrefundable.	200.00
2911 *Note 19*	Lead Abatement Project Notification Processing Fee for Each Additional Increment of 2000 Square Feet or Portion Thereof—Fee is nontransferable and nonrefundable.	100.00
2912 *Note 19*	Lead Abatement Project Notification Processing Fee (Fee Per Revision)—Fee is nontransferable and nonrefundable.	50.00
2913 *Note 19*	Soil Lead Abatement Project Notification Processing Fee, Half Acre or Less—Fee is nontransferable and nonrefundable.	200.00
2914 *Note 19*	Soil Lead Abatement Project Notification Processing Fee, Each Additional Half Acre or Portion Thereof—Fee is nontransferable and nonrefundable.	100.00

Explanatory Notes for Fee Schedule

Note 1. – Note 18. ...

Note 19. The fee for emergency processing will be 1.5 times the regular fees.

Processing Timelines		
Notification or Application	Normal Processing	Emergency Processing
Asbestos and Lead Training Organizations' and Trainers' Recognition	30 days	Application to be processed less than or equal to five working days after receipt of required documentation and fees
Asbestos and Lead Accreditation	30 days	Application to be processed less than or equal to five working days after receipt of required documentation and fees
Asbestos Demolition and Renovation Notification	Notification to be processed less than or equal to 10 working days after receipt or postmark of required documentation and fees	Notification to be processed less than or equal to 10 working days after receipt of required documentation and fees
Lead Contractors' "Letter of Approval"	30 days	Notification to be processed less than or equal to five working days after receipt of required documentation and fees

Note 20. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054, 2341, and 2351 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy,

Air Quality Division, LR 13:741 (December 1987), amended LR 14:613 (September 1988), LR 15:735 (September 1989), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1205 (December 1991), repromulgated LR 18:31 (January 1992), amended LR 18:706 (July 1992), LR 18:1256 (November 1992), LR 19:1373 (October 1993), LR 19:1420 (November 1993), LR 19:1564 (December 1993), LR 20:421 (April 1994), LR 20:1263 (November 1994), LR 21:22 (January 1995), LR 21:782 (August 1995), LR 21:942 (September 1995), repromulgated LR 21:1080 (October 1995), amended LR 21:1236 (November 1995), LR 23:1496, 1499 (November 1997), LR 23:1662 (December 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:267 (February 2000), LR 26:485 (March 2000), LR 26:1606 (August 2000), repromulgated LR 27:192 (February 2001), amended LR 29:672 (May 2003), LR 29:2042 (October 2003), LR 30:1475 (July 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2620 (December 2007), LR 34:

This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

A public hearing will be held on October 29, 2008, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Christopher A. Ratcliff at the address given below or at (225) 219-3471. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ282. Such comments must be received no later than November 5, 2008, at 4:30 p.m., and should be sent to Christopher A. Ratcliff, Attorney Supervisor, Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3398 or by e-mail to [chris.ratcliff@la.gov](mailto:chris.ratcliff@la.gov). Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ282. This regulation is available on the Internet at [www.deq.louisiana.gov/portal/tabid/1669/default.aspx](http://www.deq.louisiana.gov/portal/tabid/1669/default.aspx).

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson, CPM  
Executive Counsel

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Asbestos and Lead Fees**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no implementation costs or savings to state or local governmental units as a result of the proposed rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No effect on revenue collections of state or local governmental units is expected. Fees have not been modified. The proposed rule clarifies existing language and promulgates existing department policy that certain fees are nontransferable and nonrefundable.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

No costs or economic benefits are expected as a result of the proposed rule. Fees have not been modified; only the language has been clarified.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition or employment is expected.

Herman Robinson, CPM  
Executive Counsel  
0809#090

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Environmental Quality  
Office of the Secretary  
Legal Affairs Division**

Hazardous Waste Code F019 (LAC 33:V.4901) (HW103ft)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Hazardous Waste regulations, LAC 33:V.4901 (Log #HW103ft).

This proposed rule is identical to federal regulations found in 73 FR 31756-31769, June 4, 2008, No. 108, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3471 or Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the proposed rule. This rule will be promulgated in accordance with the procedures in R.S. 49:953(F)(3) and (4).

This rule exempts certain wastewater sludges from the motor vehicle manufacturing of automobiles and light duty vans, pick-up trucks, minivans, and sport utility vehicles from classification as hazardous waste, provided that the sludges are placed in a permitted, lined industrial solid waste landfill. The motor vehicle manufacturing industry incorporates aluminum into vehicle parts and bodies for the purpose of making them lighter-weight and thus more capable of increasing gas mileage. However, when aluminum is incorporated into the body of an automobile, the conversion coating step in the manufacturing process results in the generation of a RCRA-listed hazardous waste (F019) in the form of wastewater treatment sludge from the conversion coating process. Wastewaters from the conversion coating of steel in the same industry do not generate a listed hazardous waste. By removing the regulatory controls under RCRA, EPA is facilitating the use of aluminum in motor vehicles. The EPA believes that the incorporation of aluminum in motor vehicles will be advantageous to the environment since lighter-weight vehicles are capable of achieving increased fuel economy and associated decreased exhaust air emissions. These

modifications to the F019 listing will not affect any other wastewater treatment sludge either from the chemical conversion coating of aluminum, or from other industrial sources. Reporting requirements under CERCLA list of Hazardous Substances and Reportable Quantities under 40 CFR 302.4 are consistent with the changes to the F019 listing. The basis and rationale for this rule are to mirror the federal regulations. This proposed rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

**Title 33**

**ENVIRONMENTAL QUALITY**

**Part V. Hazardous Waste and Hazardous Materials**

**Subpart 1. Department of Environmental**

**Quality—Hazardous Waste**

**Chapter 49. Lists of Hazardous Wastes**

[Comment: Chapter 49 is divided into two sections: Category I Hazardous Wastes, which consist of Hazardous Wastes from nonspecific and specific sources (F and K wastes), Acute Hazardous Wastes (P wastes), and Toxic Wastes (U wastes) (LAC 33:V.4901); and Category II Hazardous Wastes, which consist of wastes that are ignitable, corrosive, reactive, or toxic (LAC 33:V.4903).]

**§4901. Category I Hazardous Wastes**

A. – B.1.NOTE. ...

Table 1. Hazardous Wastes from Nonspecific Sources		
Industry and EPA Hazardous Waste Number	Hazard Code	Hazardous Waste
<b>Generic</b>		
*** [See Prior Text in F001 – F012]		
F019	(T)	Wastewater treatment sludges from the chemical conversion coating of aluminum except from zirconium phosphating in aluminum can washing when such phosphating is an exclusive conversion coating process. Wastewater treatment sludges from the manufacturing of motor vehicles using a zinc phosphating process will not be subject to this listing at the point of generation if the wastes are not placed outside on the land prior to shipment to a landfill for disposal and are either disposed of in a Subtitle D municipal or industrial landfill unit that is equipped with a single clay liner and is permitted, licensed, or otherwise authorized by the state; or disposed of in a landfill unit subject to, or otherwise meeting, the landfill requirements in 40 CFR 258.40 or LAC 33:V.2503 or 4512. For the purposes of this listing, <i>motor vehicle manufacturing</i> is defined in Clause B.2.d.i of this Section, and Clause B.2.d.ii of this Section describes the recordkeeping requirements for motor vehicle manufacturing facilities.
*** [See Prior Text in F020 – F039]		

\* (I,T) should be used to specify mixtures that are ignitable and contain toxic constituents.

B.2. – B.2.c.ii. ...

d. For the purposes of the F019 listing, the following conditions apply to wastewater treatment sludges from the manufacturing of motor vehicles using a zinc phosphating process.

i. *Motor vehicle manufacturing* is defined to include the manufacture of automobiles and light trucks/utility vehicles (including light duty vans, pick-up trucks, minivans, and sport utility vehicles). Facilities must be engaged in manufacturing complete vehicles (body and chassis or unibody) or chasses only.

ii. Generators must maintain in their on-site records documentation and information sufficient to prove that the wastewater treatment sludges to be exempted from the F019 listing meet the conditions of the listing. These records must include the volume of waste generated and disposed of off-site, documentation showing when the waste volumes were generated and sent off-site, the name and address of the receiving facility, and documentation confirming receipt of the waste by the receiving facility. Generators must maintain these documents on site for no less than three years. The retention period for the documentation is automatically extended during the course of any enforcement action or as requested by the EPA Regional Administrator or the administrative authority.

B.3 - G.Table 6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 14:426 (July 1988), LR 14:791 (November 1988), LR 15:182 (March 1989), LR 16:220 (March 1990), LR 16:614 (July 1990), LR 16:1057 (December 1990), LR 17:369 (April 1991), LR 17:478 (May 1991), LR 17:658 (July 1991), LR 18:723 (July 1992), LR 18:1256 (November 1992), LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:829, 840 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:1522 (November 1997), LR 24:321 (February 1998), LR 24:686 (April 1998), LR 24:1754 (September 1998), LR 25:487 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:304 (March 2001), LR 27:715 (May 2001), LR 28:1009 (May 2002), LR 29:324 (March 2003), amended by the Office of Environmental Assessment, LR 31:1573 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:831 (May 2006), LR 33:1627 (August 2007), LR 34:635 (April 2008), LR 34:1020 (June 2008), LR 34:

This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

A public hearing will be held on October 29, 2008, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Christopher A. Ratcliff at the address given below or at (225) 219-3471. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by HW103ft. Such comments must be received no later than October 29, 2008, at 4:30 p.m., and should be sent to Christopher A. Ratcliff, Attorney Supervisor, Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3398 or by e-mail to [chris.ratcliff@la.gov](mailto:chris.ratcliff@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 HW103ft. This regulation is available on the Internet at [www.deq.louisiana.gov/portal/tabid/1669/default.aspx](http://www.deq.louisiana.gov/portal/tabid/1669/default.aspx).

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Baratavia Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson, CPM  
Executive Counsel

0809#091

## NOTICE OF INTENT

### Department of Environmental Quality Office of the Secretary Legal Affairs Division

RCRA XVIII Authorization Package  
(LAC 33:V.105, 109, and 3105) (HW104ft)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Hazardous Waste regulations, LAC 33:V.105, 109, and 3105 (Log #HW104ft).

This proposed rule is identical to federal regulations found in 73 FR 57-72, No. 1, January 2, 2008; and 73 FR 18970-18984, No. 68, April 8, 2008, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3471 or Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the proposed rule. This rule will be promulgated in accordance with the procedures in R.S. 49:953(F)(3) and (4).

This rule contains specific amendments required by EPA for the state to request further authorization for the hazardous waste program. The amendments affect the issues of exclusion of oil-bearing secondary materials processed in a gasification system to produce synthesis gas and NESHAP final standards for hazardous waste combustors. An amendment is made to an existing exclusion to the definition of solid waste that applies to oil-bearing hazardous secondary materials generated at a petroleum refinery when these materials are recycled by inserting them back into the petroleum refining process and certain other conditions are met. The exclusion allows these materials to be inserted into the same petroleum refinery where they are generated, or to be sent directly to another petroleum refinery. This rule also adds gasification to the list of already-recognized petroleum refinery processes, adds a definition for the term "gasification," and corrects a citation in the regulations on incinerators. The basis and rationale for this rule are to maintain equivalency with the federal regulations for the

hazardous waste program. This proposed rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

### Title 33

## ENVIRONMENTAL QUALITY

### Part V. Hazardous Waste and Hazardous Materials

#### Subpart 1. Department of Environmental Quality—Hazardous Waste

#### Chapter 1. General Provisions and Definitions

##### §105. Program Scope

These rules and regulations apply to owners and operators of all facilities that generate, transport, treat, store, or dispose of hazardous waste, except as specifically provided otherwise herein. The procedures of these regulations also apply to the denial of a permit for the active life of a hazardous waste management facility or TSD unit under LAC 33:V.706. Definitions appropriate to these rules and regulations, including *solid waste* and *hazardous waste*, appear in LAC 33:V.109. Wastes that are excluded from regulation are found in this Section.

##### A. – D.1.k...

i. oil-bearing hazardous secondary materials (i.e., sludges, by-products, or spent materials) that are generated at a petroleum refinery (SIC code 2911) and are inserted into the petroleum refining process (SIC code 2911—including, but not limited to, distillation, catalytic cracking, fractionation, *gasification* (as defined in LAC 33:V.109), or thermal cracking units (i.e., cokers)) unless the material is placed on the land or speculatively accumulated before being so recycled. Materials inserted into thermal cracking units are excluded under this Paragraph, provided that the coke product also does not exhibit a characteristic of hazardous waste. Oil-bearing hazardous secondary materials may be inserted into the same petroleum refinery where they are generated, or sent directly to another petroleum refinery, and still be excluded under this provision. Except as provided in Clause D.1.l.ii of this Section, oil-bearing hazardous secondary materials generated elsewhere in the petroleum industry (i.e., from sources other than petroleum refineries) are not excluded under this Section. Residuals generated from processing or recycling materials excluded under this Subsection, where such materials as generated would have otherwise met a listing under LAC 33:V.Chapter 49, are designated as F037 listed wastes when disposed of or intended for disposal;

##### D.1.l.ii – P.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq., and in particular, 2186(A)(2).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790 (November 1988), LR 15:181 (March 1989), LR 16:47 (January 1990), LR 16:217, LR 16:220 (March 1990), LR 16:398 (May 1990), LR 16:614 (July 1990), LR 17:362, 368 (April 1991), LR 17:478 (May 1991), LR 17:883 (September 1991), LR 18:723 (July 1992), LR 18:1256 (November 1992), LR 18:1375 (December 1992), amended by the Office of the Secretary, LR 19:1022 (August 1993), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 20:1000 (September 1994), LR 21:266 (March 1995),

LR 21:944 (September 1995), LR 22:813, 831 (September 1996), amended by the Office of the Secretary, LR 23:298 (March 1997), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:564, 567 (May 1997), LR 23:721 (June 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:952 (August 1997), LR 23:1511 (November 1997), LR 24:298 (February 1998), LR 24:655 (April 1998), LR 24:1093 (June 1998), LR 24:1687, 1759 (September 1998), LR 25:431 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:268 (February 2000), LR 26:2464 (November 2000), LR 27:291 (March 2001), LR 27:706 (May 2001), LR 29:317 (March 2003), LR 30:1680 (August 2004), amended by the Office of Environmental Assessment, LR 30:2463 (November 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2451 (October 2005), LR 32:605 (April 2006), LR 32:821 (May 2006), LR 33:450 (March 2007), LR 33:2097 (October 2007), LR 34:614 (April 2008), LR 34:1008 (June 2008), LR 34:1893 (September 2008), LR 34:

##### §109. Definitions

For all purposes of these rules and regulations, the terms defined in this Chapter shall have the following meanings, unless the context of use clearly indicates otherwise.

\*\*\*

*Gasification*—for the purpose of complying with LAC 33:V.105.D.1.l.i, a process, conducted in an enclosed device or system, designed and operated to process petroleum feedstock, including oil-bearing hazardous secondary materials, through a series of highly controlled steps utilizing thermal decomposition, limited oxidation, and gas cleaning to yield a synthesis gas composed primarily of hydrogen and carbon monoxide gas.

\*\*\*

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790, 791 (November 1988), LR 15:378 (May 1989), LR 15:737 (September 1989), LR 16:218, 220 (March 1990), LR 16:399 (May 1990), LR 16:614 (July 1990), LR 16:683 (August 1990), LR 17:362 (April 1991), LR 17:478 (May 1991), LR 18:723 (July 1992), LR 18:1375 (December 1992), repromulgated by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 19:626 (May 1993), amended LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:814 (September 1996), LR 23:564 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:655 (April 1998), LR 24:1101 (June 1998), LR 24:1688 (September 1998), LR 25:433 (March 1999), repromulgated LR 25:853 (May 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:269 (February 2000), LR 26:2465 (November 2000), LR 27:291 (March 2001), LR 27:708 (May 2001), LR 28:999 (May 2002), LR 28:1191 (June 2002), LR 29:318 (March 2003); amended by the Office of the Secretary, Legal Affairs Division, LR 31:2452 (October 2005), LR 31:3116 (December 2005), LR 32:606 (April 2006), LR 32:822 (May 2006), LR 33:1625 (August 2007), LR 33:2098 (October 2007), LR 34:71 (January 2008), LR 34:615 (April 2008), LR 34:

#### Chapter 31. Incinerators

##### §3105. Applicability

##### A. ...

##### B. Integration of the MACT Standards

1. Except as provided by Paragraphs B.2-4 of this Section, the standards of this Subsection do not apply to a new hazardous waste incineration unit that becomes subject to RCRA permit requirements after October 12, 2005, and no longer apply when an owner or operator of an existing hazardous waste incineration unit demonstrates compliance with the maximum achievable control technology (MACT) requirements of 40 CFR Part 63, Subpart EEE, as incorporated by reference at LAC 33:III.5122, by conducting a comprehensive performance test and submitting to the administrative authority a notification of compliance under 40 CFR 63.1207(j) and 63.1210(d) documenting compliance with the requirements of 40 CFR Part 63, Subpart EEE. Nevertheless, even after this demonstration of compliance with the MACT standards, RCRA permit conditions that were based on the standards of LAC 33:V.Chapters 15, 17, 18, 19, 20, 21, 23, 24, 25, 26, 27, 28, 29, 31, 32, 33, 35, and 37 will continue to be in effect until they are removed from the permit or the permit is terminated or revoked, unless the permit expressly provides otherwise.

B.2. – E.Table 1.Footnote 1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 11:1139 (December 1985), LR 13:433 (August 1987), LR 14:424 (July 1988), LR 15:737 (September 1989), LR 16:399 (May 1990), LR 18:1256 (November 1992), LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 21:944 (September 1995), LR 22:835 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:318 (February 1998), LR 24:681 (April 1998), LR 24:1741 (September 1998), LR 25:479 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:301 (March 2001), LR 28:1004 (May 2002), LR 29:323 (March 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 32:830 (May 2006), LR 34:629 (April 2008), LR 34:1898 (September 2008), LR 34:

This proposed Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

A public hearing will be held on October 29, 2008, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Christopher A. Ratcliff at the address given below or at (225) 219-3471. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by HW104ft. Such comments must be received no later than October 29, 2008, at 4:30 p.m., and should be sent to Christopher A. Ratcliff, Attorney Supervisor, Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3398 or by e-mail to [chris.ratcliff@la.gov](mailto:chris.ratcliff@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 HW104ft. This regulation is available on the Internet at [www.deq.louisiana.gov/portal/tabid/1669/default.aspx](http://www.deq.louisiana.gov/portal/tabid/1669/default.aspx).

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson, CPM  
Executive Counsel

0809#92

## NOTICE OF INTENT

### Office of the Governor Board of Architectural Examiners

Architects Selection Board—Vacancies (LAC 46:I.2117)

Under the authority of R.S. 37:144(C) and in accordance with the provisions of R.S. 49:951 et seq., the Board of Architectural Examiners ("LSBAE") gives notice that rule making procedures have been initiated for the amendment of LAC 46:I Chapter 21, §2117. The existing Rule sets forth a procedure for filling a vacancy on the Architects Selection Board ("LASB") which occurs concerning any person elected to that board. However, the LSBAE currently has no rule concerning any vacancy on the LASB that may occur if no one submits a nomination for election to the LASB at all, or if the nominee withdraws his or her nomination before being elected or appointed. The proposed Rule will allow the LSBAE to fill such vacancies. In addition, if only one qualified architect seeks nomination to the LASB so that his or her nomination is unopposed, the proposed Rule will allow the executive director of the LSBAE to notify that architect of his or her appointment to the LASB without any further LSBAE action. The proposed amendment has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part I. Architects

#### Chapter 21. Vacancies

#### §2117. Vacancies

A. Any vacancy occurring with respect to any person elected shall be filled in the following manner:

1. the executive director shall give notice of the vacancy to any person who has previously requested such notice in writing; and

2. the executive director shall also publish in the official journal of the state an advertisement which will appear for a period of not less than 10 calendar days:

a. the advertisement in the official journal of the state need not appear more than three times during the 10 day period;

b. the executive director may publish other such advertisements in his or her discretion;

- c. the advertisements shall:
  - i. identify the district in which a vacancy has occurred; and
  - ii. state that any resident architect in that district holding a current Louisiana license desiring nomination:
    - (a). must furnish a nomination signed by not less than 10 resident architects holding a current Louisiana license by certified mail to the board office;
    - (b). that a sample of the nomination may be obtained upon request from the board office, the deadline for filing the nomination; and
    - (c). any other information the board may consider necessary.

3. The deadline for filing a nomination to fill a vacancy shall be at least 10 calendar days subsequent to the expiration of the last advertisement appearing in the official journal of the state.

4. The board shall appoint one of the nominees to fill the vacancy, which appointee shall serve the unexpired term. If only one qualified architect submits a nomination to fill the vacancy, the executive director shall send a letter to that architect advising of his or her appointment to the Architects Selection Board, and no further board action shall be necessary to confer such appointment.

B. If the deadline for submission of nominations has passed and (i) the board has not received a nomination from a qualified architect for election to a district that will become vacant on September 15 or (ii) no architect has been nominated or elected to fill a vacancy on the Architects Selection Board that will occur on September 15 for some other reason, the board shall fill the upcoming vacancy by the procedures described in the preceding paragraph.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners, LR 29:576 (April 2003), amended LR 34:

Interested persons may submit written comments on this proposed Rule amendment to Ms. Mary "Teeny" Simmons, Executive Director, Board of Architectural Examiners, 9625 Fenway Avenue, Suite B, Baton Rouge, LA 70809.

Mary "Teeny" Simmons  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Architects Selection Board—Vacancies**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed rule will allow the Louisiana State Board of Architectural Examiners (LSBAE) to appoint an architect to fill a vacancy on the Louisiana Architects Selection Board (LASB) that will occur if the deadline for submitting nominations for election to the LASB has passed and no architect has submitted a nomination to be elected to that board prior to that expiration, or if no architect is nominated or elected to the LASB for some other reason. Because the vacancy will be filled by appointment, the estimated costs (savings) to state or local governmental units associated with this proposed rule are minimal.

**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 this proposed rule.

**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 this proposed rule, since the proposed rule will merely allow the LASB to function with a complete board.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There is no estimated effect on competition or employment associated with this proposed rule, since the proposed rule will merely allow the LASB to function with a complete board.

Mary "Teeny" Simmons  
Executive Director  
0809#085

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Office of the Governor  
Board of Certified Public Accountants**

Continuing Professional Education (CPE)  
(LAC 46:XIX.1305 and 1309)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and of the Louisiana Accountancy Act, R.S. 37:74, the Board of Certified Public Accountants of Louisiana hereby provides notice of its intent to amend LAC 46:XIX:1305 and 1309. The objective of this action is to update the descriptions and allowance of credit for individual self-study continuing professional education. No preamble has been prepared with respect to the revised Rule which appears below.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part XIX. Certified Public Accountants**

**Chapter 13. Maintenance of Competency; Continuing Professional Education (CPE)**

**§1305. Programs which Qualify**

A. - B.3. ...

C. The following are deemed to be qualifying programs:

1. accredited university or college courses (see definition at §501). Credit and non-credit courses earn continuing education credit as set forth in §1309.A;

2. formal correspondence or other individual study programs designed to permit a participant to learn a given subject without major involvement of an instructor, which require registration and provide evidence of satisfactory completion as set forth in §1309.B;

3. formal group programs designed to permit a participant to learn a given subject through live interaction with an instructor and other participants either in a classroom, conference setting, or by use of the Internet or other technological methods that allow for verification of registration, interaction, and attendance during the presentation;

4. technical sessions at meetings of recognized national and state professional organizations and their chapters;

5. formal organized in-firm educational programs.

D.-E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated LR 6:5 (January 1980), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 15:614 (August 1989), LR 17:1068 (November 1991), LR 23:1116 (September 1997), LR 26:1977 (September 2000), LR 34:

### §1309. Credit Hours Granted

A. - A.4. ...

B. Individual Study Program. The amount of credit to be allowed for correspondence and formal individual study programs is to be recommended by the program developer. These programs shall be pre-tested by the developer to determine the average completion time. Credit will be allowed in the period in which the course is completed as indicated on the certificate of completion.

1. Only interactive self-study programs shall receive CPE credit equal to the average completion time provided the course satisfies the following criteria.

a. An interactive self-study program is one which simulates a classroom learning process by providing ongoing responses and evaluation to the learner regarding his or her learning progress. These programs guide the learner through the learning process by:

i. requiring frequent student response to questions that test for understanding of the material presented;

ii. providing evaluative responses and comments to incorrectly answered questions; and

iii. providing reinforcement responses and comments to correctly answered questions.

b. Ongoing responses, comments, and evaluations communicate the appropriateness of a learner's response to a prompt or question. Such responses, comments, and evaluations must be frequent and provide guidance or direction for continued learning throughout the program by clarifying or explaining assessment of inappropriate responses, providing reinforcement for appropriate responses, and directing the learner to move ahead or review relevant material. It is the response of the learner that primarily guides the learning process in an interactive self-study program. Not all technology based self-study programs constitute interactive programs. Technology based self-study programs must meet the criteria set forth in the definition of interactive self-study programs, as must other self-study programs developed using different modes of delivery.

2. Courses developed by or registered with the AICPA, NASBA, or a state society of CPAs are acceptable as continuing education provided that the developer or sponsor confirms to participants that the course is interactive self-study.

3. CPE program developers shall keep appropriate records of how the average completion time of self-study programs was determined.

C. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated as LR 6:5 (January 1980), amended LR 11:757 (August 1985), LR 13:13 (January 1987), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 15:615 (August 1989), LR 17:1068 (November 1991), LR 23:1117 (September 1997), LR 26:1978 (September 2000), LR 34:

### Family Impact Statement

Implementation of the proposed Rule will have no known effect upon family stability, functioning, earnings, budgeting; the responsibility and behavior of children; or, upon parental rights and authority, as set forth in R.S. 49:972.

Interested persons may submit written comments. Written comments must be received by 4 p.m., October 20, 2008 at the following address: Michael A. Henderson, Executive Director, State Board of Certified Public Accountants of Louisiana, 601 Poydras Street, Suite 1770, New Orleans, LA 70130. Copies of the current Rule and a draft of the Rule intended for adoption are available upon request.

Michael A. Henderson  
Executive Director

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Continuing Professional Education (CPE)

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

No costs or savings to governmental units are anticipated as a result of implementation of the proposed rule changes other than one-time costs for publication and dissemination.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No effect on revenue to state or local governmental units is anticipated as a result of implementation of the revised rules.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

No effect on costs or economic benefits to directly affected persons or non-governmental groups is anticipated as a result of implementation of the revised rules. The rules are being revised to update descriptions of qualifying continuing professional education (CPE).

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no significant effect on competition and employment that will directly result from the implementation of the revised rules.

Michael A. Henderson, CPA  
Executive Director  
0809#087

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

## NOTICE OF INTENT

### Office of the Governor Division of Administration Office of Group Benefits

#### PPO and EPO Plans of Benefits Eligible Expenses (LAC 32:III:301, V:301)

In accordance with the applicable provisions of R.S. 49:950, et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801(C) and 802(B)(2), as amended and reenacted by Act 1178 of 2001, vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate rules with respect thereto, OGB finds that it is necessary to revise and amend provisions of the PPO and EPO Plan Documents regarding eligible expenses for surgical pressure support hose and ortho-mammary surgical brassieres to increase the maximum allowable to three (3) per plan year.

Accordingly, OGB hereby gives Notice of Intent to adopt the following Rule to become effective January 1, 2009:

#### Title 32

#### EMPLOYEE BENEFITS

#### Part III. Preferred Provider (PPO) Plan of Benefits

#### Chapter 3. Medical Benefits

#### §301. Eligible Expenses

A. - A.15. ...

16. surgical pressure support hose, maximum three pairs per plan year;

17. ortho-mammary surgical brassieres, maximum three per plan year;

18. - 35.c. ...

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

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

#### Part V. Exclusive Provider Organization (EPO)

#### Plan of Benefits

#### Chapter 3. Medical Benefits

#### §301. Eligible Expenses

A. - A.15. ...

16. surgical pressure support hose, maximum three pairs per plan year;

17. ortho-mammary surgical brassieres, maximum three per plan year;

18. - 35.c. ...

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees, State Employees Group Benefits Program, LR 25:1810 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:478 (March 2002), LR 29:334, 338 (March 2003), LR 30:1190 (June 2004), LR 31:440 (February 2005), LR 32:1860 (October 2006), LR 32:1898 (October 2006), LR 34:646 (April 2008), LR 34:647 (April 2008), effective May 1, 2008, LR 34:

#### Family Impact Statement

The proposed Rule has no known impact on family formation, stability, or autonomy, except as follows: The proposed Rule will provide additional benefits for OGB covered individuals requiring surgical pressure support hose and/or ortho-mammary surgical brassieres by increasing the maximum allowable to three per plan year.

Interested persons may present their views, in writing, to Tommy D. Teague, Chief Executive Officer, Office of Group Benefits, Box 44036, Baton Rouge, LA 70804, until 4:30 p.m. on Friday, October 24, 2008.

Tommy D. Teague  
Chief Executive Officer

#### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: PPO and EPO Plans of Benefits Eligible Expenses

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is estimated that this benefit modification would cost the PPO and EPO plans of OGB approximately \$1,720-\$3,428 in FY 08/09 (1/2 year), \$3,783-\$7,542 in FY 09/10, and \$4,161-\$8,296 in FY 10/11. Although the increase of \$1,720-\$3,428 in FY 08/09 for the cost of this benefit to OGB is paid from Agency-Self Generated Funds, 66% of the expenditure impact (\$1,146-\$2,283) will impact State General Fund for employer contribution of premiums paid to OGB. This benefit would provide coverage for 3 pairs of surgical pressure support hose per plan year and 3 Ortho-mammary surgical brassieres per plan year from the current allowed maximum of 2 for each per plan year.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue collections of Local Governmental units should not be affected. Revenue collections of State Governmental units should not be affected in FY 08-09. However, to the extent that additional benefits are considered in future insurance premium calculations in FY 09-10 and beyond, the revenues of the Office of Group Benefits (OGB) will most likely increase. Using a medical loss ratio of 0.85 (industry standard), the revenue increase required by OGB to cover the cost of the benefit is as follows: FY 10 \$4,451-\$8,873, FY 11 \$4,895-\$9,760.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule will result in PPO and EPO members (approximately 112,000) having the benefit of having expenses covered for 3 pair per plan year of surgical pressure support hose and/or 3 pair per plan year of Ortho-mammary surgical brassieres covered under the plan. This is an increase from the current maximum coverage of 2 for each. There is no direct

premium increase for members as a result of this additional benefit, but increased costs will be considered for premium rates that are effective July 1, 2009 and later.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Competition and employment will not be affected.

Tommy D. Teague  
Chief Executive Officer  
0809#106

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Board of Dentistry**

Dentistry Requirements, Licenses and Permits  
(LAC 46:XXXIII.306, 415, 419, 420, 706, 1709 and 1711)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Dental Practice Act, R.S. 37:751 et seq., and particularly R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to amend LAC 46:XXXIII.306, 415, 419, 420, 706, 1709, and 1711. No preamble has been prepared. There will be no family impact in regard to issues set forth in R.S. 49:972.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part. XXXIII. Dental Health Profession**

**Chapter 3. Dentists**

**§306. Requirements of Applicants for Licensure by  
Credentials**

A. - A.4. ...

5. has never been convicted of a felony or a misdemeanor involving moral turpitude including, but not limited to, driving while under the influence of alcohol or drugs;

6. has no pending criminal charges against him/her;

7. has never been charged with and found guilty of or entered into a consent agreement with any state board of dentistry to any charge affecting his ability to practice dentistry or showing evidence of unprofessional conduct;

8. has paid all costs and fees (nonrefundable);

9. has fully completed required application form with all supporting data and certification of competency and good character;

10. if deemed necessary, has appeared for a personal interview before the board;

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 two recent passport type color photographs;

13. has all units of time accounted for;

14. has provided true copy of diploma(s) and/or national board examination grades;

15. has furnished three current letters of recommendation from professional associates, i.e., associations, boards, or prior employers listed on application for licensure on letterhead stationery from said organization;

16. possesses a current certificate in Cardiopulmonary Resuscitation Course "C", Basic Life Support for Health Care Providers as defined by the American Heart Association or the Red Cross Professional Rescue Course;

17. is a citizen or permanent resident of the United States unless otherwise prohibited by the North American Free Trade Agreement;

18. is free of any communicable or contagious disease, including but not limited to Human Immunodeficiency Virus, Hepatitis B Virus, and Hepatitis C Virus, and provide a notarized certificate of health from a medical doctor relative to his physical and mental condition; and

19. has completed continuing education equivalent to the state of Louisiana's for the two years prior to applying for licensure by credentials.

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and R.S. 37:768.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18:739 (July 1992), amended LR 21:571 (June 1995), LR 22:23 (January 1996), LR 23:1528 (November 1997), LR 24:1114 (June 1998), LR 25:513 (March 1999), LR 26:692 (April 2000), LR 26:1612 (August 2000), repromulgated LR 27:1893 (November 2001), amended LR 28:1777 (August 2002), LR 30:2305 (October 2004), LR 31:927 (April 2005), LR 32:243 (February 2006), LR 33:846 (May 2007), LR 33:2652 (December 2007), LR 34:

**Chapter 4. Fees and Costs**

**Subchapter C. Fees for Dentists**

**§415. Licenses, Permits, and Examinations (Dentists)**

A. - A.3. ...

4. Biennial renewal fee for dental license \$500

5. - 22. ...

23. Expungement of first-time advertising violation \$500

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and R.S. 37:795.

HISTORICAL NOTE: Promulgated by Department of Health and Hospitals, Board of Dentistry, LR 14:792 (November 1988), amended LR 16:566 (June 1990), LR 18:741 (July 1992), LR 23:1526 (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:

**Subchapter D. Fees for Dental Hygienists**

**§419. Licenses, Permits and Examinations (Dental Hygienists)**

A. - A.2. ...

3. Biennial renewal fee for dental hygienist license \$200

4.-11. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760 (8) , R.S. 37:768, and R.S. 37:795.

HISTORICAL NOTE: Promulgated by Department of Health and Hospitals, Board of Dentistry, LR 14:792 (November 1988), amended LR 16:566 (June 1990), LR 18:741 (July 1992), LR 23:1527 (November 1997), LR 24:1115 (June 1998), LR 25:1478 (August 1999), LR 26:691 (April 2000), LR 28:1778 (August 2002), LR 32:243 (February 2006), LR 33:846 (May 2007), LR 34:

**Subchapter E. Fees for Expanded Duty Dental Assistant**

**§420. Certificate Confirmation and Reconfirmation Fees**

A. For processing applications for certificate confirmations, the following fees shall be payable in advance to the board.

1. Initial certificate confirmation fee \$100
2. ...

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 19:207 (February 1993), amended LR 34:

**Chapter 7. Dental Hygienists**

**§706. Requirements of Applicants for Licensure by Credentials (Hygienists)**

A. - A.4. ...

5. has never been convicted of a felony or a misdemeanor involving moral turpitude including, but not limited to, driving while under the influence of alcohol or drugs;

6. has no pending criminal charges against him/her;

7. has never been charged with and found guilty of or entered into a consent decree with any state board of dentistry within the previous five years before applying for licensure by credentials to any charge affecting his/her ability to practice dental hygiene or showing evidence of unprofessional conduct;

8. has paid all costs and fees (nonrefundable);

9. has fully completed required application form with all supporting data and certification of competency and good character;

10. if deemed necessary, has appeared for a personal interview before the board;

11. has submitted two recent passport type color photographs;

12. has all units of time accounted for;

13. has provided true copy of diploma(s) and/or national board examination grades and transcript of dental hygiene school grades;

14. has furnished three current letters of recommendation from professional associates, i.e., associations, boards, or prior employers listed on application for licensure on letterhead stationery from said organization;

15. possesses a current certificate in Cardiopulmonary Resuscitation Course "C", Basic Life Support for Health Care Providers as defined by the American Heart Association or the Red Cross Professional Rescue Course;

16. is a citizen or permanent resident of the United States unless otherwise prohibited by the North American Free Trade Agreement;

17. is free of any communicable or contagious disease, including but not limited to Human Immunodeficiency Virus, Hepatitis B Virus, and Hepatitis C Virus, and provide a notarized certificate of health from a medical doctor relative to his/her physical and mental condition;

18. has completed continuing education equivalent to the state of Louisiana's for the two years prior to applying for licensure by credentials.

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:760(8) and R. S. 37:768.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18:737 (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:

**§1709. Examination of Dentists**

A. - B.4 ...

C. To be licensed as a dentist in this state, an applicant must successfully complete the clinical licensing examination as administered by the Council of Interstate Testing Agencies (CITA), Central Regional Dental Testing Service (CRDTS), Northeast Regional Board (NERB), Southern Regional Testing Agency (SRTA), or American Dental Examination (ADEX).

D. ...

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 34:

**§1711. Examination of Dental Hygienists**

A. - B.4. ...

C. - C.1. ...

2. a practical or clinical examination as administered by the Council of Interstate Testing Agencies (CITA), Central Regional Dental Testing Service (CRDTS), Northeast Regional Board (NERB), Southern Regional Testing Agency (SRTA), or American Dental Examination (ADEX), which shall test the competency of the applicant's ability.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(1) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1119 (June 1998), amended LR 28:1779 (August 2002), LR 33:2654 (December 2007), LR 34:

Interested persons may submit written comments on these proposed rule changes to C. Barry Ogden, Executive Director, Louisiana State Board of Dentistry, One Canal Place, Suite 2680, 365 Canal Street, New Orleans, LA 70130. Written comments must be submitted to and received by the board within 60 days of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the board within 20 days of the date of this notice.

C. Barry Ogden  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

**RULE TITLE: Dentistry Requirements, Licenses and Permits**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There will be a one-time cost of \$500 in FY 08-09 for publication of the proposed rule in the Louisiana Register and in a mass mailing which is sent to all licensees every summer.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of these rule changes will increase the Louisiana State Board of Dentistry's total revenue by \$153,75 in FY 08-09, \$200,575 in FY 09-10, and \$153,175 in FY 10-11. In addition, implementation of LAC 46:XXXIII.415 which implements a \$500 fee may increase revenue by an indeterminate amount.

The fee increases are as follows:

The amendments to LAC 46:XXXIII.415 will increase revenue by increasing the license renewal fee for dentists \$50 per calendar year. It will also implement a \$500 fee for those dentists wishing to expunge an advertising violation.

The amendment to LAC 46:XXXIII.419 will increase revenue by increasing the license renewal fee for dental hygienists \$25 per calendar year.

The amendment to LAC 46:XXXIII.420 will increase revenue by increasing the fee for the certificate confirmation of expanded duty dental assistants \$75.

The amendment to LAC 46:XXXIII.306, 706, 1709, and 1711 are not anticipated to have any impact on revenue.

### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rules will increase license renewal fees \$50.00 per year for dentists and \$25.00 per year for dental hygienists. Those dentists whose only disciplinary action is one advertising violation can apply to have their disciplinary records expunged at a cost of \$500.00. Those persons applying for a certificate confirmation of their expanded duty dental assistant status will now pay a one-time fee of \$100.00 instead of \$25.00.

### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

C. Barry Ogden  
Executive Director  
0809#129

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Health and Hospitals Board of Medical Examiners

Podiatrists; Licensure and Certification  
(LAC 46:XLV.1303, 1304, 1305, 1307, 1319, 1321, 1323, 1325, 1327, 1357, 1365, 1367, and 1369)

Notice is hereby given, in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., that the Louisiana State Board of Medical Examiners (board), pursuant to the authority vested in the board by the Louisiana Medical Practice Act, R.S. 37:1261-1292, particularly R.S. 37:1270, and the Louisiana Podiatry Practice Act, R.S. 37:611-628, particularly, R.S. 37:611 and 37:616, intends to amend its existing podiatry rules (§§1303 and 1305), and to adopt new rules to conform to the statutory law providing for the advanced practice of podiatry based upon an applicant's education and level of training, as provided by Acts 2007, Number 204, R.S. 37:611, 37:616, and to make other changes consistent with or necessitated by the statutory modifications, LAC 46:XLV, Subpart 2 (Licensure and Certification) Chapter 13. The proposed rules incorporate certain new or revised definitions (§1303), identify the necessity for licensure and practice prerogatives (§§1304-1305), identify the qualifications for and the scope of advanced practice (§1307), provide for reciprocity applicants (§§1319-1321), applications (§§1323-1327), issuance and renewal of licensure (§1357), and a Podiatry Advisory Committee to the board (§§1365-1369). A preamble has not been prepared. The proposed rules and

amendments have no known impact on family formation, stability or autonomy as described in R.S. 49:972.

## Title 46 PROFESSIONAL AND OCCUPATIONAL STANDARDS

### Part XLV. Medical Professions

#### Subpart 2. Licensure and Certification

#### Chapter 13. Podiatrists

#### Subchapter A. General Provisions

#### §1303. Definitions

A. As used in this Chapter the following terms shall have the meanings specified.

*Ankle*—the joint between the leg and foot in which the tibia and fibula articulate with the talus.

\* \* \*

*Board Qualified*—a certification status of the American Board of Podiatric Surgery (ABPS) which is granted pursuant to satisfaction of established requirements.

*Foot*—that part of the human anatomy which consists of the tarsal bones, metatarsal bones, phalanges, and all supportive or connective tissue, or both, immediately adjacent thereto not to extend proximal to the proximal dome of the talus.

\* \* \*

*Podiatry*—that profession of the health sciences which deals with:

a. the prevention, examination, diagnosis, medical, surgical and adjuvant treatment of the human foot; and

b. the treatment of the ankle, muscles, or tendons of the lower leg governing the functions of the foot and ankle by a podiatrist who has completed advanced training determined to be sufficient by the board at a program accredited by a nationally recognized accrediting association acceptable by the board.

\* \* \*

*Practice Prerogatives*—the authority of a podiatrist to engage in the treatment of the ankle, muscles or tendons of the lower leg governing the functions of the foot and ankle.

\* \* \*

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:611, 37:612, 37:613, 37:616 and 37:618.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:1088 (July 2003), amended LR 34:

#### Subchapter B. Requirements and Qualifications for Licensure, Scope of Practice

#### §1304. Necessity for License; Practice Prerogatives

A. No individual may hold himself out as a podiatrist or engage in the practice of podiatry in this state unless he or she has been licensed by or holds a permit duly issued by the board.

B. Each podiatrist licensed by the board may engage in the prevention, examination, diagnosis, medical, surgical, and adjuvant treatment of the human foot as defined herein.

C. A podiatrist shall not engage in the treatment of the ankle unless such practice is:

1. within the podiatrist's education and level of training; and

2. included within the scope of practice prerogatives for advanced practice for which the podiatrist has been

approved by the board as reflected by certification issued under this Chapter.

D. No individual licensed under this Chapter shall display or use the title "doctor" or its synonym, without the designation "podiatrist" or "podiatric medicine" nor mislead the public as to the limited professional scope of practice to treat human ailments.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:611-37:628.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 34:

### **§1305. Qualifications for License**

A. To be eligible for a license, an applicant shall:

1.-3. ...

4. possess a doctor of podiatric medicine or equivalent degree duly issued and conferred by a podiatric school or college approved by the board;

5. have taken and passed all three parts of the examination offered by the National Board of Podiatric Medical Examiners, or its successor, or such other national examination as may be approved by the board following consultation with the board's Podiatry Advisory Committee; and

6. with respect to applications for licensure first received by the board on and after January 1, 2005, have completed at least one year of postgraduate podiatric training in an internship or equivalent program accredited by the Council on Podiatric Medical Education of the American Podiatric Medical Association or its successor association, and approved by the board.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:611, 37:612, 37:613 and 37:616.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:1089 (July 2003), amended LR 34:

### **§1307. Qualifications for Certification for Advanced Practice; Scope of Practice**

A. Certification of an applicant for advanced practice may be issued by the board for either the conservative treatment of the ankle or the surgical treatment of the ankle, or both, depending upon an applicant's education and training.

B. Qualifications for certification in conservative treatment of the ankle. To be eligible for certification for the conservative treatment of the ankle an applicant who possesses and meets the qualifications and requirements of §1305A.1.-5 of this Chapter shall have completed at least one year of postgraduate podiatric training in an internship or equivalent program accredited by the Council on Podiatric Medical Education of the American Podiatric Medical Association or its successor association, and approved by the board.

C. Scope of practice for conservative treatment of the ankle. The scope of practice for the conservative treatment of the ankle shall be limited to the following:

1. the prevention, examination, diagnosis, medical, surgical, and adjuvant treatment of the human foot, as defined in §1303.A, which is authorized for a doctor of podiatric medicine without certification in advanced practice;

2. the medical treatment of the ankle to include the muscles or tendons of the lower leg governing the functions of the foot and ankle;

3. surgical treatment of the superficial conditions of the ankle involving the skin and overlying tissues and extending proximally; and

4. assisting an orthopedic surgeon or a doctor of podiatric medicine whose practice prerogatives include surgical treatment of the ankle, as defined in this Section.

D. Qualifications for certification in surgical treatment of the ankle. To be eligible for certification in the surgical treatment of the ankle, whether for initial licensure or annual renewal, an applicant who possesses and meets the qualifications and requirements of §1305A.1.-5 of this Chapter shall:

1. have completed a surgical residency approved by the Council on Podiatric Medical Education of the American Podiatric Medical Association, consisting of:

a. a two year Podiatric Surgery Residency (PSR 24) Program; or

b. a three year Podiatric Medicine and Surgery (PM&S-36) Program; and

2. hold American Board of Podiatric Surgery (ABPS) status as follows:

a. be board certified in reconstructive rearfoot/ankle surgery (RRA); or

b. be board certified in foot surgery and board qualified in reconstructive rearfoot/ankle surgery (RRA).

E. Scope of Practice for Surgical Treatment of the Ankle. The scope of practice for surgical treatment of the ankle shall be limited to the following:

1. the scope of practice as described in this Section for the conservative treatment of the ankle; and

2. surgical treatment of the ankle and muscles or tendons of the lower leg governing the functions of the foot and ankle, limited to procedures listed by the Council on Podiatric Medical Education (CPME) and the American Board of Podiatric Surgery (ABPS) as found in the CPME 320 and ABPS 220 documents (and their successors) as being required for graduate podiatric medical education and board certification at the time that an applicant's application for initial licensure or annual renewal is filed with the board.

F. Surgical procedures authorized under this Section shall only be performed in the following types of facilities:

1. a licensed and accredited hospital as defined in R.S. 40:2102(A) and R.S. 37:611(3)(a), if the podiatrist is granted privileges to do the procedures;

2. a licensed and accredited trauma center as defined in R.S. 40:2171(3) and R.S. 37:611(3)(a), if the podiatrist is granted privileges to do the procedures; or

3. a licensed and accredited ambulatory surgical center as defined in R.S. 40:2133(A) and R.S. 37:611(3)(a) if the podiatrist is granted privileges to do the same procedure in a hospital as described in §1307F.1 or a trauma center as described in §1307F.2 of this Subsection.

G. The burden of satisfying the board as to the qualifications and eligibility of the applicant for certification of practice prerogatives shall be upon the applicant. An applicant shall not be deemed to possess such qualifications

unless the applicant demonstrates and evidences such qualifications in the manner prescribed by and to the satisfaction of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:611-37:628.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 34:

#### **Subchapter D. Licensure by Reciprocity**

##### **§1319. Definitions**

A. As used in this Chapter the following terms shall have the meanings specified.

*Reciprocity*—the issuance of a license to practice podiatry in this state on the basis of podiatric licensure issued by another state podiatric licensing authority, pursuant to written examination and other requirements acceptable to the board as specified by §§1305 and 1307 of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:611-37:628.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 34:

##### **§1321. Qualifications for Podiatry Licensure by Reciprocity**

A. An applicant who possesses and meets all of the qualifications and requirements specified by §§1305 and/or 1307 of this Chapter, except for the requirement of successfully passing the examination specified by §1305.A..5 within the prior 10 years, shall nonetheless be eligible for licensing if such applicant possesses, as of the time the application is filed and at the time the board passes upon such application, a current, unrestricted license to practice podiatry issued by the podiatry licensing authority of another state and the applicant has, within 10 years prior to the date of application, taken and successfully passed a written certification or recertification examination administered by a specialty board recognized by the Council on Podiatric Medical Education of the American Podiatric Medical Association.

B. An applicant who possesses all of the qualifications for licensure by reciprocity specified by Subsection A of this Section, except for the requirement of having taken or passed a written certification or recertification examination within 10 years of the date of application, shall nonetheless be considered eligible for licensure by reciprocity if such applicant has, within 10 years prior to the date of application, taken and successfully passed the National Boards Part III or the podiatric medical licensure examination administered by the National Board of Podiatric Medical Examiners, or such other examination or competency testing, as may be designated and approved by the board following consultation with the board's Podiatry Advisory Committee.

C. An applicant who possess all of the qualifications for licensure by reciprocity specified by Subsections A and B of this Section who has not continuously practiced podiatry over the two years immediately prior to submission of an application to the board shall, as an additional requirement for eligibility for licensure by reciprocity, demonstrate competency by the successful passage of an examination or by such other testing as may be designated and approved by the board following consultation with the board's Podiatry Advisory Committee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:611-37:628.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 34:

#### **Subchapter E. Application**

##### **§1323. Purpose and Scope**

A. The rules of this Subchapter govern the procedures and requirements applicable to application to the board for licensure as a podiatrist in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:611-37:628.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 34:

##### **§1325. Application for Licensure; Procedure**

A. Application for licensure must be made in a format approved by the board and shall include:

1. proof, documented in a form satisfactory to the board that the applicant possesses the qualifications set forth in §§1305 and/or 1307 of this Chapter;
2. certification of the truthfulness and authenticity of all information, representations and documents contained in or submitted with the completed application;
3. payment of the applicable fee as provided in Chapter 1 of these rules; and
4. such other information and documentation as the board may require.

B. Upon submission of or concurrently with submission of a completed application an applicant shall, by appointment, make a personal appearance before the board, a member of the board, or its designee, as a condition to the board's consideration of such application. The recommendation of the board, board member, or designee as to the applicant's fitness for licensure shall be made a part of the applicant's file.

C. The board may reject or refuse to consider any application which is not complete in every detail. The board may in its discretion require a more detailed or complete response to any request for information set forth in the application form as a condition to consideration of an application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:611-37:628.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 34:

##### **§1327. Effect of Application**

A. The submission of an application for licensure to the board shall constitute and operate as an authorization by the applicant to each educational institution at which the applicant has matriculated, each state or federal agency to which the applicant has applied for any license, permit, certificate, or registration, each person, firm, corporation, clinic, office, or institution by whom or with whom the applicant has been employed in the practice of podiatry, each physician or other health care practitioner whom the applicant has consulted or seen for diagnosis or treatment and each professional organization or specialty board to which the applicant has applied for membership, to disclose and release to the board any and all information and documentation concerning the applicant which the board deems material to consideration of the application. With respect to any such information or documentation, the submission of an application for licensing to the board shall

equally constitute and operate as a consent by the applicant to disclosure and release of such information and documentation and as a waiver by the applicant of any privilege or right of confidentiality which the applicant would otherwise possess with respect thereto.

B. By submission of an application for licensure to the board, an applicant shall be deemed to have given his consent to submit to physical or mental examinations if, when, and in the manner so directed by the board and to waive all objections as to the admissibility or disclosure of findings, reports, or recommendations pertaining thereto on the grounds of privileges provided by law. The expense of any such examination shall be borne by the applicant.

C. The submission of an application for licensure to the board shall constitute and operate as an authorization and consent by the applicant to the board to disclose and release any information or documentation set forth in or submitted with the applicant's application or obtained by the board from other persons, firms, corporations, associations, or governmental entities pursuant to this Section to any person, firm, corporation, association, or governmental entity having a lawful, legitimate, and reasonable need therefore including, without limitation, the podiatric licensing authority of any state; the Federal Drug Enforcement Agency; the Louisiana Board of Pharmacy; the Department of Health and Hospitals; federal, state, county, parish and municipal health and law enforcement agencies; and the Armed Services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:611-37:628.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 34:

#### **Subchapter H. Licensure Issuance, Termination, Renewal, Reinstatement**

##### **§1357. Issuance of Licensure**

A. If the qualifications, requirements, and procedures prescribed or incorporated by this Chapter are met to the satisfaction of the board, the board shall license the applicant to engage in the practice of podiatry in the state of Louisiana.

B. Licensure issued by the board under this Chapter, as evidenced by a certificate duly issued by the board shall reflect an applicant's practice prerogatives based upon the applicant's education and level of training in accordance with the qualifications specified by this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:611-37:628.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 34:

#### **Subchapter I. Podiatry Advisory Committee**

##### **§1365. Constitution of Committee**

A. To assist the board in the review of an applicant's qualifications for licensure and renewal of licensure under this Chapter, the board shall constitute and appoint a Podiatry Advisory Committee (advisory committee) which shall be organized and shall function in accordance with the provisions of this Subchapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:611-37:628.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 34:

##### **§1367. Composition; Appointment**

A. The advisory committee shall be comprised of six members five of whom shall be podiatrists and one of whom will be an orthopedic surgeon specializing in treatment of the foot. All members of the advisory committee will be licensed by the board and practice and reside in this state.

B. Insofar as possible or practical, in its appointment of members to the advisory committee the board shall maintain geographic diversity so as to provide representative membership on the advisory committee by podiatrists residing and practicing in north, central, southwestern, and southeastern Louisiana.

C. Of the board's initial appointment of members to the advisory committee following the effective date of these rules, three appointees shall be designated to serve terms expiring on the last day of the year of their appointment and three to serve terms expiring on the last day of the year succeeding the year of their appointment. Thereafter, each member of the advisory committee shall serve a term of two years, subject to removal at any time at the pleasure of the board. Members appointed to the advisory committee by the board to fill a vacancy occurring on the advisory committee, other than by expiration of the designated term, shall serve for the unexpired term. A member of the advisory committee may be appointed by the board for not more than three consecutive terms other than the initial appointments provided herein. Board appointments to the advisory committee shall be effective when made with respect to appointments for unexpired terms and otherwise shall be effective as of the first day of the year following the date of appointment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:611-37:628.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 34:

##### **§1369. Delegated Duties and Responsibilities**

A. The advisory committee is hereby authorized by the board to:

1. advise and assist the board in the ongoing evaluation of the podiatric licensing and other competency examinations required by the board;
2. assist the board in examining the qualifications and credentials of and interviewing applicants for podiatric licensure and making recommendations thereon to the board;
3. provide advice and recommendations to the board respecting the modification, amendment, and supplementation of rules and regulations;
4. serve as a liaison between and among the board, podiatrists and podiatry professional associations;
5. receive reimbursement for attendance at board meetings and for other expenses when specifically authorized by the board; and
6. advise and assist the board in the review and approval of continuing professional education programs and licensee satisfaction of continuing professional education

requirements for renewal of licensure, as prescribed by Subchapter J of these rules, including the authority and responsibility to:

a. evaluate organizations and entities providing or offering to provide continuing professional education programs for podiatrists and providing recommendations to the board with respect to the board's recognition and approval of such organizations and entities as sponsors of qualifying continuing professional education programs and activities pursuant to §1375 of this Chapter;

b. review documentation of continuing professional education by podiatrists, verify the accuracy of such documentation, and evaluate and make recommendations to the board with respect to whether programs and activities supplied by applicants for renewal of licensure comply with and satisfy the standards for such programs and activities prescribed by these rules; and

c. request and obtain from applicants for renewal of licensure such additional information as the advisory committee may deem necessary or appropriate to enable it to make the evaluations and provide the recommendations for which the committee is responsible.

B. In discharging the functions authorized under this Section the advisory committee and the individual members thereof shall, when acting within the scope of such authority, be deemed agents of the board. All information obtained by the advisory committee members pursuant to §§1369.A.2 and 1369.A.6 shall be considered confidential. Advisory committee members are prohibited from communicating, disclosing, or in any way releasing to anyone, other than the board, any information or documents obtained when acting as agents of the board without first obtaining written authorization of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:611-37:628.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 34:

Interested persons may submit written data, views, arguments, information or comments on the proposed Rule to Rita Arceneaux, Confidential Executive Assistant, Louisiana State Board of Medical Examiners, P.O. Box 30250, New Orleans, LA 70190-0250 (630 Camp Street, New Orleans, LA 70130). She is responsible for responding to inquiries. Written comments will be accepted until 4 p.m., October 20, 2008. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument or public hearing must be made in writing and received by the board within 20 days of the date of this notice. Should it become necessary to convene a public hearing to receive data, views, arguments, information or comments orally, in accordance with the Louisiana Administrative Procedure Act, the hearing will be held on October 28, 2008, at 2 p.m. at the office of the Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, LA 70190.

Robert L. Marier, M.D.  
Executive Director

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: Podiatrists Licensure and Certification

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Other than notice and rule publication costs estimated at a combined total of \$1,196.25, which costs will be absorbed within the Board's budget during FY 2008, it is not anticipated that the proposed rules will result in any additional costs or savings to the board or any other state or local governmental unit.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on the Board's revenue collections or those of any other state or governmental unit.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

In conformity with Acts 2007, Number 204, (R.S. 37:611,37:616), the proposed rules and amendments will provide for the advanced practice of podiatry by individuals who have completed advanced training acceptable to the Board, at a program accredited by a nationally recognized accrediting association acceptable to the Board. The proposed rules also provide certain substantive and procedural requirements attendant to reciprocity applicants, the application procedure, licensure issuance, establish a Podiatry Advisory Committee to the Board, and make other substantive modifications consistent with or necessitated by the statutory amendments. It is not anticipated that the proposed rules and amendments will have any material effect on costs, paperwork or workload of podiatrists or applicants. Implementation of the proposed rules and amendments may, to an extent that is not quantifiable, serve to increase competition in the market for employment of and the receipts and/or income of podiatrists who are certified to engage in advanced practice.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that the proposed rules will have any material impact on competition or employment in either the public or private sector.

Robert Marier, M.D.  
Executive Director  
0809#089

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Department of Health and Hospitals Board of Nursing

#### Denial or Delay of Licensure (LAC 46:XLVII.3331)

The Louisiana State Board of Nursing proposes to amend LAC 46:XLVII.3331, Denial or Delay in accordance with R.S. 37:918, R.S. 37:919 and R.S. 37:920 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The proposed amendment to LAC 46:XLVII.3331 revises the list of offenses that would disqualify an applicant for license, reinstatement, or the right to practice as a student

nurse. This revision is being recommended due to the significantly increasing number of applicants applying for licensure and reinstatement with prior serious criminal action. This change will provide a permanent bar from nursing practice for serious felonies, and provide a time-limited bar for other serious crimes.

#### **Title 46**

### **PROFESSIONAL AND OCCUPATIONAL STANDARDS**

#### **Part XLVII. Nurses**

#### **Subpart 2. Registered Nurses**

#### **Chapter 33. General**

#### **Subchapter C. Registration and Registered Nurse Licensure**

#### **§3331. Denial or Delay of Licensure, Licensure by Endorsement, Reinstatement, or the Right to Practice Nursing as a Student Nurse**

A. Denial of Licensure, Licensure by Endorsement, Reinstatement, or the Right to Practice Nursing as a Student Nurse

1. Applicants for licensure, licensure by endorsement, reinstatement, or the right to practice as a student nurse shall be denied approval for licensure, for reinstatement, to receive a temporary working permit, to be eligible for NCLEX-RN, or to enter or progress into any clinical nursing course, if the applicant has pled guilty, nolo contendere, or "best interest of" to, or the equivalent thereto in jurisdictions other than Louisiana, or has been convicted of committing, attempting to commit, or conspiring to commit:

a. a "crime of violence" as defined in R.S. 14:2(B), or any of the following crimes: first degree feticide, second degree feticide, false-imprisonment-offender armed with a dangerous weapon, incest, molestation of a juvenile, sexual battery of the infirm, or an equivalent crime in jurisdictions other than Louisiana; or

b. a crime involving the production, manufacturing, distribution or dispensing of a controlled dangerous substance as provided for and defined in R.S. 40:961 through 40:995, otherwise referred to as the Uniform Controlled Dangerous Substances Law, or an equivalent crime in jurisdictions other than Louisiana.

2. For purposes of this Section, a pardon, suspension of imposition of sentence, expungement, or similar action shall not negate or diminish the applicability of this Section.

3. Applicants who are denied licensure, licensure by endorsement, reinstatement, or the right to practice nursing as a student nurse pursuant to this Section shall not be eligible to submit a new application unless the following conditions are met:

a. the applicant presents evidence that (i) ten years have elapsed since the final disposition of the criminal case involving applicant including, if applicable, the completion of all court ordered probation and/or parole; and (ii) that the applicant can practice nursing safely. The evidence may include, but not be limited to, certified court documents, comprehensive evaluations by board approved evaluators, employer references, and other evidence of rehabilitation. Prior to requesting a board hearing, all evidence that applicant desires to be considered shall be presented to board staff; and

b. a hearing or conference is held before the board to afford the applicant the opportunity to prove that the

above required 10 year period has elapsed and that the applicant can practice nursing safely, and to provide an opportunity for the board to evaluate the evidence presented and determine whether a new application can be submitted and considered without being subject to the mandatory denial provisions of Paragraph A.1 above when no new grounds for such denial exist.

4. Notwithstanding the provisions of Paragraph A.3 above, eligibility to submit a new application shall not be extended to applicants who have pled guilty, nolo contendere, or "best interest of" to, or the equivalent thereto in jurisdictions other than Louisiana, or have been convicted of committing, attempting to commit, or conspiring to commit, the following crimes: solicitation for murder; First degree murder; second degree murder; first degree feticide; second degree feticide; aggravated rape; forcible rape; aggravated kidnapping; second degree kidnapping; aggravated arson; aggravated burglary; first degree robbery; extortion; carjacking; terrorism; armed robbery, use of firearm, additional penalty; second degree robbery; disarming a police officer; second degree cruelty to juveniles; and aggravated flight from an officer; or an equivalent crime in jurisdictions other than Louisiana.

5. These provisions of this Section shall not apply to the reinstatement of a license that has been suspended or surrendered as a result of disciplinary action taken against a licensee by the board or which reinstatement would otherwise be subject to the provisions of LAC 46:XLVII.3415.

B. Delay of Licensure, Licensure by Endorsement, Reinstatement, or the Right to Practice Nursing as a Student Nurse

1. Applicants for licensure, licensure by endorsement, reinstatement, and for practice as a student nurse shall be delayed approval for licensure, for reinstatement, to receive a temporary working permit, to be eligible for NCLEX-RN, or to enter or progress into any clinical nursing course, if the applicant:

a. has any pending disciplinary action or any restrictions of any form by any licensing/certifying board in any state; or

b. has a pending criminal charge that involves any violence or danger to another person, or involves a crime which constitutes a threat to patient care, or one that involves drug possession, use, production, manufacturing, distribution or dispensing; or

c. has pled guilty, nolo contendere, "best interest of" to, or the equivalent thereto in jurisdictions other than Louisiana, or has been convicted of committing, attempting to commit, or conspiring to commit, or allowed to participate in a pretrial diversion program in lieu of prosecution for, a crime that does not constitute grounds for denial but that reflects on the ability of the person to practice nursing safely, and the conditions of the court or the pretrial diversion program have not been met, or is currently serving a court ordered probation or parole; or

d. has been diagnosed with or treated for a physical or mental infirmity that interferes with or affects the ability of the person to practice nursing safely.

2. Applicants who are delayed licensure, licensure by endorsement, reinstatement, or the right to practice nursing

as a student nurse shall not be eligible to submit a new application until the following conditions are met:

a. if delay is based on the existence of a pending criminal charge, must present evidence that the charge has been dismissed including, but not limited to, documents indicating that the dismissal was predicated on completion of pretrial diversion program or completion of conditions imposed for consideration of suspension of sentence under C.Cr.P. Article 893 or 894 or their equivalent in jurisdictions other than Louisiana; or

i. if the charge results in a felony conviction, other than for the commission of a crime that would constitute grounds for denial of the application, must present evidence that five years have elapsed since the final disposition of the criminal case involving applicant including, if applicable, the completion of all court ordered probation and/or parole;

ii. if the charge results in a misdemeanor conviction, other than for the commission of a crime that would constitute grounds for denial of the application, must present evidence of the final disposition of the criminal case including, if applicable, the completion of all court ordered probation and/or parole;

b. if delay is based on pending disciplinary action, must present evidence of unencumbered license(s) or certification from all affected jurisdictions that the matter has been satisfactorily resolved; or

c. if delay is based on the existence of a physical or mental infirmity, must present comprehensive psychological, psychiatric, chemical dependency and/or other appropriate medical evaluations completed with board approved evaluators, which may include, but not be limited to, forensic evaluations with polygraph examination, that evidence the ability of the applicant to practice nursing safely;

d. a hearing or conference is held before the board to review the evidence, to afford the applicant the opportunity to prove that the cause for the delay no longer exists, and to provide an opportunity for the board to evaluate the evidence presented and determine whether a new application can be submitted and considered without being subject to the mandatory delay provisions of Paragraph B.1 above when no new grounds for such delay exist.

3. The provisions of this Section shall not apply to the reinstatement of a license that has been suspended or surrendered as a result of disciplinary action taken against a licensee by the board or which reinstatement would otherwise be subject to the provisions of LAC 46:XLVII.3415.

C. The provisions of this section shall not apply to applicants for licensure, licensure by endorsement, reinstatement, or the right to practice nursing as a student nurse who have on file with the board a pending application for approval on or before the effective date of this revision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918, 920 and 921.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 23:961 (August 1997), repromulgated LR 24:1293 (July 1998), amended LR 27:202 (February 2001), LR 34:

#### Family Impact Statement

In compliance with R.S. 49:953 and 974, the following Family Impact Statement of the proposed amendments to rules is provided. There should be no adverse effect on the stability of the family; the authority and rights of parents regarding the education and supervision of their children; or the ability of the family or a local government to perform the function as contained in the proposed rule amendments.

Interested persons may submit written comments on the proposed rules until 5 p.m., October 10, 2008 to Barbara L. Morvant, Executive Director, 17373 Perkins Road, Baton Rouge, LA 70808.

Barbara L. Morvant, MN, RN  
Executive Director

#### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Denial or Delay of Licensure

##### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There is no anticipated increase or decrease in expenditures or savings due to these proposed rules except for the publication of the proposed rules estimated at \$300.00 in FY 08-09.

##### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections.

##### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is no estimated effect on the costs and/or economic benefits that will directly affect persons or non-governmental groups. This revision will directly impact any applicant applying for licensure and reinstatement with prior serious criminal action. This change will provide a permanent bar from nursing practice for serious criminal action. This change will provide a permanent bar from nursing practice for serious felonies, and provide a time-limited bar for other serious crimes.

##### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed amendment to LAC 46:XLVII.3331 revises the list of offenses that would disqualify an applicant for license, reinstatement, or the right to practice as a student nurse. This revision is being recommended due to the significantly increasing number of applicants applying for licensure and reinstatement with prior serious criminal action. This change will provide a permanent bar from nursing practice for serious felonies, and provide a time-limited bar for other serious crimes.

Barbara L. Morvant  
Director  
0809#100

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Health and Hospitals Office of the Secretary Office of Aging and Adult Services

Personal Care Services—Long Term  
Louisiana Personal Options Program  
(LAC 50:XV.Chapter 129)

The Department of Health and Hospitals, Office of Aging and Adult Services proposes to amend LAC 50:XV.Chapter 129 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of Aging and Adult Services amended the provisions governing the reimbursement methodology for long term personal care services to implement a wage enhancement payment for personal care workers (*Louisiana Register*, Volume 34, Number 2).

The Deficit Reduction Act of 2005 amended §1915 of the Social Security Act to establish optional provisions for states to provide an alternative method for Medicaid recipients to receive personal care services. States have the option of allowing recipients to direct and manage their own services rather than accessing the services through a personal care agency. Under these provisions, participants can interview, hire, train and supervise workers of their choice. In compliance with the DRA provisions, the department now proposes to amend the provisions governing long term personal care services to implement a pilot program which will allow Medicaid recipients to direct and manage their own personal care services.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability or autonomy as described in R.S. 49:972 by allowing participants to determine what services best meet their needs and choose who they wish to deliver the 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 to enable them to reside and remain safely in their own home. The mission of Medicaid funded personal care services is to supplement the family and/or community supports that are available to maintain the recipient in the community. This service program is not intended to be a substitute for available family and/or community supports. 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 services being provided to the recipient and will be considered in conjunction with those other services.

B. ...

C. Authorization. Personal care services shall be authorized by the Department of Health and Hospitals, Office of Aging and Adult Services (OAAS) or its designee. The department, or its designee, will review the completed assessment, supporting documentation, plan of care or any other pertinent documents to determine whether the recipient meets the medical necessity criteria for personal care services.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:911 (June 2003), amended LR 30:2831 (December 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 32:2082 (November 2006), LR 34:

#### §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. The Louisiana Personal Options Program requires greater individual responsibility, but offers the participants greater control, flexibility and choice over the services they receive.

1. La POP will be implemented through a phased-in process in Department of Health and Hospitals administrative regions designated by OAAS.

2. La POP participants will use a monthly budget allowance to manage their own personal care services. Some of the monthly allowance may be used to purchase items that increase a participant's independence or substitute for his/her dependence on human assistance.

B. Participants are required to use counseling and financial management services in order to assume responsibility for directing their services and managing their budget.

1. A financial management agency is utilized to provide financial management and payroll services to La POP participants.

2. With the assistance of a services consultant, participants develop a personal support plan (PSP) based on their approved plan of care and choose the individuals they wish to hire to provide the services.

C. An orientation to the Louisiana Personal Options Program, including participant roles and responsibilities, is required for all participants prior to the completion of enrollment in the program. The intent of the orientation is to provide participants with a program handbook and other tools they need to effectively and safely manage their services.

D. La POP participants may elect to discontinue participation in the program at any time. The services consultant must be notified and will begin the disenrollment process within five business days from the date of notification. A face-to-face meeting may be required if the individual remains eligible for long-term personal care services.

1. La POP services will continue until the transition to services provided by a personal care agency is completed.

2. Once disenrolled from La POP, the participant must continue to receive services through a traditional personal care services agency for a minimum of three months before re-enrollment in La POP can be considered.

E. La POP participants may be involuntarily disenrolled from the program for any of the following reasons.

1. Health, Safety and Well-Being. The Office of Aging and Adult Services or its designee makes a determination that the health, safety and well-being of a participant is compromised or threatened by continued participation in La POP.

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 personal representative available to direct the care.

3. Misuse of Monthly Allocation of Funds. The LA POP participant or his/her personal 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 personal 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. Unsafe Working Conditions. The conditions in the workplace prevent the direct service worker from performing his/her duties or threaten his/her safety. The direct service worker must document and report these situations to OAAS or its designee.

AUTHORITY NOTE: Promulgated in 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:

#### **§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 an individual for continued well-being, health and safety. ADLs include tasks such as:

A.1. - B.7. ...

8. reminding the recipient to take his/her medication as prescribed by the physician.

C. ...

1. La POP participants may choose to use some of their monthly budget to purchase non-medical transportation. 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. ...

F. 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.

AUTHORITY NOTE: Promulgated in 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:

#### **§12905. Recipient Qualifications**

A. Personal care services shall be available to recipients who are 65 years of age or older, or 21 years of age or older and have a disability. Persons with a disability must as meet the disability criteria established by the Social Security Administration.

B. Personal care services for elderly or disabled recipients must meet medical necessity criteria as determined by OAAS and must be prior authorized by OAAS or its designee. Personal care services are medically necessary if the recipient:

1. - 3.c. ...

C. Persons who are eligible to receive LT-PCS have the option of participating in La POP. To participate in La POP, the individual must:

1. give informed consent to participate;

2. be able to understand the rights, risks, and responsibilities of managing his/her own care; and

3. be willing to complete and follow a personal supports plan with the help of a services consultant; or

4. if unable to make decisions independently, have a willing personal representative who understands the rights, risks and responsibilities of managing the participant's care.

D. Persons designated as the personal representative of either an individual receiving services under LT-PCS or the La POP option may not be the paid direct service worker of the individual they are representing.

AUTHORITY NOTE: Promulgated in 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 32:2082 (November 2006), LR 34:

#### **§12907. Recipient Rights and Responsibilities**

A. Recipients who receive services under the Long-Term Personal Care Services Program have the right to actively participate in the development of their plan of care and the decision-making process regarding service delivery. Recipients also have the right to freedom of choice in the selection of a provider of personal care services and to participate in the following activities:

1. - 3. ...

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 work from providing services;

5. - 9. ...

B. Changing Providers. Recipients may request to change PCS agencies without cause once after each three month 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 the bureau or its designee.

C. In addition to these rights, recipients who enroll to participate in La POP have certain responsibilities, including:

1. managing their services budget in accordance with an approved personal supports plan;
2. notifying their services consultant at the earliest reasonable time of admission to a hospital, nursing facility, rehabilitation facility or any other institution:
  - a. participants are not entitled to use the monies in the personal direction budget during the time they are an inpatient or resident of a facility;
3. interviewing, hiring, supervising and firing their direct service workers and other employer related functions;
4. completing and submitting all required paperwork in a timely manner and complying with all applicable tax and labor laws;
5. treating their employees, the services consultant and La POP staff with respect;
6. assuring that the direct service worker is on the Louisiana Direct Services Worker Registry before wages can be authorized and paid;
7. authorizing and making changes in worker wages and benefits within the authorized budget of the personal supports plan;
8. developing the work schedule for their direct service worker;
9. training the direct service worker in the specific skills necessary to safely maintain the participant's independent functioning to remain in the home;
10. developing a viable individualized emergency back-up plan in the personal supports plan;
11. accurately signing off on payroll logs and other documentation to verify staff work hours and authorizing payment;
12. cooperating with the department's quality assurance, program integrity, and program evaluation activities; and
13. providing any documentation requested by the department or its designee in a timely manner.

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

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

#### **§12909. Agency Standards for Participation**

A. - A.1.d. ...

2. must possess a current, valid home and community based services license to provide Personal Care Attendant Services issued by the Department of Health and Hospitals, Health Standards Section.

B. - B.12.c. ...

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

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

#### **§12910. La POP Standards for Participation**

A. Direct service workers employed under LA POP must be hired through the Direct Services Worker (DSW) registry. The DSW registry incorporates several quality safeguards, including training and criminal background check requirements, which will assist the LA POP participant in obtaining qualified staff.

B. The participant may make an offer of temporary employment to a prospective direct service worker pending the results of the criminal background check. In such instances, the worker shall perform his/her duties:

1. under the direct supervision of another direct service worker who has successfully undergone a criminal background check;
2. in the presence of a member of the participant's immediate family; or
3. in the presence of a care giver designated by the participant or immediate family.

C. All workers must be employed in accordance with Internal Revenue Service (IRS) and Department of Labor regulations.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:

#### **§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. 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. ...

C. Restrictions. A legally responsible relative is prohibited from being the paid direct service worker for a family member. For the purposes of the Long Term-Personal Care Services Program, legally responsible relative is defined as the recipient's spouse, curator, tutor, or legal guardian.

D. Supervisor Qualifications. All supervisors of direct care staff must meet the following qualifications. These provisions do not apply to La POP participants.

D.1. - E.1.a. ...

b. periodic (at least quarterly) unannounced visits to the recipient's residence to monitor service delivery and compliance with the plan of care.

E.2. - F.5. 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:

#### **§12912. Training**

A. A personal care services agency may either provide, or arrange for, training for direct service workers and supervisors. Agency sponsored training must be furnished at the agency's own expense.

B. Direct service workers and supervisory staff also have the option to directly obtain training from entities whose curriculum has been approved by the Department of Health and Hospitals, Health Standards Section.

C. A minimum of eight hours of orientation must be provided to new direct care and supervisory employees within one week of employment. The orientation provided to staff shall include, but is not limited to:

1. agency policies and procedures;
2. staff duties and responsibilities;
3. ethics and confidentiality;
4. record keeping;
5. a description of the population served by the agency; and
6. a discussion of issues related to providing care for these individuals, including physical and emotional problems associated with aging and disability.

D. New direct care staff must also receive training in cardiopulmonary resuscitation (CPR) and basic first aid within one week of employment. A current, valid certification for CPR and first aid may be accepted as verification of training.

E. A minimum of 16 hours of training must be furnished to new employees within 30 days of employment. The PCS agency training curriculum must, at a minimum, include the following components:

1. communication skills;
2. observation, reporting and documentation of the recipient status and the care or service furnished;
3. basic infection control procedures;
4. basic elements of body functioning and changes in body function that must be reported to a worker's supervisor;
5. safe transfer techniques and ambulation;
6. appropriate and safe techniques in personal hygiene and grooming that include:
  - a. bed bath;
  - b. sponge, tub, or shower bath;
  - c. sink, tub, bed shampoo;
  - d. nail and skin care;
  - e. oral hygiene; and
  - f. toileting and elimination;
7. recognizing emergencies and knowledge of emergency procedures;
8. maintenance of a clean, safe and healthy environment; and
9. treating the recipient with dignity and respect, including the need to respect his/her privacy and property.

F. PCS workers and supervisors must satisfactorily complete a minimum of 20 hours of annual training related to the provision of personal care services. This training may include updates on the subjects covered in orientation and initial training. The eight hours of orientation required for new employees are not included as part of the hours required for the annual training.

G. For direct service workers employed by La POP participants, training must be performed by an entity approved by the Department of Health and Hospitals, Health Standards Section. Costs of this training will be paid out of the La POP participant's personal supports plan budget.

1. A minimum of eight hours of orientation must be provided to a new La POP direct service worker within one week of employment. A portion of this orientation may be

provided by the participant and other components may be obtained from an entity approved conduct DSW training.

2. Orientations conducted for staff employed through LA POP must include the same components required for orientations conducted by PCS agencies except for the following topics:

- a. agency policies and procedures;
- b. staff duties and responsibilities; and
- c. a description of the population served by the agency.

3. The following topics must be included in La POP staff orientations:

- a. personal care service procedures;
- b. direct service worker responsibilities; and
- c. participant values and preferences.

4. New La POP direct service workers must also receive training in cardiopulmonary resuscitation (CPR) and basic first aid within one week of employment. A current, valid certification for CPR and first aid may be accepted as verification of training.

5. A minimum of 16 hours of training must be furnished to a new direct service worker employed through La POP within 30 days of employment and must include all of the components required for the PCS agency training curriculum.

H. Documentation. All required training must be documented in the employee's personnel record (maintained by either the PCS agency, fiscal agent or the La POP participant) including the date(s) of training, time spent in the training session, subjects covered and the name of the individual who conducted the training. Verification of training shall be furnished to the OAAS or its designee upon request.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:

#### **§12913. Place of Service**

A. - C.3. ...

D. Participants are not permitted to live in homes or property owned, operated, or controlled by a provider of services who is not related by blood or marriage to the participant.

E. Place(s) of service must be documented in the plan of care and service logs.

AUTHORITY NOTE: Promulgated in 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:

#### **§12915. Service Limitations**

A. Personal care services shall be limited to up to 56 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.

AUTHORITY NOTE: Promulgated in 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:

## §12917. Reimbursement Methodology

A. - B.8.d. ...

### C. La POP Payment Methodology

1. The budget amount will be based on the number of service hours (in one-quarter hour increments) approved by OAAS or its designee multiplied by the established fee schedule rate. The product of approved hours times the fee schedule rate will be the overall budget amount. A percentage of the overall budget will be used to offset some of the administrative costs for the fiscal management agency and the counseling support functions. After the percentage has been deducted from the overall budget, the remainder will be the budget amount for the individual participant. The participant will allocate these budget funds to cover personal support services and other items in his/her approved support plan.

2. Expenditures shall only be made in accordance with the approved personal supports plan and the Louisiana Personal Options Program guidelines.

3. The authorized hours and fee schedule rate will be the same whether the personal care services are agency-directed or participant-directed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:913 (June 2003), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:253 (February 2008), LR 34:

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

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, October 28, 2008 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested individuals will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Alan Levine  
Secretary

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: Personal Care Services—Long Term Louisiana Personal Options Program

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have no programmatic fiscal impact to the state other than cost of promulgation for FY 08-09. It is anticipated that \$1,476 (\$738 SGF and \$738 FED) will be expended in FY 08-09 for the state's administrative expense for promulgation of this proposed rule and the final rule.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections other than the federal share of the promulgation costs for FY 08-09. It is anticipated that \$738 will be expended in FY 08-09 for the federal share of the expense for promulgation of this proposed rule and the final rule.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule proposes to amend the provisions governing long term personal care services to allow Medicaid recipients the option to direct and manage their own personal care services by implementing the Louisiana Personal Options Program (La POP). There is no additional program costs because all services rendered must remain under the established service limit cap. It is anticipated that implementation of this proposed rule will not have estimable cost or economic benefits for directly affected persons or non-governmental groups in FY 08-09, FY 09-10 and FY 10-11.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Jerry Phillips  
Medicaid Director  
0809#124

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

#### Prosthetics and Orthotics Provider Accreditation (LAC 50:XVII.301, 303 and 501)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt LAC 50:XVII.303 and 501 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repealed and repromulgated provisions governing prosthetic and orthotic devices in the Medical Assistance Program (Louisiana Register, Volume 31, Number 7).

Act 732 of the 2008 Regular Session of the Louisiana Legislature authorized the department to mandate that all providers seeking reimbursement for prostheses, orthoses, prosthetic services and orthotic services or devices must be accredited by the American Board of Certification in Orthotics, Prosthetics and Pedorthics or by the board for Orthotist/Prosthetist Certification. In compliance with Act 732, the department proposes to adopt provisions governing accreditation requirements for providers of prosthetic and orthotic devices.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability and autonomy as described in R.S.

49:972 by assuring that Medicaid recipients receive prosthetic/orthotic services from providers who have attained accreditation from nationally recognized boards.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part XVII. Prosthetics and Orthotics**

**Subpart 1. General Provisions**

**Chapter 3. Provider Participation**

**§301. Accreditation Requirements**

A. Effective January 1, 2009, all providers seeking Medicaid reimbursement for prostheses, orthoses, prosthetic services and orthotic services must be accredited by the American Board of Certification in Orthotics, Prosthetics and Pedorthics, or by the board for orthotist/prosthetist certification.

1. These accreditation provisions shall not apply to a licensed optometrist or a licensed ophthalmologist, and shall not prohibit a licensed occupational therapist or a licensed physical therapist from practicing within his scope of practice.

B. For the purposes of this Section, orthosis shall not include prefabricated or direct-formed orthotic devices or any of the following assistive technology devices commonly carried in stock by a pharmacy, department store, corset shop, or surgical supply facility:

1. commercially available knee orthoses (used following sports injury or surgery);
2. upper extremity adaptive equipment;
3. wrist gauntlets;
4. finger and hand splints;
5. low-temperature formed plastic splints;
6. trusses;
7. elastic hose;
8. fabric or elastic supports;
9. corsets;
10. face masks used following burns;
11. canes and crutches;
12. wheelchair seating that is an integral part of the wheelchair and not worn by the patient independent of the wheelchair;
13. cervical collars; and
14. dental appliances.

C. For the purposes of this Section, prosthesis shall not include:

1. artificial eyes;
2. artificial ears;
3. artificial noses;
4. dental appliances;
5. ostomy products; and
6. eyelashes and wigs.

D. A provider who is not accredited and provides prosthetic/orthotic services or devices to a recipient and accepts Medicaid reimbursement shall be fined \$2,500 per violation and shall be required to reimburse the Medicaid Program for the cost of the service(s) or device(s).

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 31:85 (January 2005), repromulgated LR 31:1597 (July 2005), amended LR 34:

**§303. Provider Responsibilities**

A. Providers may not deliver more than one month's approval of supplies initially and all subsequently approved supplies must be delivered in increments not to exceed one month's rations.

B. The recipient must be Medicaid eligible on the date of service for payment to be made. The date of service is the date of delivery.

C. The date of shipping will be considered the date of service for all items delivered through mail courier service.

D. Providers who make or sell prosthetic or orthotic items must provide a warranty which lasts at least one year from the time the item is delivered to the customer. If, during that year, the item does not work, the manufacturer or dealer must repair or replace the item.

E. For any appliance which requires skill and knowledge to use, the item provider must provide appropriate training for the recipient and must provide documentation of plans for training upon the request of the prior authorization unit.

AUTHORITY NOTE: Promulgated in 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:

**Chapter 5. Reimbursement**

**§501. Reimbursement Methodology**

A. - B. ...

C. Effective January 1, 2009, reimbursements for prosthetic or orthotic services or devices shall only be paid to an accredited provider.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1597 (July 2005), amended LR 34:881 (May 2008), amended LR 34:

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, October 28, 2008 at 9:30 a.m. in Room 118, Bienville Building, 628 North 4<sup>th</sup> Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Alan Levine  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Prosthetics and Orthotics Provider  
Accreditation**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will have no programmatic fiscal impact to the state for FY 08-09, FY 09-10, and FY 10-11. It is anticipated that \$328 (\$164 SGF and \$164 FED) will be expended in FY 08-09 for

the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections other than the federal share of the promulgation costs for FY 08-09. It is anticipated that \$164 will be collected in FY 08-09 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule proposes to require all providers seeking Medicaid reimbursement for prostheses, orthoses, prosthetic services and orthotic services to be accredited by the American Board of Certification in Orthotics, Prosthetics and Pedorthics or by the Board for Orthotist/Prosthetist Certification. It is anticipated that implementation of this proposed rule will cost each provider (approximately 47 are enrolled in the Medicaid Program with the specialty of prosthetics and/or orthotics) approximately \$750 to \$2,900 each year in FY 08-09, FY 09-10, and FY 10-11 for accreditation fees, depending upon the accreditation board they select. It is unknown how many providers are currently accredited or how many will seek accreditation.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this rule will have no effect on competition and employment.

Jerry Phillips  
Medicaid Director  
0809#123

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Public Safety and Corrections  
Corrections Services**

**Prison Enterprises—Responsibilities and Functions  
(LAC 22:I.1101)**

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Public Safety and Corrections, Corrections Services, hereby gives notice of its intent to amend the contents of Section 1101, Responsibilities and Functions of Prison Enterprises.

The purpose of the amendment to the aforementioned regulation is to clarify and further establish and outline the functions and responsibilities of the Division of Prison Enterprises.

**Title 22**

**CORRECTIONS, CRIMINAL JUSTICE AND LAW  
ENFORCEMENT**

**Part I. Corrections**

**Chapter 11. Prison Enterprises**

**§1101. Responsibilities and Functions**

A. Purpose—to clarify and further establish and outline the functions and responsibilities of the Division of Prison Enterprises.

B. Applicability—deputy secretary, chief of operations, undersecretary, assistant secretary, regional wardens, wardens, director of Prison Enterprises and director of Probation and Parole. Each unit head is responsible for

ensuring that appropriate unit written policy and procedures are in place to comply with the provisions of this regulation.

C. Policy

1. It is the secretary's policy that the Division of Prison Enterprises is responsible for developing and implementing policy and procedures for agricultural, aquacultural, silvicultural and marketing programs, industrial enterprises, livestock operations and service industries that will utilize the department's resources to lower the cost of incarceration. Additionally, Prison Enterprises shall provide training and work opportunities for offenders in order to enhance the department's reentry initiatives, and provide products and services to state and local agencies, other political subdivisions, open market customers and other targeted customers.

D. Definitions

*Advertising*—the use of Prison Enterprises' resources to call to the attention of existing or potential customers the products or services offered by Prison Enterprises through media sources, including but not limited to print, television, radio, signage, sponsorships, tradeshow and other electronic media.

*Agricultural*—of or relating to cultivation of soil, production of crops, raising of livestock and management of natural resources.

*Aquacultural*—of or relating to cultivation of natural produce of water such as fish and shellfish and their by-products.

*Crop Commodities*—food and fiber products that cover a broad range of goods from both processed and unprocessed bulk commodities. This includes but is not limited to soybeans, corn, wheat, rice, cotton, vegetables, grasses and their by-products.

*Governmental Agencies*—including but not limited to foreign, federal, state and local governmental bodies as well as non-profit organizations, both within and outside the state of Louisiana.

\* \* \*

*Marketing*—the process or technique of promoting, selling and distributing a product or service. This includes but is not limited to restricted marketing to a targeted buyer or group of buyers.

*Meat and Food Products*—including but not limited to all processed and/or unprocessed bulk beef, poultry, pork, seafood and other food products used for production or resale.

\* \* \*

*Opportunity Purchases*—single bids for non-contract items specifically requested by a customer or recommended by Prison Enterprises.

*Private Treaty*—a sale of property on terms determined by conference of the seller and buyer.

*Promotional Items*—items having no substantial resale value including but not limited to calendars, pens, hats, and t-shirts bearing information relative to Prison Enterprises.

*Public Employee*—person employed at any level in any capacity by a governmental agency in any branch of government, including a retiree.

*Row Crop Contracts*—contracts with grain elevators or others based on the Chicago Board of Trade.

*Samples*—any Prison Enterprises' products or services provided to a potential or existing customer or placed in a highly visible location or otherwise utilized to further enhance sales to existing or potential customers. This includes but is not limited to items provided to governmental agencies or organizations affiliated with potential customers to use at their discretion.

*Service Industry*—any labor-intensive endeavor that utilizes inmate labor or Prison Enterprises' resources to accommodate customer requests. This includes but is not limited to janitorial work, bulk mailings and assembly.

*Silvicultural*—of or relating to controlling the establishment, growth, composition, health and quality of forests and woodlands and their by-products through management, harvest and planting.

*Timber*—includes all natural and planned growth of trees used for building and other purposes, and all by-products of trees including but not limited to pine straw, firewood and bark.

#### E. General

1. The director of Prison Enterprises shall be responsible for the following:

a. Establishment and operation of all agricultural, aquacultural, silvicultural and marketing programs, industrial enterprises, livestock operations and service industries, including the Private Sector//Prison Industry Enhancement (PS/PIE) program within the Department of Public Safety and Corrections.

E.1.b - E.1.d. ...

2. Prison enterprises may purchase without bid both finished and unfinished goods and processed and unprocessed raw materials from other governmental agencies for further processing or sale. Purchases of this type shall only be made to accommodate or take advantage of delivery terms, consistency in product quality/specifications, manufacturing capabilities and price.

3. ...

4. Functional supervision at the field level relative to interface with unit activities and security requirements shall be under the jurisdiction of the warden in accordance with ACA Standard 4-4006.

#### F. Marketing and Promotion

1. Prison Enterprises can market and promote activities or incur expenses to promote its products and services to existing or potential customers. Marketing and promotional activities include but are not limited to providing samples and promotional items, participating in advertising, and attending conferences and/or conventions.

#### G. Sales

##### 1. General

a. All Prison Enterprises products, commodities, livestock, and services may be sold through appropriate venues including but not limited to direct sales to governmental agencies, non-profit entities, private entities, public employees, and other targeted customers, as well as open market sales, sealed bids, auctions and sales of bulk-purchased items via central warehousing operations in accordance with R.S. 15:1157(C).

b. Sales to governmental agencies shall be priced based on response to bid requests, direct sales of Prison Enterprises contract products and by direct negotiation between Prison Enterprises and the governmental agency.

c. Prison Enterprises can sell manufactured, processed, agricultural and other commodity products to a full-time, part-time or retired public employee who resides within the state of Louisiana provided that the employee certifies that the product shall not be resold or transferred outside the state. Pricing shall be determined based on current Prison Enterprises contract prices or established Prison Enterprises pricing methodology.

d. Prison Enterprises shall not sell any product or service for the purposes of promoting political candidates or any other political activity.

##### 2. Sale of Bulk Meat and Food

a. Meat and food products offered for sale by Prison Enterprises and their corresponding prices shall be listed on the state contract published by the Office of State Purchasing. Prices will be updated at intervals as deemed necessary by Prison Enterprises.

b. Opportunity purchases shall be bid as necessary and sold at a price determined by Prison Enterprises.

c. Pricing for meat and food products shall be based on purchase price, market conditions and sales history. The director of Prison Enterprises or his designee shall approve all prices.

##### 3. Sale of Timber

a. The Louisiana State University (LSU) School of Forestry or a professional timber consultant shall be retained to formulate a multi-year timber management plan. If a professional timber consultant is hired, he shall be a member of a professional timber management association and must provide sufficient references. The timber management plan submitted shall include best management practices for all woodlands located on property controlled by the department. The timber management plan shall be presented to the agriculture manager who shall make recommendations for harvest and sale of timber to the director of Prison Enterprises or his designee.

b. Large quantities of timber shall be sold on the open market by bid in accordance with recommendations made by either the LSU School of Forestry or the professional timber consultant. Smaller quantities of timber (i.e. damaged trees cut for salvage) and timber by-products shall be sold on the open market at current market rates or by private treaty at the recommendation of the LSU School of Forestry or the professional timber consultant to the agriculture manager. All sales of timber require the approval of the Director of Prison Enterprises or his designee.

##### 4. Sale of Services

a. Prison Enterprises' management and the potential customer shall negotiate terms of agreement to include pricing and a detailed description of services to be rendered. Prison Enterprises may also respond to bid requests by governmental agencies and other entities to provide services.

##### 5. Sale of Cattle

###### a. Approvals

i. The agriculture manager shall provide information regarding the cattle to be sold to include such items as type of cattle, quantity, estimated weight, location, etc. to the director or his designee.

ii. This information shall then be utilized to grant approval prior to the sale or advertisement.

###### b. Direct Sales

i. Prison Enterprises can sell cattle by private treaty with the approval of the director or his designee. This method of sale shall be used if it is the agriculture manager's determination that it is financially or operationally advantageous to use this method. The director's approval shall be based on criteria such as current market data, current needs of Prison Enterprises and other circumstances.

ii. The agriculture manager shall review market data to determine the reasonableness of the price offered by the potential buyer. The agriculture manager, upon consultation with the director or his designee, shall agree to a price that is determined to be fair considering all circumstances listed above.

c. Advertised Bids

i. Advertisements for bids when selling cattle shall be published for at least one day in the state journal and in at least one printing of the official journal of the parish the livestock is located in. A copy of the bid package shall also be sent to a list of persons/companies comprised of previous bidders and known major cattle buyers that purchase cattle in the southern United States. A copy of the bid package shall also be provided to the LSU Agricultural Center Beef Specialist for informational purposes and for distribution to the LSU Cooperative Extension office of each parish.

ii. Photographs of livestock shall be provided to prospective bidders upon request to the agriculture manager at the phone number listed in the advertisement. Livestock shall be available for viewing by prospective bidders during the advertisement period by contacting the agriculture manager at the phone number listed in the advertisement.

iii. Vendors shall be allowed to submit bids until the bid opening date and time specified in the bid opening package. The bid package shall specify the latest date and time that bids will be accepted either by fax, mail or hand delivery.

iv. The agriculture manager shall review market data regularly during the bid period to determine highs and lows in prices and shall use this information to determine the reasonableness of bids received. The agriculture manager, upon consultation with the director or his designee, shall notify the department's Procurement Director of his decision to award or cancel the bid.

v. The successful vendor shall pick up livestock on or before the date stated in the bid. Livestock shall be sorted and penned in accordance with provisions of the bid. The successful vendor is responsible for all necessary transportation equipment and other expenses related to the pickup, unless otherwise stated in the bid. Prison Enterprises shall make necessary accommodations for the pick up unless extraordinary circumstances (severe weather, security events, etc.) prohibit pick up on the stated date.

d. Auctions

i. Cattle sold at auction, whether stockyards or video auctions, are exempt from the above procedures.

6. Sale of Other Livestock

a. Horses for Law Enforcement

i. Horses bred and raised for law enforcement purposes shall be sold to local, state and out of state governmental agencies, or non-profit organizations affiliated with law enforcement without bid at a price agreed upon by Prison Enterprises and the customer.

b. Other Livestock

i. All other livestock including but not limited to non-law enforcement horses, swine, birds, fish and crawfish shall be sold at established market price or through other customary means, or by private treaty, bid or auction by adhering to the procedures listed above for cattle.

7. Sale of Crop Commodities

a. Pursuant to the sale of grain products, the agriculture manager and sales coordinator shall routinely research available market information and follow the futures prices of grains at the Chicago Board of Trade. The sales coordinator, at the direction of the agriculture manager and with the approval of the director or his designee, shall obtain price quotes from local grain elevators and enter into row crop contracts that are at prices determined to be advantageous to Prison Enterprises and are consistent with anticipated production levels. Contracts for the sale of grain shall be for one of the following:

i. cash price;

ii. basis only with futures price to be called for at a later date; or

iii. futures only with basis determined before delivery.

b. Pursuant to the sale of cotton, Prison Enterprises shall bid a contract to gin the harvested cotton. According to the specifications of the contract, the ginner shall submit a report to the agriculture manager that shall specify yield and quality. Prison Enterprises shall use the information from the ginner to either sell the cotton by bid or by private treaty.

c. The sale of grasses for hay and other crop by-products shall be made by bid or by private treaty. Bidding shall be accomplished by obtaining, at a minimum, telephone quotes from at least three bona fide bidders. The bid shall be awarded to the highest responsible bidder. Private treaty prices shall be set by the agriculture manager at or near current market prices for each particular product. Type, quality, location, responsibility for transportation, etc. of hay and other crop by-products shall factor into the pricing. All sales of this type shall require the approval of the director or his designee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1156.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the Secretary, LR 33:855 (May 2007), amended LR 34:

**Family Impact Statement**

In accordance with the Administrative Procedures Act, R.S. 49:953A(1)(a)(viii) and R.S. 49:972, the Department of Public Safety and Corrections, Corrections Services, hereby provides this Family Impact Statement.

Amendment of the current LAC 22:I.1101 by the Department of Public Safety and Corrections, Corrections Services, has no known impact on family formation, stability or autonomy, as described in R.S. 49:972.

Interested persons may submit written comments to Michael J. Moore, Administrative Director, Prison Enterprises, Department of Public Safety & Corrections, P. O. Box 44314, Baton Rouge, LA 70804, until 4:30 p.m. on October 10, 2008.

James M. Le Blanc  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Responsibilities and Functions**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)  
There are no estimated costs or savings to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There are no estimated effects on revenue collections of state or local governmental units.
- 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 person or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
There is no estimated effect on competition and employment.

Thomas C. Bickham, III  
Undersecretary  
0809#019

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Public Safety and Corrections  
Gaming Control Board**

Application and License (LAC 42:XI.2405)

The Louisiana Gaming Control Board hereby gives notice that it intends to amend LAC 42:XI.2405, in accordance with R.S. 27:15 and 24, and the Administrative Procedure Act, R.S. 49:950 et seq.

**Title 42  
LOUISIANA GAMING  
Part XI. Video Poker**

**Chapter 24. Video Draw Poker  
§2405. Application and License**

- A. Initial and Renewal Applications
  - 1. - 5.b.v. ...
  - 5.c.i. An applicant for a Type V license may submit Form DPSSP 0031 and all other forms and fees required by the board within 120 days of the planned completion of the truck stop facility and commencement of operations. Upon submission of these forms and fees, the division may commence its investigation of the facility and all persons required to meet suitability.
    - ii. The applicant shall notify the division in writing of all changes to any information provided on the application or required forms within 10 business days of the change
    - iii. An application shall be considered withdrawn and the application fee forfeited if completion of the truck stop facility and commencement of operations does not occur within 180 days of the date the application is filed with the division. The division may grant an extension for good cause shown.
  - A.6. - D.7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Gaming Enforcement Section, Video Gaming Division, LR 18:196 (February 1992), amended LR 21:582 (June 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 23:1322 (October 1997), LR 24:955 (May 1998), LR 26:346 (February 2000), LR 26:2322 (October 2000), LR 27:61 (January 2001), LR 29:362 (March 2003), LR 30:267 (February 2004), repromulgated LR 30:439 (March 2004), amended LR 34:1037 (June 2008), LR 34:

**Family Impact Statement**

Pursuant to the provisions of R.S. 49:953(A), the Louisiana Gaming Control Board, through its chairman, has considered the potential family impact of amending LAC 42:XI.2405.

It is accordingly concluded that amending LAC 42:XI.2405 would appear to have a positive yet inestimable impact on the following:

- 1. the effect on stability of the family;
- 2. the effect on the authority and rights of parents regarding the education and supervision of their children;
- 3. the effect on the functioning of the family;
- 4. the effect on family earnings and family budget;
- 5. the effect on the behavior and personal responsibility of children;
- 6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

All interested persons may contact Brian McCullough, Attorney General's Gaming Division, telephone (225) 326-6500, and may submit comments relative to these proposed rules, through October 10, 2008, to 1885 North Third Street, Suite 500, Baton Rouge, LA 70802.

H. Charles Gaudin  
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Application and License**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)  
The proposed administrative rule change will have no implementation costs to state or local governmental units. This proposed rule change merely allows truck stops applying for a video draw poker license (Type V license—Form DPSSP 0031) to submit the forms and fees 120 days earlier than under the current rules.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There will be no material effect upon the revenue collections of state or local governmental units as a result of the proposed administrative rule change. The amount of the application fees does not change under this proposed rule amendment. However, state and local government could realize gaming tax revenues sooner due to Type V applicants being able to operate sooner.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
The proposed administrative rule changes could have a minor positive economic benefit to those entities applying for Type V licenses. As a result of the proposed rule changes, the process of being licensed for video draw poker can now commence 120 days earlier.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed administrative rule changes will have no effect on competition and employment.

H. Charles Gaudin  
Chairman  
0809#080

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Public Safety and Corrections  
Office of Motor Vehicles**

License Plates; Types of License Plates  
(LAC 55:III.301-327)

Under the authority of R.S.47:511, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Public Safety and Corrections, Office of Motor Vehicles (department), hereby gives notice of intent to amend the existing rules regarding the adoption of the International Registration Plan on commercial vehicles issued apportioned plates and used in interstate commerce. These amendments are technical in nature and do not change the substance of the rules.

The proposed amendment adopts the current International Registration Plan by reference. The International Registration Plan authorizes the apportioned registration of fleets of vehicles among the various jurisdictions in which the vehicles are operated. This plan provides that for one license plate even though the motor vehicle is registered in more than one jurisdiction. Louisiana was approved to participate in the plan on December 1, 1975, and began participating in the plan on April 1, 1976.

**Title 55**

**PUBLIC SAFETY**

**Part III. Motor Vehicles**

**Chapter 3. License Plates**

**Subchapter A. Types of License Plates**

**§325. International Registration Plan**

A. The Department of Public Safety and Corrections, Office of Motor Vehicles, hereby adopts by reference, the International Registration Plan, hereinafter referred to as the plan, adopted in August 1994 and as revised through July 1, 2008 by the member jurisdictions, and published by International Registration Plan, Inc. The department only adopts the articles and sections contained in the agreement, as well as the exceptions to the plan as reflected in the July 1, 2008 and included in Appendix D of the plan. The commentary and governing board decisions included with the adopted plan shall not be part of this rule, but may be considered by the department in interpreting and implementing the various sections of the plan.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 47:511.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 26:89 (January 2000), amended LR 29:605 (April 2003), LR 30:2859 (December 2004), LR 34:

**Family Impact Statement**

1. The Effect of This Rule on the Stability of the Family. This Rule should not have any affect on the stability of the family. This Rule regulates the use of commercial

motor vehicles registered pursuant to the International Registration Plan.

2. The Effect of This Rule on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. This Rule should not have any affect on the authority and rights of parents regarding the education and supervision of their children. This Rule regulates the use of commercial motor vehicles registered pursuant to the International Registration Plan.

3. The Effect of This Rule on the Functioning of the Family. This Rule should not have any affect on the functioning of the family. This Rule regulates the use of commercial motor vehicles registered pursuant to the International Registration Plan.

4. The Effect of This Rule on Family Earnings and Family Budget. This Rule should not have any affect on family earnings and family budget. This Rule regulates the use of commercial motor vehicles registered pursuant to the International Registration Plan.

5. The Effect of This Rule on the Behavior and Personal Responsibility of Children. This Rule should not have any affect on the behavior and personal responsibility of children. This Rule regulates the use of commercial motor vehicles registered pursuant to the International Registration Plan.

6. The Effect of These Rules on the Ability of the Family or Local Government to Perform the Function As Contained in the Proposed Rule. This Rule should not have any affect on the ability of the family or local government to perform the function as contained in the proposed Rule. This Rule regulates the use of commercial motor vehicles registered pursuant to the International Registration Plan.

Persons having comments or inquiries may contact Jennifer Del Murray, Attorney for the Office of Motor Vehicles by writing to P.O. Box 66614, Baton Rouge, LA 70896, by calling (225) 922-2311, or by sending a facsimile to (225) 925-3974. These comments and inquiries should be received by October 20, 2008. A public hearing on these rules is tentatively scheduled for October 28, 2008, at 9 a.m., in the Executive Conference Room at the Office of Motor Vehicles Headquarters, 7979 Independence Blvd., Baton Rouge, LA 70806. Any person wishing to attend the public hearing should call to confirm the time and the location of the hearing. If the requisite number of comments are not received, no hearing will be held.

Jill Boudreaux  
Undersecretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: License Plates; Types of License Plates**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no savings or increased costs in connection with the amendment to LAC 55, Part III, Chapter 3, Subchapter A, §325, as the International Registration Plan (IRP) is an existing program in which the Department has participated since 1976. The amendment to the International Registration Plan (IRP) rules only update the reference to the current version of the International Registration.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be no effect on revenue collections of state or local governments. The proposed amendment does not change the manner in which state or local sales and use taxes are collected. The registration license tax due at the initial registration and at each subsequent renewal is also unchanged.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There should be no costs and/or economic benefit to directly affect persons or nongovernmental groups in connection with the proposed amendment to §325. The changes to the Plan do not impact the way the Plan is enforced.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no effect on competition or employment as a result of these proposals as there are no changes in the effect of the IRP.

Jill Boudreaux  
Undersecretary  
0809#099

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Public Safety and Corrections  
Office of State Police  
Transportation and Environmental Safety Section**

Explosive Code (LAC 55:I.Chapter 15)

The Department of Public Safety and Corrections, Office of State Police, in accordance with R.S. 49:950 et seq., and R.S. 40:1472.1 et seq., gives notice of its intent to amend its rules regulating explosives to incorporate legislative changes with regard to the various classes of persons who are involved in the explosives industry, as well as to require a photographic identification card, increased training for those who handle explosives, and to require an emergency contact telephone number.

**Title 55  
PUBLIC SAFETY  
Part I. State Police**

**Chapter 15. Explosive Code  
Subchapter A. General**

**§1503. Definitions**

\* \* \*

*Dealer-Distributor*—any person engaged in the wholesale or retail business of buying and selling, or distribution of explosives, provided that should a manufacturer make sales to users, such manufacturer shall not be required to obtain an additional license as a dealer.

\* \* \*

*Emergency Contact Telephone Number*—a telephone number that will be answered by a knowledgeable company representative who can answer questions about the company's product stored in said company's licensed explosive magazine twenty four hours daily seven days per week including holidays. The contact person shall also have the ability to provide or effect a timely response in the event of an emergency or an incident requiring a response.

\* \* \*

*Handler*—a person who touches, moves, or otherwise handles explosives but does not detonate or otherwise effect

the explosion of explosives or explosives materials. The license issued to a handler shall not be used by a blaster or user who uses explosives as an ultimate consumer.

\* \* \*

*Magazine License Number*—the number of a specific magazine license assigned to a specific magazine by Louisiana Department of Public Safety, Explosive Control Unit.

*Manufacturer*—a person engaged in the manufacture, compounding, or combining of explosives.

\* \* \*

*Primary Licensee*—the responsible party holding a valid manufacturer, dealer-distributor or user license.

\* \* \*

*Unauthorized Persons*—persons not employed by the licensed company or authorized by the licensed manufacturer, dealer-distributor or user.

*User*—a person who, as an ultimate consumer of an explosive, purchases the same from a dealer-distributor or manufacturer or means a dealer or manufacturer who uses an explosive as an ultimate consumer.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1472.1 et seq.

HISTORICAL NOTE: Filed by the Department of Public Safety, Office of State Police, at the Office of the State Register, 1974, promulgated and amended LR 10:803 (October 1984), amended by the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, Explosive Control Unit, LR 22:1230 (December 1996), amended by the Department of Public Safety and Corrections, Office of State Police, LR 26:90 (January 2000), LR 34:

**§1505. General Administrative Requirements**

A. ...

B. No person under the age of 21 shall purchase, acquire or handle explosives or explosive supplies.

C. ...

D. No person or business shall possess, keep, store, sell, or offer for sale, give away, use, transport, or dispose of , or otherwise handle in any manner any explosive or blasting agent except in conformity with the provisions of R.S. 40:1472.1 through R.S. 40:1472.19 and these rules and regulations. Nothing in this Subsection shall be so construed as to prevent hand-loaders of ammunition from giving small quantities of black powder or smokeless propellant to one another in quantities of one pound or less.

E. ...

F. Prior to the sale of any explosives, manufacturers and dealer-distributors shall verify the license status of the purchaser's explosive license with the Department of Public Safety, Explosives Control Unit. Invoices of sales shall be forwarded to the Department of Public Safety and Corrections, Explosives Control Unit on a weekly basis. These sale slips or invoices must be legible, correct and complete.

G - I. ...

J. Each manufacturer, dealer-distributor, user, blaster, or handler shall possess a valid and subsisting license issued by the Office of the Deputy Secretary of Public Safety Services, in accordance with the provisions of R.S. 40:1472.1 through 40:1472.19. All applicants for a license shall submit with their application two complete, legible, and classifiable FBI applicant fingerprint cards taken by a person employed by a

law enforcement agency who is appropriately trained in recording fingerprints.

K. A photo license issued by the Office of the Deputy Secretary of Public Safety Services shall be in the possession of the licensee while actively engaged in explosive handling. An original or copy of the paper license issued by the Office of the Deputy Secretary of Public Safety Services must be maintained at the licensee's local office. A fee of \$25 shall be paid to the Department of Public Safety and Corrections, Explosives Control Unit for any necessary replacement or modification of a license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1472.1 et seq.

HISTORICAL NOTE: Filed by the Department of Public Safety, Office of State Police, at the Office of the State Register, 1974, promulgated and amended LR 10:803 (October 1984), amended by the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, Explosive Control Unit, LR 22:1230 (December 1996), amended by the Department of Public Safety and Corrections, Office of State Police, LR 34:

### **§1511. Magazine Construction Requirements**

A. - B. ...

C. Magazine sites upon which outdoor type magazines are located shall be posted with signs reading "explosives-keep out" (or equivalent) legibly printed thereon in letters not less than 2 inches high. These signs shall be visible from any direction. A second sign shall be posted at the entrance of the facility and shall read "Danger—Never fight explosives fires—Explosives are stored on this site—Call (Emergency Phone Number)" legibly printed thereon in letters not less than 2 inches high. Such signs shall be located so as to minimize the possibility of a bullet traveling in the direction of the magazine if anyone should shoot at the sign. All licensed magazines shall have a license number and 24 hour emergency telephone contact number affixed to the front of the magazine in the following manner:

1. An emergency contact telephone number will be painted with a contrasting color in 2 inch or larger numbers on the front of the magazine.

2. The license number assigned by the Louisiana Department of Public Safety, Explosive Control Unit, for that specific magazine will be permanently inscribed, welded, or otherwise permanently affixed to the front of the magazine in letters and numbers at least 2 inches high.

D. Magazines shall not be provided with heat or lights, except that if lights are necessary, an approved safety flashlight or safety lantern shall be used, provided however, trailer mounted portable magazines while containing no explosives shall use normal automobile lighting systems required for highway use. The Office of the Deputy Secretary of Public Safety Services may waive the requirements of this Subsection if adequate safety is assured.

E. Magazines constructed according to the following minimum specifications are approved as bullet-resistant and fire-resistant.

#### **1. Exterior Construction**

a. The exterior and doors are to be constructed of not less than 1/4 inch steel and lined with at least 2 inches of hardwood. Magazines with top openings will have lids with water-resistant seals or which overlap the sides by at least 1 inch when in a closed position.

#### **2. General**

a. Outdoor magazines (Type 1 and 2) are to be bullet-resistant, fire-resistant, weather-resistant, theft-resistant and ventilated. They are to be supported to prevent direct contact with the ground and, if less than 1 cubic yard in size, must be securely fastened to a fixed object. The ground around outdoor magazines must slope away for drainage or other adequate drainage provided. When unattended, vehicular magazines must have wheels removed or otherwise effectively immobilized by kingpin locking devices or other methods approved by the director.

b. Magazines shall be constructed in accordance with the rules and regulations of the Bureau of Alcohol, Tobacco, Firearms and Explosives, 27 Code of Federal Regulations Parts 555.207, 555.208, 555.209, 555.210, 555.211.

Types 1, 2, 3 or 4 magazines shall be constructed with a lattice, paint, mastic, or equivalent lining, to prevent contact of explosive materials with masonry walls or ferrous metal.

F. A Type 3 magazine is a "day box" or other portable magazine. It must be theft-resistant, fire-resistant, and weather-resistant (does not have to be bullet-resistant).

1. Minimum specifications require that a "day box" be constructed of not less than 12-gauge (.1046 inch) (2.66 mm) steel or aluminum, lined with 1/2 inch (12.7 mm) hardboard or plywood. The door or lid must overlap the door opening by at least 1 inch (25 mm). Hinges, hasps, and panels shall be welded, riveted, or bolted (with nuts on inside) so they cannot be removed or disassembled from the outside.

2. The magazine shall be equipped with at least a 5-tumbler padlock (which need not be protected by a steel hood) meeting the lock requirements outlined in §1511.I.1 of this Chapter.

3. Explosive materials are not to be left unattended in Type 3 magazines and must be removed to Type 1 or Type 2 magazines. This requirement does not apply to offshore operations.

G. Unattended vehicular Type 5 magazines shall have wheels removed or shall be immobilized by kingpin locking devices. Placards required by DOT must be displayed on all Type 5 magazines containing blasting agents.

H. Magazines used for indoor storage shall be fire- and theft-resistant. They do not have to be weather- and bullet-resistant if the buildings in which they are stored provide protection from the weather and from bullet penetration.

1. No indoor storage facility shall contain more than 50 pounds (22.7 kg) of explosive materials or more than 5,000 detonators. When explosive materials and detonators are stored in the same building they shall be stored in separate magazines.

2. No indoor storage magazine for explosive materials shall be located in a residence or dwelling.

3. Indoor magazines shall be provided with handles or substantial wheels or casters to facilitate removal from a building in an emergency.

I. All magazines shall be equipped with approved locking devices which shall conform to at least the following minimum standards of quality and design:

1. padlocks shall consist of a steel or brass case of at least 1 1/8 inch thickness, with case hardened steel shackles

of 3/8 inch diameter and 2-inch maximum length when in the locked position. Either one 12-pin or two 5-pin locks may be used (Type 3 and Type 5 magazines only require one 5-pin lock). Key numbers shall be removed from the locks. Padlocks to be enclosed by a hooded metal type enclosure 1/4-inch thick steel. Hooded enclosure must be constructed to restrict forcible entry from pry bars, hacksaws, and bolt cutters;

2. two mortise locks;
3. combination of a mortise lock or a hooded padlock;
4. mortise lock that requires two keys to open; or
5. three-point lock or equivalent-type lock that secures the door to the frame at more than one point;
6. doors that are secured by at least two substantial internal bolts or bars do not require additional locking devices on the exterior.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1472.1 et seq.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Office of State Police, 1974, amended and promulgated LR 10:803 (October 1984), amended by the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, Explosive Control Unit, LR 22:1230 (December 1996), LR 24:105 (January 1998), amended by the Department of Public Safety and Corrections, Office of State Police, LR 26:91 (January 2000), LR 34:1037 (June 2008), LR 34:

#### **§1517. Storage Inventory**

A. Manufacturers and dealer-distributors must keep accurate accounts of all inventories and sales of explosives. Invoices, sales tickets, or explosive bills of sale that are delivered to the purchaser shall bear the name of the manufacturer or dealer-distributor, the name of the user, the name of the purchaser, the address of the purchaser, the user's license number, date of sale, identification of the type of explosives sold, quantity sold, date-shift-code, and the use for which the explosives are purchased.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1472.1 et seq.

HISTORICAL NOTE: Filed by the Department of Public Safety, Office of State Police, at the Office of the State Register, 1974, promulgated and amended LR 10:803 (October 1984), amended by the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, Explosive Control Unit, LR 22:1230 (December 1996), amended by the Department of Public Safety and Corrections, Office of State Police, LR 34:

#### **§1531. General Requirements**

A. The handling of explosives shall be performed only by a person holding a valid and subsisting license to use explosives, provided such person is at least 21 years of age.

B. ...

C. If the employment of any licensed individual terminates, the company shall immediately notify the Office of the Deputy Secretary of Public Safety Services, Explosive Control Unit. The individual's original paper license and photo license will be retained by the company and returned to the Office of the Deputy Secretary of Public Safety Services, Explosive Control Unit, within three days. The company shall retain a copy of the terminated individual's paper license.

D. - O. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1472.1 et seq.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Office of State Police, 1974, amended and promulgated LR 10:803 (October 1984), amended by the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, Explosive Control Unit, LR 22:1230 (December 1996), LR 24:106 (January 1998), amended by the Department of Public Safety and Corrections, Office of State Police, LR 26:91 (January 2000), LR 34:1038 (June 2008), LR 34:

#### **§1541. Training**

A. All licensees must be trained in the areas outlined herein. Explosive blaster, user, manufacturer and or dealer distributor training shall include a minimum of 16 hours utilizing any combination of classroom and hands on practice in the use of explosives defined in §1541.D. Explosive handler training shall consist of 8 hours of classroom training defined in §1541.E.

1. All blaster, user, manufacturer and or dealer distributor licensees shall attend a minimum of 8 hours of annual refresher training utilizing any combination of classroom or hands on practice in the use of explosives to include updates in §1541.D.6 and explosive safety procedures.

2. All explosive handler licensees shall attend a minimum of 8 hours of annual refresher training to include topics covered in §1541.E.2 and §1541.E.3.

B. Training records required in §1541.B.1 below must be maintained at the licensee's local office.

1. All training (initial and refresher) shall be documented on a form or certificate to include location, subject, date of instruction, and to include the instructor's signature, Louisiana Explosives' License Number and Bureau of Alcohol, Tobacco, Firearms and Explosives' License Number. The applicant shall submit the initial 16 hour training or 8 hour training documentation at the time of application for an explosives license.

2. In addition to §1541.B.1 above, the training provider shall also document training by a written examination. These training records shall be retained by the training provider.

C. Course instructor shall meet criteria based on knowledge, experience, and training in the field of explosives being taught. Course instructors shall possess a current Louisiana Explosives' License in one of the following classes: blaster, user, manufacturer and or dealer distributor. In addition, Instructors shall also possess a Bureau of Alcohol, Tobacco, Firearms and Explosives' License (User or User Limited) relating to the field of instruction.

D. Explosive Blaster, User, Manufacturer and or Dealer Distributor Course Topics (16 Hours)

1. Introduction to Explosives
  - a. Types of Explosives
  - b. Characteristics
  - c. Explosive Effects
2. Explosive Safety
  - a. Physical and Environmental Hazards
  - b. Misfire Procedures
  - c. Industry Specific Safety Procedures
3. Explosive Operations Planning
  - a. Site Preparation and Considerations
  - b. Industry Specifications

4. Explosive Firing Systems
  - a. Electric Firing
  - b. Non-Electric Firing
  - c. Shock Tube Firing
  - d. Priming Procedures
  - e. Blasting Accessories
  - f. Industry Specific Systems
5. Industrial Applications
6. Applicable Regulations Regarding Use, Transportation, Storage, and Disposal of Explosives
  - a. OSHA/MSHA Requirements
  - b. BATFE Requirements
  - c. DOT Requirements
  - d. EPA Requirements
  - e. State and Local Requirements
- E. Explosive Handler Course Topics (8) hours
  1. Introduction to Explosives
    - a. Types of Explosives
    - b. Characteristics of Explosives
    - c. Explosive Effects
  2. Explosive Safety
    - a. Physical and Environmental Hazards
    - b. Industry Specific Safety Procedures
  3. Explosive Rules and Regulations
    - a. State and Local Requirements
    - b. BATFE Requirements
    - c. OSHA/MSHA Requirements
    - d. EPA Requirements
    - e. Explosive Handler License Requirements and Restrictions
    - f. Transportation of Explosives
    - g. Storage of Explosives
    - h. Explosive Magazine Inventory
- F. Training required under this Section is effective August 15, 2008.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1472.1 et seq.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Office of State Police, 1974, amended and promulgated LR 10:803 (October 1984), amended by the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, Explosive Control Unit, LR 22:1230 (December 1996), LR 24:106 (January 1998), amended by the Department of Public Safety and Corrections, Office of State Police, LR 34:

**§1543. Drug Testing Requirements**

A. - C. ...

D. All holders of Louisiana explosive licenses shall be drug screened annually. Annual testing shall meet the same testing standards as tests required by Paragraph §1543.A.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1472.1 et seq.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Office of State Police, at the Office of State Police, 1974, amended and promulgated LR 10:803 (October 1984), amended by the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, Explosive Control Unit, LR 22:1230 (December 1996), LR 24:106 (January 1998), amended by the Department of Public Safety and Corrections, Office of State Police, LR 34:

**Subchapter B. Appendices**

**§1551. Appendix D—Drawings 1-8, Type 1 Magazine Construction Guidelines**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1472.1 et seq.

HISTORICAL NOTE: Adopted by the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, Explosive Control Unit, LR 22:1230 (December 1996), repealed by the Department of Public Safety and Corrections, Office of State Police, LR 34:

**Family Impact Statement**

1. The Effect of This Rule on the Stability of the Family. This Rule should not have any affect on the stability of the family.

2. The Effect of This Rule on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. This Rule should not have any affect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect of This Rule on the Functioning of the Family. This Rule should not have any affect on the functioning of the family.

4. The Effect of This Rule on Family Earnings and Family Budget. This Rule should not have any affect on family earnings and family budget.

5. The Effect of This Rule on the Behavior and Personal Responsibility of Children. This Rule should not have any affect on the behavior and personal responsibility of children.

6. The Effect of This Rule on the Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rule. This Rule should not have any affect on the ability of the family or local government to perform the function as contained in the proposed Rule.

Interested persons may submit written comments to Paul Schexnayder, P.O. Box 66351, Baton Rouge, LA 70896-6351. Writtn comments will be accepted through October 15, 2008.

Jill Boudreaux  
Undersecretary

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**  
**RULE TITLE: Explosive Code**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed rule changes, which require a photo license, necessitate the purchase of equipment to produce photographic identification cards, which could cost the state approximately \$25,500. In subsequent fiscal years, operating software and materials will have to be purchased at an estimated cost of \$2,100 per year. These proposed rule changes are a result of Act 898 of the 2008 Regular Legislative Session.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Although Act 898 of the 2008 Regular Legislative Session modifies the license fees for manufacturer, dealer-distributor, user, magazine, blaster and adds the handler fee, the proposed rule changes should have minimal impact upon state or local governmental revenue collections. Included within these proposed rules is a fee of \$25.00 to be paid to the Department for any necessary replacement or modification of a license. To the extent the original identification card recipients do not need to replace or modify the original identification cards, the Department will not realize any additional revenues as a result of the \$25.00 fee.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change could have a minor impact upon the Louisiana explosives industry. The only projected costs incurred by the industry will be the cost of training now being required and the cost of having a twenty-four hour contact phone number.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes should not affect competition and employment.

Jill Boudreaux  
Undersecretary  
0809#101

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Social Services  
Office of Family Support**

**FITAP/KCSP—Recovery of Repayments  
(LAC 67:III.1503 and 5383)**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Social Services, Office of Family Support, proposes to amend the Louisiana Administrative Code at Title 67, Part III, Subpart 2, Family Independence Temporary Assistance Program (FITAP) and Subpart 13, Kinship Care Subsidy Program (KCSP). The Rule is pursuant to the authority of Louisiana's Temporary Assistance for Needy Families (TANF) Block Grant.

Language is being amended regarding overpayments to allow for the recovery of ineligible FITAP and KCSP benefits paid as a result of administrative errors when those ineligible benefits exceed \$250. Current language allows for the recovery of ineligible FITAP and KCSP benefits paid as a result of inadvertent household errors that exceed \$250.

Amendment of these Sections is necessary to align the policies for these two types of errors.

**Title 67**

**SOCIAL SERVICES**

**Part III. Family Support**

**Subpart 2. Family Independence Temporary Assistance Program (FITAP)**

**Chapter 15. General Program Administration**

**Subchapter B. Recovery**

**§1503. Recovery of Overpayments**

A. All FITAP overpayments shall be subject to collection either by recoupment or recovery with the exception of inadvertent household error claims and administrative error claims of \$250 or less.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193.

HISTORICAL NOTE: Promulgated by Department of Health and Human Resources, Office of Family Security, LR 10:1030 (December 1984), amended by Department of Social Services, Office of Family Support, LR 24:353 (February 1998), LR 27:428 (March 2001), LR 34:

**Subpart 13. Kinship Care Subsidy Program (KCSP)  
Chapter 53. Application, Eligibility, and Furnishing Assistance**

**Subchapter C. Recovery**

**§5383. Recovery of Overpayments**

A. All KCSP overpayments shall be subject to collection either by recoupment or recovery with the exception of inadvertent household error claims and administrative error claims of \$250 or less.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:429 (March 2001), amended LR: 34:

**Family Impact Statement**

1. What effect will this Rule have on the stability of the family? This Rule should have no impact on family stability.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? The Rule will have 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? This Rule will have no effect on the functioning of the family.

4. What effect will this have on family earnings and family budget? The Rule may have a slight effect. If the agency has allowed an overpayment of FITAP or KCSP benefits, the family may be required to repay the funds that were received in error.

5. What effect will this have on the behavior and personal responsibility of children? This Rule will have no effect on the behavior or personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed Rule? No, these programs are strictly an agency function.

All interested persons may submit written comments through, October 27, 2008, to Alison K. Neustrom, Assistant Secretary, Office of Family Support, P.O. Box 94065, Baton Rouge, LA 70804-9065. She is responsible for responding to inquiries regarding the proposed Rule.

A public hearing on the proposed Rule will be held on October 28, 2008, at the Department of Social Services, Iberville Building, 627 N. Fourth Street, First Floor, Seminar Room 1-129, Baton Rouge, LA, beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call Area Code 225-342-4120 (Voice and TDD).

Ann Silverberg Williamson  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: FITAP/KCSP—Recovery of Repayments**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The purpose of this rule is to amend the Louisiana Administrative Code, Title 67, Part III, Subparts 2 and 13, Sections 1503 and 5383 to allow the recovery of Family Independence Temporary Assistance Program (FITAP) and Kinship Care Subsidy Program (KCSP) overpayments exceeding \$250 when the overpayments were caused by administrative errors. Current language only allows for the recovery of FITAP and KCSP overpayments exceeding \$250 when the overpayments were caused by inadvertent household errors.

The only cost associated with this rule is the cost of publishing rulemaking, which is estimated to be \$1,000 (\$500 State/\$500 Federal). The agency currently has sufficient funds to cover this cost.

This rule may result in a savings to the State from the recoupment of overpayments due to administrative errors that exceed \$250. For FY 08/09, the agency estimates a potential net savings of \$23,400 (Federal TANF). For FY 09/10 and FY

10/11, the savings is estimated to be \$48,800 (Federal TANF). These estimates are based on eligibility errors found in quarterly case record readings during the first quarter of 2008.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

This rule will have no effect on revenue collections of state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

Recipients of TANF cash assistance could receive a very small (\$5.00 per month) reduction in benefits due to a scheduled recovery if they are overpaid as a result of an administrative error.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed rule will have no impact on competition and employment.

Alison K. Neustrom  
Assistant Secretary  
0809#105

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

# Committee Reports

## COMMITTEE REPORT

### House Committee on Health and Welfare

Proposed Rule—General Provisions and Code of Conduct  
Licensed Professional Counselors Board of Examiners  
(LAC 46:LX.Chapters 1-21)

In accordance with R.S. 49:968, the Senate Health and Welfare Committee and the House of Representatives Health and Welfare Committee met jointly on August 20, 2008, to consider proposed rules relative to professional and occupational standards of licensed professional counselors, LAC 46:LX.Chapters 1-21, published by the Department of Health and Hospitals, Louisiana Licensed Professional Counselors Board of Examiners.

After an extensive debate on the proposed rules, the House of Representatives Health and Welfare Committee voted unanimously that the rules were unacceptable.

Kay Kellogg Katz  
Chairman

0809#023

## COMMITTEE REPORT

### Senate Committee on Health and Welfare

Proposed Rule—General Provisions and Code of Conduct  
Licensed Professional Counselors Board of Examiners  
(LAC 46:LX.Chapters 1-21)

Pursuant to R.S. 49:968, the Senate Health and Welfare Committee and the House of Representatives Health and Welfare Committee met jointly on August 20, 2008, to consider proposed rules relative to the Louisiana Licensed Professional Counselors Board of Examiners, LAC 46:LX.Chapter 1-78, published by the Department of Health and Hospitals Licensed Professional Counselors Board of Examiners.

After an extensive debate on the proposed rules, the Senate Health and Welfare Committee determined unanimously that the proposed rules were unacceptable.

Willie Mount  
Chairman

0809#024

# Potpourri

## POTPOURRI

### Department of Agriculture and Forestry Horticulture Commission

#### Landscape Architect Registration Exam

The next landscape architect registration examination will be given December 8-9, 2008, beginning at 7:45 a.m. at the College of Design Building, Louisiana State University Campus, Baton Rouge, LA. The deadline for sending the application and fee is as follows.

New Candidates:	September 5, 2008
Re-Take Candidates:	September 26, 2008
Reciprocity Candidates:	November 7, 2008

Further information pertaining to the examinations may be obtained from Craig Roussel, Director, Horticulture Commission, P.O. Box 3596, Baton Rouge, LA 70821-3596, phone (225) 952-8100.

Any individual requesting special accommodations due to a disability should notify the office prior to September 5, 2008. Questions may be directed to (225) 952-8100.

Mike Strain, DVM  
Commissioner

0809#021

## POTPOURRI

### Department of Environmental Quality Office of the Secretary Legal Affairs Division

#### 2007 State Implementation Plan (SIP) General Revisions

Under the authority of the Environmental Quality Act, R.S. 30:2051 et seq., the secretary gives notice of proposed general revisions to the air quality State Implementation Plan (SIP). The revisions include amendments to various air quality regulations in LAC 33:III.Chapters 1, 2, 5, 6, 9, 11, 13, 14, 15, 21, 22, 23, and 25, which were previously promulgated in 2007, and which were not previously included in other revisions to the SIP.

A public hearing will be held on October 29, 2008, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, Louisiana. Interested persons are invited to attend and submit oral comments on the proposed revisions. Should individuals with a disability need an accommodation in order to participate, contact Sandra Hilton at the address given below. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed 2007 SIP general revisions. Comments must be submitted no later than 4:30 p.m. on November 5, 2008. Comments should be mailed to Sandra

Hilton, Office of Environmental Assessment, Plan Development Section, Box 4314, Baton Rouge, LA 70821-4314 or faxed to (225) 219-3240 or emailed to [sandra.hilton@la.gov](mailto:sandra.hilton@la.gov). Copies of this document can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. A check or money order is required in advance for each copy of the document.

A copy of the general revisions to the SIP may be viewed Monday through Friday, from 8 a.m. to 4:30 p.m., at the following DEQ locations: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374, or on the Internet at [www.deq.louisiana.gov/portal/tabid/2644/Default.aspx](http://www.deq.louisiana.gov/portal/tabid/2644/Default.aspx).

Summary of Rules Promulgated in 2007			
LAC 33:III	Louisiana Register Citation	Description	Comments
§1323	May 20, 2007 LR 33:821 AQ249	Emission Standards for Particulate Matter	This rule adds clarification to the existing regulations for particulate matter.
§1325	May 20, 2007 LR 33:821 AQ249	Emission Standards for Particulate Matter	This rule adds clarification to the existing regulations for particulate matter.
§1327	May 20, 2007 LR 33:821 AQ249	Emission Standards for Particulate Matter	This rule adds clarification to the existing regulations for particulate matter.
§1329	May 20, 2007 LR 33:821 AQ249	Emission Standards for Particulate Matter	This rule adds clarification to the existing regulations for particulate matter.
§1331	May 20, 2007 LR 33:821 AQ249	Emission Standards for Particulate Matter	This rule adds clarification to the existing regulations for particulate matter.
§1333	May 20, 2007 LR 33:821 AQ249	Emission Standards for Particulate Matter	This rule adds clarification to the existing regulations for particulate matter.
§221	December 20, 2007 LR 33:2619 AQ256	Toxic Air Pollutant Program Revision	This rule revises the state air toxic regulations by updating and removing dated language.
§223	December 20, 2007 LR 33:2619 AQ256	Toxic Air Pollutant Program Revision	This rule revises the state air toxic regulations by updating and removing dated language.
§551	December 20, 2007 LR 33:2619 AQ256	Toxic Air Pollutant Program Revision	This rule revises the state air toxic regulations by updating and removing dated language.
§1502	June 20, 2007 LR 33:1010 AQ271	Emission Standards for Sulfur Dioxide	This rule clarifies the emission limitations with which an emissions unit must comply.
§1503	June 20, 2007 LR 33:1010	Emission Standards for Sulfur Dioxide	This rule clarifies the emission limitations with which an emissions unit

Summary of Rules Promulgated in 2007			
LAC 33:III	Louisiana Register Citation	Description	Comments
	AQ271		must comply.
§1507	June 20, 2007 LR 33:1010 AQ271	Emission Standards for Sulfur Dioxide	This rule clarifies the emission limitations with which an emissions unit must comply.
§1511	June 20, 2007 LR 33:1010 AQ271	Emission Standards for Sulfur Dioxide	This rule clarifies the emission limitations with which an emissions unit must comply.
§1513	June 20, 2007 LR 33:1010 AQ271	Emission Standards for Sulfur Dioxide	This rule clarifies the emission limitations with which an emissions unit must comply.
§2103	March 20, 2007 LR 33:447 AQ272	Exemption for Drums Storing Pyrophoric Catalyst	This rule exempts drums storing pyrophoric catalyst at the Vistalon Production Facility of ExxonMobil Chemical Company.
§603	October 20, 2007 LR 33:2067 AQ287P	Rulemaking Petition for the Repeal of LAC 33:III.510	This rule repeals and deletes references to LAC 33:III.510, which provides for control technology requirements and emission offset only in Calcasieu Parish.
§605	October 20, 2007 LR 33:2067 AQ287P	Rulemaking Petition for the Repeal of LAC 33:III.510	This rule repeals and deletes references to LAC 33:III.510, which provides for control technology requirements and emission offset only in Calcasieu Parish.
§607	October 20, 2007 LR 33:2067 AQ287P	Rulemaking Petition for the Repeal of LAC 33:III.510	This rule repeals and deletes references to LAC 33:III.510, which provides for control technology requirements and emission offset only in Calcasieu Parish.
§613	October 20, 2007 LR 33:2067 AQ287P	Rulemaking Petition for the Repeal of LAC 33:III.510	This rule repeals and deletes references to LAC 33:III.510, which provides for control technology requirements and emission offset only in Calcasieu Parish.
§615	October 20, 2007 LR 33:2067 AQ287P	Rulemaking Petition for the Repeal of LAC 33:III.510	This rule repeals and deletes references to LAC 33:III.510, which provides for control technology requirements and emission offset only in Calcasieu Parish.
§111	October 20, 2007 LR 33:2077 MM002	Departmental Designation	This rule will change references to various DEQ divisions in the regulations to references to the statutory office designations.
§211	October 20, 2007 LR 33:2077 MM002	Departmental Designation	This rule will change references to various DEQ divisions in the regulations to references to the statutory office designations.
§501	October 20, 2007 LR 33:2077 MM002	Departmental Designation	This rule will change references to various DEQ divisions in the regulations to references to the statutory office designations.

Summary of Rules Promulgated in 2007			
LAC 33:III	Louisiana Register Citation	Description	Comments
§504	October 20, 2007 LR 33:2077 MM002	Departmental Designation	This rule will change references to various DEQ divisions in the regulations to references to the statutory office designations.
§505	October 20, 2007 LR 33:2077 MM002	Departmental Designation	This rule will change references to various DEQ divisions in the regulations to references to the statutory office designations.
§506	October 20, 2007 LR 33:2077 MM002	Departmental Designation	This rule will change references to various DEQ divisions in the regulations to references to the statutory office designations.
§507	October 20, 2007 LR 33:2077 MM002	Departmental Designation	This rule will change references to various DEQ divisions in the regulations to references to the statutory office designations.
§613	October 20, 2007 LR 33:2077 MM002	Departmental Designation	This rule will change references to various DEQ divisions in the regulations to references to the statutory office designations.
§918	October 20, 2007 LR 33:2077 MM002	Departmental Designation	This rule will change references to various DEQ divisions in the regulations to references to the statutory office designations.
§919	October 20, 2007 LR 33:2077 MM002	Departmental Designation	This rule will change references to various DEQ divisions in the regulations to references to the statutory office designations.
§1105	October 20, 2007 LR 33:2077 MM002	Departmental Designation	This rule will change references to various DEQ divisions in the regulations to references to the statutory office designations.
§1107	October 20, 2007 LR 33:2077 MM002	Departmental Designation	This rule will change references to various DEQ divisions in the regulations to references to the statutory office designations.
§1410	October 20, 2007 LR 33:2077 MM002	Departmental Designation	This rule will change references to various DEQ divisions in the regulations to references to the statutory office designations.
§1434	October 20, 2007 LR 33:2077 MM002	Departmental Designation	This rule will change references to various DEQ divisions in the regulations to references to the statutory office designations.
§1507	October 20, 2007 LR 33:2077 MM002	Departmental Designation	This rule will change references to various DEQ divisions in the regulations to references to the statutory office designations.

Summary of Rules Promulgated in 2007			
LAC 33:III	Louisiana Register Citation	Description	Comments
§2103	October 20, 2007 LR 33:2077 MM002	Departmental Designation	This rule will change references to various DEQ divisions in the regulations to references to the statutory office designations.
§2108	October 20, 2007 LR 33:2077 MM002	Departmental Designation	This rule will change references to various DEQ divisions in the regulations to references to the statutory office designations.
§2113	October 20, 2007 LR 33:2077 MM002	Departmental Designation	This rule will change references to various DEQ divisions in the regulations to references to the statutory office designations.
§2116	October 20, 2007 LR 33:2077 MM002	Departmental Designation	This rule will change references to various DEQ divisions in the regulations to references to the statutory office designations.
§2121	October 20, 2007 LR 33:2077 MM002	Departmental Designation	This rule will change references to various DEQ divisions in the regulations to references to the statutory office designations.
§2122	October 20, 2007 LR 33:2077 MM002	Departmental Designation	This rule will change references to various DEQ divisions in the regulations to references to the statutory office designations.
§2123	October 20, 2007 LR 33:2077 MM002	Departmental Designation	This rule will change references to various DEQ divisions in the regulations to references to the statutory office designations.
§2132	October 20, 2007 LR 33:2077 MM002	Departmental Designation	This rule will change references to various DEQ divisions in the regulations to references to the statutory office designations.
§2153	October 20, 2007 LR 33:2077 MM002	Departmental Designation	This rule will change references to various DEQ divisions in the regulations to references to the statutory office designations.
§2159	October 20, 2007 LR 33:2077 MM002	Departmental Designation	This rule will change references to various DEQ divisions in the regulations to references to the statutory office designations.
§2201	October 20, 2007 LR 33:2077 MM002	Departmental Designation	This rule will change references to various DEQ divisions in the regulations to references to the statutory office designations.
§2301	October 20, 2007 LR 33:2077 MM002	Departmental Designation	This rule will change references to various DEQ divisions in the regulations to references to the statutory office designations.

Summary of Rules Promulgated in 2007			
LAC 33:III	Louisiana Register Citation	Description	Comments
§2303	October 20, 2007 LR 33:2077 MM002	Departmental Designation	This rule will change references to various DEQ divisions in the regulations to references to the statutory office designations.
§2307	October 20, 2007 LR 33:2077 MM002	Departmental Designation	This rule will change references to various DEQ divisions in the regulations to references to the statutory office designations.
§2511	October 20, 2007 LR 33:2077 MM002	Departmental Designation	This rule will change references to various DEQ divisions in the regulations to references to the statutory office designations.
§2521	October 20, 2007 LR 33:2077 MM002	Departmental Designation	This rule will change references to various DEQ divisions in the regulations to references to the statutory office designations.
§2531	October 20, 2007 LR 33:2077 MM002	Departmental Designation	This rule will change references to various DEQ divisions in the regulations to references to the statutory office designations.

Herman Robinson, CPM  
Executive Counsel

0809#096

**POTPOURRI**

**Department of Environmental Quality  
Office of the Secretary  
Legal Affairs Division**

Extension of Comment Period for Centralized  
Waste Treatment Facilities Also Treating  
Exploration and Production Waste  
(LAC 33:IX.101, 701, 703, 708, 715, 1701, 1703,  
1705, 1707, 1709, 1711, 1799, 1901, 2313, 2501,  
2903, 6509, 6701, 6703, 6705, 6707, 6709,  
7305, 7307, and 7395; and XV.1404)

The Louisiana Department of Environmental Quality is extending the comment period on the draft proposed regulations regarding centralized waste treatment facilities also treating exploration and production waste, LAC 33:IX.101, 701, 703, 708, 715, 1701, 1703, 1705, 1707, 1709, 1711, 1799, 1901, 2313, 2501, 2903, 6509, 6701, 6703, 6705, 6707, 6709, 7305, 7307, and 7395; and XV.1404 (MM003). The Potpourri notice requesting comments on this advanced draft rule was published on pages 1258-1288 of the June 20, 2008, issue of the *Louisiana Register*. The original comment period was extended until September 15, 2008. Another extension is being granted. All interested persons are invited to continue to submit written comments on the draft regulation. Persons commenting should reference this draft regulation by

MM003. Such comments must be received no later than November 14, 2008, at 4:30 p.m., and should be sent to Sharon Parker, Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to FAX (225) 219-3398 or by e-mail to sharon.parker@la.gov.

Copies of the draft rule 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 MM003. This draft rule is available on the Internet at <http://www.deq.louisiana.gov/portal/tabid/1669/Default.aspx>. The draft rule is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson, CPM  
Executive Counsel

0809#098

### POTPOURRI

#### **Department of Wildlife and Fisheries Wildlife and Fisheries Commission**

##### Oyster Seed Ground Vessel Permit

On behalf of the Wildlife and Fisheries Commission, the secretary does hereby give notice that the commission is seeking to incorporate changes to the proposed Rule

regarding the Oyster Seed Ground Vessel Permit Notice of Intent (published in the *Louisiana Register* August 20, 2008) to clarify that the intent for the permit requirement is for commercial purposes only. Authority to establish such rules and regulations is vested in the Wildlife and Fisheries Commission by R.S. 36:610(L), R.S. 56:6, R.S. 56:433.1., and the secretary by R.S. 56:2(D)(2) (which allows the secretary to take action through a Declaration of Emergency on any items scheduled on the agenda for a cancelled Wildlife and Fisheries Commission Meeting if the governor declares a state of emergency pursuant to R.S. 29:721 et seq., and the chairman cancels the monthly meeting). The proposed rules contained in the Oyster Seed Ground Vessel Permit Notice of Intent are required by Act 922 of the 2008 Session which becomes effective for license year 2009 (January 1, 2009) and in order to have these rules in effect by January 1, 2009, this proposed change is required to be published by September 20, 2008. Copies of the proposed change can be viewed by contacting Ms. Karen Foote, 225-765-2384.

A public hearing to receive comments on the amended Notice of Intent for the Oyster Seed Ground Vessel Permit will be held during the Wildlife and Fisheries Commission Meeting to be held on Thursday, October 2, 2008. The meeting will begin at 9:30 a.m., and will be held in the Louisiana Room of the department's headquarters building, 2000 Quail Drive, Baton Rouge, Louisiana.

Robert J. Barham  
Secretary

0809#084

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