

I. EXECUTIVE ORDER
 BJ 09-13 Louisiana Shrimp Task Force 1836
 BJ 09-14 Louisiana Complete Count Committee..... 1837

II. EMERGENCY RULES
Economic Development
 Office of the Secretary—Angel Investor Tax Credit (LAC 13:I.3307) 1838

Governor
 Division of Administration—Racing Commission—Jockey Fee Schedule (LAC 46:XLI.725)..... 1839
 State Military Department—National Guard Death and Disability Benefits (LAC 41:I.Chapter 3) 1839

Health and Hospitals
 Bureau of Health Services Financing—Facility Need Review Exception Criteria for Bed Approval
 (LAC 48:I.12513, 12527, 12533 and 12541) 1844
 Home and Community-Based Services Waivers—Children’s Choice—Service Changes
 (LAC 50:XXI.11303 and 12101)..... 1846
 Home and Community-Based Services Waivers—Elderly and Disabled Adults
 (LAC 50:XXI.8101, 8105, 8107, 8301, 8303, and 8701) 1847
 Home and Community-Based Services Waivers—New Opportunities Waiver—Reimbursement Rate
 Reduction (LAC 50:XXI.14301) 1850
 Home and Community-Based Services Waivers—New Opportunities Waiver—Resource Allocation
 Model (LAC 50:XXI.13704) 1851
 Home Health Program—Durable Medical Equipment—Reimbursement Reduction (LAC 50:XIII.103) 1853
 Inpatient Hospital Services—Non-Rural, Non-State Hospitals—Children’s Specialty Hospitals
 (LAC 50:V.909 and 967)..... 1854
 Intermediate Care Facilities for Persons with Developmental Disabilities—Reimbursement Rate Increase
 (LAC 50:VII.32903)..... 1855
 Medical Transportation Program—Emergency Ambulance Services—Reimbursement Rate Reduction
 (LAC 50:XXVII.325 and 353)..... 1856
 Outpatient Hospital Services—Non-Rural, Non-State Hospitals—Children’s Specialty Hospitals
 (LAC 50:V.5109, 5317, 5517, 5719, 5917 and 6119) 1857
 Personal Care Services—Long Term (LAC 50:XV.12901, 12909, and 12915) 1858
 Office for Citizens with Developmental Disabilities— Home and Community-Based Services Waivers
 Children’s Choice—Service Changes (LAC 50:XXI.11303 and 12101)..... 1846
 Home and Community-Based Services Waivers—New Opportunities Waiver—Reimbursement Rate
 Reduction (LAC 50:XXI.14301) 1850
 Home and Community-Based Services Waivers—New Opportunities Waiver—Resource Allocation
 Model (LAC 50:XXI.13704) 1851
 Office of Aging and Adult Services—Home and Community-Based Services Waivers—Elderly and
 Disabled Adults (LAC 50:XXI.8101, 8105, 8107, 8301, 8303, and 8701) 1847
 Personal Care Services—Long Term (LAC 50:XV.12901, 12909, and 12915) 1858

Public Safety and Corrections
 Corrections Services—Louisiana Sex Offender Assessment Panels (LAC 22:I.109) 1860

Social Services
 Office of Community Services—Residential Licensing—Disqualification (LAC 48: I Chapter 88 and
 LAC 67:III.Chapter 73, and V.Chapters 61-19)..... 1863
 Office of Family Support—Residential Licensing—Disqualification (LAC 48: I Chapter 88 and
 LAC 67:III.Chapter 73, and V.Chapters 61-19)..... 1863

Wildlife and Fisheries
 Wildlife and Fisheries Commission—2009-1010 Waterfowl Seasons 1869
 Commercial King Mackerel Closure..... 1870

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III. RULES

Agriculture and Forestry

Structural Pest Control Commission—Definitions, Fees, Minimum Termite Treatment Specifications and Treatments for Wood Destroying Beetles (LAC 7:XXV.101,117, 119, 141 and 145).....	1872
--	------

Education

Board of Elementary and Secondary Education—BESE Organization (LAC 28:I.501, 503, and 703).....	1874
Bulletin 741—Louisiana Handbook for School Administrators—Curriculum and Instruction (LAC 28:CXV.2373, 2381, and 2382).....	1875
Bulletin 741—Louisiana Handbook for School Administrators—General Powers of Local Educational Governing Authorities (LAC 28:CXV.303).....	1876
Bulletin 741—Louisiana Handbook for School Administrators—High School Graduation Requirements (LAC 28:CXV.2319).....	1876
Bulletin 741—Louisiana Handbook for School Administrators—Requirements for Teachers (LAC 28:CXV.3103).....	1877
Bulletin 1794—State Textbook Adoption Policy and Procedure Manual—Waivers (LAC 28:XXXIII.513).....	1878

Environmental Quality

Office of the Secretary, Legal Affairs Division—Miscellaneous Corrections (LAC 33:V.105, 321, 1513, 1529, 3005, and 3105; VII.715 and 1101; IX.5903; and XI.1121)(MM010).....	1878
---	------

Governor

Board of Examiners of Certified Shorthand Reporters—Continuing Education (LAC 46:XXI.603 and 607).....	1881
Board of River Port Pilot Commissioners—River Port Pilots (LAC 46:LXX.Chapters 31-36).....	1882

Health and Hospitals

Board of Medical Examiners—Athletic Trainers—Certification (LAC 46:XLV.Chapter 31).....	1886
Board of Nursing—Criminal History Record Information (LAC 46:XLVII.3330).....	1888
Bureau of Health Services Financing—Ambulatory Surgical Centers—Reimbursement Rate Reduction (LAC 50:XI.Chapter 75).....	1888
Early and Periodic Screening, Diagnosis and Treatment—Dental Program—Reimbursement Rate Increase (LAC 50:XV.6903 and 6905).....	1889
End Stage Renal Disease Facilities—Reimbursement Rate Reduction (LAC 50:XI.6901 and 6903).....	1890
Estate Recovery—Long-Term Care Insurance Resource Disregard (LAC 50:I.8103).....	1891
Home and Community-Based Services Waivers—Children’s Choice Money Follows the Person Rebalancing Demonstration (LAC 50:XXI.Chapter 111).....	1891
Home and Community-Based Services Waivers—Elderly and Disabled Adults—Reimbursement Rate Reduction (LAC 50:XXI.9101).....	1893
Home and Community-Based Services Waivers—New Opportunities Waiver—Reimbursement Rate Reduction (LAC 50:XXI.14301).....	1893
Home Health Program—Durable Medical Equipment—Reimbursement Reduction (LAC 50:XIII.103).....	1894
Hospice—Payment for Long Term Care Residents—Reimbursement Rate Reduction (LAC 50:XV.4307)....	1894
Hospital Services—Inpatient Hospitals—Reimbursement Rate Reduction (LAC 50:V.953, 955 and 959).....	1895
Inpatient Hospital Services—Non-Rural, Non-State Hospitals—Reimbursement Rate Adjustment (LAC 50:V.953, 955, and 959).....	1896
Intermediate Care Facilities for Persons with Developmental Disabilities—Leave of Absence Days Reimbursement Rate Reduction (LAC 50:VII.32913).....	1897
Laboratory and Radiology—Reimbursement Rate Reduction (LAC 50:XIX.4329 and 4334-4337).....	1897
Medicaid Eligibility—Home and Community-Based Services—Income Disregard (LAC 50:III.10305).....	1898
Medicaid Eligibility—Long-Term Care Insurance—Resource Disregard (LAC 50:III.10705).....	1899
Mental Health Rehabilitation—Program Reimbursement Rate Reduction (LAC 50:XV.901).....	1899
Nursing Facilities—Leave of Absence Days—Reimbursement Reduction (LAC 50:VII.1321).....	1899
Outpatient Hospital Services—Non-Rural, Non-State Hospitals—Reimbursement Rate Reduction (LAC:V.5313, 5513, 5713, 5913 and 6115).....	1900
Personal Care Services—Long Term—Reimbursement Rate Reduction (LAC 50:XV.12917).....	1901
Pharmacy Program—Prescription Limit Reduction (LAC 50:XXIX.113).....	1901
Pregnant Women Extended Services—Dental Services—Reimbursement Rate Increase (LAC 50:XV.16105 and 16107).....	1902
Professional Services Program—Anesthesia Services—Reimbursement Rate Reduction (LAC 50:IX.15111).....	1902
Prosthetics and Orthotics—Reimbursement Rate Reduction (LAC 50:XVII.501).....	1903
Targeted Case Management—Reimbursement Rate Reduction (LAC 50:XV.10701).....	1903
Office of Aging and Adult Services—Estate Recovery—Long-Term Care Insurance Resource Disregard (LAC 50:I.8103).....	1891
Home and Community-Based Services Waivers—Elderly and Disabled Adults—Reimbursement Rate Reduction (LAC 50:XXI.9101).....	1893
Medicaid Eligibility—Long-Term Care Insurance—Resource Disregard (LAC 50:III.10705).....	1899
Personal Care Services—Long Term—Reimbursement Rate Reduction (LAC 50:XV.12917).....	1901

Office for Citizens with Developmental Disabilities—Home and Community-Based Services Waivers Children’s Choice Money Follows the Person—Rebalancing Demonstration (LAC 50:XXI.Chapter 111)	1891
Home and Community-Based Services Waivers—New Opportunities Waiver—Reimbursement Rate Reduction (LAC 50:XXI.14301)	1893
Public Safety and Corrections	
State Uniform Construction Code Council—State Uniform Construction Code—International Mechanical Code (LAC 55:VI.301)	1904
Transportation and Development	
Professional Engineering and Land Surveying Board—Committees, Examination, Licensure, Seal, and Signature (LAC 46:LXI.105, 707, 909, 1301, 1315, and 2701)	1908
Wildlife and Fisheries	
Wildlife and Fisheries Commission—Deer Management Assistance Program (LAC 76:V.111)	1910
Special Residential Facility Fishing Permit (LAC 76:I.337)	1912
IV. NOTICES OF INTENT	
Agriculture and Forestry	
Board of Animal Health—Chronic Wasting Disease in Deer (LAC 7:XXI.1515 and 2103)	1913
Office of the Commissioner—Family Farm Credit (LAC 7:III.301-337)	1914
Economic Development	
Office of Business Development—Regional Awards and Matching Grant Awards Program (LAC 13:III.1709) ...	1917
Research and Development Tax Credits (LAC 13:I.2901, 2904, 2905, 2907 and 2509)	1918
Small and Emerging Business Development Program (LAC 19:II.105, 107, 507 and 903)	1919
Office of Business Development, Office of Entertainment Industry Development—Motion Picture Infrastructure Tax Credit Program (LAC 61:I.1601-1613)	1921
Office of the Secretary—Regional Awards and Matching Grant Awards Program (LAC 13:III.1709)	1917
Education	
Board of Elementary and Secondary Education—Public Comments (LAC 28:I.713)	1928
Student Financial Assistance Commission—Office of Student Financial Assistance—Scholarship/Grant Programs (LAC 28:IV.301, 507, and 703)	1929
START Saving Program—Educational Savings Account (LAC 28:VI.301)	1931
Environmental Quality	
Office of the Secretary, Legal Affairs Division—Integration of MACT Standards (LAC 33:V.3105)(HW105ft)	1932
Training Requirements for Underground Storage Tank System Operators (LAC 33:XI.601, 603, 605, 607, 609, and 611)(UT017)	1933
Governor	
Commission on Law Enforcement and Administration of Criminal Justice—Peace Officer Training (LAC 22:III.4701)	1936
Division of Administration—Motion Picture Infrastructure Tax Credit Program (LAC 61:I.1601-1613)	1921
Health and Hospitals	
Board of Dentistry—General Provisions (LAC 46:XXXIII.116, 312, 313, 314, 701, and 1713)	1937
Board of Practical Nurse Examiners—Adjudication (LAC 46:XLVII.306)	1941
Bureau of Health Services Financing—Facility Need Review—Adult Day Health Care Providers (LAC 48:I.12501, 12503, 12505 and 12525)	1942
Mental Health Rehabilitation Program—Parent/Family Intervention (Intensive) Services (LAC 50:XV.335)	1944
Multi-Systemic Therapy—Provider Responsibilities and Sanctions (LAC 50:XV.25505, 25901, and 25903)	1945
Pediatric Day Health Care Facilities—Minimum Licensing Standards (LAC 48:I.Chapter 52)	1947
Office of Aging and Adult Services, Division of Adult Protective Services—Adult Protective Services (LAC 48:XIII.17101-17125)	1969
Insurance	
Office of the Commissioner—Regulation 28—Variable Contract Regulation (LAC 37:XIII.Chapter 77)	1974
Regulation 81—Military Personnel—Automobile Liability Insurance Premium Discount and Insurer Premium Tax Credit Program (LAC 37:XIII.9519)	1976
Regulation 82—Insure Louisiana Incentive Program (LAC 37:XIII.Chapter 123)	1978
Louisiana State University System	
Louisiana State University Health Sciences Center, Louisiana Tumor Registry—Tumor Registry (LAC 48:V.Chapter 85)	1984
Natural Resources	
Office of Conservation—Ground Water Management (LAC 43:VI. 103 and 307)	1989
Hazardous Liquids Pipeline Safety (LAC 33:V.Chapters 301-313)	1990
Natural Gas Pipeline Safety (LAC 43:XIII. Chapters 1-65)	2000

Public Safety and Corrections	
Board of Private Security Examiners—Administrative Penalties (LAC 46:LVII.903)	2014
Company Licensure (LAC 46:LVII.201).....	2016
Security Officer Registration (LAC 46:LVII.301)	2017
Office of State Police, Bureau of Criminal Identification and Information—Right to Review Procedures (LAC 55:I.401)	2018
State Uniform Construction Code Council—Uniform Construction Code (LAC 55:VI.505, 701,703, 705, 707 and 905)	2019
Revenue	
Policy Services Division—Individual Income Tax Tables (LAC 61:I.1310)	2022
Social Services	
Office of Community Services—Residential Licensing (LAC 67:V.Chapters 61-71)	2041
Office of Family Support—LA 4 Public Pre-Kindergarten Program (LAC 67:III.5585).....	2090
Transportation and Development	
Office of Highways/Engineering—Design Guidelines for Political Subdivisions (LAC 70:I.Chapter 13).....	2091
Professional Engineering and Land Surveying Board—Supervising Professional, Professional Conduct and Continuing Professional Development (CPD) (LAC 46:LXI.2305, 2505 and 3117)	2101
Wildlife and Fisheries	
Wildlife and Fisheries Commission—Nuisance Wildlife Control Operator Program (LAC 76:V.127)	2102
Removal of Abandoned Crab Traps (LAC 76:VII.367)	2104
Special Bait Dealer's Permit (LAC 76:VII.329)	2105
V. POTPOURRI	
Agriculture and Forestry	
Horticulture Commission—Landscape Architect Registration Form	2108
Environmental Quality	
Office of the Secretary, Legal Affairs Division—Solicitation of Comments on the Development of Antidegradation Implementation Procedures	2108
Governor	
Division of Administration, Office of Information Technology—OIT Bulletins Published.....	2108
Health and Hospitals	
Emergency Response Network Board—Interregional Transfer Protocol.....	2109
Office of Public Health—Notice of Public Health Preventive Health and Health Services Block Grant.....	2110
Natural Resources	
Office of Conservation—Orphaned Oilfield Sites.....	2110
Office of the Secretary, Fishermen's Gear Compensation Fund—Loran Coordinates.....	2111
Public Safety and Corrections	
Oil Spill Coordinator's Office—Duck Lake Oil and Gas Field Crude Oil Discharge Final Settlement Agreement	2112
East Lake Palourde Crude Oil Discharges—Reported on June 11, 2002.....	2112
Revenue	
Policy Services Division—Meeting of Act 442 Collaborative Working Group.....	2113
Workforce Commission	
Office of Workers' Compensation Administration—Average Weekly Wage Rate.....	2113
Weekly Compensation Benefits Limits	2114
VI. INDEX	2115

Executive Orders

EXECUTIVE ORDER BJ 09-13

Louisiana Shrimp Task Force

WHEREAS, the Louisiana shrimp industry has a long, significant cultural importance to the State of Louisiana, and is of great economic impact because of the many jobs the industry provides;

WHEREAS, currently, global markets are experiencing an economic slowdown that, among other things, has led to extremely low prices that have affected all Louisiana shrimpers and the shrimp industry;

WHEREAS, in addition, in the last decade the number of commercial shrimpers in the state has decreased considerably, requiring the state to act and address the vulnerability of the industry;

WHEREAS, there should be an examination into how the industry functions, and to identify areas of concern which need to be addressed, including the potential violations of trade practices by foreign countries and the health and safety concerns of foreign produced shrimp; plans or policies should then be developed that will confront these issues; and

WHEREAS, all executive branch agencies and any political subdivisions therein should find ways in which they can increase the amount of Louisiana shrimp that they procure for any program they control which provides meals or food; parameters exist, namely Executive Order BJ 08-67 as well as R.S. 39:1595 and R.S. 38:2251, which can guide and encourage these agencies on the legality and procedures for procuring Louisiana shrimp;

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 Shrimp Task Force (hereinafter Task Force) is established, shall be placed within the Department of Wildlife and Fisheries and shall be chaired by the Secretary of that Department.

SECTION 2:

A. The Task Force membership shall consist of the following:

1. The Governor, or his designee;
2. The Secretary of the Department of Wildlife and Fisheries, or his designee;
3. The Commissioner of the Department of Agriculture and Forestry, or his designee;
4. The Attorney General, or his designee;
5. The Secretary of the Department of Health and Hospitals, or his designee;
6. The Executive Director of the Louisiana Recovery Authority, or his designee;
7. The Secretary of the Department of Louisiana Economic Development, or his designee; and
8. The Executive Director of the Louisiana Workforce Commission, or his designee.

B. The Governor may designate additional persons as ex-officio members as he deems necessary and prudent, especially persons representing the shrimp industry.

SECTION 3: The Task Force may interface with industry organizations and other relevant parties, as well as receive data and information and review presentations from industry experts, on items which may have a significant impact on the Louisiana shrimp industry.

SECTION 4: Task Force members shall not receive additional compensation or a per diem for their service, except for reimbursement for travel expenses, in accordance with PPM 49, from their employing and/or elected department, agency and/or office.

SECTION 5: Support staff, facilities and resources for the Task Force shall be provided by the Department of Wildlife and Fisheries.

SECTION 6:

A. The Task Force shall examine the Louisiana shrimp industry as a whole, identify areas of concern or problems endemic to the industry, and develop plans or propose policies which can improve the economic sustainability of the industry.

B. Issues the Task Force should examine, but which the Task Force is not limited to, are: the effect of the current global economic slowdown on local markets; the impact of foreign produced shrimp on domestic markets, and ways to improve demand for domestic produced shrimp; the health and safety concerns of foreign produced shrimp; and the various possibilities to increase the marketing and promotion of Louisiana shrimp.

SECTION 7: As a start, all departments, agencies, boards, commissions and budget units of the executive branch of state government shall pursue all opportunities available that are reasonable and economically prudent which will allow them to increase the amount of Louisiana shrimp they procure for meals or food provided by them.

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 assist and cooperate with 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 31st day of August, 2009.

Bobby Jindal
Governor

ATTEST BY
THE GOVERNOR
Jay Dardenne
Secretary of State
0909#106

EXECUTIVE ORDER BJ 09-14

Louisiana Complete Count Committee

WHEREAS, the 2010 decennial census, to be conducted in April 2010, will be the official count of Louisiana's population and will be used for purposes such as determining the number of United States Representatives Louisiana will be apportioned for the next ten years and for redistricting Louisiana's state and local legislative bodies as well as other public entities;

WHEREAS, more importantly, Louisiana's population count will be the deciding factor in the amount of federal funding that will be allocated to the state over the next decade. There will be over \$300 billion in federal funding distributed among the states in 2010, which will be used to pay for services such as transportation, health care, education and public safety;

WHEREAS, the significant need for an accurate census count in 2010 is compounded by the historical fact that Louisiana has had one of the lowest response rates to the census questionnaire, as well as the dislocation of Louisianans due to past hurricanes and the varying growth rates among the municipalities in the state;

WHEREAS, based on the United States Census Bureau's recommendation and the above information, it is therefore crucial that Louisiana implement a Complete Count Committee and utilize all possible opportunities to maximize the correct count of its population so that the state may have the highest possible number of United States Representatives as well as the largest share of federal funding it can receive in the future; and

WHEREAS, the Louisiana Complete Count Committee will accomplish this by increasing awareness of the importance of and impact that the 2010 Census will have on Louisiana, and by informing Louisianans of the necessity of responding to the census questionnaire. The Committee will lead the way in promoting the census and getting individuals, communities, businesses and local governmental entities involved in making sure that Louisiana maximizes its population count;

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 Complete Count Committee shall be formed by the Secretary of State, consistent with the recommendations issued by the United States Census Bureau, and shall be housed within his offices. The Secretary of State shall have the power to appoint members to the Committee and to form subcommittees to efficiently and effectively carry out the functions of the Committee.

SECTION 2: Since the count of Louisiana's population will impact the state's legislative representation and share of federal dollars, the Committee will plan and implement outreach efforts to publicize the importance and effect the 2010 Census will have on Louisiana.

SECTION 3: The Committee shall develop an action plan to raise the public's awareness of the census and the necessity of responding to the questionnaire. The Committee shall identify ways to reach out to local communities, create partnerships with local and state political subdivisions and private entities, and create a campaign to educate Louisianans on the 2010 Census.

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 assist and cooperate with the Committee 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 3rd day of September, 2009.

Bobby Jindal
Governor

ATTEST BY
THE GOVERNOR
Jay Dardenne
Secretary of State
0909#107

Emergency Rules

DECLARATION OF EMERGENCY

Department of Economic Development Office of the Secretary

Angel Investor Tax Credit (LAC 13:I.3307)

The Department of Economic Development, Office of the Secretary, as authorized by and pursuant to the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and in accordance with R.S. 47:6020 and 36:104, hereby proposes to amend its existing Rules and Regulations relative to its Angel Investor Tax Credit Program, and to adopt the following amended Rules and Regulations relative to the Angel Investor Tax Credit Program.

Act 445 of the 2009 Regular Session provides that tax credit programs with a "cap" on the amount of tax credits allowed shall be administered on a first-come first-serve basis, unless otherwise provided for by statute, with an exception that when total tax credits requested on a single business day exceed tax credits available, tax credits shall be treated on a pro rata basis. The Angel Investor Tax Credit Program has a "cap" but no statutory provision for administration of tax credits; therefore, the default rule of first-come first-serve could apply. However, this contradicts current administration of the program and existing Rules and Regulations, which allow for proration of credits, if the "cap" is exceeded (for all requests regardless of date received.)

The Department of Economic Development has found an imminent need to address this inconsistency and to clarify its procedure for allocation of tax credits, which currently is to allow a prorate of credits, if the cap is exceeded. This is necessary to provide certainty and assurance to the investors. Without this Rule, the State of Louisiana may suffer the loss of business investment and economic development projects creating or retaining jobs that would improve the standard of living and enrich the quality of life for citizens of this state.

This Rule, adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., shall become effective September, 20 2009, and shall remain in effect for the maximum period allowed under the Act.

Title 13

ECONOMIC DEVELOPMENT

Part I. Financial Incentive Programs

Chapter 33. Angel Investor Tax Credit

§3307. The Angel Investor Tax Credit

A. The following rules shall be applicable to investments by Accredited Investors in Louisiana Entrepreneurial Businesses.

1. By January 31 of each calendar year 2006 through 2009, Louisiana Entrepreneurial Businesses certified by the secretary shall, by affidavit of its chief financial officer, provide the secretary with the list of those accredited investors, the Louisiana taxpayer identification number of the accredited investors and the amount of their investment in accordance with the statute and these rules, who have

invested in the business provided that the business shall report up to and no more than \$2,000,000 total for the previous calendar year that shall have been invested by accredited investors in the manner prescribed by Act 400 in order to obtain a tax credit for the accredited investors of no more than \$1,000,000 total for the tax year ending the previous December 31.

2. ...

3. For investments made during calendar year 2009, Louisiana Entrepreneurial Businesses certified by the secretary shall, by affidavit of its chief financial officer, provide the secretary with the list of those accredited investors, the Louisiana taxpayer identification number of the accredited investors and the amount of their investment in accordance with the statute and these rules, who have invested in the business provided that the business shall report up to and no more than \$2,000,000 total for the calendar year 2009 that shall have been invested by accredited investors in the manner prescribed by Act 400 in order to obtain a tax credit for the accredited investors of no more than \$1,000,000 total for the tax year ending December 31, 2009.

4. To apply for Angel Investor Tax Credits for calendar year 2009, taxpayers must submit an application and supporting report to the secretary by December 4, 2009. All documents are to be submitted electronically to the email address AngelInvestorTaxCreditApplication2009@la.gov, unless otherwise approved in writing by the Department. All applications received by the secretary from January 1, 2009, through December 4, 2009, shall be treated as received on December 4, 2009. All tax credit amounts reported to the secretary shall be fully credited to the accredited investor unless the total of all such investments shall exceed \$10,000,000 and the total of such credits shall exceed \$5,000,000, in which case the tax credits shall be approved on a pro rata basis and the secretary shall prorate the total amount of investment and tax credits earned and advise each accredited investor of the amount of his credit for the tax year ending December 31, 2009 no later than February 28, 2010.

5. The secretary shall provide the accredited investor with all other necessary and appropriate certificates as provided by statute and as shall assist the Department of Revenue in its determination of applicability of the credit. No credit certificates shall be issued until after a determination has been made as to whether or not there is a necessity for prorating of the credits as provided above. When issued, the certificates shall include the Louisiana taxpayer identification number of the accredited investor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6020 and R.S. 36:104.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 32:229 (February 2006), amended LR 32:1595 (September 2006), LR 35:

Kristy Mc Kearn
Undersecretary

0909#067

DECLARATION OF EMERGENCY

**Office of the Governor
Division of Administration
Racing Commission**

Jockey Fee Schedule (LAC 46:XLI.725)

The Louisiana State Racing Commission is exercising the emergency provisions of the Administrative Procedures Act, R.S. 49:953(B), and pursuant to the authority granted under R.S. 4:141 et seq., adopts the following emergency rule effective September 10, 2009, and it shall remain in effect for 120 days or until this Rule takes effect through the normal promulgation process, whichever comes first. This declaration extends the Emergency Rule adopted April 27, 2009 implemented on May 13, 2009.

The Louisiana State Racing Commission finds it necessary to amend this Rule. The disparity in jockey mount fees between Louisiana and neighboring states is posing an immediate threat to Louisiana losing its pool of qualified jockeys. The change in fees represents a settlement among industry participants to thwart the threat of a jockey strike which would halt Louisiana racing.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLI. Horseracing Occupations

Chapter 7. Jockeys and Apprentice Jockeys

§725. Jockey Fee Schedule

A. Prior to the start of each race conducted by an association licensed by the commission, sufficient money shall be on deposit with the horsemen's bookkeeper in an amount equal to pay the losing mount fee of a jockey for that race. In the absence of a special agreement, the fee of a jockey shall be as follows.

Purse	Win	Second	Third	Unplaced
\$400 and under	\$27	\$19	\$17	\$16
500	30	20	17	16
600	36	22	17	16
700-900	10%	25	22	20
1,000-1,400	10%	30	25	22
1,500-1,900	10%	35	30	28
2,000-3,400	10%	45	35	33
3,500-4,900	10%	70	60	50
5,000-9,900	10%	80	65	60
10,000-14,900	10%	5%	70	65
15,000-24,900	10%	5%	5%	70
25,000-49,900	10%	5%	5%	75
50,000-99,900	10%	5%	5%	90
100,000 and up	10%	5%	5%	115

B. Failure, refusal and/or neglect of a trainer to timely deposit or have deposited the aforesaid jockey fee for a horse entered to race, on or before the time specified herein, shall be a violation of this Section. Each such violation shall be punishable by a fine of not less than \$200 and the failure to pay such fine within 48 hours of imposition thereof shall be grounds for suspension. Additionally, an amount equal to the jockey fee actually earned by the jockey in accordance with the aforesaid schedule shall be paid to the jockey earning same within 48 hours of the imposition of the

aforesaid fine, and failure to pay said jockey fee within the time specified herein shall be an additional grounds for suspension.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148, R.S. 4:150 and R.S. 4:151.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, promulgated by the Department of Commerce, Racing Commission, LR 2:431 (December 1976), amended LR 3:28 (January 1977), LR 4:276 (August 1978), LR 5:23 (February 1979), LR 12:12 (January 1986), amended by the Department of Economic Development, Racing Commission, LR 16:112 (February 1990), LR 35:

Charles A. Gardiner III
Executive Director

0909#002

DECLARATION OF EMERGENCY

**Office of the Governor
State Military Department**

**National Guard Death and Disability Benefits
(LAC 41:I.Chapter 3)**

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act and R.S. 29:11, the Military Department is issuing an Emergency Rule to adopt LAC 41:I.101 to provide immediate implementation of the National Guard Death and Disability Benefits as provided by R.S. 22:941(A)(5) as enacted by Act 260 of the 2007 Regular Session of the Legislature. The National Guard Death and Disability Benefit Statute requires the payment of \$250,000 to the beneficiary of a Guardsman who died while on state or federal active duty while in the course of the business of the military forces of this state. Additionally, the statute requires the payment of \$100,000 for permanent total disability due to injuries suffered while the Guardsman was on state or federal active duty while in the course of the business of the military forces of this State. Failure to implement these rules on an emergency basis could lead to Guardsmen and their families being without a procedure to obtain the benefit in a timely manner. This Emergency Rule shall be effective August 21, 2009, and shall remain in effect until the expiration of the maximum period allowed under the Administrative Procedure Act or the adoption of the final Rule, whichever comes first.

**Title 41
MILITARY FORCES OF THE STATE
Part I. Administration**

Chapter 3. National Guard Death and Disability Benefits

§101. General Provisions

A. Purpose

1. To establish an effective and efficient mechanism for fulfilling the provisions of R.S. 22:941(A)(5), which became effective on July 6, 2007.

2. To govern the submission, evaluation and determination of claims submitted pursuant to R.S. 22:941(A)(5).

B. Application

1. The rules will apply to all claims arising from R.S. 22:941(A)(5).

C. Definitions

DoD—United States Department of Defense.

LANG—Louisiana National Guard.

Guardsmen or Guardsman—an officer or enlisted member of the Louisiana National Guard.

Period of Activation—

a. that period when the Governor of the State of Louisiana orders a Guardsman to State Active Duty pursuant to Title 29, Section 7 of the Louisiana Revised Statutes; and

b. that period when the President of the United States orders a Guardsman to Federal Active Duty pursuant to Title 10, Section 12301, 12302, 12303 of the U.S. Code.

Course of Business—the performance of the business of the military forces of the State of Louisiana or the United States.

DD Form 93—record of emergency data executed by every member of LANG pursuant to DoD policies and regulations.

Disabled or Disability—permanent total disability.

Beneficiary—unless otherwise designated by the deceased Guardsman as set forth in this regulation, the person designated by the Guardsmen on DD Form 93 who receives the death gratuity from DoD pursuant to Title 10 U.S. Code, Subtitle A, Part II, Chapter 75, Subchapter II, Section 1475, et seq.

Permanent Total Disability—a 100 percent permanent total or unemployability disability rating as determined by the U.S. Veterans Administration (VA) for federal active

duty or in accordance with the worker's compensation law of this state for state active duty.

Qualifying Claim—those claims meeting the criteria of claims request documentation, and the meaning ascribed to course of business.

D. Claims for Benefits

1. All claims for death benefits under R.S. 22:941(A)(5) shall be submitted to the Louisiana National Guard, ATTN: J-1, Casualty Branch, Building 496, 3rd Street, Camp Beauregard, LA 71360. A claim form may be obtained from this agency.

2. All claims for Disability Benefits under R.S. 22:941(A)(5) shall be submitted to Louisiana Dept. of Veterans Affairs, P.O. Box 94095, 1885 Wooddale Blvd. Baton Rouge, LA 70804-9095. A claim form may be obtained from this agency.

3. All death benefit claim requests must include the following documentation:

a. the guardsman's signed LANG death beneficiary designation form or, in absence thereof, a signed DD Form 93;

b. DD Form 1300 (death certificate) or death certificate from the state of Louisiana;

c. a copy of the guardsman's state or federal orders or copy of DD Form 214;

d. death benefit claim form signed by claimant and certified by the Adjutant General or his designee.

INTERIM APPLICATION FOR LOUISIANA NATIONAL GUARD DEATH BENEFITS UNDER LOUISIANA REVISED STATUTE 22:941

(Please Print)

1. Today's date:			2. Date of Death:		
DECEASED GUARDSMAN INFORMATION					
3. Last Name of Deceased Soldier:		First:	Middle:	4. Marital status (circle one) Single / Mar / Div / Sep / Wid	
5. (Any Former name): <input type="checkbox"/> Yes <input type="checkbox"/> No	6. Birth date: / /	7. Age:	8. Gender: <input type="checkbox"/> M <input type="checkbox"/> F		
9. Unit:		10. Social Security no.:		11. Please attach a copy of <input type="checkbox"/> DD Form 1300 (Death Certificate) <input type="checkbox"/> DD Form 93 (Record of Emergency Data)	
12. Duty Status of Soldier (Attach copy of State or Federal Orders or DD Form 214) <input type="checkbox"/> Attached				13. Status	
INFORMATION CONCERNING APPLICANT					
Please read the instructions below before answering					
14. Name and relationship of claimant:	15. Birth date: / /	16. Address (if different):		17. Social Security Number	
Benefits payable under this provision will be paid in accordance with Department of Defense Death Gratuity policies applicable at the time of death of the Guardsman.					
CERTIFICATION OF APPLICANT AND CERTIFYING OFFICIAL					
Applicant signature				18. Home phone no.:	
				19. Work phone no.:	
Applicant certifies that the above information is true to the best of his/her knowledge. Applicant understands that willful or intentional misrepresentation relative hereto is punishable by a fine or imprisonment.					

For internal use only: Certifying Official hereby represents that he/she has made inquiry into this application and found the application and accompanying documents to be in order and recommends payment of benefits.

Last Name, First Name, Rank

Date

4. All claims for disability benefits must include the following:

a. a copy of the guardsman's state or federal orders or copy of DD Form 214;

b. a rating decision by the U.S. Department of Veterans Affairs or in accordance with the worker's compensation law of this state;

c. disability benefit claim form signed by claimant and certified by the Secretary of the Louisiana Department of Veterans Affairs or his designee.

E. Death and Disability Benefit Payment Eligibility

1. Benefits under R.S. 22:941(A)(5) will be paid to the beneficiary or beneficiaries of guardsmen who die while on state active duty or federal active duty. Benefits will also be paid in the event of death while a guardsman is ordered to active duty by the governor pursuant to R.S. 29:7 and in a federal pay status pursuant to 32 U.S.C 502(f)(1).

2. Benefits under R.S. 22:941(A)(5) will be paid to Guardsmen who are disabled due to injuries suffered while on state active duty or federal active duty. Benefits will also be paid in the event of disability due to injuries suffered while a guardsman is ordered to active duty by the governor pursuant to R.S. 29:7 and in a federal pay status pursuant to 32 U.S.C 502(f)(1).

3. Benefits under this part will not be paid to guardsmen who die or become disabled while in any training status pursuant to Title 29 of the Louisiana Revised Statutes or Title 32 of the U.S. Code.

4. Members of the Active Guard Reserve (AGR) program, federal technicians and state employees are not eligible for benefits under R.S. 22:941(A)(5) unless otherwise qualified as set forth in Paragraph E(1) or E(2) of this regulation.

5. Guardsmen who die or become disabled while on State Active Duty or Federal Active Duty, but are not in the course of business at the time of their death or injury may not be eligible for benefits under R.S. 22: 941(A)(5). If an investigation determines that the Guardsman was not in the line of duty as defined by Army Regulation 600-8-4 at the time of his death or injury, that Guardsman may be determined to be ineligible for this benefit.

6. Guardsmen who are declared 100 percent disabled by the U.S. Veterans Administration for injuries suffered during a Period of Activation are eligible for the disability benefit under R.S. 22:941(A)(5). Eligibility for Guardsmen who become disabled due to injuries suffered while on state active duty will be determined in accordance with the worker's compensation law of this state.

F. Determination of Eligibility and Payment of Benefits

1. Death benefit eligibility and certification will be determined by The Adjutant General or his designee.

2. Disability benefit eligibility and certification will be determined by the Secretary of the Louisiana Department of Veterans Affairs or his designee.

3. Payment to eligible recipients of qualified claims will be made by the Louisiana Office of Risk Management after certification of eligibility and request for payment is made as set forth herein above.

G. Beneficiary Designation by Guardsmen

1. All members of LANG shall complete and execute a "Death Benefit Beneficiary Designation Form" which will contain the name of the beneficiary of the guardsman's death benefit under R.S. 22:941(A)(5) to whom this benefit will be paid in a lump sum.

2. The designation form will be signed by the guardsman before a witness in the grade of E-7 or above.

3. The designation form will be kept in the personnel files of the LANG in the regular course of business.

Louisiana National Guard
Death Benefit Beneficiary Designation Form
For Benefits Payable Under La. R.S. 22: 941(A)(5)

(Please Print)

INSTRUCTIONS TO SOLDIER / AIRMAN: The State of Louisiana provides a special benefit to your designated beneficiary in the event of your death while mobilized by the Governor of Louisiana on State Active Duty or while mobilized by the President of the United States on Federal Active Duty. The benefit is in the amount of \$250,000.00 and is payable by the State in a lump sum to the person you designate below. Only one beneficiary may be designated. Consider this designation carefully.

INSTRUCTIONS TO UNIT: This form shall be reviewed annually with the Soldier or Airman. This form and all updates are forwarded to J-1 Casualty Branch for review, approval and placement in personnel records.

GUARDSMAN'S INFORMATION		
1. GUARDSMAN'S NAME (LAST, FIRST, MIDDLE INITIAL)	2. SOCIAL SECURITY NUMBER	
3. UNIT		
BENEFICIARY DESIGNATION		
I hereby designate the following person as my beneficiary for death benefits paid by the State of Louisiana pursuant to La. R.S. 22: 941(A)(5) in the amount of \$250,000.00 payable in a lump sum to this person:		
4. BENEFICIARY NAME: (LAST, FIRST, MIDDLE INITIAL)		
5. STREET ADDRESS:		
6. CITY:	7. STATE:	8. ZIP CODE:
9. MAILING ADDRESS (IF DIFFERENT):		
10. CITY:	11. STATE:	12. ZIP CODE:
13. HOME PHONE NUMBER:	14. OTHER PHONE NUMBER	15. EMAIL ADDRESS
SIGNATURE		
16. Signature of Guardsman		Date
WITNESS (E-7 OR ABOVE)		
17. Signature of Witness		Rank
		Date

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:11(F).

HISTORICAL NOTE: Promulgated in accordance with the Office of the Governor, State Military Department, LR 35:

Bennett C. Landreneau
 Adjutant General

0909#001

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Facility Need Review
Exception Criteria for Bed Approval
(LAC 48:I.12513, 12527, 12533 and 12541)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 48:I.12513, 12527, 12533 and 12541 in the Medical Assistance Program as authorized by R.S. 36:254 and 40:2116. 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 to adopt provisions governing the facility need review (FNR) process (*Louisiana Register*, Volume 21, Number 8). The department amended the August 20, 1995 Rule to establish provisions governing the exemption from the facility need review process for emergency replacement of facilities destroyed by fire, a natural disaster, or potential health hazard (*Louisiana Register*, Volume 32, Number 5). The department promulgated an Emergency Rule to amend the May 20, 2006 Rule to establish provisions allowing a Medicaid certified nursing facility to protect its facility need review bed approvals for a period of time due to a declared disaster or other emergency situation (*Louisiana Register*, Volume 34, Number 10). The department subsequently promulgated an Emergency Rule to amend the October 11, 2008 Emergency Rule to further clarify these provisions (*Louisiana Register*, Volume 35, Number 1). The department promulgated an Emergency Rule to amend the January 20, 2009 Emergency Rule to repromulgate these provisions in the appropriate place in the *Louisiana Administrative Code* (*Louisiana Register*, Volume 35, Number 3). The department amended the March 20, 2009 Emergency Rule governing the facility need review process to incorporate provisions that will allow nursing facilities 120 days to re-license and re-enroll Medicaid beds after placing the beds in alternate use status (*Louisiana Register*, Volume 35, Number 6). This Emergency Rule is being promulgated to amend the provisions of the June 20, 2009 Emergency Rule to incorporate intermediate care facilities for persons with developmental disabilities (ICF/DD) bed approvals in the facility need review exception criteria for bed approvals, and to revise the provisions governing administrative appeal of FNR decisions.

This action is being taken to promote the health and well-being of Louisiana citizens by assuring the availability of nursing facility or ICF/DD services in areas that have been affected by a declared disaster or other emergency situation through the protection of the facility need review bed approvals of the impacted facilities for a specified time period.

Effective September 20, 2009, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions of the June 20, 2009 Emergency Rule

governing facility need review for Medicaid certified nursing facilities and ICF/DDs.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 5. Health Planning

Chapter 125. Facility Need Review

Subchapter B. Determination of Bed or Unit Need

§12513. Alternate Use of Licensed Approved Title XIX Beds

A. - D. ...

E. A nursing facility that has converted beds to alternate use may elect to remove the beds from alternate use and re-license and re-enroll the beds as nursing facility beds. The facility has 120 days from removal from alternate use to re-license and re-enroll the beds. Failure to re-license and re-enroll the beds within 120 days will result in the automatic expiration of FNR approval.

F. The nursing facility beds converted to alternate use shall be used solely for the purpose of providing health care services at a licensed and/or certified facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Repealed and repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:808 (August 1995), amended LR 28:2190 (October 2002), LR 30:1483 (July 2004), LR 34:2617 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

Subchapter C. Revocation of Facility Need Review Approvals

§12527. General Provisions

A. - C. ...

D. Except as provided in Subchapter E and Subchapter F of this Chapter, approval shall be revoked under the following circumstances:

1. a facility's license is revoked, not renewed, or denied, unless the facility obtains a license within 120 days from the date of such revocation, nonrenewal or denial.

2. a facility's provider agreement is terminated unless, within 120 days thereof, the facility enters into a new provider agreement.

E. Except as provided in Subchapter E and Subchapter F of this Chapter, beds may not be disenrolled except as provided under the alternate use policy and during the 120-day period to have beds relicensed or recertified. The approval for beds disenrolled will automatically expire except as otherwise indicated.

F. The facility need review approval for licensed nursing facilities or ICF/DDs located in an area(s) which have been affected by an executive order or proclamation of emergency or disaster due to Hurricanes Katrina and/or Rita, and which were operating at the time the executive order or proclamation was issued under R.S. 29:794, shall be revoked or terminated unless the nursing facility or ICF/DD re-licenses and re-enrolls its beds in the Medicaid Program within 120 days from January 1, 2010.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:806 (August 1995), amended LR 25:1250 (July 1999), LR 28:2190 (October 2002), LR 30:1023

(May 2004), LR 32:845 (May 2006), LR 34:2619 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

Subchapter F. Exception Criteria for Bed Approvals

§12533. General Provisions

A. The facility need review bed approvals for a licensed and Medicaid certified nursing facility located in an area or areas which have been affected by an executive order or proclamation of emergency or disaster issued in accordance with R.S. 29:724 or R.S. 29:766 shall remain in effect and shall not be terminated, revoked or considered to have expired for a period not to exceed two years following the date of such executive order or proclamation, provided that the following conditions are met:

1. the nursing facility or ICF/DD shall submit written notification to the Health Standards Section within 60 days of the date of the executive order or proclamation of emergency or disaster that:

a. the nursing facility or ICF/DD has experienced an interruption in the provisions of services as a result of events that are the subject of such executive order or proclamation of emergency or disaster issued in accordance with R.S. 29:724 or R.S. 29:766;

b. the nursing facility or ICF/DD intends to resume operation as a nursing home or ICF/DD in the same service area; and

c. includes an attestation that the emergency or disaster is the sole causal factor in the interruption of the provision of services;

NOTE: Pursuant to these provisions, an extension of the 60 day deadline may be granted at the discretion of the department.

2. the nursing facility or ICF/DD resumes operating as a nursing facility or ICF/DD in the same service area within two years for a nursing facility and within one year for an ICF/DD, of the executive order or proclamation of emergency or disaster in accordance with R.S. 29:724 or R.S. 29:766; and

3. the nursing facility or ICF/DD continues to submit required documentation and information to the department.

B. The provisions of this Section shall not apply to:

1. a nursing facility or ICF/DD which has voluntarily surrendered its facility need review bed approval; or

2. a nursing facility or ICF/DD which fails to resume operations as a nursing facility or ICF/DD in the same service area within two years for a nursing facility and within one year for an ICF/DD, of the executive order or proclamation of emergency or disaster in accordance with R.S. 29:724 or R.S. 29:766.

C. Failure to comply with any of the provisions of this Section shall be deemed a voluntary surrender of the facility need review bed approvals.

C.1. - M. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Repealed and repromulgated by the Department of Health and Hospitals, Office of the Secretary, LR 21:812 (August 1995), amended LR 34:2621 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

Subchapter G. Administrative Appeals

§12541. Appeal Procedures

A. Administrative appeal hearings shall be conducted pursuant to the Administrative Procedures Act.

1. - 2. Repealed.

B. An applicant may request an administrative hearing within 30 calendar days after receipt of the department's notice of denial of facility need review.

1. The request for an administrative hearing must be made in writing to the department's Bureau of Appeals.

2. The request must contain a statement setting forth the specific reason with which the applicant disagrees and the reasons for the disagreement.

3. Unless a timely and proper request is received by the Bureau of Appeals, the findings of the department shall be considered a final and binding administrative determination.

4. The request shall be considered timely if it is postmarked by the 30th calendar day after receipt of the department's notice of denial.

5. A fee of \$500 must accompany a request for an appeal.

C. When an administrative hearing is scheduled, the Bureau of Appeals shall notify the applicant in writing.

1. The notice shall be mailed no later than 15 calendar days before the scheduled date of the administrative hearing and shall contain the:

- a. date of the hearing;
- b. time of the hearing; and
- c. place of the hearing.

2. Repealed.

D. The administrative hearing shall be conducted by an administrative law judge from the Bureau of Appeals according to the following procedures.

1. An audio recording of the hearing shall be made.

2. A copy of the recording may be prepared and reproduced at the request of a party to the hearing, provided he bears the cost of the copy of the recording.

3. Testimony at the hearing shall be taken only under oath, affirmation or penalty of perjury.

4. Each party shall have the right to:

- a. call an examine parties and witnesses;
- b. introduce exhibits;
- c. question opposing witnesses and parties on any matter relevant to the issue, even though the matter was not covered in the direct examination;
- d. impeach any witness, regardless of which party first called him to testify; and
- e. rebut the evidence against him/her.

5. Any relevant evidence shall be admitted if it is the sort of evidence upon which responsible persons are accustomed to rely on in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make the admission of such evidence improper over objection in civil or criminal actions.

a. Documentary evidence may be received in the form of copies or excerpts.

b. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded.

c. The rules of privilege recognized by law shall be given effect.

6. The administrative law judge may question any party or witness and may admit any relevant and material evidence.

7. A party has the burden of proving whatever facts he/she must establish to sustain his/her position.

8. An applicant who has been denied through the facility need review process shall present his case first and has the burden to show by a preponderance of the evidence that facility need review approval should have been granted by the department pursuant to the provisions of this Rule.

9. After an applicant denied facility need review has presented his evidence, the department will then have the opportunity to present its case and to refute and rebut the testimony and evidence presented by the applicant.

E. Any party may appear, and be heard, at any appeals proceeding through an attorney or a designated representative. The representative shall have a written authorization to appear on behalf of the applicant.

1. A person appearing in a representative capacity shall file a written notice of appearance on behalf of a provider identifying:

- a. his/her name;
- b. address;
- c. telephone number; and
- d. the party being represented.

F. - M. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

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

0909#069

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing and

Office for Citizens with Developmental Disabilities

Home and Community-Based Services Waivers
Children's Choice—Service Changes
(LAC 50:XXI.11303 and 12101)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities amends LAC 50:XXI.11303 and §12101 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act,

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repromulgated the provisions governing the Children's Choice Waiver for codification in the *Louisiana Administrative Code (Louisiana Register, Volume 28, Number 9)*. The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities propose to amend the provisions governing the Children's Choice Waiver to clarify the family training service description and exclude payments for attending family training, except for registration and training fees.

This action is being taken to assure that service definitions in the Children's Choice Waiver meet the federal guidelines set forth by the Centers for Medicare and Medicaid Services (CMS). It is anticipated that implementation of this Emergency Rule will have no programmatic fiscal impact in the Children's Choice Waiver Program for state fiscal year 2009-2010.

Effective September 20, 2009, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities amends the provisions governing family training services covered under the Children's Choice Waiver.

Title 50

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

Subpart 9. Children's Choice

Chapter 113. Service

§11303. Service Definitions

A. - D.5. ...

E. Family training consists of formal instruction offered through training and education designed to assist the families of Children's Choice Waiver (CCW) participants in meeting the needs of their children.

1. The training must be conducted by professional organizations or practitioners and offer formal instruction that is relevant to the waiver participant's needs as identified in the plan of care.

2. Family training must be prior approved by the Bureau of Health Services Financing or its designee, the Office for Citizens with Developmental Disabilities, and incorporated into the approved plan of care.

3. For purposes of this service only, "family" is defined as unpaid persons who live with or provide care to the waiver participant, and may include a parent, stepparent, grandparent, sibling, legal guardian or foster family.

4. Payment for family training services includes coverage of registration and training fees associated with formal instruction in areas relevant to the participant's needs as identified in the plan of care. Payment is not available for the costs of travel, meals and overnight lodging to attend a training event or conference.

F. - F.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 28:1983 (September 2002), amended by

the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 33:1871 (September 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 35:

§12101. Reimbursement Methodology

A. - B.1. ...

2. Family training shall be reimbursed at cost.

3. - 4.j.iv. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1987 (September 2002), LR 33:1872 (September 2007), amended by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 34:250 (February 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 35:

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

Alan Levine
Secretary

0909#070

DECLARATION OF EMERGENCY

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

Home and Community-Based Services Waivers
Elderly and Disabled Adults
(LAC 50:XXI.8101, 8105, 8107, 8301, 8303, and 8701)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services amends LAC 50:XXI.8101, 8105, 8301, 8303, 8701 and adopts §8107 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 governing home and community-based waiver services for elderly and disabled adults in LAC 50:XXI.Chapters 81-89 (*Louisiana Register*, Volume 30, Number 8). The Department of Health and Hospitals, Office of Aging and Adult Services subsequently amended the

provisions of the August 20, 2004 Rule to include Adult Day Health Care services as a covered service in the waiver (*Louisiana Register*, Volume 34, Number 6). To assure compliance with federal requirements regarding the cost-effectiveness of the Elderly and Disabled Adults (EDA) Waiver Program, the department promulgated an Emergency Rule to amend the provisions governing the EDA Waiver to: 1) change the allocation priority of waiver opportunities; 2) implement uniform needs-based assessments to determine the level of support needs and establish an individual cost cap based on need; 3) clarify the service cap for environmental accessibility adaptation services; 4) add shared supports to companion services; and 5) mandate that personal representatives cannot be the paid companion care worker (*Louisiana Register*, Volume 35, Number 1). The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services amended the provisions of the February 1, 2009 Emergency Rule to further clarify the provisions governing the development of the waiver recipient's annual services budget (*Louisiana Register*, Volume 35, Number 3). The department amended the provisions of the March 20, 2009 Emergency Rule to further clarify the Resource Utilization Group (RUG) categories and subcategories utilized in the resource assessment process and the provisions governing the comprehensive plan of care. (*Louisiana Register*, Volume 35, Number 6). This Emergency Rule is being promulgated to amend the provisions of the June 20, 2009 Emergency Rule to clarify the provisions governing companion services and the comprehensive plan of care. This action is being taken to avoid federal sanctions for noncompliance with waiver cost-effectiveness requirements.

Effective September 20, 2009, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services amends the provisions of the June 20, 2009 Emergency Rule governing the Elderly and Disabled Adults Waiver.

Title 50

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

Subpart 7. Elderly and Disabled Adults Waiver

Chapter 81. General Provisions

§8101. Introduction

A. A. The target population for the Elderly and Disabled Adult (EDA) Waiver Program includes individuals who are:

1. 65 years of age or older; or
2. 21-64 years of age and disabled according to Medicaid standards or the Social Security Administration's disability criteria; and
3. meet nursing facility level of care requirements; and
4. are at imminent risk of nursing facility placement.

a. An individual is considered to be at imminent risk of nursing facility placement when he or she meets one of the following criteria:

- i. is likely to require admission to a nursing facility within the next 120 days;
- ii. faces a substantial possibility of deterioration in mental condition, physical condition or functioning if

either home and community-based services or nursing facility services are not provided within 120 days; or

iii. has a primary caregiver who has a disability or is age 70 or older.

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 Community Supports and Services, LR 30:1698 (August 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Division of Long Term Supports and Services, LR 32:1245 (July 2006), amended by the Department Of Health and Hospitals, Office of Aging and Adult Services, LR 34:1029 (June 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:

§8105. Programmatic Allocation of Waiver Opportunities

A. ...

B. Effective February 1, 2009, EDA Waiver opportunities shall be offered to individuals on the registry according to needs-based priority groups. The following groups shall have priority for EDA Waiver opportunities, in the order listed:

1. individuals who are victims of abuse or neglect as substantiated by Adult Protective Services or Elderly Protective Services and would require institutional placement to prevent further abuse and neglect without the availability of EDA Waiver services;

a. - c. Repealed.

2. individuals presently residing in nursing facilities;

3. individuals who are not presently receiving home and community-based services (HCBS) under another approved state program, including, but not limited to the:

a. Adult Day Health Care (ADHC) Waiver;

b. New Opportunities Waiver (NOW);

c. Supports Waiver;

d. Program for All-inclusive Care for the Elderly (PACE); and

e. Long Term–Personal Care Services (LT-PCS) Program; and

NOTE: For purposes of this priority group, state-funded Office for Citizens with Developmental Disabilities (OCDD) services shall not be considered another HCBS program.

4. all other individuals on the Request for Services Registry (RFSR), by date of first request for services.

C. Notwithstanding the needs-based priority group provisions, 150 EDA Waiver opportunities are reserved for qualifying individuals who have been diagnosed with Amyotrophic Lateral Sclerosis (ALS). Qualifying individuals who have been diagnosed with ALS shall be offered an opportunity on a first-come, first-serve basis.

D. If an applicant is determined to be ineligible for any reason, the next individual on the registry is notified as stated above and the process continues until an individual is determined eligible. An EDA Waiver opportunity is assigned to an individual when eligibility is established and the individual is certified.

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 30:1699 (August 2004), amended by the

Department of Health and Hospitals, Office of the Secretary, Division of Long Term Supports and Services, LR 32:1245 (July 2006), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:1030 (June 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:

§8107. Resource Assessment Process

A. Each EDA Waiver applicant/recipient shall be assessed using a uniform assessment tool called the Minimum Data Set-Home Care (MDS-HC). The MDS-HC is designed to verify that an individual meets a nursing facility level of care and to identify his/her need for support in conducting activities of daily living (ADLs) and instrumental activities of daily living (IADLs). The MDS-HC assessment generates a score that assigns the individual to a Resource Utilization Group (RUG-III/HC).

B. The following seven primary RUG-III/HC categories and subcategories will be utilized to determine the assistance needed for various ADLs and IADLs:

1. Special Rehabilitation. Individuals in this category have had at least 120 minutes of rehabilitation therapy (physical, occupational and/or speech) within the seven days prior to their MDS-HC assessment.

2. Extensive Services. Individuals in this category have a medium to high level of need for assistance with ADLs and require one or more of the following services:

a. tracheostomy;

b. ventilator or respirator; or

c. suctioning.

d. Repealed.

3. Special Care. Individuals in this category have a medium to high level of need for assistance with ADLs and have one or more of the following conditions or require one or more of the following treatments:

a. stage 3 or 4 pressure ulcers;

b. tube feeding;

c. multiple sclerosis diagnosis;

d. quadriplegia;

e. burn treatment;

f. radiation treatment;

g. IV medications; or

h. fever and one or more of the following conditions:

i. dehydration diagnosis;

ii. pneumonia diagnosis;

iii. vomiting; or

iv. unintended weight loss.

i. - i.iv. Repealed.

4. Clinically Complex. Individuals in this category have the following specific clinical diagnoses or require the specified treatments:

a. dehydration;

i. Repealed.

b. any stasis ulcer:

i. a stasis ulcer is a breakdown of the skin caused by fluid build-up in the skin from poor circulation;

c. end-stage/terminal illness;

i. Repealed.

d. chemotherapy;

e. blood transfusion;

f. skin problem;

g. cerebral palsy diagnosis;

h. urinary tract infection;

- i. hemiplegia diagnosis:
 - i. hemiplegia is total or partial inability to move, experienced on one side of the body, caused by brain disease or injury;
 - j. dialysis treatment;
 - i. Repealed.
 - k. diagnosis of pneumonia;
 - l. one or more of the seven criteria in Special Care (with low ADL need); or
 - m. one or more of the three criteria in Extensive Services (with low ADL need).
 - n. - o. Repealed.

5. Impaired Cognition. Individuals in this category have a low to medium need for assistance with ADLs and impairment in cognitive ability. This category includes individuals with short-term memory loss, trouble in decision-making, difficulty in making themselves understood by others and difficulty in eating performance.

6. Behavior Problems. Individuals in this category have a low to medium need for assistance with ADLs and behavior problems. This category includes individuals that may have socially inappropriate behavior, are physically or verbally abusive, have hallucinations or exhibit wandering behavior.

7. Reduced Physical Function. Persons in this category do not meet the criteria in one of the previous six categories.

C. Based on the RUG III/HC score, the applicant/recipient is assigned to a level of support category and is eligible for a set annual services budget associated with that level.

1. If the applicant/recipient disagrees with his/her annual services budget, the applicant/recipient or his/her personal representative may request a fair hearing to appeal the decision.

2. The applicant/recipient may only seek an increase in the annual services budget amount upon showing that:

- a. the budget allocation methodology was incorrectly applied and the correct application of the methodology would result in an increase in the annual services budget amount; or
- b. he/she needs an increase in the annual services budget to avoid entering into a nursing facility.

D. Each EDA Waiver participant shall be re-assessed annually.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:

Chapter 83. Services
§8301. Service Descriptions

- A. - A.3. ...
 - a. There is a lifetime cap of \$3,000 per recipient for this service.
 - 4. ...
 - 5. Companion Services include care, supervision and socialization provided during the day or night to a participant with functional impairments, as approved in the comprehensive plan of care.
 - a. Companions may assist or supervise participants who:
 - i. are unable to safely stay alone;

- ii. are unable to self direct their own care; or
- iii. possess limited mobility or cognitive function to such an extent that they may not be able to utilize the PERS and/or evacuate in dangerous situations without assistance or general supervision.

b. Companions may also provide safety for the participant who is awake and wanders.

c. Companion services include the following activities:

- i. assisting the participant in dangerous and/or emergency situations by helping him/her to safely evacuate from his/her own home as designated in the emergency evacuation plan contained in the approved CPOC;

- ii. supervising or assisting the participant with supervision necessary to live independently as indicated in the approved CPOC;

- iii. supervising or assisting with health related tasks (any health related procedures governed under the Nurse Practice Act) if he/she is unable to do so without supports according to applicable delegation/medication administration; and

- iv. supervising or assisting the participant, who is unable to do so without supports, to socialize in his/her community according to the desired outcomes included in the CPOC.

d. Companion services may be provided by one worker for up to three waiver participants who live together and who have a common direct service provider.

- i. Waiver participants may share companion service staff when agreed to by the participants and when health, safety and welfare can be assured for each individual.

- ii. Shared companion services shall be reflected on the CPOC of each participant.

- e. Persons designated as the personal representative of an individual receiving companion services may not be paid to provide services to the individual they are representing.

6. - 7.h.iv.NOTE. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1699 (August 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Division of Long Term Supports and Services, LR 32:1245 (July 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:

§8303. Comprehensive Plan of Care

A. The applicant and support coordinator have the flexibility to construct a CPOC that serves the applicant's health and welfare needs. The service package provided under the CPOC may include the array of services covered under the EDA Waiver in addition to services covered under the Medicaid State Plan (not to exceed the established service limits for either waiver or State Plan services). All services approved pursuant to the CPOC must be medically necessary and provided in a cost-effective manner.

B. Reimbursement shall not be made for EDA Waiver services provided prior to department's approval of the comprehensive plan of care.

- 1. - 3. Repealed.

C. The support coordinator shall complete a CPOC which shall contain the:

1. types and number of services (including waiver and all other services) necessary to maintain the waiver recipient safely in the community;
2. individual cost of each service (including waiver and all other services); and
3. the cost of services covered by the CPOC.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1699 (August 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Division of Long Term Supports and Services, LR 32:1246 (July 2006), amended by Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:

Chapter 87. Waiver Cost Effectiveness **§8701. Waiver Costs Limit**

A. Effective February 1, 2009, the annual service budget for each of the RUG-III/HC groups shall be reviewed to ensure that the costs of the EDA Waiver remain within applicable federal rules regarding the cost-effectiveness of the waiver. To ensure cost-effectiveness, the mean expenditures across all RUG-III/HC categories must be less than or equal to the average cost to the state of providing care in a nursing facility. If the waiver is not cost-effective, the annual service budgets for some or all RUG-III/HC groups will be reduced to bring the waiver into compliance.

AUTHORITY NOTE: Promulgated in 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 30:1700 (August 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Division of Long Term Supports and Services, LR 32:1246 (July 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:

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

Alan Levine
Secretary

0909#071

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing and Office for Citizens with Developmental Disabilities

Home and Community-Based Services Waivers New Opportunities Waiver—Reimbursement Rate Reduction (LAC 50:XXI.14301)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities amends LAC 50:XXI.14301 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 10 of the 2009 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, and other measures as permitted under federal law." This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

As a result of a budgetary shortfall and to avoid a budget deficit in the medical assistance programs, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities promulgated an Emergency Rule to amend the provisions governing the reimbursement methodology for the New Opportunities Waiver to reduce the reimbursement rates paid for certain services (*Louisiana Register*, Volume 35 Number 2). As a result of a budgetary shortfall in state fiscal year 2010, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities promulgated an Emergency Rule to further reduce the reimbursement rates paid for NOW services (*Louisiana Register*, Volume 35, Number 8). The department now proposes to amend the August 4, 2009 Emergency Rule to clarify the provisions governing the rate reduction for individualized and family support services. This action is necessary to promote the health and welfare of NOW participants by assuring continued access to these services through ongoing participation of providers.

Effective September 1, 2009, the Department of Health and Hospitals, Bureau of Health Services Financing and the

Office for Citizens with Developmental Disabilities amends the provisions of the August 4, 2009 Emergency Rule governing the reimbursement methodology for the New Opportunities Waiver.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXI. Home and Community Based Services

Waivers

Subpart 11. New Opportunities Waiver

Chapter 143. Reimbursement

§14301. Reimbursement Methodology

A. - F.10.d. ...

G. Effective for dates of service on or after February 1, 2009, the reimbursement rates for certain services provided in the NOW Waiver shall be reduced by 3.5 percent of the rate in effect on January 31, 2009.

1. The reimbursement rates shall be reduced for the following services:

- a. individualized and family support services;
- b. center-based respite care;
- c. community integration development;
- d. residential habilitation-supported independent living;
- e. substitute family care;
- f. day habilitation;
- g. supported employment;
- h. employment-related training; and
- i. professional services.

2. The following services shall be excluded from the rate reductions:

- a. environmental accessibility adaptations;
- b. specialized medical equipment and supplies;
- c. personal emergency response systems (PERS);
- d. skilled nursing services; and
- e. one-time transitional expenses.

H. Effective for dates of service on or after August 4, 2009, the reimbursement rates for certain services provided in the NOW Waiver shall be reduced.

1. The reimbursement rates for individualized and family support (IFS) services shall be reduced by 3.11 percent of the rates in effect on August 3, 2009.

a. Effective for dates of service on or after September 1, 2009, IFS-Night services and shared IFS services shall be excluded from the 3.11 percent rate reduction.

2. The reimbursement rates for residential habilitation-supported independent living (SIL) services shall be reduced by 10.5 percent of the rates in effect on August 3, 2009.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1209 (June 2004), amended by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 34:252 (February 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 35:

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

Alan Levine
Secretary

0909#003

DECLARATION OF EMERGENCY

Department of Health and Hospitals

Bureau of Health Services Financing

and

Office for Citizens with Developmental Disabilities

Home and Community-Based Services Waivers
New Opportunities Waiver—Resource Allocation Model
(LAC 50:XXI.13704)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities adopts LAC 50:XXI.13704 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services implemented a home and community based services waiver, the New Opportunities Waiver (NOW), designed to enhance the support services available to individuals with developmental disabilities (*Louisiana Register*, Volume 30, Number 6).

In recognition of escalating program expenditures, Senate Resolution 180 and House Resolution 190 of the 2008 Regular Session of the Louisiana Legislature directed the department to develop and implement cost control mechanisms to provide the most cost-effective means of financing for the New Opportunities Waiver. In compliance with these legislative directives, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities promulgated an Emergency Rule to amend the provisions governing the New Opportunities Waiver to implement uniform needs-based assessments to determine the level of support needs for NOW recipients and to establish a resource allocation model based on the uniform needs-based assessments (*Louisiana Register*, Volume 35, Number 1). This Emergency Rule is being promulgated to continue the provisions of the February 1, 2009 Emergency Rule.

This action is being taken to avoid a future budget deficit and to assure the sustainability of home and community-based services. In addition, it is anticipated that this action will promote the health and well-being of NOW recipients

through the accurate identification and evaluation of the supports needed to safely maintain these individuals in their homes and communities.

Effective October 1, 2009, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities amends the provisions governing the New Opportunities Waiver.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXI. Home and Community Based Services

Waivers

Subpart 11. New Opportunities Waiver

Chapter 137. General Provisions

§13704. Resource Allocation Model

A. Effective February 1, 2009, uniform needs-based assessments and a resource allocation model will be implemented in the service planning process for the Medicaid recipients participating in the New Opportunities Waiver.

1. The uniform needs-based assessments shall be utilized to determine the level of support needs of individuals with developmental disabilities.

2. The purpose of the resource allocation model is to assign service units based on the findings of the assessments.

3. Within the resource allocation model, there is a determination of an acuity level for individual and family support (IFS) services.

a. Initially, the acuity level will only be applied to individual and family support (IFS) services for recipients age 16 or older. The current service planning process will continue to be used for all other NOW service recipients.

b. The recipient or his/her representative may request a reconsideration and present supporting documentation if he/she disagrees with the amount of assigned IFS service units. If recipient disagrees with the reconsideration decision, he/she may request a fair hearing through the formal appeals process.

4. Implementation of the resource allocation model will be phased-in for the allocation of new waiver opportunities and renewal of existing waiver opportunities beginning February 1, 2009.

B. The following needs-based assessment instruments shall be utilized to determine the level of support needs of NOW recipients:

1. the Supports Intensity Scale (SIS); and
2. Louisiana Plus (LA Plus).

C. The Supports Intensity Scale is a standardized assessment tool designed to evaluate the practical support requirements of individuals with developmental disabilities in 85 daily living, medical and behavioral areas.

1. SIS measures support needs in the areas of:
 - a. home living;
 - b. community living;
 - c. lifelong learning;
 - d. employment;
 - e. health and safety;
 - f. social activities; and
 - g. protection and advocacy.

2. SIS then ranks each activity according to frequency, amount and type of support. A supports intensity level is determined based on a compilation of scores in General Supports, Medical Supports and Behavior Supports.

D. Louisiana Plus is a locally developed assessment tool designed to identify support needs and related information not addressed by SIS. LA Plus serves as a complement to SIS in the support planning process. LA Plus is used to evaluate the individual's support needs based on information and data obtained from four areas of the person's life.

1. Support needs scale measurements including:
 - a. material supports;
 - b. vision related supports;
 - c. hearing related supports;
 - d. supports for communicating needs;
 - e. positive behavior supports;
 - f. physicians supports;
 - g. professional supports (e.g., registered nurse, physical therapist, occupational therapist, etc.); and
 - h. stress and risk factors.
2. Living arrangements and program participation including:
 - a. people living in the home;
 - b. natural supports in the home;
 - c. living environments; and
 - d. supports and service providers.
3. Medical and diagnostic information findings including:
 - a. diagnoses;
 - b. medications and dosages; and
 - c. need for relief from pain or illness.
4. Personal satisfaction reports including:
 - a. agency supports provided at home;
 - b. work or day programs;
 - c. living environment;
 - d. family relationships; and
 - e. social relationships.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Service Financing and the Office for Citizens with Developmental Disabilities, LR 35:

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

0909#074

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Home Health Program Durable Medical Equipment—Reimbursement Reduction (LAC 50:XIII.103)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XIII.103 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 10 of the 2009 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, and other measures as permitted under federal law." This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

As a result of a budgetary shortfall and to avoid a budget deficit in the medical assistance programs, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule to amend the provisions governing the reimbursement methodology for medical equipment, supplies and appliances to reduce the reimbursement rates and to repromulgate the general provisions governing the reimbursement methodology, in its entirety, in the appropriate place in the *Louisiana Administrative Code (Louisiana Register, Volume 35, Number 2)*. In anticipation of projected expenditures in the Medical Vendor Program exceeding the funding allocated in the General Appropriations Act for state fiscal year 2010, the bureau determined that it was necessary to further reduce the reimbursement rates paid for medical equipment, supplies and appliances (*Louisiana Register, Volume 35, Number 5*). Act 122 of the 2009 Regular Session of the Louisiana Legislature allocated additional funds to the Medical Vendor Program for the purpose of making supplemental payments to private providers to lessen the impact of potential budget reductions in state fiscal year 2010. The department repealed the rate reduction provisions of the May 1, 2009 Emergency Rule and amended the reimbursement methodology for durable medical equipment, supplies and appliances to adjust the reimbursement rate reductions (*Louisiana Register, Volume 35, Number 8*). The department now proposes to amend the provisions of the August 4, 2009 Emergency Rule to exclude services to recipients under the age of 21 from the rate reduction. This action is necessary to promote the health and welfare of Medicaid recipients by assuring continued access to medical equipment and supplies for recipients under the age of 21.

Effective September 1, 2009, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions of the August 4, 2009 Emergency Rule governing the reimbursement methodology for medical

equipment, supplies and appliances under the Home Health Program.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XIII. Home Health Program

Subpart 3. Medical Equipment, Supplies and Appliances

Chapter 103. Reimbursement Methodology

§10301. General Provisions

A. Unless otherwise stated in this Part XIII, the reimbursement for all medical equipment, supplies and appliances is established at:

1. 70 percent of the 2000 Medicare fee schedule for all procedure codes that were listed on the 2000 Medicare fee schedule and at the same amount for the Health Insurance Portability and Accountability Act (HIPAA) compliant codes which replaced them; or

2. 70 percent of the Medicare fee schedule under which the procedure code first appeared; or

3. 70 percent of the manufacturer's suggested retail price (MSRP) amount; or

4. billed charges, whichever is the lesser amount.

B. If an item is not available at the rate of 70 percent of the applicable established flat fee or 70 percent of the MSRP, the flat fee that will be utilized is the lowest cost at which the item has been determined to be widely available by analyzing usual and customary fees charged in the community.

C. Effective for dates of service on or after February 1, 2009, the reimbursement paid for the following medical equipment, supplies, appliances and repairs shall be reduced by 3.5 percent of the rate on file as of January 31, 2009:

1. ambulatory equipment;

2. bathroom equipment;

3. hospital beds, mattresses and related equipment; and

4. the cost for parts used in the repair of medical equipment, including the parts used in the repair of wheelchairs.

D. Effective for dates of service on or after August 4, 2009, the reimbursement paid for medical equipment, supplies and appliances shall be reduced by 4 percent of the rates on file as of August 3, 2009.

1. The following medical equipment, supplies and appliances are excluded from the rate reduction:

a. enteral therapy pumps and related supplies;

b. intravenous therapy and administrative supplies;

c. apnea monitor and accessories;

d. nebulizers;

e. hearing aids and related supplies;

f. respiratory care (other than ventilators and oxygen);

g. tracheostomy and suction equipment and related supplies;

h. ventilator equipment;

i. oxygen equipment and related supplies;

j. vagus nerve stimulator and related supplies; and

k. augmentative and alternative communication devices.

2. Effective for dates of service on or after September 1, 2009, medical equipment, supplies and appliances provided to recipients under the age of 21 are exempt from the 4 percent rate reduction implemented on August 4, 2009.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

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

Alan Levine
Secretary

0909#006

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Inpatient Hospital Services—Non-Rural, Non-State
Hospitals—Children's Specialty Hospitals
(LAC 50:V.909 and 967)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:V.909 and §967 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions which established the prospective reimbursement methodology for inpatient services provided in private (non-state) acute care general hospitals and implemented prospective per diem rates for various hospital peer groups (*Louisiana Register*, Volume 20, Number 6). Separate peer group payment rates were established for certain specialty hospital services rendered in the general acute care setting. Children's hospitals were categorized as a specialty hospital within the acute care general hospital peer group.

The department now proposes to amend the June 1994 Rule governing inpatient hospital services to revise the reimbursement methodology for children's specialty hospitals. This action is necessary to promote the health and welfare of children who are in critical need of inpatient specialty services. Implementation of this Emergency Rule, in conjunction with the previously published August 4, 2009 Emergency Rule for inpatient hospital services, and the corresponding September 1, 2009 Emergency Rule for outpatient services rendered by children's specialty hospitals will result in an overall annual savings to the Medicaid Program of \$6,620,032. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately \$3,639,921 for state

fiscal year 2009-10 and the combined savings impact of the August 4, 2009 Emergency Rule and this Emergency Rule is approximately \$10,931,921 over 12 full months.

Effective September 1, 2009, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for inpatient hospital services rendered by children's specialty hospitals.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 1. Inpatient Hospitals

Chapter 9. Non-Rural, Non-State Hospitals

Subchapter A. General Provisions

§909. Children's Specialty Hospitals

A. In order to receive Medicaid reimbursement for inpatient services as a children's specialty hospital, the acute care hospital must meet the following criteria:

1. be recognized by Medicare as a prospective payment system (PPS) exempt children's specialty hospital;
2. does not qualify for Medicare disproportionate share hospital payments; and
3. has a Medicaid inpatient days utilization rate greater than the mean plus two standard deviations of the Medicaid utilization rates for all hospitals in the state receiving Medicaid payments.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

Subchapter B. Reimbursement Methodology

§967. Children's Specialty Hospitals

A. Routine Pediatric Inpatient Services. These services shall be paid at the lesser of cost or the target rate per discharge ceiling. The base period target rate per discharge ceiling amount shall be calculated using the allowable inpatient cost per discharge per the cost reporting period ended in state fiscal year (SFY) 2009. The target rate shall be inflated using the update factors published by the Centers for Medicare and Medicaid Services (CMS) beginning with cost reporting periods starting on or after January 1, 2010.

1. For dates of service on or after September 1, 2009, payment shall be the lesser of the allowable inpatient costs as determined by the cost report or the Medicaid discharges for the period multiplied times the target rate per discharge for the period.

B. Inpatient Psychiatric Services. These services shall be paid at the lesser of cost or the target rate per discharge ceiling. The base period target rate per discharge ceiling amount shall be calculated using the allowable inpatient cost per discharge per the cost reporting period ended in state fiscal year (SFY) 2009. The target rate shall be inflated using the update factors published by CMS beginning with cost reporting periods starting on or after January 1, 2010.

1. For dates of service on or after September 1, 2009, payment shall be the lesser of the allowable inpatient costs as determined by the cost report or the Medicaid discharges for the period multiplied times the target rate per discharge for the period.

C. Carve-Out Specialty Services. These services are rendered by neonatal intensive care units, pediatric intensive care units, burn units and include transplants. Payment shall be the lesser of costs or the per diem limitation for each

specialty service or type of transplant. The base period per diem limitation amounts shall be calculated using the allowable inpatient cost per day for each specialty or type of transplant per the cost reporting period ended in SFY 2009. The target rate shall be inflated using the update factors published by the Centers for Medicare and Medicaid Services (CMS) beginning with cost reporting periods starting on or after January 1, 2010.

1. For dates of service on or after September 1, 2009, payment shall be the lesser of the allowable inpatient costs as determined by the cost report or the Medicaid days for the period for each specialty or type of transplant multiplied times the per diem limitation for the period.

D. Children's specialty hospitals shall not be eligible for outlier payments after September 1, 2009.

1. Outlier payments made in SFY 2010 in excess of \$12,798,000 shall be considered as an interim payment in the determination of the cost settlement.

E. These provisions shall not preclude children's specialty hospitals from participation in the Medicaid Program under the high Medicaid or graduate medical education supplemental payment provisions.

1. All Medicaid supplemental payments shall be included as an interim Medicaid inpatient payment in the determination of cost settlement amounts on the filed cost report.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

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

Alan Levine
Secretary

0909#007

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Intermediate Care Facilities for Persons with Developmental Disabilities—Reimbursement Rate Increase
(LAC 50:VII.32903)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:VII.32903 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:953(B)(1) et seq., and shall be in effect for the maximum

period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for intermediate care facilities for persons with developmental disabilities (ICF/DD) to implement a wage enhancement payment for direct care staff employed with the facility (*Louisiana Register*, Volume 33, Number 10). As a result of a budgetary shortfall and to avoid a budget deficit in the medical assistance programs, the bureau promulgated an Emergency Rule to reduce the per diem rate paid to non-state ICF/DDs (*Louisiana Register*, Volume 35, Number 2). The bureau also reduced the rate paid to ICF/DDs for leave of absence days (*Louisiana Register*, Volume 35, Number 9).

Act 122 of the 2009 Regular Session of the Louisiana Legislature allocated additional funds to the Medical Vendor Program for the purpose of making supplemental payments to private providers to lessen the impact of potential budget reductions. As a result of the allocation of these funds, the department proposes to amend the provisions governing the reimbursement methodology for ICF/DDs to increase the per diem rates.

This action is being taken to promote the health and welfare of Medicaid recipients and to insure continued provider participation in the Medicaid Program. It is estimated that implementation of this Emergency Rule will increase expenditures in the Medicaid Program by approximately \$2,618,635 for state fiscal year 2009-2010.

Effective September 1, 2009, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for non-state intermediate care facilities for persons with developmental disabilities to increase the reimbursement rates.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part VII. Long Term Care

Subpart 3. Intermediate Care Facilities for Persons with Developmental Disabilities

Chapter 329. Reimbursement Methodology

Subchapter A. Non-State Facilities

§32903. Rate Determination

A. - I.2.a. ...

J. Effective for dates of service on or after September 1, 2009, the reimbursement rate for non-state intermediate care facilities for persons with developmental disabilities shall be increased by 1.59 percent of the per diem rate on file as of August 31, 2009.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:2253 (September 2005), amended LR 33:462 (March 2007), LR 33:2202 (October 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

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

Alan Levine
Secretary

0909#004

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

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

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:XXVII.325 and §353 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 10 of the 2009 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, and other measures as permitted under federal law." This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for emergency and non-emergency ambulance transportation services to increase the reimbursement for ground mileage and ancillary services (*Louisiana Register*, Volume 34, Number 5) and repromulgated the existing provisions in a codified format for inclusion in the *Louisiana Administrative Code*. The bureau amended the provisions governing the reimbursement methodology for emergency medical transportation to increase the reimbursement rates for rotor winged aircraft emergency transportation services and repromulgated the existing Rule in its entirety for the purpose of adopting those provisions in a codified format for inclusion in the *Louisiana Administrative Code* (*Louisiana Register*, Volume 35, Number 1).

In anticipation of projected expenditures in the Medical Vendor Program exceeding the funding allocated in the General Appropriations Act for state fiscal year 2010, the bureau determined that it was necessary to amend the

provisions governing reimbursement for emergency medical transportation services to reduce the reimbursement rates (*Louisiana Register*, Volume 35, Number 5).

Act 122 of the 2009 Regular Session of the Louisiana Legislature allocated additional funds to the Medical Vendor Program for the purpose of making supplemental payments to private providers to lessen the impact of potential budget reductions in state fiscal year 2010. The department determined that it was necessary to repeal the provisions of the May 1, 2009 Emergency Rule and amended the reimbursement methodology for emergency medical transportation services to reduce the reimbursement for disposable and routine supplies (*Louisiana Register*, Volume 35, Number 8). The department now proposes to amend the August 4, 2009 Emergency Rule to clarify the reimbursement methodology for aircraft transportation. This action is necessary to promote the health and welfare of participants by assuring continued access to emergency medical transportation services through ongoing participation of providers.

Effective September 20, 2009, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for emergency medical transportation reimbursement rates.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXVII. Medical Transportation Program

Chapter 3. Emergency Medical Transportation

Subchapter B. Ground Transportation

§325. Reimbursement

A. - E. ...

F. Effective for dates of service on or after August 4, 2009, the reimbursement rates for the following supplies shall be reduced by 36 percent of the rate on file as of August 3, 2009:

1. advanced life support special service disposable intravenous supplies; and

2. advanced life support routine disposable supplies.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:878 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

Subchapter C. Aircraft Transportation

§353. Reimbursement

A. - D. ...

E. - E.2. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:70 (January 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

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

Alan Levine
Secretary

0909#072

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Outpatient Hospital Services
Non-Rural, Non-State Hospitals
Children's Specialty Hospitals
(LAC 50:V.5109, 5317, 5517, 5719, 5917 and 6119)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:V.Chapter 51 and §5317, §5517, §5719, §5917 and §6119 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

In compliance with Act 327 of the 2007 Regular Session of the Louisiana Legislature, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing outpatient hospital services to revise the reimbursement methodology for services rendered by small rural hospitals and state-owned hospitals (*Louisiana Register*, Volume 35, Number 5).

The department now proposes to amend the provisions governing outpatient hospital services to revise the reimbursement methodology for services rendered by children's specialty hospitals. This action is necessary to promote the health and welfare of children who are in critical need of outpatient hospital specialty services. Implementation of this Emergency Rule, in conjunction with the previously published August 4, 2009 Emergency Rule for outpatient hospital services, and the corresponding September 1, 2009 Emergency Rule for inpatient services rendered by children's specialty hospitals will result in an overall annual savings to the Medicaid Program of \$6,620,032. It is estimated that implementation of this Emergency Rule will increase expenditures in the Medicaid Program by approximately \$3,639,199 for state fiscal year 2009-10 and the combined fiscal impact of the August 4,

2009 Emergency Rule and this Emergency Rule is approximately \$4,311,702 over 12 full months.

Effective September 1, 2009, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for outpatient hospital services rendered by children's specialty hospitals.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 5. Outpatient Hospitals

Chapter 51. General Provisions

§5109. Children's Specialty Hospitals

A. In order to receive Medicaid reimbursement for outpatient services as a children's specialty hospital, the acute care hospital must meet the following criteria:

1. be recognized by Medicare as a prospective payment system (PPS) exempt children's specialty hospital;
2. does not qualify for Medicare disproportionate share hospital payments; and
3. has a Medicaid inpatient days utilization rate greater than the mean plus two standard deviations of the Medicaid utilization rates for all hospitals in the state receiving Medicaid payments.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

Chapter 53. Outpatient Surgery

Subchapter B. Reimbursement Methodology

§5317. Children's Specialty Hospitals

A. Effective for dates of service on or after September 1, 2009, the reimbursement amount paid to children's specialty hospitals for outpatient hospital surgery services shall be as follows.

1. Qualifying hospitals shall receive an interim payment equal to the Medicaid fee schedule amount on file for each service.
2. Final reimbursement shall be 97 percent of allowable cost as calculated through the cost report settlement process.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

Chapter 55. Clinic Services

Subchapter B. Reimbursement Methodology

§5517. Children's Specialty Hospitals

A. Effective for dates of service on or after September 1, 2009, the reimbursement amount paid to children's specialty hospitals for outpatient hospital clinic services shall be the Medicaid fee schedule amount on file for each service.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

Chapter 57. Laboratory Services
Subchapter B. Reimbursement Methodology
§5719. Children's Specialty Hospitals

A. Effective for dates of service on or after September 1, 2009, the reimbursement amount paid to children's specialty hospitals for outpatient clinical diagnostic laboratory services shall be the Medicaid fee schedule amount on file for each service.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

Chapter 59. Rehabilitation Services
Subchapter B. Reimbursement Methodology
§5917. Children's Specialty Hospitals

A. Effective for dates of service on or after September 1, 2009, the reimbursement amount paid to children's specialty hospitals for rehabilitation services shall be as follows.

1. Qualifying hospitals shall receive an interim payment equal to the Medicaid fee schedule amount on file for each service.

2. Final reimbursement shall be 97 percent of allowable cost as calculated through the cost report settlement process.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

Chapter 61. Other Outpatient Hospital Services
Subchapter B. Reimbursement Methodology
§6119. Children's Specialty Hospitals

A. Effective for dates of service on or after September 1, 2009, the reimbursement amount paid to children's specialty hospitals for outpatient hospital services other than clinical diagnostic laboratory services, outpatient surgeries, rehabilitation services, and outpatient hospital facility fees shall be as follows.

1. Qualifying hospitals shall receive an interim payment that is equal to 97 percent of the hospital's cost to charge ratio as calculated from the latest filed cost report.

2. Final reimbursement shall be 97 percent of allowable cost as calculated through the cost report settlement process.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

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

Alan Levine
Secretary

0909#005

DECLARATION OF EMERGENCY

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

Personal Care Services—Long Term
(LAC 50:XV.12901, 12909, and 12915)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services amends LAC 50:XV.12901, 12909 and 12915 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

Pursuant to the Deficit Reduction Act of 2005, the Department of Health and Hospitals, Office of Aging and Adult Services amended the provisions governing long-term personal care services to implement a pilot program called the Louisiana Personal Options Program (La POP) which allows Medicaid recipients to direct and manage their own personal care services (*Louisiana Register*, Volume 34, Number 12).

In recognition of escalating program expenditures, Senate Resolution 180 and House Resolution 190 of the 2008 Regular Session of the Louisiana Legislature directed the department to develop and implement cost control mechanisms to provide the most cost-effective means of financing for the Long-Term Personal Care Services (LT-PCS) Program. In compliance with these legislative directives, the Department of Health and Hospitals, Office for Aging and Adult Services promulgated an Emergency Rule to amend the provisions governing LT-PCS to: 1) implement uniform needs-based assessments for authorizing service units; 2) reduce the limit on LT-PCS service hours; and 3) mandate that providers must show cause for refusing to serve clients (*Louisiana Register*, Volume 35, Number 1). The department amended the provisions of the February 1, 2009 Emergency Rule to incorporate provisions governing an allocation of weekly service hours in the LT-PCS Program (*Louisiana Register*, Volume 35, Number 3). The department promulgated an Emergency Rule to amend the provisions of the March 20, 2009 Emergency Rule to clarify the Resource Utilization Group (RUG) categories and subcategories utilized in the resource assessment process. The department now proposes to amend the provisions of the June 20, 2009 Emergency Rule to further clarify the provisions governing the Resource Utilization Group (RUG) categories and the standards for provider participation in the LT-PCS Program.

This action is being taken to promote the health and well-being of recipients through the accurate identification and evaluation of their support needs, and monitoring to assure that these individuals are safely maintained in their homes and communities.

Effective September 20, 2009, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services amends the provisions of the June 20, 2009 Emergency Rule governing long term-personal care services.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 9. Personal Care Services

Chapter 129. Long Term Care

§12901. General Provisions

A. ...

B. Each long-term personal care services (LT-PCS) applicant shall be assessed using a uniform assessment tool called the Minimum Data Set-Home Care (MDS-HC). The MDS-HC is designed to verify that an individual meets a nursing facility level of care and to identify his/her need for support in conducting activities of daily living (ADLs) and instrumental activities of daily living (IADLs). The MDS-HC assessment generates a score that assigns the individual to a Resource Utilization Group (RUG-III/HC).

C. The following seven primary RUG-III/HC categories and subcategories will be utilized to determine the assistance needed for various ADLs and IADLs:

1. **Special Rehabilitation.** Individuals in this category have had at least 120 minutes of rehabilitation therapy (physical, occupational or speech) within the seven days prior to their MDS-HC assessment.

2. **Extensive Services.** Individuals in this category have a medium to high level of need for assistance with ADLs and require one or more of the following services:

- a. tracheostomy;
- b. ventilator or respirator; or
- c. suctioning.
- d. Repealed.

3. **Special Care.** Individuals in this category have a medium to high level of need for assistance with ADLs as well as having one or more of the following conditions, or requiring one or more of the following treatments:

- a. stage 3 or 4 pressure ulcers;
- b. tube feeding;
- c. multiple sclerosis diagnosis;
- d. quadriplegia;
- e. burn treatment;
- f. radiation treatment;
- g. IV medications; or
- h. fever and one or more of the following

conditions:

- i. dehydration diagnosis;
- ii. pneumonia diagnosis;
- iii. vomiting; or
- iv. unintended weight loss.
- i. - i.iv. Repealed.

4. **Clinically Complex.** Individuals in this category have the following specific clinical diagnoses or require the specified treatments:

- a. dehydration;
- i. Repealed.

- b. any stasis ulcer:
 - i. a stasis ulcer is a breakdown of the skin caused by fluid build-up in the skin from poor circulation;
 - c. end-stage/terminal illness;
 - i. Repealed.
 - d. chemotherapy;
 - e. blood transfusion;
 - f. skin problem;
 - g. cerebral palsy diagnosis;
 - h. urinary tract infection:
 - i. hemiplegia diagnosis:
 - i. hemiplegia is a total or partial inability to move, experienced on one side of the body, caused by brain disease or injury;
 - j. dialysis treatment.
 - i. Repealed.
 - k. diagnosis of pneumonia;
 - l. one or more of the seven criteria in Special Care (with low ADL need); or
 - m. one or more of the three criteria in Extensive Services (with low ADL need).
 - n. - o. Repealed.

5. **Impaired Cognition.** Individuals in this category have a low to medium need for assistance with ADLs and impairment in cognitive ability. This category includes individuals with short-term memory loss, trouble in decision-making, difficulty in making themselves understood by others, and difficulty in eating performance.

6. **Behavior Problems.** Individuals in this category have a low to medium need for assistance with ADLs and behavior problems. This category includes individuals that may have socially inappropriate behavior, are physically or verbally abusive, have hallucinations or exhibit wandering behavior.

7. **Reduced Physical Function.** Individuals in this category do not meet the criteria in one of the previous six categories.

D. Based on the RUG III/HC score, the applicant/recipient is assigned to a level of support category and is eligible for a set allocation of weekly service hours associated with that level.

1. If the applicant/recipient disagrees with his/her allocation of weekly service hours, the applicant/recipient or his/her personal representative may request a fair hearing to appeal the decision.

2. The applicant/recipient may only obtain additional hours upon showing that:

- a. the allocation methodology was incorrectly applied and the correct application of the methodology would result in additional hours; or
- b. he/she needs additional hours to avoid entering into a nursing facility.

E. Each LT-PCS recipient shall be re-assessed annually.

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

HISTORICAL NOTE: Amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2831 (December 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult

Services, LR 32:2082 (November 2006), LR 34:2577 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:

§12909. Standards for Participation

A. - B.11. ...

12. maintain an office in each region in which it proposes to provide services.

a. - c. ...

C. An LT-PCS provider shall not refuse to serve any individual who chooses his agency unless there is documentation to support an inability to meet the individual's health, safety and welfare needs, or all previous efforts to provide service and supports have failed and there is no option but to refuse services.

1. OAAS or its designee must be immediately notified of the circumstances surrounding a refusal by a provider to render services.

2. This requirement can only be waived by OAAS or its designee.

D. OAAS or its designee is charged with the responsibility of setting the standards, monitoring the outcomes and applying administrative sanctions for failures by service providers to meet the minimum standards for participation.

1. Failure to meet the minimum standards shall result in a range of required corrective actions including, but not limited to:

- a. removal from the Freedom of Choice listing;
- b. a citation of deficient practice;
- c. a request for corrective action plan; and/or
- d. administrative sanctions.

2. Continued failure to meet the minimum standards shall result in the loss of referral of new LT-PCS recipients and/or continued enrollment as an LT-PCS 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 29:912 (June 2003), amended LR 30:2832 (December 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2579 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:

§12915. Service Limitations

A. Personal care services shall be limited to up to 42 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 34:2581 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:

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

Alan Levine
Secretary

0909#073

DECLARATION OF EMERGENCY

Department of Public Safety and Corrections Corrections Services

Louisiana Sex Offender Assessment Panels
(LAC 22:I.109)

In accordance with the provisions R.S. 49:953, the Department of Public Safety and Corrections, Corrections Services, hereby determines that adoption of an emergency rule for the Louisiana Sex Offender Assessment Panels mandated by Act No. 205 of the 2009 Regular Session is necessary and that for the following reasons failure to adopt the rule on an emergency basis will result in imminent peril to the public health, safety and welfare.

Act No. 186 of the 2006 Regular Session created the Louisiana Sex Offender Assessment Panels within the Department of Public Safety and Corrections. The Act mandated membership and duties for the panels. The panels were to evaluate each offender convicted of a sex offense as defined in R.S. 15:541 who were to be released from the custody of the department by any means, to determine if the offender may be a child sexual predator or sexually violent predator.

Act No. 126 of the 2007 Regular Session amended R.S. 15:560 et seq., and reduced the panel membership from six to three members. A psychologist or a psychiatrist in the employment or under contract to the Department of Public Safety and Corrections was required to be a member.

Act No. 205 of the 2009 Regular Session amended R.S. 15:560 et seq., to provide that the psychologist who is a member of the panel may be employed by the Department of Public Safety and Corrections or the Department of Health and Hospitals. This panel member may also be a physician employed by the Department of Public Safety and Corrections or the Department of Health and Hospitals.

In addition to evaluating offenders convicted of a sex offense as defined in R.S. 15:541, child predators who are required to register pursuant to the provisions of R.S. 15:542 were added to the list of offenders who must be evaluated by a risk review panel.

Act No. 205 added a provision that requires the sentencing court to make a judicial determination whether the offender is deemed a sexually violent predator or a child sexual predator based upon a recommendation of a Louisiana Sex Offender Panel. The Act also added sanctions for offenders who fail to comply with the requirements of R.S. 15:560 et seq., and provided an appeal mechanism for those offenders determined to be a sexually violent predator or a child sexual predator.

The department has maintained a list of all sex offenders that were convicted of a sex offense as defined in R.S. 15:541 or who were released from the custody of the department by any means, on or after August 15, 2006. This list contains over 700 sex offenders. The department is concerned with the imminent peril to the public health, safety and welfare of the department and the general public and desires to adopt the Louisiana Sex Offender Assessment Panels process as an emergency rule. The panels must immediately continue reviewing information on released offenders, as well as sex offenders and child predators who are pending release and the department desires to proceed at once.

For the foregoing reasons, the Department of Public Safety and Corrections, Corrections Services, has determined that the adoption of an emergency rule for implementation of the Louisiana Sex Offender Assessment Panels is necessary and hereby provides notice of its declaration of emergency effective on September 10, 2009, in accordance with R.S. 49:953. This Emergency Rule shall be in effect for 120 days or until adoption of the final rule, whichever occurs first.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part I. Corrections

Chapter 1. Secretary's Office

§109. Louisiana Sex Offender Assessment Panels

A. Purpose. To facilitate the identification and management of those offenders who may be sexually violent predators and/or child sexual predators and to develop written policy and procedures for the Sex Offender Assessment Panels consistent with statutory requirements, public safety and administrative efficiency. The provisions of this regulation shall apply to all sex offenders and child predators in accordance with Act No. 205 of the 2009 Regular Session who are released by any means from the department's custody on or after August 15, 2006.

B. Applicability. Deputy Secretary, Undersecretary, Chief of Operations, Assistant Secretary, Regional Wardens, Wardens, Director of Probation and Parole, Chairman of the Board of Pardons, Chairman of the Board of Parole and the Sheriff or Administrator of local jail facilities. Each unit head is responsible for ensuring that appropriate unit written policy and procedures are in place to comply with the provisions of this regulation.

C. Policy. It is the secretary's policy to identify those offenders who meet the statutory requirements of a sexually violent predator and/or child sexual predator through the Sex Offender Assessment Panel review process. The panels shall evaluate all sex offenders and child predators in accordance with the provisions of this regulation prior to their release from incarceration.

D. Definitions

Child Predator—a person who has been convicted of a criminal offense against a victim who is a minor as defined in R.S. 15:541 (25) (See Attachment A.)

Child Sexual Predator—a judicial determination as provided for in R.S. 15:560 et seq., for an offender who has been convicted of an offense as defined in R.S. 15:541 (24) and/or (25) (See Attachments A and B) and who is likely to engage in additional sex offenses against children because he

has a mental abnormality or condition which can be verified, or because he has a history of committing crimes, wrongs, or acts involving sexually assaultive behavior or acts which indicate a lustful disposition toward children.

Court—the judicial district court where the offender was sentenced.

Judicial Determination—a decision by the court that an offender is or continues to be a child sexual predator or a sexually violent predator.

Mental Abnormality—a congenital or acquired condition of a person that affects the emotional or volitional capacity of the person in a manner that predisposes that person to the commission of criminal sexual acts to a degree that makes the person a menace to the health and safety of others. Nothing in this definition is intended to supersede or apply to the definitions found in R.S. 14:10 or 14 in reference to criminal intent or insanity.

Regional Facility—a state correctional facility located within one of nine regions of the state, as designated by the secretary. Each regional facility shall be responsible for certain requirements pursuant to the provisions of this regulation for offenders housed in their state correctional facility, as well as DPS and C offenders housed in local jails within their respective region.

Sex Offender—a person who has been convicted of a criminal offense as defined in R.S. 15:541 (24) (See Attachment B.)

Sexually Violent Predator—a judicial determination as provided for in R.S. 15:560 et seq., for an offender who has been convicted of an offense as defined in R.S. 15:541 (24) and/or (25) (See Attachments A and B) and who has a mental abnormality or anti-social personality disorder that makes the person likely to engage in predatory sexually violent offenses.

E. Panel Composition and Guidelines

1. A total of three Sex Offender Assessment Panels are hereby created in the north, central and south regions of the state. An Executive Management Officer of the secretary's office shall serve as the administrator for all panels. Three executive staff officers, employees of the department (one for each region - north, central and south), shall serve as coordinator for an assigned panel. Each panel shall consist of three members as follows.

a. One member shall be the secretary or designee who shall be chairman.

b. One member shall be a psychologist licensed by the Louisiana State Board of Examiners of Psychologists who has been engaged in the practice of clinical or counseling psychology for not less than three consecutive years who is employed by the Department of Public Safety and Corrections or the Department of Health and Hospitals or a physician in the employ of the Department of Public Safety and Corrections or the Department of Health and Hospitals or under contract to the Department of Public Safety and Corrections whose credentials and experience are compatible with the evaluation of the potential threat to public safety that may be posed by a child sexual predator or a sexually violent predator.

NOTE: If the psychologist or physician is an employee of the Department of Health and Hospitals, the secretary of both departments shall consult and jointly select the member.

c. The warden (or deputy) at the state facility where the offender is housed or the warden (or deputy) of the regional facility for offenders housed in local jail facilities.

NOTE: A probation and parole officer with a minimum of 10 years experience or a retired law enforcement officer with at least five years of experience in investigating sex offenses may also serve as the third panel member at the discretion of the secretary.

2. All official actions of a panel shall require an affirmative vote of a majority of the members of the panel.

3. Each panel shall meet at least once quarterly and upon the call of the chairman or upon the request of any two members.

4. Notwithstanding the provisions of R.S. 15:574.12, each panel shall review presentence reports, prison records, medical and psychological records, information and data gathered by the staffs of the Board of Pardons, the Board of Parole, the Division of Probation and Parole, the District Attorney from the judicial district which prosecuted the case and information provided by or obtained from the victim(s) and the offender (which may include a personal interview), and any other information obtained by the boards or the department.

5. Panels shall have the duty to evaluate every offender who has been convicted of a sex offense as defined in R.S. 15:541 (24) (See Attachment B) and child predator as defined in R.S. 15:541 (25) (See Attachment A) and who is to be released from the custody of the department or a local jail facility, by any means, to determine if the offender may be a child sexual predator and/or a sexually violent predator in accordance with the provisions of R.S. 15:560 et seq.

F. Procedures

1. Each panel shall evaluate every sex offender and child predator as defined by this regulation at least six months prior to the release date of the offender.

2. A panel's evaluation shall primarily be conducted by file review of all relevant information available to the department, including the information specified in Paragraph E.4. Information and/or recommendations received from individuals other than those employed by the department or the local jail facility where the offender is housed shall be made in writing. Interview, telephone or video conferencing may be conducted at the discretion of the panel.

3. Panel decisions shall be recorded by individual vote. Official results shall be maintained by the respective panel coordinator. Each panel coordinator is responsible for maintaining a separate file on each offender reviewed by the panel.

4. If a panel affirmatively votes that an offender is a sexually violent predator and/or a child sexual predator, the panel shall forward the recommendation to the sentencing court. The recommendation shall include the factual basis upon which the recommendation was based and shall include a copy of all information that was available to the panel during the evaluation process.

5. Upon receiving a recommendation from a panel, the sentencing court will review the recommendation that an offender is a sexually violent predator and/or a child predator.

6. If, after a contradictory hearing the sentencing court finds by clear and convincing evidence and renders a judicial

determination that the offender is a sexually violent predator or a child sexual predator, the offender shall be ordered to comply with the following:

a. supervision by the Division of Probation and Parole, upon release from incarceration, for the duration of his natural life;

b. registration as a sex offender in accordance with the provisions of R.S. 15:542 et seq., for the duration of his natural life;

c. provide community notification in accordance with the provisions of R.S. 15:542 et seq., for the duration of his natural life;

d. submit to electronic monitoring pursuant to the provisions of R.S. 15:560.4 for the duration of his natural life; and

e. abide by the supervised release conditions enumerated in R.S. 15:560.3A.(4) through (14), which may include treatment for persons convicted of sex offenses when deemed appropriate or ordered to do so by the offender's probation and parole officer as stated in R.S. 15:560.3A.(10).

7. If a judicial determination is rendered that an offender is a sexually violent predator or a child sexual predator, the panel administrator shall notify the warden of the state facility where the offender is housed or the warden of the regional facility for offenders housed in local jail facilities.

8. Upon receipt of notification from the panel administrator, the warden of the state facility where the offender is housed or the warden of the regional facility for offenders housed in local jail facilities shall ensure that the sex offender pre-registration process is initiated.

G. Electronic Monitoring of Child Sexual Predators or Sexually Violent Predators

1. Each offender determined by the court to be a child sexual predator and/or a sexually violent predator pursuant to the provisions of this regulation shall be required to be electronically monitored by the Division of Probation and Parole in a fashion that provides for electronic location tracking.

2. Unless it is determined that an offender is unable to pay all or any portion of the costs for electronic monitoring, each offender to be electronically monitored shall pay the cost of such monitoring.

3. The costs attributable to the electronic monitoring of an offender who has been determined unable to pay shall be borne by the department if, and only to the degree that sufficient funds are made available for such purpose whether by appropriation of state funds or from any other source.

4. Only in the case that an offender determined to be a child sexual predator and/or a sexual violent predator is unable to pay his own electronic monitoring costs, and there are no funds available to the department to pay for such monitoring, may the requirements of electronic monitoring be waived.

H. Notification of Release. The department shall notify the Office of State Police when a child sexual predator and/or sexually violent predator has been released from imprisonment. The Office of State Police shall then send out an alert by means of a predator alert system to local law enforcement officials to inform them of such releases.

I. Appeal of Decision

1. An offender determined to be a sexually violent predator and/or a child sexual predator may petition the court for a review of this determination not more than once every three years, provided that the sex offender is currently receiving treatment from a court or treatment provider approved by the department, and good cause for such reconsideration is shown by the offender.

2. If the court grants the petition for review, the court shall refer the case to the sex offender assessment panel for review in accordance with the provisions of Section E., and a recommendation to the court for a judicial determination as to whether or not the offender continues to be a sexually violent predator and/or a child sexual predator. After receiving the recommendation of the panel, the court shall schedule a hearing and provide notice of the hearing in accordance with the provisions of Paragraph F.4.

J. Rights of Action. Any employee who participates in the Louisiana Sex Offender Assessment Panels review process pursuant to this regulation shall be immune from civil or criminal liability when the actions taken are in good faith in a reasonable manner in accordance with generally accepted medical or other professional practices.

Attachment A

List of Child Predator Offenses

R.S. 15:541 (25)

(Criminal offense against a victim who is a minor under the age of 18 when the defendant is not the parent of the victim)

- 14:44 Aggravated Kidnapping
14:44.1 Second Degree Kidnapping
14:44.2 Aggravated Kidnapping of a Child
14:45 Simple Kidnapping
14:45.1 Interference with the Custody of a Child
14:46 False Imprisonment
14:46.1 False Imprisonment; Offender Armed With A Dangerous Weapon
14:46.2 Human Trafficking
14:82.1 Prostitution; Persons Under Seventeen
14:84(1)(3)(5)(6) Pandering
14:86 Enticing Persons into Prostitution
23:251(A)(4) Minors under 16, prohibits employment for exhibition use

NOTE: A conviction for the perpetration, attempted perpetration or conspiracy to commit the offenses stated above shall be considered a child predator.

Attachment B

List of Sex Offenses

R.S. 15:541 (24)

- 14:41 Rape
14:42 Aggravated Rape
14:42.1 Forcible Rape
14:43 Simple Rape
14:43.1 Sexual Battery
14:43.2 Second Degree Sexual Battery
14:43.3 Oral Sexual Battery
14:43.5 Intentional Exposure of Aids Virus
14:78 Incest
14:78.1 Aggravated Incest
14:80 Felony Carnal Knowledge of a Juvenile
14:81 Indecent Behavior with Juveniles
14:81.1 Pornography Involving Juveniles
14:81.2 Molestation of a Juvenile
14:81.3 Computer Aided Solicitation of a Juvenile
14:81.4 Prohibited Sexual Conduct Between an Educator and Student
14:89 Crime Against Nature
14:89.1 Aggravated Crime Against Nature
14:92(A)(7) Contributing to the Delinquency of Juveniles (Perform any sexually immoral act)
14:93.5 Sexual Battery of the Infirm
14:106(A)(5) Obscenity by Solicitation (of a person under the age of 17)

- 14:283 Video Voyeurism
14:283.1 Voyeurism, Second or Subsequent Offense
NOTE: A conviction for the perpetration, attempted perpetration or conspiracy to commit the offenses stated above shall be considered a sex offense.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:560 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 34:1631 (August 2008), amended LR 35:

James M. Le Blanc
Secretary

0909#068

DECLARATION OF EMERGENCY

Department of Social Services
Office of Community Services
and
Office of Family Support

Residential Licensing—Disqualification
(LAC 48: I Chapter 88 and
LAC 67:III.Chapter 73, and V.Chapters 61-19)

The Department of Social Services (DSS), Office of Family Support (OFS) and Office of Community Services (OCS), have exercised the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), to adopt LAC 48:I. Subpart 3, Licensing and Certification, LAC 67:III. Subpart 21, Child Care Licensing, and, LAC 67:V., Subpart 8, Residential Licensing, to become effective upon the signature of the secretary.

The Department of Social Services has adopted the following Emergency Rule, finding that an imminent threat to the public health, safety, and welfare exists. State licensing regulations for child care facilities provide no disqualification period for licensees who have had a prior license revoked for failure to comply with State laws and regulations governing facilities providing out-of-home care for children and elderly or infirmed adults. This lack of specific disqualification periods had allowed substandard facilities to take temporary remedial action and reapply for a new license immediately following revocation of the previous one. Allowing facilities whose compliance with state law have consistently fallen below minimum standards of care to reapply poses a substantial risk of harm to children and elderly or infirmed adults in out-of-home care on a regular basis, and an emergency rule is necessary to prevent this imminent threat to the public health, safety and welfare.

This Emergency Rule shall remain in effect for a period of 120 days.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Information

Subpart 3. Licensing and Certification

Chapter 88. Adult Residential Care Home

§8807. Denial, Revocation or Nonrenewal of License, Appeal Procedure

A. - D.3.

E. Disqualification from application

1. Definitions, as used in this Section:

Affiliate—

- i. with respect to a partnership, each partner thereof;
- ii. with respect to a corporation, each officer, director and stockholder thereof;
- iii. with respect to a natural person, that person and any individual related by blood, marriage, or adoption within the third degree of kinship to that person; any partnership, together with any or all its partners, in which that person is a partner; and any corporation in which that person an officer, director or stockholder, or holds, directly or indirectly, a controlling interest;
- iv. with respect to any of the above, any mandatory, agent, or representative or any other person, natural or juridical acting at the direction of or on behalf of the licensee or applicant; or
- v. director of any such.

Department—the Department of Social Services.

Disqualification Period—the prescriptive period during which the department shall not accept an application from a provider. Any unlicensed operation during the disqualification period shall interrupt running of prescription until the department has verified that the unlicensed operation has ceased.

Effective Date—of a revocation, denial, or non-renewal of a license shall be the last day for applying to appeal the action, if the action is not appealed.

Facility—any place, program, facility or agency operated or required by law to operate under a license, including facilities owned or operated by any governmental, profit, nonprofit, private, or church agency.

License—any license issued by the department to operate any child care facility or child-placing agency as defined in R.S. 46:1403; any license issued by the department to operate any adult residential care facility as defined in R.S. 40:2153; or any license issued by the department to operate any transitional youth residence as defined in R.S. 46:1453.

Provider—all owners or operators of a facility, including the director of such facility. If the owner is a corporate entity the owners are the officers, directors, and shareholders of the facility.

Unlicensed Operation—operation of any child care facility or child-placing agency, adult residential care facility, or transitional youth residence, at any location, without a valid, current license issued by the department.

2. Disqualification of Facility and Provider

a. If a facility's license is revoked or not renewed due to failure to comply with state statutes and licensing rules, the department shall not accept a subsequent application from the provider for that facility or any new facility for a minimum period of two years after the effective date of revocation or non-renewal or a minimum period of two years after all appeal rights have been exhausted, whichever is later (the disqualification period). Any subsequent application for a license shall be reviewed by the Secretary or her designee prior to a decision being made to grant a license. The department reserves the right to determine, at its sole discretion, whether to issue any subsequent license.

b. Any voluntary surrender of a license by a facility facing the possibility of adverse action against its license (revocation or non-renewal) shall be deemed to be a

revocation for purposes of this rule, and shall trigger the same disqualification period as if the license had actually been revoked.

c. In addition, if the applicant has had a substantial history of non-compliance, including but not limited to revocation of a previous license, operation without a license, or denial of one or more previous applications for licensure, the department may refuse to accept a subsequent application from that applicant for a minimum period of two years after the effective date of denial.

d. The disqualification period provided in this Section shall include any affiliate of the provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 14:27 (January 1988), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 24:2328 (December 1998), amended by the Department of Social Services, Office of Community Services and Office of Family Support, LR 36:

Title 67

SOCIAL SERVICES

Part III. Family Support

Chapter 73. Day Care Centers

§7303. Procedures

A. - F.7. ...

G. Disqualification from application

1. Definitions, as used in this Section:

Affiliate—

- i with respect to a partnership, each partner thereof;
- ii. with respect to a corporation, each officer, director and stockholder thereof;
- iii. with respect to a natural person, that person and any individual related by blood, marriage, or adoption within the third degree of kinship to that person; any partnership, together with any or all its partners, in which that person is a partner; and any corporation in which that person an officer, director or stockholder, or holds, directly or indirectly, a controlling interest;
- iv with respect to any of the above, any mandatory, agent, or representative or any other person, natural or juridical acting at the direction of or on behalf of the licensee or applicant; or,
- v. director of any such.

Department—the Department of Social Services.

Disqualification Period—the prescriptive period during which the department shall not accept an application from a provider. Any unlicensed operation during the disqualification period shall interrupt running of prescription until the department has verified that the unlicensed operation has ceased.

Effective Date —of a revocation, denial, or non-renewal of a license shall be the last day for applying to appeal the action, if the action is not appealed.

Facility—any place, program, facility or agency operated or required by law to operate under a license, including facilities owned or operated by any governmental, profit, nonprofit, private, or church agency.

License—any license issued by the department to operate any child care facility or child-placing agency as defined in R.S. 46:1403; any license issued by the

department to operate any adult residential care facility as defined in R.S. 40:2153; or any license issued by the department to operate any transitional youth residence as defined in R.S. 46:1453.

Provider—all owners or operators of a facility, including the director of such facility. If the owner is a corporate entity the owners are the officers, directors, and shareholders of the facility.

Unlicensed Operation—operation of any child care facility or child-placing agency, adult residential care facility, or transitional youth residence, at any location, without a valid, current license issued by the department.

2. Disqualification of Facility and Provider

a. If a facility's license is revoked or not renewed due to failure to comply with state statutes and licensing rules, the department shall not accept a subsequent application from the provider for that facility or any new facility for a minimum period of two years after the effective date of revocation or non-renewal or a minimum period of two years after all appeal rights have been exhausted, whichever is later (the disqualification period). Any subsequent application for a license shall be reviewed by the secretary or her designee prior to a decision being made to grant a license. The department reserves the right to determine, at its sole discretion, whether to issue any subsequent license.

b. Any voluntary surrender of a license by a facility facing the possibility of adverse action against its license (revocation or non-renewal) shall be deemed to be a revocation for purposes of this rule, and shall trigger the same disqualification period as if the license had actually been revoked.

c. In addition, if the applicant has had a substantial history of non-compliance, including but not limited to revocation of a previous license, operation without a license, or denial of one or more previous applications for licensure, the department may refuse to accept a subsequent application from that applicant for a minimum period of two years after the effective date of denial.

d. The disqualification period provided in this Section shall include any affiliate of the provider.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:1108 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2756 (December 2007), amended by the Department of Social Services, Office of Community Services and Office of Family Support, LR 36:

§7359. Procedures

A. - H. ...

I. Disqualification from application

1. Definitions, as used in this Section:

Affiliate—

- i. with respect to a partnership, each partner thereof;
- ii. with respect to a corporation, each officer, director and stockholder thereof;

iii. with respect to a natural person, that person and any individual related by blood, marriage, or adoption within the third degree of kinship to that person; any partnership, together with any or all its partners, in which that person is a partner; and any corporation in which that person an officer, director or stockholder, or holds, directly or indirectly, a controlling interest;

iv. with respect to any of the above, any mandatory, agent, or representative or any other person, natural or juridical acting at the direction of or on behalf of the licensee or applicant; or,

v. director of any such.

Department—the Department of Social Services.

Disqualification Period—the prescriptive period during which the department shall not accept an application from a provider. Any unlicensed operation during the disqualification period shall interrupt running of prescription until the department has verified that the unlicensed operation has ceased.

Effective Date—of a revocation, denial, or non-renewal of a license shall be the last day for applying to appeal the action, if the action is not appealed.

Facility—any place, program, facility or agency operated or required by law to operate under a license, including facilities owned or operated by any governmental, profit, nonprofit, private, or church agency.

License—any license issued by the department to operate any child care facility or child-placing agency as defined in R.S. 46:1403; any license issued by the department to operate any adult residential care facility as defined in R.S. 40:2153; or any license issued by the department to operate any transitional youth residence as defined in R.S. 46:1453.

Provider—all owners or operators of a facility, including the director of such facility. If the owner is a corporate entity the owners are the officers, directors, and shareholders of the facility.

Unlicensed Operation—operation of any child care facility or child-placing agency, adult residential care facility, or transitional youth residence, at any location, without a valid, current license issued by the department.

2. Disqualification of Facility and Provider

a. If a facility's license is revoked or not renewed due to failure to comply with state statutes and licensing rules, the department shall not accept a subsequent application from the provider for that facility or any new facility for a minimum period of two years after the effective date of revocation or non-renewal or a minimum period of two years after all appeal rights have been exhausted, whichever is later (the disqualification period). Any subsequent application for a license shall be reviewed by the secretary or her designee prior to a decision being made to grant a license. The department reserves the right to determine, at its sole discretion, whether to issue any subsequent license.

b. Any voluntary surrender of a license by a facility facing the possibility of adverse action against its license (revocation or non-renewal) shall be deemed to be a revocation for purposes of this rule, and shall trigger the same disqualification period as if the license had actually been revoked.

c. In addition, if the applicant has had a substantial history of non-compliance, including but not limited to revocation of a previous license, operation without a license, or denial of one or more previous applications for licensure, the department may refuse to accept a subsequent application from that applicant for a minimum period of two years after the effective date of denial.

d. The disqualification period provided in this Section shall include any affiliate of the provider.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 September 1992, LR 26:1636 (August 2000), repromulgated by the Office of Family Support, LR 33:2771 (December 2007), amended by the Department of Social Services, Office of Community Services and Office of Family Support, LR 36:

Part V. Community Services

Chapter 61. Emergency Shelter

§6103. Organization and Administration

A. - C. 3.a. ...

D. Disqualification from Application

a. Definitions, as used in this Section:

Affiliate—

i. with respect to a partnership, each partner thereof;

ii. with respect to a corporation, each officer, director and stockholder thereof;

iii. with respect to a natural person, that person and any individual related by blood, marriage, or adoption within the third degree of kinship to that person; any partnership, together with any or all its partners, in which that person is a partner; and any corporation in which that person an officer, director or stockholder, or holds, directly or indirectly, a controlling interest;

iv. with respect to any of the above, any mandatory, agent, or representative or any other person, natural or juridical acting at the direction of or on behalf of the licensee or applicant; or,

v. director of any such.

Department—the Department of Social Services

Disqualification Period—the prescriptive period during which the department shall not accept an application from a provider. Any unlicensed operation during the disqualification period shall interrupt running of prescription until the department has verified that the unlicensed operation has ceased.

Effective Date—of a revocation, denial, or non-renewal of a license shall be the last day for applying to appeal the action, if the action is not appealed.

Facility—any place, program, facility or agency operated or required by law to operate under a license, including facilities owned or operated by any governmental, profit, nonprofit, private, or church agency.

License—any license issued by the department to operate any child care facility or child-placing agency as defined in R.S. 46:1403; any license issued by the department to operate any adult residential care facility as defined in R.S. 40:2153; or any license issued by the

department to operate any transitional youth residence as defined in R.S. 46:1453.

Provider—all owners or operators of a facility, including the director of such facility. If the owner is a corporate entity the owners are the officers, directors, and shareholders of the facility.

Unlicensed Operation—operation of any child care facility or child-placing agency, adult residential care facility, or transitional youth residence, at any location, without a valid, current license issued by the department.

2. Disqualification of Facility and Provider

a. If a facility's license is revoked or not renewed due to failure to comply with state statutes and licensing rules, the department shall not accept a subsequent application from the provider for that facility or any new facility for a minimum period of two years after the effective date of revocation or non-renewal or a minimum period of two years after all appeal rights have been exhausted, whichever is later (the disqualification period). Any subsequent application for a license shall be reviewed by the secretary or her designee prior to a decision being made to grant a license. The department reserves the right to determine, at its sole discretion, whether to issue any subsequent license.

b. Any voluntary surrender of a license by a facility facing the possibility of adverse action against its license (revocation or non-renewal) shall be deemed to be a revocation for purposes of this rule, and shall trigger the same disqualification period as if the license had actually been revoked.

c. In addition, if the applicant has had a substantial history of non-compliance, including but not limited to revocation of a previous license, operation without a license, or denial of one or more previous applications for licensure, the department may refuse to accept a subsequent application from that applicant for a minimum period of two years after the effective date of denial.

d. The disqualification period provided in this Section shall include any affiliate of the provider.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2669 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1544 (August 2009), amended by the Department of Social Services, Office of Community Services and Office of Family Support, LR 36:

Chapter 65. Transitional Living

§6507. Application for Licensure

A. - E. ...

F. Disqualification from application

1. Definitions, as used in this Section:

Affiliate—

i. with respect to a partnership, each partner thereof;

ii. with respect to a corporation, each officer, director and stockholder thereof;

iii. with respect to a natural person, that person and any individual related by blood, marriage, or adoption within the third degree of kinship to that person; any

partnership, together with any or all its partners, in which that person is a partner; and any corporation in which that person an officer, director or stockholder, or holds, directly or indirectly, a controlling interest;

iv. with respect to any of the above, any mandatory, agent, or representative or any other person, natural or juridical acting at the direction of or on behalf of the licensee or applicant; or,

v. director of any such.

Department—the Department of Social Services.

Disqualification Period—the prescriptive period during which the department shall not accept an application from a provider. Any unlicensed operation during the disqualification period shall interrupt running of prescription until the department has verified that the unlicensed operation has ceased.

Effective Date—of a revocation, denial, or non-renewal of a license shall be the last day for applying to appeal the action, if the action is not appealed.

Facility—any place, program, facility or agency operated or required by law to operate under a license, including facilities owned or operated by any governmental, profit, nonprofit, private, or church agency.

License—any license issued by the department to operate any child care facility or child-placing agency as defined in R.S. 46:1403; any license issued by the department to operate any adult residential care facility as defined in R.S. 40:2153; or any license issued by the department to operate any transitional youth residence as defined in R.S. 46:1453.

Provider—all owners or operators of a facility, including the director of such facility. If the owner is a corporate entity the owners are the officers, directors, and shareholders of the facility.

Unlicensed Operation—operation of any child care facility or child-placing agency, adult residential care facility, or transitional youth residence, at any location, without a valid, current license issued by the department.

2. Disqualification of Facility and Provider

a. If a facility's license is revoked or not renewed due to failure to comply with state statutes and licensing rules, the department shall not accept a subsequent application from the provider for that facility or any new facility for a minimum period of two years after the effective date of revocation or non-renewal or a minimum period of two years after all appeal rights have been exhausted, whichever is later (the disqualification period). Any subsequent application for a license shall be reviewed by the Secretary or her designee prior to a decision being made to grant a license. The department reserves the right to determine, at its sole discretion, whether to issue any subsequent license.

b. Any voluntary surrender of a license by a facility facing the possibility of adverse action against its license (revocation or non-renewal) shall be deemed to be a revocation for purposes of this rule, and shall trigger the same disqualification period as if the license had actually been revoked.

c. In addition, if the applicant has had a substantial history of non-compliance, including but not limited to revocation of a previous license, operation without a license, or denial of one or more previous applications for licensure,

the department may refuse to accept a subsequent application from that applicant for a minimum period of two years after the effective date of denial.

d. The disqualification period provided in this Section shall include any affiliate of the provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451-1455

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Bureau of Licensing, LR 30:93 (January 2004), repromulgated by the Department of Social Services, Office of Community Services, Bureau of Residential Licensing, LR 33:2686 (December 2007), repromulgated by the LR 35:1544 (August 2009), amended by the Department of Social Services, Office of Community Services, LR 35:1561 (August 2009), amended by the Department of Social Services, Office of Community Services and Office of Family Support, LR 36:

Chapter 67. Maternity Homes

§6703. Definitions

A. ...

B. Disqualification from application

1. Definitions, as used in this Section:

Affiliate—

i. with respect to a partnership, each partner thereof;

ii. with respect to a corporation, each officer, director and stockholder thereof;

iii. with respect to a natural person, that person and any individual related by blood, marriage, or adoption within the third degree of kinship to that person; any partnership, together with any or all its partners, in which that person is a partner; and any corporation in which that person an officer, director or stockholder, or holds, directly or indirectly, a controlling interest;

iv. with respect to any of the above, any mandatory, agent, or representative or any other person, natural or juridical acting at the direction of or on behalf of the licensee or applicant; or,

v. director of any such.

Department—the Department of Social Services.

Disqualification Period—the prescriptive period during which the department shall not accept an application from a provider. Any unlicensed operation during the disqualification period shall interrupt running of prescription until the department has verified that the unlicensed operation has ceased.

Effective Date—of a revocation, denial, or non-renewal of a license shall be the last day for applying to appeal the action, if the action is not appealed.

Facility—any place, program, facility or agency operated or required by law to operate under a license, including facilities owned or operated by any governmental, profit, nonprofit, private, or church agency.

License—any license issued by the department to operate any child care facility or child-placing agency as defined in R.S. 46:1403; any license issued by the department to operate any adult residential care facility as defined in R.S. 40:2153; or any license issued by the department to operate any transitional youth residence as defined in R.S. 46:1453.

Provider—all owners or operators of a facility, including the director of such facility. If the owner is a

corporate entity the owners are the officers, directors, and shareholders of the facility.

Unlicensed Operation—operation of any child care facility or child-placing agency, adult residential care facility, or transitional youth residence, at any location, without a valid, current license issued by the department.

2. Disqualification of Facility and Provider

a. If a facility's license is revoked or not renewed due to failure to comply with state statutes and licensing rules, the department shall not accept a subsequent application from the provider for that facility or any new facility for a minimum period of two years after the effective date of revocation or non-renewal or a minimum period of two years after all appeal rights have been exhausted, whichever is later (the disqualification period). Any subsequent application for a license shall be reviewed by the Secretary or her designee prior to a decision being made to grant a license. The department reserves the right to determine, at its sole discretion, whether to issue any subsequent license.

b. Any voluntary surrender of a license by a facility facing the possibility of adverse action against its license (revocation or non-renewal) shall be deemed to be a revocation for purposes of this rule, and shall trigger the same disqualification period as if the license had actually been revoked.

c. In addition, if the applicant has had a substantial history of non-compliance, including but not limited to revocation of a previous license, operation without a license, or denial of one or more previous applications for licensure, the department may refuse to accept a subsequent application from that applicant for a minimum period of two years after the effective date of denial.

d. The disqualification period provided in this Section shall include any affiliate of the provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1427

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2694 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1570 (August 2009), amended by the Department of Social Services, Office of Community Services and Office of Family Support, LR 36:

Chapter 69. Child Residential Care

§6905. Procedures

A. - E.5.

F. Disqualification from application

1. Definitions, as used in this Section:

Affiliate—

- i. with respect to a partnership, each partner thereof;
- ii. with respect to a corporation, each officer, director and stockholder thereof;
- iii. with respect to a natural person, that person and any individual related by blood, marriage, or adoption within the third degree of kinship to that person; any partnership, together with any or all its partners, in which that person is a partner; and any corporation in which that person an officer, director or stockholder, or holds, directly or indirectly, a controlling interest;

iv. with respect to any of the above, any mandatory, agent, or representative or any other person, natural or juridical acting at the direction of or on behalf of the licensee or applicant; or,

v. director of any such.

Department—the Department of Social Services.

Disqualification Period—the prescriptive period during which the department shall not accept an application from a provider. Any unlicensed operation during the disqualification period shall interrupt running of prescription until the department has verified that the unlicensed operation has ceased.

Effective Date—of a revocation, denial, or non-renewal of a license shall be the last day for applying to appeal the action, if the action is not appealed.

Facility—any place, program, facility or agency operated or required by law to operate under a license, including facilities owned or operated by any governmental, profit, nonprofit, private, or church agency.

License—any license issued by the department to operate any child care facility or child-placing agency as defined in R.S. 46:1403; any license issued by the department to operate any adult residential care facility as defined in R.S. 40:2153; or any license issued by the department to operate any transitional youth residence as defined in R.S. 46:1453.

Provider—all owners or operators of a facility, including the director of such facility. If the owner is a corporate entity the owners are the officers, directors, and shareholders of the facility.

Unlicensed Operation—operation of any child care facility or child-placing agency, adult residential care facility, or transitional youth residence, at any location, without a valid, current license issued by the department.

2. Disqualification of Facility and Provider

a. If a facility's license is revoked or not renewed due to failure to comply with state statutes and licensing rules, the department shall not accept a subsequent application from the provider for that facility or any new facility for a minimum period of two years after the effective date of revocation or non-renewal or a minimum period of two years after all appeal rights have been exhausted, whichever is later (the disqualification period). Any subsequent application for a license shall be reviewed by the Secretary or her designee prior to a decision being made to grant a license. The department reserves the right to determine, at its sole discretion, whether to issue any subsequent license.

b. Any voluntary surrender of a license by a facility facing the possibility of adverse action against its license (revocation or non-renewal) shall be deemed to be a revocation for purposes of this rule, and shall trigger the same disqualification period as if the license had actually been revoked.

c. In addition, if the applicant has had a substantial history of non-compliance, including but not limited to revocation of a previous license, operation without a license, or denial of one or more previous applications for licensure, the department may refuse to accept a subsequent application from that applicant for a minimum period of two years after the effective date of denial.

d. The disqualification period provided in this Section shall include any affiliate of the provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1426.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 24:2130 (November 1998), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2699 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1575 (August 2009), amended by the Department of Social Services, Office of Community Services and Office of Family Support, LR 36:

§6955. Procedures

A. - E. 5.

F. Disqualification from Application

1. Definitions, as used in this Section:

Affiliate—

i. with respect to a partnership, each partner thereof;

ii. with respect to a corporation, each officer, director and stockholder thereof;

iii. with respect to a natural person, that person and any individual related by blood, marriage, or adoption within the third degree of kinship to that person; any partnership, together with any or all its partners, in which that person is a partner; and any corporation in which that person an officer, director or stockholder, or holds, directly or indirectly, a controlling interest;

iv. with respect to any of the above, any mandatory, agent, or representative or any other person, natural or juridical acting at the direction of or on behalf of the licensee or applicant; or,

v. director of any such.

Department—the Department of Social Services.

Disqualification Period—the prescriptive period during which the department shall not accept an application from a provider. Any unlicensed operation during the disqualification period shall interrupt running of prescription until the department has verified that the unlicensed operation has ceased.

Effective Date—of a revocation, denial, or non-renewal of a license shall be the last day for applying to appeal the action, if the action is not appealed.

Facility—any place, program, facility or agency operated or required by law to operate under a license, including facilities owned or operated by any governmental, profit, nonprofit, private, or church agency.

License—any license issued by the department to operate any child care facility or child-placing agency as defined in R.S. 46:1403; any license issued by the department to operate any adult residential care facility as defined in R.S. 40:2153; or any license issued by the department to operate any transitional youth residence as defined in R.S. 46:1453.

Provider—all owners or operators of a facility, including the director of such facility. If the owner is a corporate entity the owners are the officers, directors, and shareholders of the facility.

Unlicensed Operation—operation of any child care facility or child-placing agency, adult residential care facility, or transitional youth residence, at any location, without a valid, current license issued by the department.

2. Disqualification of Facility and Provider

a. If a facility's license is revoked or not renewed due to failure to comply with state statutes and licensing rules, the department shall not accept a subsequent application from the provider for that facility or any new facility for a minimum period of two years after the effective date of revocation or non-renewal or a minimum period of two years after all appeal rights have been exhausted, whichever is later (the disqualification period). Any subsequent application for a license shall be reviewed by the Secretary or her designee prior to a decision being made to grant a license. The department reserves the right to determine, at its sole discretion, whether to issue any subsequent license.

b. Any voluntary surrender of a license by a facility facing the possibility of adverse action against its license (revocation or non-renewal) shall be deemed to be a revocation for purposes of this rule, and shall trigger the same disqualification period as if the license had actually been revoked.

c. In addition, if the applicant has had a substantial history of non-compliance, including but not limited to revocation of a previous license, operation without a license, or denial of one or more previous applications for licensure, the department may refuse to accept a subsequent application from that applicant for a minimum period of two years after the effective date of denial.

d. The disqualification period provided in this Section shall include any affiliate of the provider.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:1565 (September 2001), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2740 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1617 (August 2009), amended by the Department of Social Services, Office of Community Services and Office of Family Support, LR 36:

Kristy H. Nichols
Secretary

0909#030

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

2009-1010 Waterfowl Seasons

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 2009-2010 hunting season shall be as follows:

Ducks and Coots: 60 days

West Zone: November 14 – December 6
December 19 - January 24
East Zone: November 21 – December 6
(Including December 19 - January 31 Catahoula Lake)

Youth Waterfowl Weekend - November 7-8 in West Zone, November 14-15 in East Zone

Daily Bag Limits: 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, 1 canvasback, 1 mottled duck, 1 black duck, 3 wood ducks, 2 scaup, and 2 redheads.

Daily bag limit on coots is 15.

Mergansers - The daily bag limit for mergansers is 5, only 2 of which may be hooded mergansers. 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:

Light Geese (Snow, Blue and Ross's) and

White-Fronted Geese:

West Zone: November 14 - December 6
(72 days) December 19 - February 5
East Zone: November 9 - December 6
(72 days) December 19 - January 31
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

NOTE: During the open Canada goose season, the daily bag limit is 2 dark geese (White-fronted and Canada) no more than 1 of which may be a Canada goose. The possession limit is twice the daily bag limit.

Canada Geese: Closed in the Area Described Below

December 19 - January 31

Daily Limit on Canada geese: 1

Possession limit on Canada geese: 2

NOTE: During the open Canada goose season, the daily bag limit is 2 dark geese (White-fronted and Canada) no more than 1 of which may be a Canada. The possession limit is twice the daily bag limit.

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.

Conservation order for light geese

(snow, blue and ross's):

West Zone: December 7 - December 18
February 6 - March 14
East Zone: December 7 - December 18
February 1 - March 14

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 14 - January 6

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 14 – January 6
Daily bag limit 15,
Possession limit 30

Snipe: November 7 - December 11
December 19 - February 28
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 7 - February 5

16 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, 2009 and extend through one-half hour after sunset on March 14, 2010.

Robert J. Barham
Secretary

0909#008

DECLARATION OF EMERGENCY

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

Commercial King Mackerel Closure

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 49:967 which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons, R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, and the authority given to the Secretary of the Department, by the Commission in its resolution of January 8, 2009, to close the 2009-10 commercial king mackerel season in Louisiana state waters when he is informed that the designated portion of the commercial king mackerel quota for the Gulf of Mexico has been filled, or was projected to be filled, the Secretary hereby declares:

Effective 12:00 noon, September 12, 2009, the commercial fishery for king mackerel in Louisiana waters will close and remain closed through June 30, 2010. Nothing herein shall preclude the legal harvest of king mackerel by legally licensed recreational fishermen. Effective with this closure, no person shall commercially harvest, possess, purchase, barter, trade, sell or attempt to purchase, barter, trade or sell king mackerel within or without Louisiana waters. Effective with closure, no person shall possess king mackerel in excess of a daily bag limit within or without Louisiana waters. The prohibition on sale/purchase of king mackerel during the closure does not apply to king mackerel that were legally harvested, landed ashore, and sold prior to the effective date of the closure and were held in cold storage by a dealer or processor provided appropriate

records in accordance with R.S. 56:306.5 and 56:306.6 are properly maintained.

The secretary has been notified by National Marine Fisheries Service that the commercial king mackerel season in Federal waters of the Gulf of Mexico will close at 12:00 noon September 12, 2009. Closing the season in State waters is necessary to provide effective rules and efficient enforcement for the fishery, to prevent overfishing of this species in the long term.

Robert J. Barham
Secretary

0909#043

Rules

RULE

Department of Agriculture and Forestry Structural Pest Control Commission

Definitions, Fees, Minimum Termite Treatment Specifications and Treatments for Wood Destroying Beetles (LAC 7:XXV.101,117, 119, 141 and 145)

Editor's Note: The following Section is being repromulgated to correct a citation error. The original Rule may be viewed in its entirety on pages 1467-1470 in the August 20, 2009 *Louisiana Register*.

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the enabling statute, R.S. 3:3366, the Department of Agriculture and Forestry, Structural Pest Control Commission, amends regulations to define certain terms; to raise fees on wood destroying insect reports and contracts; provides minimum specifications for treatment for termite on new-construction; and to clarify treatment requirements for wood destroying beetles.

The impact of the Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the Rule on small businesses.

The structural pest control commission finds that the implementation of these amendments to rules and regulations are necessary to define and give clarity to terms used by the structural industry; to provide homeowners and pest control operators additional treatment options in new construction while still providing for minimum termite treatment specifications; to provide additional protection for consumers by requiring a 5 year damage repair guaranty; to raise the fees for wood destroying insect reports and contracts to allow for continued oversight of the pest control industry; and to clarify that treatment for wood destroying beetles must be based on a finding of an active infestation prior to the recommendation or application of such a treatment.

Title 7

AGRICULTURE AND ANIMALS

Part XXV. Structural Pest Control

Chapter 1. Structural Pest Control Commission

§141. Minimum Specifications for Termite Control Work

A. - A.4.b. ...

B. Requirements for Trench and Treat

1. All trenches must be approximately 4 inches wide at the top angled toward the foundation and sufficiently deep (approximately 6 inches) to permit application of the required chemical. Apply the product mixture into the trench

at the rate and manner prescribed on the label and labeling. Rodding will be acceptable only when trenching will damage flowers and/or shrubs.

C. - C.7.d. ...

8. Ground Treatment

a. ...

b. All trenches must be approximately 4 inches wide at the top, angled toward the foundation and sufficiently deep (approximately 6 inches) to permit application of the required chemical. Apply the product mixture into the trench at a rate and manner prescribed on the label and labeling. Rodding will be acceptable where trenching will damage flowers and/or shrubs. Maximum distance between rod holes shall be 4 inches.

9. - 10. ...

D. Treatment of Existing Slab-Type Construction

1. Ground Treatment

a. ...

b. All trenches must be approximately 4 inches wide at the top, angled toward the foundation and sufficiently deep (approximately 6 inches) to permit application of the required chemical. Apply the product mixture into the trench at a rate and manner prescribed on the label and labeling. Rodding will be acceptable where trenching will damage flowers and/or shrubs. Maximum distance between rod holes shall be 4 inches.

2. - 3.c. ...

E. Pre-Treatment of Slabs

1. The licensee shall report the completion of the application to the outside of the foundation to the department on the termite perimeter application form. Within 12 months after initial treatment, the outside perimeter of the foundation, will be treated as follows:

a. trench around the entire perimeter of the structure being treated, adjacent to the foundation wall. All trenches must be approximately 4 inches wide at the top, angled toward the foundation and sufficiently deep (approximately 6 inches) to permit application of the required chemical. Apply the product mixture into the trench at a rate and manner prescribed on the label and labeling. Rodding will be acceptable where trenching will damage flowers and/or shrubs. Maximum distance between rod holes shall be 4 inches;

b. rod under or drill through any slab(s) adjoining or abutting the initial pre-treated slab and treat all areas beneath adjoining or abutting slab(s) as per label and labeling instructions. When any slab(s) is drilled, the holes must be no more than 18 inches (unless label requires closer distance) apart along the above stated areas.

2. If, during the treatment of any area which will be beneath a slab foundation, the operator must leave the site for any reason prior to the completion of the application, the operator must prominently display a poster, furnished by the department, which states that the treatment of the area under the slab is not complete.

3. All pre-treatment of slabs must be called or faxed to the department's district office in which the pretreat occurs,

a minimum of 1 hour prior to beginning the application of termiticides. The information provided shall include treatment company name; treatment structure street address, city, parish; directions to the property being pre-treated; date and time of beginning the application of termiticides to the property; square or linear footage of each structure to be treated; and number of structures. All pest control operators must keep a log of all pretreats including the information noted. The following is a list of parishes in each of the department's seven district offices. Pre-treatments in a parish shall be called into the corresponding district office.

a. Shreveport District—Caddo, Bossier, Webster, Claiborne, Bienville, Red River, and Desoto.

b. Monroe District—Union, Morehouse, West Carroll, East Carroll, Madison, Richland, Ouachita, Lincoln, Jackson, Winn, Caldwell, Franklin, Tensas, Concordia, and Catahoula.

c. Alexandria District—Sabine, Natchitoches, Grant, LaSalle, Avoyelles, Rapides, and Vernon.

d. Crowley District—Beauregard, Allen, Acadia, Jefferson Davis, Cameron, Calcasieu.

e. Opelousas District—Evangeline, St. Landry, St. Martin, Iberia, St. Mary, Vermillion, and Lafayette.

f. Baton Rouge District—Pointe Coupee, West Feliciana, East Feliciana, St. Helena, Tangipahoa, Washington, St. Tammany, Livingston, St. James, Lafourche, Terrebonne, Assumption, Ascension, Iberville, West Baton Rouge, and East Baton Rouge.

g. New Orleans District—St. John the Baptist, St. Charles, Jefferson, Orleans, St. Bernard, and Plaquemines.

F. - J.6 ...

7. Ground monitoring and bait stations, used as monitors, shall be inspected bi-monthly, not to exceed 65 days, from the date of installation or last inspection. When there is no termite feeding on any bait or monitoring station for 90 days from the date of installation or last inspection; monitor as required in LAC 7:XXV.141.J.9.

8. When there is termite feeding on any bait and/or monitoring station(s) at the contracted structure; all above ground bait stations and ground monitoring and bait stations shall be inspected bi-monthly, not to exceed 65 days from the date of installation or last inspection and such inspections shall continue until there is no termite feeding on any bait and/or monitoring station, in any station, at the contracted structure for 90 days from the date of installation or last inspection; When there is no termite feeding on any bait or monitoring station for 90 days from the date of installation or last inspection; monitor as required in LAC 7:XXV.141.J.9.

J.9. - L.3. ...

M. Requirements for Borates Pre-construction Treatments

1. Treat according to the borate label.

2. A perimeter soil treatment shall be applied within 12 months after initial treatment, the outside perimeter of the foundation, shall be treated as follows:

a. trench around the entire perimeter of the structure being treated, adjacent to the foundation wall. All trenches must be approximately 4 inches wide at the top, angled toward the foundation and sufficiently deep (approximately 6 inches) to permit application of the required chemical. Apply the product mixture into the trench at a rate and

manner prescribed on the label and labeling. Rodding will be acceptable where trenching will damage flowers and/or shrubs. Maximum distance between rod holes shall be 4 inches;

b. rod under or drill through any slab(s) adjoining or abutting the slab and treat all areas beneath adjoining or abutting slab(s) as per label and labeling instructions. When any slab(s) is drilled, the holes must be no more than 18 inches (unless label requires closer distance) apart along the above stated areas;

3. treat bath traps as per termiticide label and labeling or as follows:

a. if the soil in a trap does not reach the bottom of the slab, the trap must be filled to within 2 inches of the top of the slab with soil prior to treatment. Treat bath trap(s) as required by label and labeling;

b. a tar filled bath trap must also be drilled and treated as required by label and labeling;

c. if bath trap is solid concrete pour, it must be drilled and treated as close as practical to the bathtub plumbing;

4. if, during the treatment of any area, the operator must leave the site for any reason prior to the completion of the application, the operator must prominently display a poster at the treatment site, which states that the treatment of the area is not complete;

5. the treatments of structures required in this section shall be called or faxed to the department's district office in which the treatment occurs, a minimum of one hour prior to beginning the application of termiticides. The information provided shall include: treatment company name; treatment structure street address, city, parish; directions to the property being pre-treated; date and time of beginning the application of termiticides to the property; square or linear footage of the each structure to be treated; and number of structures. Permittees or licensees shall keep a log of all pretreats including the information noted. The following is a list of parishes in each of the department's seven district offices. Treatments in a parish shall be called into the corresponding district office:

a. Shreveport District—Caddo, Bossier, Webster, Claiborne, Bienville, Red River, and Desoto;

b. Monroe District—Union, Morehouse, West Carroll, East Carroll, Madison, Richland, Ouachita, Lincoln, Jackson, Winn, Caldwell, Franklin, Tensas, Concordia, and Catahoula;

c. Alexandria District—Sabine, Natchitoches, Grant, LaSalle, Avoyelles, Rapides, and Vernon;

d. Crowley District—Beauregard, Allen, Acadia, Jefferson Davis, Cameron, Calcasieu;

e. Opelousas District—Evangeline, St. Landry, St. Martin, Iberia, St. Mary, Vermillion, and Lafayette;

f. Baton Rouge District—Pointe Coupee, West Feliciana, East Feliciana, St. Helena, Tangipahoa, Washington, St. Tammany, Livingston, St. James, Lafourche, Terrebonne, Assumption, Ascension, Iberville, West Baton Rouge, and East Baton Rouge;

g. New Orleans District—St. John the Baptist, St. Charles, Jefferson, Orleans, St. Bernard, and Plaquemines;

6. all borate treatments shall be contracted and reported as provided by R.S. 3:3370 and §119.E of this Part

and the fee for each such contract shall be paid in accordance with §119(F) of this Part;

7. records of contracts, graphs, monitoring (if required), and applications shall be kept as required by §117.I;

8. all retreatments shall be as required by §141.L of this Part;

9. the permittee or licensee shall report the completion of the application to the outside of the foundation to the department on the termite perimeter application form.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:330 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:958 (November 1989), LR 20:644 (June 1994), LR 21:931 (September 1995), LR 23:1285 (October 1997), LR 25:235 (February 1999), LR 25:1620 (September 1999), LR 26:2437 (November 2000), LR 27:1180 (August 2001), LR 29:1063 (July 2003), LR 30:1145 (June 2004), repromulgated LR 30:1614 (August 2004), amended LR 35:207 (February 2009), LR 35:1469 (August 2009), repromulgated LR 35:1872 (September 2009).

Mike Strain, DVM
Commissioner

0909#110

RULE

Board of Elementary and Secondary Education

BESE Organization (LAC 28:I.501, 503, and 703)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted revisions to the Louisiana Administrative Code, Title 28, Part I: §501.Standing and Executive Committees, §503.Advisory Councils, and §703.Regular and Special Meeting Schedules. BESE is clarifying language and modifying council structure to assist the board in the exercise of its powers and responsibilities as defined in the constitution and by law.

Louisiana Administrative Code, Title 28, Part I, Section 501.C.2 contains examples of issues to be considered by the Legal/Due Process Committee. BESE is changing the examples of issues to be considered by the Legal/Due Process Committee.

Louisiana Administrative Code, Title 28, Part I, Section 503.C.5 contains the name and membership of the Parish Superintendents Advisory Council. The council will become the Superintendents Advisory Council and the membership may include city, parish and other local public school superintendents as council members.

Louisiana Administrative Code, Title 28, Part I, Section 703.A.-F describes regular and special meetings of BESE. Language is being amended to clarify BESE policy regarding regular and special meetings. BESE will hold six regularly scheduled meetings and two general session informational meetings annually. The board will also continue to meet in special meetings called as necessary. The new meeting schedule will not result in any foreseeable savings or expenditure increases.

Title 28 EDUCATION

Part I. Board of Elementary and Secondary Education Chapter 5. Organization

§501. Standing and Executive Committees

A. - C.1.m. ...

2. Legal/Due Process Committee. The following are examples of issues that will be considered by the Legal/Due Process Committee:

- a. adjudication of teaching certificates; and
- b. charter revocation hearings.

3. - 3.b....

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:415 (March 2008), amended LR 35:223 (February 2009), LR 35:1874 (September 2009).

§503. Advisory Councils

A. - C.4.c.ii. ...

5. Superintendents' Advisory Council

- a. Authority: per BESE policy.
- b. Membership: 22 members as follows:

- i. 22 members, two city, parish, or other local public school superintendents recommended by each of the eight elected board members, within his/her district, if possible. The three at-large members should each appoint two city, parish, or other local public school superintendents from BESE Districts 3-8, with no more than one appointment per BESE district. It is recommended that the composition reflect all sizes of systems and be equitable in the regions represented, to the extent possible;

- ii. the president of the Louisiana Association of School Superintendents (LASS) shall serve as chair of the council. In the event the president of LASS is not an appointed member of the council, the membership shall expand to 23 members during the term of service of that individual;

- iii. attendance. Members who cannot attend a meeting may appoint another superintendent from his/her BESE district to represent him/her, and the proxy shall have the same voting privileges;

- iv. expenses. Members shall not receive reimbursement for travel expenses from the board.

- c. Referrals/Responsibilities

- i. Consider all matters referred by the board.

- ii. Recommendations from the Superintendents' Advisory Council shall go to the appropriate board committee. The department shall provide responses to the various recommendations.

C.6. - F.7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:6(A)(15), R.S. 17:24.4, R.S. 17:11, 34 CFR 300.650-652, and R.S. 17:1954.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:416 (March 2008); amended LR 35:1874 (September 2009).

§703. Regular and Special Meeting Schedules

A. The board meets in regular session six times annually. The board and committee meeting schedules for the upcoming calendar year are approved in October of each year.

B. Regular Board Meetings. The president of the board shall call regular board meetings at least four times a year to fall within calendar quarters. Generally, regular meetings of the board shall convene on the third Thursday of the month. A simple majority of board members may agree to meet on another day.

C. - D. ...

E. Regular Committee Meetings. The chair of each standing or executive committee of the board shall conduct regular committee meetings at such times as scheduled for consideration of items referred by the board to the committee.

F. Special Committee Meetings. Special meetings of a standing or executive committee may be held upon call of the committee chair, and the chair shall call a special meeting whenever requested to do so by a majority of the total named members of the committee.

G. - G.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3(E), R.S. 17:6(A)(10), and Article VIII, Section 5(D).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:420 (March 2008); amended LR 35:1874 (September 2009).

Jeanette B. Vosburg
Acting Executive Director

0909#026

RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Curriculum and Instruction
(LAC 28:CXV.2373, 2381, and 2382)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended *Bulletin 741—Louisiana Handbook for School Administrators*: §2373.Agricultural Education, §2381. Health Occupations, and §2382.Law, Public Safety, Corrections, and Security. LAC 28:CXV.2373 is amended to clarify verbiage in reference to Agriscience III and IV Laboratory not being offered and to clarify prerequisites for taking Cooperative Agriscience Education I. LAC 28:CXV.2381 is amended and §2382 is adopted to develop additional course offerings to address the needs of the local school systems. This action has been taken to increase curriculum offerings to students. This will enable students to exit high school with an industry based certification and qualified to join the workforce.

Title 28

EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 23. Curriculum and Instruction

§2373. Agricultural Education

A. ...

B. Cooperative Agriscience Education I is offered to students who have completed Agriscience I and who are enrolled or have completed another Agriscience course.

Cooperative Agriscience Education II is offered to students who have completed Cooperative Agriscience Education I.

C. Semester courses are designed to be offered in the place of, or in addition to, Agriscience III.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1298 (June 2005), amended LR 33:277 (February 2007), LR 33:2050 (October 2007), LR 34:2386 (November 2008), LR 35:1875 (September 2009).

§2381. Health Occupations

A. Health Occupations course offerings shall be as follows.

Course Title(s)	Recommended Grade Level	Units
AHEC of a Summer Career Exploration	9-12	1/2
Allied Health Services I	10-12	1-2
Allied Health Services II	10-12	1-2
Cooperative Health Occupations	11-12	3
Dental Assistant I	10-12	1-2
Dental Assistant II	11-12	2-3
Emergency Medical Technician—Basic	10-12	2
First Responder	9-12	1/2-2
Health Occupations Elective I, II	9-12	1/2-3
Health Science I	11-12	1-2
Health Science II	12	1-2
Introduction to Emergency Medical Technology	10-12	2
Introduction to Health Occupations	9-12	1
Introduction to Pharmacy Assistant	10-12	1
Medical Assistant I	10-12	1-2
Medical Assistant II	11-12	1-2
Medical Assistant III	12	1-2
Medical Terminology	9-12	1
Nurse Assistant	10-12	2-3
Patient Care Technician	12	3
Pharmacy Technician	12	1-2
Sports Medicine I	10-12	1/2
Sports Medicine II	11-12	1/2
Sports Medicine III	11-12	1

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1300 (June 2005), amended LR 33:279 (February 2007), LR 33:1615 (August 2007), LR 33:2051 (October 2007), LR 35:1875 (September 2009).

§2382. Law, Public Safety, Corrections, and Security

A. The Law and Public Safety Education course offerings shall be as follows.

Course Title(s)	Recommended Grade Level	Units
Criminal Justice Elective I, II	9-12	1/2-3

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7 and R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 35:1875 (September 2009).

Jeanette B. Vosburg
Acting Executive Director

0909#022

RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—General Powers of Local Educational Governing Authorities (LAC 28: CXV.303)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended Bulletin 741—*Louisiana Handbook for School Administrators*: §303, General Powers of Local Educational Governing Authorities. This revision in policy is a direct result of the passage of Senate Bill No. 548, Act 466, which took place in the Louisiana Legislative Session of 2008. This change in Bulletin 741 will require local school systems to conduct exit interviews for all teachers leaving their employ. The current bulletin does not address personnel exit interviews.

**Title 28
EDUCATION**

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 3. Operation and Administration

§303. General Powers of Local Educational Governing Authorities

A. - K. ...

L. Each city, parish, or other local public school board shall conduct exit interviews for teachers who leave their employ and annually report this information to BESE. The local school board shall use the forms and reporting system developed by BESE for this purpose.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:53; R.S. 17:81; 17:81.2 17:81.4-8; R.S. 17:100.2; R.S. 17:104; R.S. 17:151.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1257 (June 2005), amended LR 35:1474 (August 2009), LR 35:1876 (September 2009).

Jeanette B. Vosburg
Acting Executive Director

0909#024

RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—High School Graduation Requirements (LAC 28: CXV.2319)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended *Bulletin 741—Louisiana Handbook for School Administrators*: §2319.High School Graduation Requirements. This amendment to §2319.E.3 specifies which courses will substitute for the fourth required unit of science, the fourth required unit of social studies, and the required unit of art in the Louisiana Core 4 curriculum. The amendment to §2319.H.1.d provides students the opportunity to complete requirements for the senior project to sit for the IBC exam, post graduation as an alternative to the required industry-based certification in student's area of

concentration from BESE-approved industry-based certifications in order to obtain a career/technical endorsement to the standard diploma. It is imperative to give students every opportunity to fulfill the requirements to become eligible for a career/technical endorsement to the standard diploma giving them the tools necessary to become successful in the workplace.

**Title 28
EDUCATION**

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 23. Curriculum and Instruction

§2319. High School Graduation Requirements

A. - D. ...

E. Minimum Course Requirements for High School Graduation

1. - 2. ...

3. For incoming freshmen in 2008-2009 and beyond who are completing the Louisiana Core 4 Curriculum, the minimum course requirements shall be the following.

English	4 units
Shall be English I, II, III, and English IV	
Mathematics	3 units
Algebra I (1 unit) or Algebra I-Pt. 2 Geometry Algebra II	
The remaining unit shall come from the following: Financial Mathematics, Math Essentials, Advanced Math—Pre-Calculus, Advanced Math—Functions and Statistics, Pre-Calculus, Calculus, Probability and Statistics, Discrete Mathematics, or a locally-initiated elective approved by BESE as a math substitute	
Science	4 units
Shall be the following: 1 unit of Biology 1 unit of Chemistry 2 units from the following courses: Physical Science, Integrated Science, Physics I, Physics of Technology I, Aerospace Science, Biology II, Chemistry II, Earth Science, Environmental Science, Physics II, Physics of Technology II, Agriscience II, Anatomy and Physiology, or a locally initiated elective approved by BESE as a science substitute.	
<ul style="list-style-type: none"> • Students may not take both Integrated Science and Physical Science • Agriscience I is a prerequisite for Agriscience II and is an elective course 	
A student completing a Career and Technical Area of Concentration may substitute one of the following BESE/Board of Regents approved IBC-related course from within the student's Area of Concentration for the fourth required science unit: Advanced Nutrition and Foods Food Services II Allied Health Services II Dental Assistant II Emergency Medical Technician-Basic (EMT-B) Health Science II Medical Assistant II Sports Medicine III Advanced Electricity/Electronics Process Technician II ABC Electrical II Computer Service Technology II Horticulture II Networking Basics Routers and Routing Basics Switching Basics and Intermediate Routing WAN Technologies Animal Science Biotechnology in Agriscience Environmental Studies in Agriscience Equine Science	

Forestry Horticulture Small Animal Care/Management Veterinary Assistant Oracle Academy Course: DB Programming with PL/SQL	
Social Studies	4 units
Shall be the following 1/2 unit of Civics or AP American Government 1/2 unit of Free Enterprise 1 unit of American History 1 unit from the following: World History, World Geography, Western Civilization, or AP European History 1 unit from the following: World History, World Geography, Western Civilization, AP European History, Law Studies, Psychology, Sociology, Civics (second semester—1/2 credit) or African American Studies. A student completing a Career and Technical Area of Concentration may substitute one of the following BESE/Board of Regents approved IBC-related course from within the student's Area of Concentration for the fourth required social studies unit: Advanced Child Development Early Childhood Education II Family and Consumer Sciences II ProStart II T & I Cooperative Education (TICE) Cooperative Agriculture Education Administrative Support Occupations Business Communication Cooperative Office Education Entrepreneurship - Business Lodging Management II Advertising and Sales Promotion Cooperative Marketing Education I Entrepreneurship – Marketing Marketing Management Marketing Research Principles of Marketing II Retail Marketing Tourism Marketing CTE Internship General Cooperative Education II STAR II	
Health Education	1/2 unit
Physical Education	1 1/2 units
Shall be Physical Education I and Physical Education II, or Adapted Physical Education for eligible special education students. A maximum of four units of Physical Education may be used toward graduation. NOTE: The substitution of JROTC is permissible.	
Foreign Language	2 units
Shall be two units in the same foreign language or two Speech courses	
Arts	1 unit
One unit Fine Arts Survey or one unit of Art (§2333), Dance (§2337), Music (§2355), Theatre Arts (§2333), or Applied Arts. A student completing a Career and Technical Area of Concentration may substitute one of the following BESE/Board of Regents approved IBC-related course from within the student's area of concentration for the required applied arts unit: Advanced Clothing and Textiles ABC Carpentry II TE ABC Electrical II TE ABC Welding Technology II Advanced Metal Technology Advanced Technical Drafting Architectural Drafting ABC Carpentry II – T&I ABC Welding Technology II – T&I Cabinetmaking II Commercial Art II Cosmetology II Culinary Occupations II Custom Sewing II Graphic Arts II Photography II Television Production II	

Upholstery II Welding II ABC Carpentry In Agriscience ABC Electricity in Agriscience ABC Welding Technology Agriscience Agriscience Construction Technology Agriscience Power Equipment Floristry Landscape Design and Construction Introduction to Business Computer Applications Accounting II Business Computer Applications Computer Multimedia Presentations Desktop Publishing Keyboarding Applications Telecommunications Web Design I and II Word Processing Digital Media II	
Electives	3 units
TOTAL	24 units

F. - H.1.c.ii. ...

d. Students shall complete a minimum of 90 work hours of work-based learning experience related to the student's area of concentration (as defined in the *LDE Diploma Endorsement Guidebook*) or senior project related to student's area of concentration with 20 hours of related work-based learning and mentoring and complete one of the following requirements:

i. industry-based certification in student's area of concentration from the list of industry-based certifications approved by BESE or completion of all course work required to sit for the IBC exam, post graduation; or

ii. three college hours in a career/technical area that articulate to a postsecondary institution, either by actually obtaining the credits and/or being waived from having to take such hours in student's area of concentration.

H. 1. e. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, R.S. 17:24.4, R. S. 17:183.2, and R.S. 17: 395.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1291 (June 2005), amended LR 31:2211 (September 2005), LR 31:3070 (December 2005), LR 31:3072 (December 2005), LR 32:1414 (August 2006), LR 33:429 (March 2007), LR 33:432 (March 2007), LR 33:2050 (October 2007), LR 33:2354 (November 2007), LR 33:2601 (December 2007), LR 34:1607 (August 2008), LR 35:1230 (July 2009), LR 35:1876 (September 2009).

Jeanette B. Vosburg
Acting Executive Director

0909#021

RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School
Administrators—Requirements for Teachers
(LAC 28:CXV.3103)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended *Bulletin 741—Louisiana Handbook for School Administrators*: §3103, Requirements for Teachers. This amendment will expand the CTTIE teacher certification

for instructors in Technology Education, Law and Public Safety, and Patient Care Technician. This certification will allow qualified instructors, who have served in business/industry, to become instructors for the courses listed above, which will prepare secondary students to further their education in two-year technical and four-year university programs, thereby meeting a great demand for a qualified workforce.

**Title 28
EDUCATION**

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

Chapter 31. Career and Technical Education (CTE)

§3103. Requirements for Teachers

A. The CTE teacher shall hold a valid Louisiana teaching certificate or valid Career and Technical Trade and Industrial Education (CTTIE) Certificate that entitles the holder to teach in the career area of the actual teaching assignment. Certification is required to teach:

1. all law and public safety courses;
2. engineering design I and II;
3. process technician I and II;
4. Project Lead the Way; and
5. patient care technician.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17: 422.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1309 (June 2005), amended LR 35:1878 (September 2009).

Jeanette B. Vosburg
Acting Executive Director

0909#020

RULE

Board of Elementary and Secondary Education

Bulletin 1794—State Textbook Adoption Policy and Procedure Manual—Waivers (LAC 28:XXXIII.513)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended *Bulletin 1794—State Textbook Adoption Policy and Procedure Manual*: §513. Waivers. This action represents a desire to reduce administrative action required by the State Board.

**Title 28
EDUCATION**

**Part XXXIII. Bulletin 1794—State Textbook Adoption
Policy and Procedure Manual**

Chapter 5. Local School System Responsibilities

§513. Waivers

A. - A.1. ...

B. Special Waiver to Exceed 10 Percent of Textbook Allotment on Non-Adopted State Textbooks and Materials of Instruction

1. A local school system, with the approval of its local school board or chartering authority, may petition in writing the state Department of Education for permission to spend in excess of the 10 percent allowance for non-adopted state textbooks.

2. Requests shall be accepted from March through May 31. Textbook orders may not be processed until waivers have been approved. The last month for action on such waivers shall be June. Any extenuating circumstances shall be handled on an individual basis.

C. - D.1. ...

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1444 (August 1999), repromulgated LR 26:1000 (May 2000), amended LR 35:1878 (September 2009).

Jeanette B. Vosburg
Acting Executive Director

0909#023

RULE

**Department of Environmental Quality
Office of the Secretary
Legal Affairs Division**

Miscellaneous Corrections
(LAC 33:V.105, 321, 1513, 1529, 3005, and 3105;
VII.715 and 1101; IX.5903; and XI.1121)(MM010)

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:V.105, 321, 1513, 1529, 3005, and 3105; VII.715 and 1101; IX.5903; and XI.1121 (Log #MM010).

This rule corrects errors that have been found in the Environmental Quality regulations. Language found to be redundant or not required by federal regulations has been deleted, some wording has been restructured, and instances of improper regulation citations have been corrected. The rule also deletes information in LAC 33:V.3015, Table 2, to reflect a change in 40 CFR 261, Appendix VIII. Maintenance of the regulations is part of the responsibility of the department. An aspect of maintenance is for the department to correct errors when they are found. 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 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.7.b....

c. mercury-containing equipment as described in LAC 33:V.3807;

D.7.d. - N.5. ...

O. Variances from Classification as a Solid Waste

1. In accordance with the standards and criteria in Paragraph O.2 of this Section, the administrative authority may determine on a case-by-case basis that the following recycled materials are not solid waste(s):

O.1.a. - 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), LR 34:2395 (November 2008), LR 35:1878 (September 2009).

Chapter 3. General Conditions for Treatment, Storage, and Disposal Facility Permits

§321. Modification of Permits

A. Any proposed major modification of a facility or a site, any change in wastes handled in either volume or composition, and any other change in the site, facility, or operations that materially deviates from a permit or materially increases danger to the public health or the environment must be reported in writing to the Office of Environmental Services prior to such an occurrence, and a permit modification must be obtained in accordance with the application, public notice, and permit requirements of this Chapter and in accordance with LAC 33:I.Chapter 15. Any operator or ownership change shall be made in accordance with LAC 33:I.Chapter 19.

B. - C.3.a.iii. ...

iv. provides the applicable information required by LAC 33:V.515, 516, 517, 519, 520, 521, 523, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 537, 2707, and 3115 and LAC 33:V.Chapter 15.

3.b. - 11.c. ...

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 13:433 (August 1987), LR 15:378 (May 1989), LR 16:614 (July 1990), LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1691 (September 1998), LR 25:435 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2466 (November 2000), LR 28:1000 (May 2002), LR 29:319 (March 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2430, 2454 (October 2005), LR 33:2100 (October 2007), LR 34:619 (April 2008), LR 35:1879 (September 2009).

Chapter 15. Treatment, Storage, and Disposal Facilities

§1513. Contingency Plan and Emergency Procedures

A. - A.4. ...

B. Content of Contingency Plan

1. The contingency plan must describe the actions facility personnel must take to comply with Subsections A and F of this Section in response to fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water at the facility.

B.2. - F.9.g. ...

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 16:614 (July 1990), LR 18:1256 (November 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2472 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2456 (October 2005), LR 33:2104 (October 2007), LR 34:993 (June 2008), LR 35:1879 (September 2009).

§1529. Operating Record and Reporting Requirements

A. - D.10. ...

E. Additional Reports. In addition to submitting the annual reports and unmanifested waste reports described in LAC 33:V.1517.D and Subsection D of this Section, the owner or operator must also report to the administrative authority:

1. - 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), LR 35:1879 (September 2009).

Chapter 30. Hazardous Waste Burned in Boilers and Industrial Furnaces

§3005. Permit Standards for Burners

A. - E.5. ...

a. Except as provided in Subparagraph E.5.b or c of this Section or in LAC 33:III.Chapter 51, the permit shall specify the following operating requirements to ensure conformance with the particulate standard specified in LAC 33:V.3011:

Chapter 31. Incinerators

§3105. Applicability

A. - E. ...

E.5.a.i. - 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 18:1375 (December 1992), amended LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:822 (September 1996), 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 31:2463 (October 2005), LR 33:2113 (October 2007), LR 34:628 (April 2008), LR 34:1015 (June 2008), LR 35:1880 (September 2009).

Table 1. Hazardous Constituents			
Common Name	Chemical Abstracts Name	Chemical Abstracts Number	Hazardous Waste Number
* * *			
[See Prior Text in A2213 – Ethyl methanesulfonate]			
Ethyl Ziram	Zinc, bis(diethylcarbamo-dithioato-S,S')-	14324-55-1	
* * *			
[See Prior Text in Famphur – Ziram]			
¹ The abbreviation N.O.S. (not otherwise specified) signifies those members of the general class not specifically listed by name in this table.			

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 34:2396 (November 2008), LR 35:1880 (September 2009).

Part VII. Solid Waste

Subpart 1. Solid Waste Regulations

Chapter 7. Solid Waste Standards

Subchapter A. Landfills, Surface Impoundments, Landfarms

§715. Standards Governing Landfarms (Type I and II)

A. - D.3.i. ...

j. Landfarms that receive only domestic sewage sludge and septic tank pumpings shall do so in accordance with LAC 33:IX.7301.G.2.

D.3.k. - F.3.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), repromulgated LR 19:1316 (October 1993), amended by the Office of the Secretary,

LR 24:2251 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2525 (November 2000), repromulgated LR 27:704 (May 2001), amended LR 30:1676 (August 2004), amended by the Office of Environmental Assessment, LR 30:2025 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2493 (October 2005), LR 33:1058 (June 2007), LR 33:2147 (October 2007), LR 35:1880 (September 2009).

Chapter 11. Solid Waste Beneficial Use and Soil Reuse §1101. Applicability

A. ...

B. Sewage sludge (including domestic septage) shall be generated, treated, processed, composted, blended, mixed, prepared, transported, used, or disposed of in accordance with LAC 33:IX.Chapter 73.

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 by the Office of the Secretary, Legal Affairs Division, LR 33:1086 (June 2007), LR 35:1880 (September 2009).

Part IX. Water Quality

Subpart 2. The Louisiana Pollutant Discharge Elimination System (LPDES) Program

Chapter 59. Secondary Treatment under the LPDES Program

§5903. Definitions

A. Terms used in this Chapter are defined as follows.

* * *

Effluent Concentrations Consistently Achievable through Proper Operation and Maintenance—for a given pollutant parameter:

a. ...

b. a 7-day average value equal to 1.5 times the value derived under LAC 33:IX.5903.A. *Effluent Concentrations Consistently Achievable through Proper Operation and Maintenance*.a.

Facilities Eligible for Treatment Equivalent to Secondary Treatment—treatment works shall be eligible for consideration for effluent limitations described for treatment equivalent to secondary treatment (LAC 33:IX.5911), if:

a. the BOD₅ and TSS effluent concentrations consistently achievable through proper operation and maintenance (LAC 33:IX.5903.A. *Effluent Concentrations Consistently Achievable through Proper Operation and Maintenance*) of the treatment works exceed the minimum level of the effluent quality set forth in LAC 33:IX.5905.A and B;

b. – c. ...
mg/L—milligrams per liter.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:232 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 35:1880 (September 2009).

Part XI. Underground Storage Tanks

Chapter 11. Financial Responsibility

§1121. Use of the Motor Fuels Underground Storage

Tank Trust Fund

The administrative authority was authorized by R.S. 30:2194-2195.10 to receive and administer the Motor Fuels Underground Storage Tank Trust Fund (MFUSTTF) to provide financial responsibility for owners and/or operators of underground motor fuel storage tanks. Under the conditions described in this Section, an owner and/or operator who is eligible for participation in the MFUSTTF may use this mechanism to partially fulfill the financial responsibility requirements for eligible USTs. To use the MFUSTTF as a mechanism for meeting the requirements of LAC 33:XI.1107, the owner and/or operator must be an *eligible participant* as defined in Subsection A of this Section. In addition, the owner and/or operator must use one of the other mechanisms described in LAC 33:XI.1111, 1113, 1115, 1117, 1119, 1123, or 1125 to demonstrate financial responsibility for the amounts specified in Subsection C of this Section, which are the responsibility of the participant and not covered by the MFUSTTF.

A. – B.4.a. ...

b. Upon recommendation by the advisory board to exceed the 20 percent limitation as provided in Subparagraph B.4.a of this Section, the administrative authority shall provide written notification to the environmental legislative oversight committees listing the project name, the project location, and the amount of the project that exceeds the 20 percent limitation.

C. – D.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and specifically 2195-2195.10.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990),

amended LR 17:658 (July 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2561 (November 2000), LR 27:521 (April 2001), amended by the Office of Environmental Assessment, LR 31:1577 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 34:864 (May 2008), LR 35:1881 (September 2009).

Herman Robinson, CPM
Executive Counsel

0909#041

RULE

Office of the Governor

Board of Examiners of Certified Shorthand Reporters

Continuing Education (LAC 46:XXI.603 and 607)

In accordance with the Administrative Procedures Act, R.S. 49:950 et seq., notice is hereby given that the Louisiana Board of Examiners of Certified Shorthand Reporters has amended changes made to the continuing education procedure Rule.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXI. Certified Shorthand Reporters

Chapter 6. Continuing Education

§603. Continuing Education Credits

A. Beginning January 1, 1991, and thereafter, each certificate holder shall be required to obtain at least 12 continuing education credits during each two-year continuing education cycle. Each continuing education cycle shall consist of two consecutive years beginning January 1 of the odd-numbered year and ending December 31 of the even-numbered year, inclusive. The board shall award one continuing education credit for each half hour of instruction time. Beginning January 1, 2010, two of the required 12 continuing education credits shall be instructions pertaining to court reporting ethics awareness.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.37:2554 and 2557.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Certified Shorthand Reporters, LR 17:32 (January1991), amended LR 20:412 (April 1994), amended by the Office of the Governor, Board of Examiners of Certified Shorthand Reporters, LR 33:2419 (November 2007), LR 35:1881 (September 2009).

§607. Maintenance of Record

A. ...

B. On or before December 31 of each odd-numbered calendar year, each reporter issued a certificate by the board shall submit or cause to be submitted to the board in written record of continuing education credits earned by the reporter for the preceding two calendar years.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.37:2554.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Certified Shorthand Reporters, LR 17:33 (January1991), amended LR 17:578 (June 1991), LR 19:1539 (December 1993), amended by the

Judge Perrell Fuselier
Chairman

0909#044

RULE

Office of the Governor Board of River Port Pilot Commissioners

River Port Pilots (LAC 46:LXX.Chapters 31-36)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 34:991(B)(3), the Board of River Port Pilot Commissioners repeals and reenacts its Rules. The Rules restate existing Rules and will be reenacted for the purpose of codification. New Rules are in the public's interest and will promote public safety. The new regulations remove the requirement to obtain a First Class Pilot's License on the Mississippi River Gulf Outlet which has been decommissioned by the United States Government. The Rules provide for a notice provision for the submission of apprentices and modify the deputy pilot system. These original rules were promulgated in October 20, 2003. The board has conducted several meetings to receive comments from interested parties and undertook some revisions.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXX. River Pilots

Subpart 4. Board of River Port Pilot Commissioners

Chapter 31. General Provisions

§3103. Definitions

A. The following terms shall have the following meaning as used in these rules.

Applicant—one who submits an application to become a river port pilot.

Apprentice—one who has been selected to become a river port pilot pending successful completion of the apprenticeship program.

Apprentice Candidate—one whose application has been certified by the board.

Board—the Board of River Port Pilot Commissioners as defined in R.S. 34:991.

Commission—the appointment by the governor authorizing one to perform the duties of a river port pilot.

Commissioner—a member of the Board of River Port Pilots Commissioners for the Port of New Orleans as appointed and serving in accordance with state law.

Conviction—having been found guilty by judgment or by plea and includes cases of deferred adjudication (no contest, adjudication withheld, etc.) or where the court requires a person to attend classes, make contributions of time or money, receive treatment, submit to any manner of probation or supervision, or forgo appeal of a trial court finding. Expunged convictions must be reported unless the expungement was based upon a showing that the court's earlier conviction was in error.

Deputy Pilot—a commissioned river port pilot who is piloting subject to restrictions as set forth in these regulations

Drug—all controlled dangerous substances as defined in R.S. 40:961(7).

Marine Incident—a personal injury, loss of life, discharge of pollution, collision and/or allision, wave wash or suction resulting in an injury or damage, or hard grounding in which the vessel is damaged or needs assistance to be re-floated.

Pilot—river port pilots as defined in R.S. 34:992 or any person performing duties pursuant to a River Port Pilot Commission.

Prescription Medication—medication which can only be distributed by the authorization of a licensed physician as defined in R.S. 40:961(30).

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:991(B)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of River Port Pilot Commissioners, LR 29:2068 (October 2003), amended LR 35:1882 (September 2009).

§3105. Board of River Pilot Commissioners for the Port of New Orleans

A. The duties of the board are established pursuant to R.S. 34:991.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:991(B)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of River Port Pilot Commissioners, LR 29:2069 (October 2003), amended LR 35:1882 (September 2009).

§3107. Application

A. Any person wishing to submit an application to become an apprentice candidate must submit a written request for an application to the board at its address. The board's current address is:

Board of River Port Pilot Commissioners
c/o Application Request
P.O. Box 7325
Metairie, LA 70010

B. All applications to become an apprentice candidate must be in writing, must be signed by the applicant, and presented to the secretary of the board. All applications must be notarized and accompanied by satisfactory evidence of compliance of the board's requirements.

C. Annually, the board will publish a notice, in a publication meeting the criteria of an official journal for the state of Louisiana, that it will accept applications for the subsequent calendar year for selection into the River Port Pilot Apprenticeship Program.

D. The board will accept applications for selection into the River Port Pilot Apprenticeship Program from January 1 to October 31 of each year.

E. After October 31, the board will review the applications, schedule physicals, have background checks run on the applicant and certify that the applicants meet the criteria set forth by the board. Upon request, the board may allow the applicant to submit to a physical before October 31.

F. On or about January 1 the board will prepare a list of apprentice candidates eligible to be selected. The list shall remain in place until December 31 at which time the list will

be withdrawn and a new list will be prepared in accordance with these regulations.

G. Any applicant who submits an application with false or misleading information or false, misleading, forged or altered supporting documents will have their application deemed void. The board, in its discretion, may prohibit the applicant from submitting an application in the future. Nothing in this paragraph will affect the enforcement of state and federal laws regarding the submission of a false information and documents to a state board.

H. When the pilots notify the board that there is a necessity for pilots, the board will submit to the pilots the list of eligible apprentice candidates as described in §3107.F, and pursuant to RS 34:993, the pilots will select the apprentice candidates.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:991(B)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of River Port Pilot Commissioners, LR 29:2069 (October 2003), amended LR 35:1882 (September 2009).

Chapter 32. Licensing, Qualifications, and Apprenticeship

§3201. General Qualifications

A. Applicant must be of good moral character. Evidence of a clear police record will be considered, but the board reserves the right to examine other sources of information as to the applicant's character.

B. Applicant is and has been a voter of the state of Louisiana continuously for at least two years before submitting an application to become an apprentice candidate.

C. Applicant must not have reached his fortieth birthday prior to the first day of balloting on apprentices by the pilots.

D. Applicant shall not have been convicted of a felony offense involving either drugs or the personal consumption of alcohol for 60 months prior to the date of application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:991(B)(3) and R.S. 34:993.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of River Port Pilot Commissioners, LR 29:2069 (October 2003), amended LR 35:1883 (September 2009).

§3203. Licensing Qualifications

A. Each applicant must meet the below listed requirements.

1. Each applicant must hold a United States Coast Guard First Class Pilot License of Steam or Motor Vessel of any gross tons for the Mississippi River from Southport Mile 104.7 to the Head of Passes Mile 0.0 and for the Inner Harbor Navigation Canal (Industrial Canal) from the Mississippi River to Lake Pontchartrain. In the event the Inner Harbor Navigation Canal is closed and or navigation on the canal is severely restricted, the board in its discretion may waive the requirement of a First Class Pilot License on all or part of the Inner Harbor Navigation Canal.

2. Each applicant must meet one of the following requirements:

a. a United States Coast Guard Masters' License of Steam or Motor Vessels of not less than 1600 gross tons or any upgrade thereof upon Inland Waters, Rivers or Lakes; or

b. a United States Coast Guard Second Mate's License (or any upgrade thereof) of Steam or Motor Vessels of any gross tons upon oceans;

3. Each applicant must have held one of the licenses described in §3203.A.1, A.2.a or A.2.b for a period of one year prior to the deadline for submitting an application (October 31) to become an apprentice candidate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:991(B)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of River Port Pilot Commissioners, LR 29:2069 (October 2003), amended LR 35:1883 (September 2009).

§3205. Education Qualifications

A. In addition to the requirements described herein, the Applicant must have a bachelor's degree or diploma granted by a college or university accredited by an accreditation agency or association recognized by the United States Department of Education.

B. Applicants shall document the aforementioned requirements by providing the board with a diploma or a transcript of the mandatory educational requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:991(B)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of River Port Pilot Commissioners, LR 29:2069 (October 2003), amended LR 35:1883 (September 2009).

§3207. Physical Qualifications

A. The applicant, when requested, must be examined by a physician, clinic or group of physicians of the board's choosing to determine the applicant's physical condition. The examination report must reflect to the board's satisfaction that the applicant's physical condition is satisfactory and commensurate with the work and responsibilities of the duties of a pilot, and will enable him to safely perform the duties of pilotage. The board shall have no responsibilities for the examinations or their results. The applicant submitting to such examinations will hold the board harmless from any responsibility for any injury or loss, including attorneys' fees and the costs of defense, incurred as a result of the examination or the reliance by the board or any others on the results of such examination.

B. The applicant, when requested, shall submit to an examination by a mental health professional or group composed of such mental health professionals of the board's choosing. The report of this examination must reflect, to the board's satisfaction, that the applicant's mental condition and aptitude is satisfactory and commensurate with the work and responsibilities of the duties of a pilot, and will enable him to safely perform the duties of pilotage. The board shall have no responsibility for the examinations or their results. The applicant submitting to such examinations will hold the board harmless from any responsibility for any injury or loss, including attorneys' fees and the costs of defense, incurred as a result of the examination or the reliance by the board or any others on the results of such examination.

C. The applicants shall submit to drug screening in the same manner as pilots.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:991(B)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of River Port Pilot Commissioners, LR 29:2070 (October 2003), amended LR 35:1883 (September 2009).

§3209. Apprenticeship

A. The apprentice must serve a minimum of 12 months of apprenticeship in his proposed calling, handling deep draft vessel over the operating territory of the pilots under

the tutelage of not less than 50 percent of the pilots. The apprentice must set forth in detail the names of the vessels handled, dates handled, draft, tonnage, between what points so moved, and the names of the supervising pilots. No apprentice shall be permitted to be examined for commissioning who has not fulfilled the requirements set forth by the board. The apprenticeship work must be certified by the board during the apprenticeship program. The board reserves the right to substitute work requirements, require satisfactory completion of additional trips, extended the apprenticeship, or terminate the apprenticeship, when deemed necessary.

B. The board shall examine the apprentices as to their knowledge of pilotage and their proficiency and capability to serve as pilots. These examinations shall be given in such manner and shall take such form as the board may, in its discretion from time to time, elect.

C. The board shall certify for the governor's consideration those apprentices who satisfactorily complete all requirements established by state law and these rules and who complete and pass the examinations given by the board.

D. Should the apprentice fail the examination, the board, at its discretion, may terminate the apprenticeship, or may designate additional apprenticeship requirements to be satisfied by the apprentice before he may again petition the board for examination.

E. If an apprentice fails to successfully satisfy the requirements of the apprenticeship program within 24 months as determined by the board, the apprenticeship may be terminated at the board's discretion.

F. The apprentice shall submit to drug screening in the same manner as pilots.

G. The apprentice shall report to the board any change in their physical or mental condition that in any way may affect their performance as an apprentice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:991(B)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of River Port Pilot Commissioners, LR 29:2070 (October 2003), amended LR 35:1883 (September 2009).

§3211. Age Restrictions

A. A pilot shall be required to resign his pilot commission in the calendar year in which the pilot attains the age of 70.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:991(B)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of River Port Pilot Commissioners, LR 29:2070 (October 2003), amended LR 35:1884 (September 2009).

Chapter 33. Deputy Pilots

§3301. Restricted Duties Guidelines

A. The deputy pilots shall adhere to the following guidelines and restrictions. The failure to strictly adhere to these guidelines may subject the deputy pilot to disciplinary action at the board's discretion. The guidelines are divided into three tiers.

1. Tier One shall commence immediately after the deputy pilot is commissioned. The deputy pilot shall pilot:

- a. vessels of 650 feet in length or less;
- b. a minimum of 50 vessel;
- c. a minimum of four bridge hours per vessel movement;
- d. for a period of not less than 120 calendar days.

2. Tier Two shall commence upon the completion of Tier One. The deputy pilot shall pilot:

- a. vessels of 700 feet in length or less;
- b. a minimum of 50 vessels;
- c. a minimum of four bridge hours per vessel movement;
- d. for a period of not less than 120 calendar days.

3. Tier Three shall commence immediately upon the completion of Tier Two. The deputy pilot shall pilot:

- a. vessels of 750 feet in length or less;
- b. a minimum of 50 vessels;
- c. a minimum of four bridge hours per vessel movement;
- d. for a period of not less than 120 calendar days.

B. During each tier, the deputy pilot must set forth a report providing the name of the vessel piloted, the date and time the vessel was piloted, the length, draft, tonnage of the vessel piloted, the route of the vessel piloted, and the start and end time for each vessel piloted.

C. A deputy pilot shall be prohibited from:

1. piloting passenger vessels regardless of draft, tonnage or length;
2. piloting tank vessels including OBO's (Oil/Bulk/Ore) in the oil trade;
3. standing watch at the Vessel Traffic Center;
4. yachts;
5. military vessels.

D. After a deputy pilot has completed each tier, the board shall evaluate the deputy pilot's ability and competence to handle the above classes of vessels. Upon such examination, the board shall determine whether, and if so, for what time period, the deputy pilot shall continue to be subject to any or all of the restrictions. The board reserves the right to substitute work requirements, require satisfactory completion of additional trips or extend the deputy pilot's restrictions when deemed necessary.

E. No persons are allowed on the bridge with the deputy pilot with the exception of the bridge team, U.S. Coast Guard representatives, government officials, the vessel's crew, or a commissioner or a designee of the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:991(B)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of River Port Pilot Commissioners, LR 29:2070 (October 2003), amended LR 35:1884 (September 2009).

Chapter 34. Drug and Alcohol Policy

§3401. Drug Use

A. A pilot shall be free of use of any drug as defined in §3103, excluding prescription medication as defined in §3103 so long as use of such prescription medication does not impair the physical competence of the pilot to discharge his duties.

B. The board shall designate a testing agency or agencies to perform scientific test or tests to screen for the presence of drugs. These drug tests shall be conducted at random, post incident, and for reasonable suspicion at the discretion of the board.

C. All pilots shall submit to reasonable scientific testing and screening for drugs when directed by the board.

D. The results of drug testing and screening shall be confidential and disclosed only to the board and the pilot tested, except that:

1. the board may report the results to the governor, the board of directors of the Crescent River Port Pilot Association, and the United States Coast Guard;

2. in the event that the board determines that a hearing is required, there shall be no requirement of confidentiality in connection with the hearing.

E. Any pilot testing positive for drugs or any residual thereof shall be suspended from performing the duties of a pilot pending a hearing.

F. Any pilot who refuses to submit to reasonable scientific testing or screening for drugs, fails to cooperate fully with the testing procedures, or in any way tries to alter the test results shall be suspended from performing the duties of a pilot pending a hearing. Such refusal shall be considered as a positive test.

G. Any pilot found to be in violation of this Section may be reprimanded, fined, evaluated, and/or treated for drug use and/or have his commission suspended or revoked.

H. Any pilot who is required to undergo evaluation and/or treatment shall do so at his own personal expense and responsibility; the physician, as well as the evaluation and treatment facility must be approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:991(B)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of River Port Pilot Commissioners, LR 29:2071 (October 2003), amended LR 35:1884 (September 2009).

§3403. Alcohol Use

A. No pilot shall consume any alcohol of any nature whatsoever within six hours before, or during, the performance of his pilotage duties.

B. No pilot shall perform his duties as a pilot if his blood alcohol content is 0.04 or greater.

C. Any pilot who believes he would be in violation of any of these rules if he were to perform his duties as a pilot is obligated to remove himself from duty. The pilot is the absolute insurer of his or her state of mind, physical abilities, and overall well being.

D. The board may request a pilot to submit himself to a blood alcohol test upon complaint or reasonable suspicion that a pilot is performing his duties as a pilot while under the influence of alcohol.

E. Any pilot who refuses to submit to reasonable scientific testing or screening for alcohol, fails to cooperate fully with the testing procedures, or in any way tries to alter the test results shall be suspended from performing the duties of a pilot pending a hearing. Such refusal to cooperate will be considered as a positive test.

F. Any pilot found to be in violation of this Section may be reprimanded, fined, evaluated and/or treated for alcoholism and/or have his commission suspended or revoked.

G. Any pilot who is required to undergo evaluation and/or treatment shall do so at his own personal expense and responsibility; the physician, as well as the evaluation and treatment facility must be approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:991(B)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of River Port Pilot Commissioners, LR 29:2071 (October 2003), amended LR 35:1885 (September 2009).

Chapter 35. Continuing Education

§3501. Continuing Professional Education

A. Every pilot seeking to maintain a pilot's commission must attend 40 hours of professional education classes and programs every five year cycle as defined by the board. The next five year cycle commences on January 1, 2010.

B. In addition the pilot must attend a man model ship training program every five years.

C. The professional education classes and programs approved by the board include but are not limited to:

1. electronic ship simulation training;
2. small-scale ship simulation training;
3. VTS/VTIS simulator training;
4. bridge resource management training for pilots;
5. Pilot Portable Unit training;
6. any other course or program that the board deems appropriate.

D. It shall be the responsibility of the pilot to attend the professional education classes and programs approved by the board.

E. It shall be the responsibility of the pilot to file with the board proof that the pilot has attended the required professional education classes and programs.

F. Any pilot who fails to attend the required professional education classes or programs may be reprimanded, fined, and/or suspended until the pilot complies with this Section.

G. The board, for good cause shown, may grant a waiver or extend the time for a pilot to complete the continuing professional education requirement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:991(B)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of River Port Pilot Commissioners, LR 29:2072 (October 2003), amended LR 35:1885 (September 2009).

Chapter 36. Investigation, Competence, Complaints and Criminal Convictions

§3601. Marine Incident Investigation

A. Any pilot piloting a vessel involved or allegedly involved in a marine incident shall as soon as practical notify the board of the incident by telephone, however, said notice must occur within four hours of the incident.

B. The pilot shall provide the board a written report on the form provided by the board within two days after the marine incident was first reported.

C. The pilot shall make himself available to the board and cooperate with the board during the board's investigation of the marine incident.

D. The pilot shall provide the board a detailed written statement of the marine incident if requested by the board. The report shall be provided to the board with 10 days of the board's request. The board, in its discretion, may grant an extension.

E. A pilot failing to comply with these regulations may be reprimanded, fined and/or suspended.

F. After its investigation of the marine incident, the board may render a findings and conclusions. The findings and conclusions is solely and exclusively the opinion of the board relative to the conduct of the pilot and is not intended to be introduced as evidence in legal proceeding. Pursuant to R.S. 34:1005 all communications between the pilot and the

board are deemed confidential, and the findings and conclusions of the board shall not be deemed discoverable or relevant in any civil proceeding.

G. The board may, under the procedure herein set out, examine such cases of dereliction of duty of a pilot as come to their attention, and on the basis of such examination make recommendations to the governor relative to the pilot's commission. The pilot may elect to consent to such corrective or remedial steps as may be suggested by the board under the circumstances, waiving executive review. All violations of the regulations of any governmental agency by a pilot shall come within the purview of this Rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:991(B)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of River Port Pilot Commissioners, LR 29:2072 (October 2003), amended LR 35:1885 (September 2009).

§3603. Competence

A. Any pilot who has not performed his duties as a pilot for a period of 365 calendar days shall be required to report said absence to the board. Prior to returning to the duties and responsibilities of a pilot, the pilot must satisfy the return to duty requirements set forth by the board.

B. Any pilot or apprentice who for any reason becomes physically or mentally incompetent to perform the duties of a pilot is required to immediately notify the board of his condition.

C. The pilot is the absolute insurer of his state of mind, physical abilities, and overall well being.

D. Any pilot who lacks the competency to perform the duties of a pilot shall be suspended from performing the duties of a pilot pending a hearing.

E. Any pilot found to be incompetent may be evaluated and/or have his commission suspended or revoked.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:991(B)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of River Port Pilot Commissioners, LR 29:2072 (October 2003), amended LR 35:1886 (September 2009).

§3605. Complaints

A. Any person having cause to file a complaint against a pilot may file such complaint with the board.

B. The complaint may be sent to the board at its address.
Board of River Port Pilot Commissioners
P. O Box 7325
Metairie, LA 70010

C. The board shall investigate all complaints and take all appropriate action based on the nature of the complaint.

D. The board shall review all anonymous complaints and shall investigate and if necessary take appropriate action on complaints with merit in the board's discretion.

E. Any person wishing to make an anonymous complaint against a pilot may do so by calling the board at its telephone number or by forwarding an anonymous letter to the above address. The board's telephone number is (504) 218-7477.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:991(B)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of River Port Pilot Commissioners, LR 29:2072 (October 2003), amended LR 35:1886 (September 2009).

§3607. Criminal Convictions

A. Any pilot or apprentice convicted of the following must notify the board prior to returning to duty as a pilot:

1. a felony;
2. any offense in which the use of drugs or alcohol is involved.

B. The board shall conduct a hearing to review the competency of any pilot who has been convicted of any offense described in §3607.A, and the board, in its discretion, may find the pilot by virtue of the conviction incompetent to perform his pilot duties.

C. Any pilot or apprentice who fails to comply with these regulations may be reprimanded, fined, and/or suspended.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:991(B)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of River Port Pilot Commissioners, LR 29:2073 (October 2003), amended LR 35:1886 (September 2009).

Captain Jack Anderson
President

0909#042

RULE

Department of Health and Hospitals Board of Medical Examiners

Athletic Trainers—Certification
(LAC 46:XLV.Chapter 31)

Pursuant to the authority vested in the Louisiana State Board of Medical Examiners (the "board"), by the Louisiana Athletic Trainers Law, R.S. 37:3301-3312, the board's administrative rulemaking authority under the Louisiana Medical Practice Act, Rev. Stat. §§37:1261-1292, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the board amended its rules governing athletic trainers, LAC 46:XLV, Subpart 2, Chapter 31, §§3107, 3109, 3113, 3129, 3133, 3135, 3137, 3139, 3141, 3143, 3145, 3147, 3151, 3153 and 3162. The amendments are set forth below.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLV. Medical Professions

Subpart 2. Licensure and Certification

Chapter 31. Athletic Trainers

Subchapter B. Requirements and Qualifications for Certification

§3107. Requirements for Certification

A. - A.1 - 3.c ...

4. take and successfully pass the written and/or oral certification examination administered by the NATA or its successor;

5. ...

6. satisfy the procedures and requirements for application and examination provided by this Chapter; and

A.7. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1281 and 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:522 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:235 (February 2004), LR 35:1886 (September 2009).

§3109. Alternative Qualification

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:523 (August 1986), repealed by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:1887 (September 2009).

Subchapter C. Board Approval

§3113. Applicability of Approval

A. - C. ...

D. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:523 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:1887 (September 2009).

Subchapter D. Application

§3129. Application Procedure

A. ...

B. Application forms and instructions pertaining thereto may be obtained from the board.

C. An application for certification under this Chapter shall include:

1. proof, documented in a form satisfactory to the board, that the applicant possesses the qualifications for certification set forth in this Chapter; and

2. such other information and documentation as are referred to or specified in this Chapter, or as the board may require, to evidence qualification for certification.

D. The board may refuse to consider any application which is not complete in every detail, including submission of every document required by the application form. 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.

E. Each application submitted to the board shall be accompanied by the applicable fee, as provided in Chapter 1 of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1281 and 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:524 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 24:938 (May 1998), LR 30:235 (February 2004), LR 35:1887 (September 2009).

Subchapter F. Examination

§3133. Designation of Examination

A. The examination administered and accepted by the board pursuant to R.S. 37:3303.B is the National Athletic Trainers Association Certification Examination developed by the NATA and the Professional Examination Service, or their successor(s).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:524 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:1887 (September 2009).

§3135. Eligibility for Examination

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:524 (August 1986), repealed by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:1887 (September 2009).

§3137. Dates, Places of Examination

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:525 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 24:938 (May 1998), repealed LR 35:1887 (September 2009).

§3139. Administration of Examination

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:525 (August 1986), repealed by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:1887 (September 2009).

§3141. Subversion of Examination Process

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:525 (August 1986), repealed by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:1887 (September 2009).

§3143. Finding of Subversion

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:525 (August 1986), repealed by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:1887 (September 2009).

§3145. Sanctions for Subversion of Examination

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:525 (August 1986), repealed by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:1887 (September 2009).

§3147. Passing Score

A. An applicant will be deemed to have successfully passed the examination if he attains a score equivalent to that required by the NATA or its Professional Examination Service as a passing score; provided, however, that with respect to any given administration of the examination, the board may determine to accept a lower score as passing. Applicants for certification shall be required to authorize the NATA and the Professional Examination Service to release their testing scores to the board each time the applicant-examinee attempts the examination according to the procedures for such notification established by the NATA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:525 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:1887 (September 2009).

§3151. Lost, Stolen, or Destroyed Examinations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:526 (August 1986), repealed by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:1887 (September 2009).

Subchapter G. Certificate Issuance, Termination, Renewal, Reinstatement

§3153. Issuance of Certificate

A. If the qualifications, requirements, and procedures prescribed or incorporated by §3107 and §3129 are met to the satisfaction of the board, the board shall issue to the applicant a certificate evidencing the applicant's certification as a certified athletic trainer in the state of Louisiana.

B. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:526 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:1888 (September 2009).

§3162. Restricted Certificates

A. - F.1.a. ...

b. the permit holder is issued a certificate to practice athletic training pursuant to §3153 of this Chapter; or

c. the holder of a permit issued under §3162.F fails to appear for and take the certification examination for which he has registered.

F.2. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, 37:1270, 37:3301-3312 and 37:3303.A(4).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 28:830 (April 2002), amended LR 35:1888 (September 2009).

Robert L. Marier, M.D.
Executive Director

0909#056

RULE

**Department of Health and Hospitals
Board of Nursing**

**Criminal History Record Information
(LAC 46:XLVII.3330)**

The Louisiana State Board of Nursing amends LAC 46:XLVII.3330, Criminal History Record in accordance with R.S. 37:918, R.S. 37:919 and R.S. 37:920 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The amendment to LAC 46:XLVII.3330 extends the criteria pertaining to criminal history record. This revision is set forth due to the number of applicants whose fingerprints are returned from the Department of Public Safety as inadequate or unreadable, whereby the applicant or licensee must submit a second set of fingerprints and fees. Current rules provide that the processing of the license is not delayed awaiting these reports. This Rule will provide a basis by which the applicant or licensee may be denied licensure or renewal of said license issued pending the fingerprint results if the applicant or licensee fails to submit necessary information, fees and/or fingerprint.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS
Part XLVII. Nurses**

Subpart 2. Registered Nurses

Chapter 33. General

§3330. Criminal History Record Information

A. - I. ...

J. If the fingerprints are returned from the Department of Public Safety as inadequate or unreadable, the applicant, or licensee must submit a second set of fingerprints and fees, if applicable, for submission to the Department of Public Safety.

K. If the applicant or licensee fails to submit necessary information, fees, and or fingerprints, the applicant or licensee may be denied licensure on the basis of an incomplete application or, if licensed, denied renewal, until such time as the applicant or licensee submits the applicable documents and fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:920.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 26:1614 (August 2000), amended LR 30:2829 (December 2004), LR 35:1888 (September 2009).

Barbara L. Morvant, MN, RN
Executive Director

0909#035

RULE

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

**Ambulatory Surgical Centers—Reimbursement Rate
Reduction (LAC 50:XI.Chapter 75)**

The Department of Health and Hospitals, Bureau of Health Services Financing has repealed the April 20, 1977 Rule governing ambulatory surgical services and has adopted LAC 50:XI.Chapter 75 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950, et seq.

Title 50

**PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XI. Clinic Services**

Subpart 11. Ambulatory Surgical Centers

Chapter 75. Reimbursement

§7501. General Provisions

A. The services rendered by ambulatory surgical centers must be medically necessary preventive, diagnostic, therapeutic, rehabilitative or palliative services furnished to an outpatient by or under the direction of a physician or dentist in a facility which is not part of a hospital but which is organized and operated to provide medical care to patients.

B. This type of facility will not provide services or accommodations for patients to stay overnight. Therefore, the ambulatory surgical center shall have a system to transfer patients requiring emergency admittance or overnight care to

a fully licensed and certified Title XIX hospital following any surgical procedure performed at the facility.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1888 (September 2009).

§7503. Reimbursement Methodology

A. The reimbursement for surgical procedures performed in an ambulatory surgical center is a flat fee per service in accordance with the four payment groups established for ambulatory surgery services as specified on the Medicaid fee schedule.

1. The flat fee reimbursement is for facility charges only, which covers all operative functions associated with the performance of a medically necessary surgery including admission, patient history and physical, laboratory tests, operating room staffing, recovery room charges, all supplies related to the surgical care of the patient and discharge.

2. The flat fee excludes payments for the physician performing the surgery, the radiologist and the anesthesiologist when these professionals are not under contract with the ambulatory surgery center.

B. For those surgical procedures not included in the payment groupings on the Medicaid fee schedule, the reimbursement is the established flat fee for the service.

C. Effective for dates of service on or after February 26, 2009, the reimbursement for surgical services provided by an ambulatory surgical center shall be reduced by 3.5 percent of the rate in effect on February 25, 2009.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1889 (September 2009).

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

0909#075

RULE

Department of Health and Hospitals Bureau of Health Services Financing

Early and Periodic Screening, Diagnosis and Treatment
Dental Program Reimbursement Rate Increase
(LAC 50:XV.6903 and 6905)

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 50:XV.6903 and 6905 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 5. Early and Periodic Screening, Diagnosis and Treatment

Chapter 69. Dental Services

§6903. Covered Services

A. The dental services covered under the EPSDT Dental Program are organized in accordance with the following 11 categories:

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

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

3. restorative services which include amalgam restorations, composite restorations, stainless steel and polycarbonate crowns, pins, core build-ups, pre-fabricated posts and cores and unspecified restorative procedures;

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

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

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

7. maxillofacial prosthetics service, which is a fluoride gel carrier;

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

9. oral and maxillofacial surgery services which include non-surgical extractions, surgical extractions, other surgical procedures, alveoloplasty, surgical incision, temporomandibular joint (TMJ) procedure and other unspecified repair procedures;

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

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

B. Effective November 1, 2006, the following dental procedures are included in the service package for coverage under the EPSDT Dental Program:

1. prefabricated stainless steel crown with resin window; and

2. appliance removal (not by the dentist who placed the appliance), including removal of archbar.

C. Effective December 24, 2008, the following dental procedures are included in the service package for coverage under the EPSDT Dental Program:

1. resin-based composite restorations (1-4 or more surfaces), posterior; and

2. extraction, coronal remnants—deciduous tooth.

D. Effective December 24, 2008, the service limit of six root canals per lifetime is discontinued.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:175 (February 2003), amended LR 30:252 (February 2004), LR 31:667 (March 2005), LR 33:1138 (June 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1889 (September 2009).

§6905. Reimbursement

A. - A.2. ...

B. Effective for dates of service on and after December 24, 2008, the reimbursement fees for EPSDT dental services are increased to the following percentages of the 2008 National Dental Advisory Service Comprehensive Fee Report 70th percentile rate, unless otherwise stated in this Chapter. The reimbursement fees are increased to:

1. 80 percent for all oral examinations;
2. 75 percent for the following services:
 - a. radiograph—periapical and panoramic film;
 - b. prophylaxis;
 - c. topical application of fluoride or fluoride varnish;

and

d. removal of impacted tooth;

3. 70 percent for the following services:

- a. radiograph—complete series, occlusal film and bitewings;
- b. sealant, per tooth;
- c. space maintainer, fixed (unilateral or bilateral);
- d. amalgam, primary or permanent;
- e. resin-based composite and resin-based composite

crown, anterior;

- f. prefabricated stainless steel or resin crown;
- g. core buildup, including pins;
- h. pin retention;
- i. prefabricated post and core, in addition to crown;
- j. extraction or surgical removal of erupted tooth;
- k. removal of impacted tooth (soft tissue or partially

bony); and

l. palliative (emergency) treatment of dental pain;

and

m. surgical removal of residual tooth roots; and

4. 65 percent for the following dental services:

- a. oral/facial images;
- b. diagnostic casts;
- c. re-cementation of space maintainer or crown;
- d. removal of fixed space maintainer;
- e. all endodontic procedures except:
 - i. unspecified endodontic procedure, by report;
- f. all periodontic procedures except:
 - i. unspecified periodontal procedure, by report;
- g. fluoride gel carrier;
- h. all fixed prosthodontic procedures except:
 - i. unspecified fixed prosthodontic procedure, by

report;

i. tooth re-implantation and/or stabilization of accidentally evulsed or displaced tooth;

j. surgical access of an unerupted tooth;

k. biopsy of oral tissue;

l. transseptal fiberotomy/supra crestal fiberotomy;

m. alveoloplasty in conjunction with extractions;

n. incision and drainage of abscess;

o. occlusal orthotic device;

p. suture of recent small wounds;

q. frenulectomy;

r. fixed appliance therapy; and

s. all adjunctive general services except:

- i. palliative (emergency) treatment of dental pain, and
- ii. unspecified adjunctive procedure, by report.

C. The reimbursement fees for all other covered dental procedures shall remain at the rate on file as of December 23, 2008.

C.1. - NOTE Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:1138 (June 2007), amended LR 34:1032 (June 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1890 (September 2009).

Alan Levine
Secretary

0909#076

RULE

Department of Health and Hospitals Bureau of Health Services Financing

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

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 50:XI.6901 and 6903 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. 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 XI. Clinic Services

Subpart 9. End Stage Renal Disease Facilities

Chapter 69. Reimbursement

§6901. Non-Medicare Claims

A. For non-Medicare claims, end stage renal disease (ESRD) facilities are reimbursed a hemodialysis composite rate. The composite rate is a comprehensive payment for the complete hemodialysis treatment in which the facility assumes responsibility for providing all medically necessary routine dialysis services.

B. Covered non-routine dialysis services, continuous ambulatory peritoneal dialysis (CAPD), continuous cycling peritoneal dialysis (CCPD), epogen (EPO) and injectable drugs are reimbursed separately from the composite rate.

C. Effective for dates of service on or after February 26, 2009, the reimbursement to ESRD facilities shall be reduced by 3.5 percent of the rates in effect on February 25, 2009.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 30:1022 (May 2004), amended LR 35:1890 (September 2009).

§6903. Medicare Part B Claims

A. For Medicare Part B claims, ESRD facilities are reimbursed for full co-insurance and deductibles.

B. The Medicare payment plus the amount of the Medicaid payment (if any) shall be considered to be payment in full for the service. The recipient does not have any legal liability to make payment for the service.

C. Effective for dates of service on or after February 26, 2009, the reimbursement to ESRD facilities for Medicare Part B claims shall be reduced by 3.5 percent of the rates in effect on February 25, 2009.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1891 (September 2009).

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

0909#077

RULE

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

Estate Recovery—Long-Term Care Insurance Resource
Disregard (LAC 50:I.8103)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services has amended LAC 50:I.8103 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part I. Administration

Subpart 9. Recovery

Chapter 81. Estate Recovery

§8103. General Provisions

A. - E. ...

F. Recovery Exclusion. If an individual was insured under a qualifying long-term care insurance partnership policy and received Medicaid benefits as a result of resources being disregarded in the eligibility determination, the department shall not seek adjustment or recovery from the individual's estate for the amount of the resources disregarded.

1. The resource disregard is determined on a 1:1 ratio. For each \$1 of a qualifying long-term care insurance

partnership policy benefit, \$1 of countable resources is disregarded or excluded during the eligibility determination process.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:801 (April 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:1891 (September 2009).

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

0909#078

RULE

**Department of Health and Hospitals
Bureau of Health Services Financing
and
Office for Citizens with Developmental Disabilities**

Home and Community-Based Services Waivers
Children's Choice Money Follows the Person
Rebalancing Demonstration (LAC 50:XXI.Chapter 111)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities has amended LAC 50:XXI.Chapter 111 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

**Part XXI. Home and Community-Based Services
Waivers**

Subpart 9. Children's Choice

Chapter 111. General Provisions

§11101. Introduction

A. The Children's Choice (CC) Waiver is a home and community-based services (HCBS) program that offers supplemental support to children with developmental disabilities who currently live at home with their families, or who will leave an institution to return home.

1. - 3.e. Repealed.

B. The Children's Choice Waiver is an option offered to children on the Developmental Disabilities Request for Services Registry (DDRFSR) for the New Opportunities Waiver (NOW) Program. Families may choose to accept a Children's Choice waiver offer or remain on the request for services registry (RFSR).

C. Children's Choice Waiver participants are eligible for all medically necessary Medicaid services in addition to Children's Choice Waiver services.

D. The number of participants in the Children's Choice Waiver is contingent upon available funding.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 26:2793 (December 2000), repromulgated for LAC, LR 28:1983 (September 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 35:1891 (September 2009).

§11103. Recipient Qualifications

A. The Children's Choice Waiver is available to children who:

1. are from birth through age 18;
2. are on the Developmental Disabilities Request for Services Registry;
3. meet all of the financial and non-financial Medicaid eligibility criteria for home and community-based services (HCBS) waiver services:
 - a. income less than three times the Supplemental Security Income (SSI) amount for the child (excluding consideration of parental income);
 - b. resources less than the SSI resource limit of \$2,000 for a child (excluding consideration of parental resources);
 - c. SSI disability criteria;
 - d. intermediate care facility for the developmentally disabled (ICF/DD) level of care criteria; and
 - e. all other non-financial requirements such as citizenship, residence, Social Security number, etc.

B. The plan of care must be sufficient to assure the health and welfare of the waiver applicant/participant in order to be approved for waiver participation or continued participation.

C. Children who reach their nineteenth birthday while participating in the Children's Choice Waiver will transfer with their waiver opportunity to an HCBS waiver serving adults who meet the criteria for an ICF/DD level of care.

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

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

§11105. Money Follows the Person Rebalancing Demonstration

A. The Money Follows the Person (MFP) Rebalancing Demonstration is a federal demonstration program awarded by the Centers for Medicare and Medicaid Services to the Department. The demonstration is a transition program that targets individuals using qualified institutional services and moves them to home and community-based long-term care services.

1. For purposes of these provisions, a qualified institution is a hospital, nursing facility, or intermediate care facility for people with developmental disabilities.

B. Children must meet the following criteria for participation in the MFP Rebalancing Demonstration.

1. Children with a developmental disability must:
 - a. be from birth through 18 years of age;
 - b. occupy a licensed, approved and enrolled Medicaid nursing facility bed for at least six months or have been hospitalized in an acute care hospital for six months with referral for nursing facility placement; and

c. be Medicaid eligible, eligible for state developmental disability services and meet ICF/DD level of care.

2. The participant or his/her authorized representative must provide informed consent for both transition and participation in the demonstration.

C. Children who participate in the demonstration are not required to have a protected request date on the DDRFSR. Children who are under the age of three years old and are not on the DDRFSR will be added to the DDRFSR at the age of three, or older, with a protected date that is the date of their approval to participate.

D. Children's Choice Waiver opportunities created using the MFP methodology do not create a permanent funding shift. These opportunities shall be funded on an individual basis for the purpose of this demonstration program only.

E. All other Children's Choice Waiver provisions apply to the Money Follows the Person Rebalancing Demonstration.

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

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

§11107. Allocation of Waiver Opportunities

A. The order of entry in the Children's Choice Waiver is first come, first served from a statewide list arranged by date of application for the Developmental Disabilities Request for Services Registry for the New Opportunities Waiver, with the exception of the Money Follows the Person Rebalancing Demonstration waiver opportunities which are allocated to demonstration participants only.

1. Families shall be given a choice of accepting an opportunity in the Children's Choice Waiver or remaining on the DDRFSR for the NOW.

B. An additional 20 Children's Choice Waiver opportunities shall be created for the Money Follows the Person Rebalancing Demonstration Program and must only be filled by a demonstration participant. No alternate may utilize an MFP Rebalancing Demonstration opportunity.

1. The MFP Rebalancing Demonstration will stop allocation of opportunities on September 30, 2011.

a. In the event that an MFP Rebalancing Demonstration opportunity is vacated or closed before September 30, 2011, the opportunity will be returned to the MFP Rebalancing Demonstration pool and an offer will be made based upon the approved program guidelines.

b. In the event that an MFP Rebalancing Demonstration opportunity is vacated or closed after September 30, 2011, the opportunity will cease to exist.

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

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

Alan Levine
Secretary

0909#079

RULE

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

Home and Community-Based Services Waivers—Elderly
and Disabled Adults—Reimbursement Rate Reduction
(LAC 50:XXI.9101)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services has amended LAC 50:XXI.9101 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:950, et seq.

Title 50

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

Subpart 7. Elderly and Disabled Adults

Chapter 91. Reimbursement

§9101. Reimbursement Methodology

A. - B.8.d. ...

C. Effective for dates of service on or after February 1, 2009, the reimbursement rate for companion services shall be reduced by 3.5 percent of the rate on file as of January 31, 2009.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:251 (February 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:1893 (September 2009).

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

0909#109

RULE

**Department of Health and Hospitals
Bureau of Health Services Financing
and
Office for Citizens with Developmental Disabilities**

Home and Community-Based Services Waivers
New Opportunities Waiver—Reimbursement Rate
Reduction (LAC 50:XXI.14301)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with

Developmental Disabilities has amended LAC 50:XXI.14301 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

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

Subpart 11. New Opportunities Waiver

Chapter 143. Reimbursement

§14301. Reimbursement Methodology

A. - F.10.d. ...

G. Effective for dates of service on or after February 1, 2009, the reimbursement rate for certain services provided in the NOW Waiver shall be reduced by 3.5 percent of the rate in effect on January 31, 2009.

1. The reimbursement rates shall be reduced for the following services:

- a. individualized and family support services;
- b. center-based respite care;
- c. community integration development;
- d. residential habilitation-supported independent living;
- e. substitute family care;
- f. day habilitation;
- g. supported employment;
- h. employment-related training; and
- i. professional services.

2. The following services shall be excluded from the rate reduction:

- a. environmental accessibility adaptations;
- b. specialized medical equipment and supplies;
- c. personal emergency response systems (PERS);
- d. skilled nursing services; and
- e. one-time transitional expenses.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1209 (June 2004), amended by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 34:252 (February 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 35:1893 (September 2009).

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

0909#080

RULE

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

Home Health Program—Durable Medical
Equipment—Reimbursement Reduction
(LAC 50:XIII.103)

The Department of Health and Hospitals, Bureau of Health Services Financing has adopted LAC 50:XIII.103 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XIII. Home Health Program

Subpart 3. Medical Equipment, Supplies and Appliances

Chapter 103. Reimbursement Methodology

§10301. General Provisions

A. Unless otherwise stated in this Part XIII, the reimbursement for all medical equipment, supplies and appliances is established at:

1. 70 percent of the 2000 Medicare fee schedule for all procedure codes that were listed on the 2000 Medicare fee schedule and at the same amount for the Health Insurance Portability and Accountability Act (HIPAA) compliant codes which replaced them; or
2. 70 percent of the Medicare fee schedule under which the procedure code first appeared; or
3. 70 percent of the manufacturer's suggested retail price (MSRP) amount; or
4. billed charges, whichever is the lesser amount.

B. If an item is not available at the rate of 70 percent of the applicable established flat fee or 70 percent of the MSRP, the flat fee that will be utilized is the lowest cost at which the item has been determined to be widely available by analyzing usual and customary fees charged in the community.

C. Effective for dates of service on or after February 1, 2009, the reimbursement paid for the following medical equipment, supplies, appliances and repairs shall be reduced by 3.5 percent of the rate on file as of January 31, 2009:

1. ambulatory equipment;
2. bathroom equipment;
3. hospital beds, mattresses and related equipment; and
4. the cost for parts used in the repair of medical equipment, including the parts used in the repair of wheelchairs.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1894 (September 2009).

Alan Levine
Secretary

0909#081

RULE

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

Hospice—Payment for Long Term Care Residents
Reimbursement Rate Reduction
(LAC 50:XV.4307)

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 50:XV.4307 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 3. Hospice

Chapter 43. Reimbursement

§4307. Payment for Long Term Care Residents

A. Pursuant to Section 1902(a)(13)(B) of the Social Security Act, an additional amount will be paid to hospice providers for routine home care and continuous home care to take into account the room and board furnished by a long term care facility for a Medicaid recipient:

1. who is residing in a nursing facility or intermediate care facility for persons with developmental disabilities (ICF/DD);
2. who would be eligible under the state plan for nursing facility services or ICF/DD services if he or she had not elected to receive hospice care;
3. who has elected to receive hospice care; and
4. for whom the hospice agency and the nursing facility or ICF/DD have entered into a written agreement in accordance with the provisions set forth in the Licensing Standards for Hospice Agencies (LAC 48:I.Chapter 82), under which the hospice agency takes full responsibility for the professional management of the individual's hospice care and the facility agrees to provide room and board to the individual.

B. Under these circumstances, payment to the facility is discontinued and payment is made to the hospice provider which must then reimburse the facility for room and board.

C. The rate reimbursed to hospice providers shall be 95 percent of the per diem rate that would have been paid to the facility for the recipient if he/she had not elected to receive hospice services.

1. This rate is designed to cover "room and board" which includes performance of personal care services, including assistance in the activities of daily living, administration of medication, maintaining the cleanliness of the patient's environment, and supervision and assistance in the use of durable medical equipment and prescribed therapies.

2. This rate is in addition to the routine home care rate or the continuous home care rate.

D. Any patient liability income (PLI) determined by the bureau will be deducted from the additional payment. It is

the responsibility of the Medicaid enrolled facility to collect the recipient's PLI.

E. - F. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 19:749 (June 1993), amended LR 28:1471 (June 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1894 (September 2009).

Alan Levine
Secretary

0909#082

RULE

Department of Health and Hospitals Bureau of Health Services Financing

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

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 50:V.953, 955 and 959 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 1. Inpatient Hospitals

Chapter 9. Non-Rural, Non-State Hospitals

Subchapter B. Reimbursement Methodology

§953. Acute Care Hospitals

A. - B.3. ...

C. Effective for dates of service on or after February 20, 2009, the prospective per diem rate paid to acute care hospitals shall be reduced by 3.5 percent of the per diem rate on file as of February 19, 2009.

1. Payments to the following hospitals and/or specialty units for inpatient hospital services shall be exempted from these reductions:

a. small rural hospitals, as defined in R.S. 40:1300.143; and

b. high Medicaid hospitals, level III Regional Neonatal Intensive Care Units and level I Pediatric Intensive Care Units as defined in R.S. 46:979.

2. For the purposes of qualifying for the exemption to the reimbursement reduction as a high Medicaid hospital, the following conditions must be met.

a. The inpatient Medicaid days utilization rate for high Medicaid hospitals shall be calculated based on the cost report filed for the period ending in state fiscal year 2007 and received by the department prior to April 20, 2008.

b. Only Medicaid covered days for inpatient hospital services, which include newborn and distinct part psychiatric unit days, are included in this calculation.

c. Inpatient stays covered by Medicare Part A cannot be included in the determination of the Medicaid inpatient utilization days rate.

D. Effective for dates of service on or after February 20, 2009, the amount appropriated for quarterly supplemental payments to non-rural, non-state acute care hospitals that qualify as a high Medicaid hospital shall be reduced to \$4,925,000. Each qualifying hospital's quarterly supplemental payment shall be calculated based on the pro rata share of the reduced appropriation.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:876 (May 2008), LR 34:877 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1895 (September 2009).

§955. Long Term Hospitals

A. ...

B. For dates of service on or after February 20, 2009, the prospective per diem rate paid to long term hospitals for inpatient services shall be reduced by 3.5 percent of the rate on file as of February 19, 2009.

1. Payments for inpatient hospital services to high Medicaid hospitals classified as long term hospitals shall be exempted from these reductions.

2. For the purposes of qualifying for the exemption to the reimbursement reduction as a high Medicaid hospital, the following conditions must be met.

a. The inpatient Medicaid days utilization rate for high Medicaid hospitals shall be calculated based on the cost report filed for the period ending in state fiscal year 2007 and received by the department prior to April 20, 2008.

b. Only Medicaid covered days for inpatient hospital services, which include newborn and distinct part psychiatric unit days, are included in this calculation.

c. Inpatient stays covered by Medicare Part A cannot be included in the determination of the Medicaid inpatient utilization days rate.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:876 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1895 (September 2009).

§959. Inpatient Psychiatric Hospital Services

A. ...

B. Effective for dates of service on or after February 20, 2009, the prospective per diem rate paid to non-rural, non-state free-standing psychiatric hospitals and distinct part psychiatric units shall be reduced by 3.5 percent of the rate on file as of February 19, 2009.

1. Distinct part psychiatric units that operate within an acute care hospital that qualifies as a high Medicaid hospital, as defined in §953.C.2, are exempt from the rate reduction.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:876 (May 2008), amended by the

Alan Levine
Secretary

0909#083

RULE

Department of Health and Hospitals Bureau of Health Services Financing

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

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 50:V.953, 955, and 959 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 1. Inpatient Hospitals

Chapter 9. Non-Rural, Non-State Hospitals

Subchapter B. Reimbursement Methodology

§953. Acute Care Hospitals

A. - B.3. ...

C. Major Teaching Hospitals. Effective for dates of service on or after October 1, 2009, qualifying major teaching hospitals with current per diem rates that are less than 80 percent of the current peer group rate shall have their per diem rates adjusted to equal 80 percent of the current peer group rate.

D. Minor Teaching Hospitals. Effective for dates of service on or after October 1, 2009, qualifying minor teaching hospitals shall have their per diem rates adjusted to equal 103 percent of the current peer group rate.

E. Non-Teaching Hospitals

1. Effective for dates of service on or after October 1, 2009, qualifying non-teaching hospitals with less than 58 beds shall have their per diem rates adjusted to equal 103 percent of the current peer group rate.

2. Effective for dates of service on or after October 1, 2009, qualifying non-teaching hospitals with 58 through 138 beds shall have their per diem rates adjusted to equal 122 percent of the current peer group rate.

3. Effective for dates of service on or after October 1, 2009, qualifying non-teaching hospitals with more than 138 beds shall have their per diem rates adjusted to equal 103 percent of the current peer group rate.

F. Children's Hospitals. Effective for dates of service on or after October 1, 2009, qualifying children's specialty hospitals shall be classified according to the appropriate general peer group based on either their bed size or graduate

medical education programs in place as of October 1, 2008. The per diem rates for these hospitals shall be adjusted according to the payment rate criteria established for each peer group.

G. Neonatal Intensive Care Units (NICU)

1. Effective for dates of service on or after October 1, 2009, qualifying NICU Level III services with current per diem rates that are less than the NICU Level III specialty peer group rate shall have their per diem rates adjusted to equal 100 percent of the specialty group rate.

2. Effective for dates of service on or after October 1, 2009, qualifying NICU Level III regional services with current per diem rates that are less than 85 percent of the NICU Level III regional specialty group rate shall have their per diem rates adjusted to equal 85 percent of the specialty peer group rate.

H. Pediatric Intensive Care Unit (PICU)

1. Effective for dates of service on or after October 1, 2009, qualifying PICU Level I services with current per diem rates that are less than 77 percent of the PICU Level I specialty group rate shall have their per diem rates adjusted to equal 77 percent of the specialty peer group rate.

2. Effective for dates of service on or after October 1, 2009, qualifying PICU Level II services with current per diem rates that are less than the PICU Level II specialty group rate shall have their per diem rates adjusted to equal 100 percent of the specialty peer group rate.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:876 (May 2008), LR 34:877 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1896 (September 2009).

§955. Long Term Hospitals

A. ...

B. Effective for dates of service on or after October 1, 2009, the prospective peer group per diem rate paid to qualifying long term acute care hospitals for inpatient services other than psychiatric treatment shall be increased by 3 percent of the rate on file.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:876 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1896 (September 2009).

§959. Inpatient Psychiatric Hospital Services

A. ...

B. Effective for dates of service on or after October 1, 2009, the prospective per diem rate paid to private free-standing psychiatric hospitals and distinct part psychiatric units shall be increased by 3 percent of the rate on file.

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

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

Services Financing, LR 34:876 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1896 (September 2009).

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

0909#084

RULE

Department of Health and Hospitals Bureau of Health Services Financing

Intermediate Care Facilities for Persons with Developmental Disabilities—Leave of Absence Days—Reimbursement Rate Reduction (LAC 50:VII.32913)

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 50:VII.32913 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the Administrative Procedure Act, R. S. 49:950, et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part VII. Long Term Care

Subpart 3. Intermediate Care Facilities for Persons with Developmental Disabilities

Chapter 329. Reimbursement Methodology

Subchapter A. Non-State Facilities

§32913. Leave of Absence Days

A. The reimbursement to non-state ICF/DDs for hospital leave of absence days is 75 percent of the applicable per diem rate.

B. The reimbursement for leave of absence days is 100 percent of the applicable per diem rate.

1. A leave of absence is a temporary stay outside of the ICF/DD, for reasons other than for hospitalization, provided for in the recipient's written individual habilitation plan.

C. Effective for dates of service on or after February 20, 2009, the reimbursement to non-state ICF/DDs for leave of absence days is 75 percent of the applicable per diem rate on file as of February 19, 2009.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:2255 (September 2005), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1897 (September 2009).

Alan Levine
Secretary

0909#086

RULE

Department of Health and Hospitals Bureau of Health Services Financing

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

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 50:XIX.4329 and 4334-4337 in the Medical Assistance Program as authorized by R.S. 36:254, pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XIX. Other Services

Subpart 3. Laboratory and Radiology

Chapter 43. Billing and Reimbursement

Subchapter B. Reimbursement

§4329. Laboratory Services (Physicians and Independent Laboratories)

A. Providers should use the most appropriate Healthcare Common Procedure Coding System (HCPCS)/Current Procedural Terminology (CPT) code representing the service performed when submitting claims to Medicaid.

1. - 3. Repealed.

B. Guidelines indicated in the pertinent CPT manual are to be followed when billing for these services unless specifically directed otherwise by the department.

C. Limitations on select services are indicated on the published fee schedules and/or in provider manuals.

D. Reimbursement for clinical laboratory procedures shall not exceed 100 percent of the current year's Medicare allowable. Reimbursement of clinical laboratory services shall be paid at the lower of billed charges or the fee on file, minus the amount which any third party coverage would pay.

E. Those services not subject to the Medicare fee schedule shall continue to be reimbursed to physicians and independent laboratories based on the published Medicaid fee schedule or billed charges, whichever is lower.

F. Effective for dates of service on or after February 26, 2009, the reimbursement rates for laboratory services shall be reduced by 3.5 percent of the fee amounts on file as of February 25, 2009.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1025 (May 2002), amended LR 35:1897 (September 2009).

§4334. Radiology Services

A. Providers should use the most appropriate Healthcare Common Procedure Coding System (HCPCS)/Current Procedural Terminology (CPT) code representing the service performed when submitting claims to Medicaid.

RULE

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

**Medicaid Eligibility—Home and Community-Based
Services—Income Disregard
(LAC 50:III.10305)**

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 50:III.10305 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 III. Eligibility

Subpart 5. Financial Eligibility

Chapter 103. Income

§10305. Income Disregards

A. ...

B. During the eligibility determination process for home and community-based services, an individual shall be considered eligible under the Medicaid State Plan as though the individual was a resident in a nursing facility or intermediate care facility for persons with developmental disabilities (ICF/DD) and an income disregard shall be applied to gross income over the special income level.

1. The special income level used to determine financial eligibility for long-term care services (nursing facility, ICF/DD, and home and community-based services) is three times the Supplemental Security Income federal benefit rate.

2. Gross income may exceed the special income level but cannot be more than the highest Medicaid facility rate (nursing or ICF/DD, as applicable) in the state at the time of application for home and community-based services.

3. Income disregarded in the initial eligibility determination process will not be disregarded in the post-eligibility process for determining contributions toward the cost of care.

4. The personal care needs amount (the amount of income protected to cover the expense of living in the community) remains capped at the special income level.

5. All income over the special income level shall be contributed towards the cost of care.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1629 (August 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1898

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of

B. Guidelines indicated in the pertinent CPT manual are to be followed when billing for these services unless specifically directed otherwise by the department.

C. Limitations on select services are indicated on the published fee schedules and/or in provider manuals.

D. Reimbursement of radiology services shall be the lower of billed charges or the fee on file, minus the amount which any third party coverage would pay.

E. Effective for dates of service on or after February 26, 2009, the reimbursement rates for radiology services shall be reduced by 3.5 percent of the fee amounts on file as of February 25, 2009.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:1897 (September 2009).

§4335. Portable Radiology Services

A. Providers should use the most appropriate Healthcare Common Procedure Coding System (HCPCS)/Current Procedural Terminology (CPT) code representing the service performed when submitting claims to Medicaid.

B. Reimbursement of portable radiology services shall be the lower of billed charges or the fee on file, minus the amount which any third party coverage would pay.

C. Effective for dates of service on or after February 26, 2009, the reimbursement rates for portable radiology services shall be reduced by 3.5 percent of the fee amounts on file as of February 25, 2009.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 30:1026 (May 2004), amended LR 35:1898 (September 2009).

§4337. Radiation Therapy Centers

A. Radiation therapy centers are reimbursed fee for service according to the appropriate procedure code.

B. Reimbursement for radiation therapy center services shall be the lower of billed charges or the fee on file, minus the amount which any third party coverage would pay.

C. Effective for dates of service on or after February 26, 2009, the reimbursement rates for radiology services provided by radiation therapy centers shall be reduced by 3.5 percent of the fee amounts on file as of February 25, 2009.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1898 (September 2009).

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

0909#085

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

0909#088

RULE

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

Medicaid Eligibility—Long-Term Care Insurance
Resource Disregard (LAC 50:III.10705)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services has adopted LAC 50:III.10705 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 III. Eligibility

Subpart 5. Financial Eligibility

Chapter 107. Resources

§10705. Resource Disregards

A. In compliance with the Deficit Reduction Act, individuals who are insured under a long-term care insurance policy that meets the requirements of a "qualified state long-term care insurance partnership" policy shall receive a disregard of resources equal to the amount paid under the insurance policy.

1. The Medicaid Program shall accept the certification of the Louisiana Commissioner of Insurance that the long-term care policy meets the requirements of a "qualified long-term care insurance partnership" policy.

B. The resource disregard is determined on a 1:1 ratio. For each \$1 of a qualifying long-term care insurance partnership policy benefit amount paid, \$1 of countable resources is disregarded or excluded during the eligibility determination process.

1. The disregard is permitted at the time a recipient begins receiving benefits from a qualifying long-term care insurance partnership policy.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:1899 (September 2009).

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

0909#088

RULE

Department of Health and Hospitals Bureau of Health Services Financing

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

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 50:XV.901 in the Medical Assistance Program as authorized by R.S. 36:254, pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 1. Mental Health Rehabilitation

Chapter 9. Reimbursement

§901. Reimbursement Methodology

A. - B. ...

C. Effective for dates of service on or after February 1, 2009, the reimbursement rates for MHR services shall be reduced by 3.5 percent of the fee amounts on file as of January 31, 2009.

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

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

Alan Levine
Secretary

0909#103

RULE

Department of Health and Hospitals Bureau of Health Services Financing

Nursing Facilities—Leave of Absence Days
Reimbursement Reduction (LAC 50:VII.1321)

The Department of Health and Hospitals, Bureau of Health Services Financing has adopted LAC 50:VII.1321 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the Administrative Procedure Act, R. S. 49:950, et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part VII. Long Term Care Services

Subpart 1. Nursing Facilities

Chapter 13. Reimbursement

§1321. Leave of Absence Days

A. For each Medicaid recipient, nursing facilities shall be reimbursed for up to seven hospital leave of absence days per occurrence and 15 home leave of absence days per year.

B. The reimbursement for hospital leave of absence days is 75 percent of the applicable per diem rate.

C. Nursing facilities with occupancy rates less than 90 percent. Effective for dates of service on or after February 20, 2009, reimbursement for hospital and home leave of absence days will be reduced to 10 percent of the applicable per diem rate in addition to the nursing facility provider fee.

D. Nursing facilities with occupancy rates equal to or greater than 90 percent. Effective for dates of service on or after February 20, 2009, the reimbursement paid for home leave of absence days will be reduced to 90 percent of the applicable per diem rate, which includes the nursing facility provider fee.

1. Effective for dates of service on or after March 1, 2009, the reimbursement for hospital leave of absence days for nursing facilities with occupancy rates equal to or greater than 90 percent shall be 90 percent of the applicable per diem rate, which includes the nursing facility provider fee.

E. Occupancy percentages will be determined from the average annual occupancy rate as reflected in the Louisiana Inventory of Nursing Home Bed Utilization Report published from the period six months prior to the beginning of the current rate quarter. Occupancy percentages will be updated quarterly when new rates are loaded and shall be in effect for the entire quarter.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1899 (September 2009).

Alan Levine
Secretary

0909#090

RULE

Department of Health and Hospitals Bureau of Health Services Financing

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

The Department of Health and Hospitals, Bureau of Health Services Financing has adopted LAC 50:V.5313, §§5513, 5713, 5913 and to adopt §6115 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospitals

Subpart 5. Outpatient Hospitals

Chapter 53. Outpatient Surgery

Subchapter B. Reimbursement Methodology

§5313. Non-Rural, Non-State Hospitals

A. Effective for dates of service on or after February 20, 2009, the reimbursement paid to non-rural, non-state hospitals for outpatient surgery shall be reduced by 3.5 percent of the fee schedule on file as of February 19, 2009.

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

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

Chapter 55. Clinic Services

Subchapter B. Reimbursement Methodology

§5513. Non-Rural, Non-State Hospitals

A. Effective for dates of service on or after February 20, 2009, the reimbursement paid to non-rural, non-state hospitals for outpatient clinic services shall be reduced by 3.5 percent of the fee schedule on file as of February 19, 2009.

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

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

Chapter 57. Laboratory Services

Subchapter B. Reimbursement Methodology

§5713. Non-Rural, Non-State Hospitals

A. Effective for dates of service on or after February 20, 2009, the reimbursement paid to non-rural, non-state hospitals for outpatient laboratory services shall be reduced by 3.5 percent of the fee schedule on file as of February 19, 2009.

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

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

Chapter 59. Rehabilitation Services

Subchapter B. Reimbursement Methodology

§5913. Non-Rural, Non-State Hospitals

A. Effective for dates of service on or after February 20, 2009, the reimbursement paid to non-rural, non-state hospitals for outpatient rehabilitation services provided to recipients over the age of three years shall be reduced by 3.5 percent of the fee schedule on file as of February 19, 2009.

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

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

Chapter 61. Other Outpatient Hospital Services

Subchapter B. Reimbursement Methodology

§6115. Non-Rural, Non-State Hospitals

A. Effective for dates of service on or after February 20, 2009, the reimbursement paid to non-rural, non-state hospitals for outpatient hospital services other than clinical diagnostic laboratory services, outpatient surgeries, rehabilitation services and outpatient hospital facility fees shall be reduced by 3.5 percent of the rates effective as of February 19, 2009. Final reimbursement shall be at 83.18 percent of allowable cost through the cost settlement process.

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

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

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

0909#091

RULE

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

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

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services has amended LAC 50:XV.12917 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 19. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 9. Personal Care Services

Chapter 129. Long Term Care

§12917. Reimbursement Methodology

A. - C.3. ...

D. Effective for dates of service on or after February 1, 2009, the reimbursement rate for long term personal care services shall be reduced by 3.5 percent of the rate on file as of January 31, 2009.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:913 (June 2003), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:253 (February 2008), LR 34:2581 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:1901 (September 2009).

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

0909#092

RULE

Department of Health and Hospitals Bureau of Health Services Financing

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

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 50:XXIX.113 under 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 XXIX. Pharmacy

Chapter 1. General Provisions

§113. Prescription Limit

A. Effective May 1, 2009, the Department of Health and Hospitals will pay for a maximum of five prescriptions per calendar month for Medicaid recipients.

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

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

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

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

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

E. Printed statements without the prescribing practitioner's signature, check-off boxes or stamped signatures are not acceptable documentation.

F. An acceptable statement and ICD-9-CM are required for each prescription in excess of five for that month.

G. Pharmacists and prescribers are required to maintain documentation to support the override of a prescription limitation.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1055 (June 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1901 (September 2009).

Alan Levine
Secretary

0909#093

RULE

Department of Health and Hospitals Bureau of Health Services Financing

Pregnant Women Extended Services Dental Services—Reimbursement Rate Increase (LAC 50:XV.16105 and 16107)

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 50:XV.16105 and §16107 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 13. Pregnant Women Extended Services

Chapter 161. Dental Services

§16105. Covered Services

A. - B ...

C. Effective January 6, 2009, the following dental procedures are included in the service package for dental services provided to Medicaid eligible pregnant women:

1. resin-based composite restorations (1-4 or more surfaces), posterior; and
2. extraction, coronal remnants—deciduous tooth.

AUTHORITY NOTE: Promulgated in 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, amended LR 34:442 (March 2008), LR 34:1419 (July 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1902 (September 2009).

§16107. Reimbursement

A. Dental services covered under Pregnant Women Extended Services shall be reimbursed at the lower of either:

1. the dentist's billed charges minus any third party coverage; or
2. 65 percent of the 2007 National Dental Advisory Service Comprehensive Fee Report 70th percentile rate minus any third party coverage.

B. Effective for dates of service on and after January 6, 2009, the reimbursement fees for certain dental services are increased to the following percentages of the 2008 National Dental Advisory Service Comprehensive Fee Report 70th percentile rate, unless otherwise stated in this Chapter. These designated reimbursement fees are increased to:

1. 75 percent for the following services:
 - a. radiograph—periapical and panoramic film; and
 - b. prophylaxis;
2. 70 percent for the following services:
 - a. radiograph—occlusal film;
 - b. amalgam (1-4 or more surfaces), primary or permanent;
 - c. resin-based composite anterior and posterior;
 - d. resin-based composite crown, anterior;
 - e. prefabricated stainless steel or resin crown;
 - f. pin retention;
 - g. extraction of erupted tooth or exposed root;
 - h. surgical removal of erupted tooth and removal of bone and/or section of tooth; and
 - i. removal of impacted tooth (soft tissue or partially bony);
3. 65 percent for the following dental services:
 - a. periodontal scaling and root planing;
 - b. full mouth debridement; and
 - c. extraction, coronal remnants—deciduous tooth.

C. The reimbursement fees for all other covered dental procedures shall remain at the rate on file as of January 5, 2009.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:434 (March 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1902 (September 2009).

Alan Levine
Secretary

0909#094

RULE

Department of Health and Hospitals Bureau of Health Services Financing

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

The Department of Health and Hospitals, Bureau of Health Services Financing has adopted LAC 50:IX.15111 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:950, et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part IX. Professional Services Program

Subpart 15. Reimbursement

Chapter 151. Reimbursement Methodology

§15111. Anesthesia Services

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

B. Formula-Based Reimbursement. Reimbursement is based on formulas related to 100 percent of the 2003 Medicare Region 99 payable.

C. Flat Fee Reimbursement

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

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

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

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

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

Implementation of the provisions of this Rule may be contingent upon 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

0909#096

RULE

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

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

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 50:XVII.501 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XVII. Prosthetics and Orthotics

Subpart 1. General Provisions

Chapter 5. Reimbursement

§501. Reimbursement Methodology

A. - B. ...

C. Effective for dates of service on or after March 7, 2009, the reimbursement for prosthetic and orthotic devices shall be reduced by 3.5 percent of the fee amounts on file as of March 6, 2009.

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1597 (July 2005), amended LR 34:881 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1903 (September 2009).

Alan Levine
Secretary

0909#095

RULE

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

**Targeted Case Management—Reimbursement Rate
Reduction (LAC 50:XV.10701)**

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 50: XV.10701 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the Administrative Procedure Act, R. S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 7. Targeted Case Management

Chapter 107. Reimbursement

§10701. Reimbursement

A. - D. ...

E. Effective for dates of service on or after February 1, 2009, the reimbursement for case management services provided to the following targeted populations shall be reduced by 3.5 percent of the rates on file as of January 31, 2009:

1. participants in the Nurse Family Partnership Program;

2. individuals with developmental disabilities who are participants in the New Opportunities Waiver; and

3. individuals with disabilities resulting from HIV.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 30:1040 (May 2004), amended LR 31:2032 (August 2005), amended LR 35:73 (January 2009), amended LR 35:1903 (September 2009).

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

0909#097

RULE

Department of Public Safety and Corrections State Uniform Construction Code Council

State Uniform Construction Code—International Mechanical Code (LAC 55:VI.301)

In accordance with the provisions of Act 12 of the 2005 First Extraordinary Session, R.S. 40:1730.22(C) and (D) and R.S. 40:1730.34(B) relative to the authority of the Louisiana State Uniform Construction Code Council to promulgate and enforce rules, the Louisiana State Uniform Construction Code Council hereby amends Chapter 3 to amend the International Mechanical Code (IMC) by replacing Sections 403.1 through 403.7 of the 2006 edition with Sections 403.1 through 403.7 of the 2007 Supplement to the IMC, and adopts the 2008 edition of the National Electrical Code which will become effective January 1, 2010.

Title 55

PUBLIC SAFETY

Part VI. Uniform Construction Code

Chapter 3. Adoption of the Louisiana State Uniform Construction Code

§301. Louisiana State Uniform Construction Code

A. - A.3.b.i.(b). ...

4. International Mechanical Code, 2006 Edition, and the standards referenced in that code for regulation within this state. Furthermore, IMC Section 403.1 through Section 403.7 of the IMC shall be amended to include the following:

Section 403.1 Change to read as shown: (M44-06/07)

403.1 Ventilation system. Mechanical ventilation shall be provided by a method of supply air and return or exhaust air. The amount of supply air shall be approximately equal to the amount of return and exhaust air. The system shall not be prohibited from producing negative or positive pressure. The system to convey ventilation air shall be designed and installed in accordance with Chapter 6.

Section 403.2 Change to read as shown: (M44-06/07)

403.2 Outdoor air required. The minimum outdoor airflow rate shall be determined in accordance with Section 403.3. Ventilation supply systems shall be designed to deliver the required rate of outdoor airflow to the breathing zone within each occupiable space.

Exception: Where the registered design professional demonstrates that an engineered ventilation system design will prevent the maximum concentration of contaminants from exceeding that obtainable by the rate of outdoor air ventilation determined in accordance with Section 403.3, the minimum required rate of outdoor air shall be reduced in accordance with such engineered system design.

Section 403.2.1 Change to read as shown: (M44-06/07)

403.2.1 Recirculation of air. The outdoor air required by Section 403.3 shall not be recirculated. Air in excess of that required by Section 403.3 shall not be prohibited from being recirculated as a component of supply air to building spaces, except that:

1. Ventilation air shall not be recirculated from one dwelling to another or to dissimilar occupancies.
2. Supply air to a swimming pool and associated deck areas shall not be recirculated unless such air is dehumidified to maintain the relative humidity of the area at 60 percent or less. Air from this area shall not be recirculated to other spaces where 10 percent or more of the resulting supply airstream consists of air recirculated from these spaces.
3. Where mechanical exhaust is required by Note b in Table 403.3, recirculation of air from such spaces shall be prohibited. All air supplied to

such spaces shall be exhausted, including any air in excess of that required by Table 403.3.

4. Where mechanical exhaust is required by Note h in Table 403.3, mechanical exhaust is required and recirculation is prohibited where 10 percent or more of the resulting supply airstream consists of air recirculated from these spaces.

Section 403.2.2 Change to read as shown: (M44-06/07)

403.2.2 Transfer air. Except where recirculation from such spaces is prohibited by Table 403.3, air transferred from occupiable spaces is not prohibited from serving as makeup air for required exhaust systems in such spaces as kitchens, baths, toilet rooms, elevators and smoking lounges. The amount of transfer air and exhaust air shall be sufficient to provide the flow rates as specified in Section 403.3. The required outdoor airflow rates specified in Table 403.3 shall be introduced directly into such spaces or into the occupied spaces from which air is transferred or a combination of both.

Section 403.3 Change to read as shown: (M44-06/07)

403.3 Outdoor airflow rate. Ventilation systems shall be designed to have the capacity to supply the minimum outdoor airflow rate determined in accordance with this section. The occupant load utilized for design of the ventilation system shall not be less than the number determined from the estimated maximum occupant load rate indicated in Table 403.3. Ventilation rates for occupancies not represented in Table 403.3 shall be those for a listed occupancy classification that is most similar in terms of occupant density, activities and building construction; or shall be determined by an approved engineering analysis. The ventilation system shall be designed to supply the required rate of ventilation air continuously during the period the building is occupied, except as otherwise stated in other provisions of the code.

With the exception of smoking lounges, the ventilation rates in Table 403.3 are based on the absence of smoking in occupiable spaces. Where smoking is anticipated in a space other than a smoking lounge, the ventilation system serving the space shall be designed to provide ventilation over and above that required by Table 403.3 in accordance with accepted engineering practice.

Exception: The occupant load is not required to be determined, based on the estimated maximum occupant load rate indicated in Table 403.3 where approved statistical data document the accuracy of an alternate anticipated occupant density.

Section 403.3.1 "System operation" Relocated to Section 403.5: (M44-06/07)

Section 403.3.1 Add new section to read as shown: (M44-06/07)

403.3.1 Zone outdoor airflow. The minimum outdoor airflow required to be supplied to each zone shall be determined as a function of occupancy classification and space air distribution effectiveness in accordance with Sections 403.3.1.1 through 403.3.1.3.

Sections 403.3.1.1, 403.3.1.2, Table 403.3.1.2, Section 403.3.1.3 Add new sections and new table to read as shown: (M44-06/07)

403.3.1.1 Breathing zone outdoor airflow. The outdoor airflow rate required in the breathing zone (Vbz) of the occupiable space or spaces in a zone shall be determined in accordance with Equation 4-1.

$$Vbz = RpPz + RaAz \quad (\text{Equation 4-1})$$

where:

Az = zone floor area: the net occupiable floor area of the space or spaces in the zone.

Pz = zone population: the number of people in the space or spaces in the zone.

Rp = people outdoor air rate: the outdoor airflow rate required per person from Table 403.3

Ra = area outdoor air rate: the outdoor airflow rate required per unit area from Table 403.3

403.3.1.2 Zone air distribution effectiveness. The zone air distribution effectiveness (E_z) shall be determined using Table 403.3.1.2.

Table 403.3.1.2 Zone Air Distribution Effectiveness

Air Distribution Configuration	E_z
Ceiling or floor supply of cool air	1.0f
Ceiling or floor supply of warm air and floor return	1.0
Ceiling supply of warm air and ceiling return	0.8g
Floor supply of warm air and ceiling return	0.7
Makeup air drawn in on the opposite side of the room from the exhaust and/or return	0.8
Makeup air drawn in near to the exhaust and/or return location	0.5

For SI: 1 foot = 304.8 mm, 1 foot per minute = 0.00506 m/s, $C = [(F) - 32]/1.8$.

- a. "Cool air" is air cooler than space temperature.
- b. "Warm air" is air warmer than space temperature.
- c. "Ceiling" includes any point above the breathing zone.
- d. "Floor" includes any point below the breathing zone.
- e. "Makeup air" is air supplied or transferred to a zone to replace air removed from the zone by exhaust or return systems.
- f. Zone air distribution effectiveness of 1.2 shall be permitted for systems with a floor supply of cool air and ceiling return, provided that low-velocity displacement ventilation achieves unidirectional flow and thermal stratification.
- g. Zone air distribution effectiveness of 1.0 shall be permitted for systems with a ceiling supply of warm air, provided that supply air temperature is less than 15° F above space temperature and provided that the 150 foot-per-minute supply air jet reaches to within 4.5 feet of floor level.

403.3.1.3 Zone outdoor airflow. The zone outdoor airflow rate (V_{oz}), shall be determined in accordance with Equation 4-2.

$$V_{oz} = V_{bz}/E_z \text{ (Equation 4-2)}$$

Section 403.3.2 Change to read as shown: (M44-06/07)

403.3.2 System outdoor airflow. The outdoor air required to be supplied by each ventilation system shall be determined in accordance with Sections 403.3.2.1 through 403.2.3 as a function of system type and zone outdoor airflow rates.

Sections 403.3.2.1, 403.3.2.2, 403.3.2.3, 403.3.2.3.1, 403.3.2.3.2, Table 403.3.2.3.2, Sections 403.3.2.3.3, 403.3.2.3.4 Add new sections and table to read as shown: (M44-06/07)

403.3.2.1 Single zone systems. Where one air handler supplies a mixture of outdoor air and recirculated return air to only one zone, the system outdoor air intake flow rate (V_{ot}) shall be determined in accordance with Equation 4-3.

$$V_{ot} = V_{oz} \text{ (Equation 4-3)}$$

403.3.2.2 100-percent outdoor air systems. Where one air handler supplies only outdoor air to one or more zones, the system outdoor air intake flow rate (V_{ot}) shall be determined using Equation 4-4.

$$V_{ot} = \sum \text{all zones } V_{oz} \text{ (Equation 4-4)}$$

403.3.2.3 Multiple zone recirculating systems. Where one air handler supplies a mixture of outdoor air and recirculated return air to more than

one zone, the system outdoor air intake flow rate (V_{ot}) shall be determined in accordance with Sections 403.3.2.3.1 through 403.3.2.3.5.

403.3.2.3.1 Primary Outdoor Air Fraction. The primary outdoor air fraction (Z_p) shall be determined for each zone in accordance with Equation 4-5.

$$Z_p = V_{oz}/V_{pz} \text{ (Equation 4-5)}$$

where:

V_{pz} = Primary airflow: The airflow rate supplied to the zone from the air-handling unit at which the outdoor air intake is located. It includes outdoor intake air and recirculated air from that air-handling unit but does not include air transferred or air recirculated to the zone by other means. For design purposes, V_{pz} shall be the zone design primary airflow rate, except for zones with variable air volume supply and V_{pz} shall be the lowest expected primary airflow rate to the zone when it is fully occupied.

403.3.2.3.2 System ventilation efficiency. The system ventilation efficiency (E_v) shall be determined using Table 403.3.2.3.2 or Appendix A of ASHRAE 62.1.

Table 403.3.2.3.2 System Ventilation Efficiency

$Max(Z_p)$	E_v
□ 0.15	1.0
□ 0.25	0.9
□ 0.35	0.8
□ 0.45	0.7
□ 0.55	0.6
□ 0.65	0.5
□ 0.75	0.4
> 0.75	0.3

a. $Max(Z_p)$ is the largest value of Z_p calculated using Equation 4-5 among all the zones served by the system.

b. Interpolating between table values shall be permitted.

403.3.2.3.3 Uncorrected outdoor air intake. The uncorrected outdoor air intake flow rate (V_{ou}) shall be determined in accordance with Equation 4-7.

$$V_{ou} = D \sum \text{all zones } R_p P_z + \sum \text{all zones } R_a A_z \text{ (Equation 4-7)}$$

where:

D = Occupant diversity: the ratio of the system population to the sum of the zone populations, determined in accordance with Equation 4-8.

$$D = P_s / \sum \text{all zones } P_z \text{ (Equation 4-8)}$$

where:

P_s = System population: The total number of occupants in the area served by the system. For design purposes, P_s shall be the maximum number of occupants expected to be concurrently in all zones served by the system.

403.3.2.3.4 Outdoor air intake flow rate. The outdoor air intake flow rate (V_{ot}) shall be determined in accordance with Equation 4-9.

$$V_{ot} = V_{ou}/E_v \text{ (Equation 4-9)}$$

Section 403.3.3 "Variable air volume system control" Relocated to Section 403.6: (M44-06/07) Section 403.3.4 "Balancing" Relocated to Section 403.7: (M44-06/07)

Table 403.3 Change table to read as shown: (M44-06/07, M48-06/07)

Table 403.3 Minimum Ventilation Rates

Occupancy Classification	People Outdoor Airflow Rate in Breathing Zone Cfm/person	Area Outdoor Airflow Rate In Breathing Zone Ra Cfm/ft2a	Default Occupant Density #/1000 ft2a	Exhaust Airflow Rate Cfm/ft2a
Correctional facilities				
Cells				
without plumbing fixtures	5	0.12	25	-
with plumbing fixtures _g	5	0.12	25	1.0
Dining halls (See Food and Beverage Service)	-	-	-	-
Guard stations	5	0.06	15	-
Day room	5	0.06	30	-
Booking/waiting	7.5	0.06	50	-
Dry Cleaners, laundries				
Coin-operated dry cleaner	15	-	20	-
Coin-operated laundries	7.5	0.06	20	-
Commercial dry cleaner	30	-	30	-
Commercial laundry	25	-	10	-
Storage, pick up	7.5	.12	30	-
Education				
Auditoriums	5	0.06	150	-
Corridors (See Public Spaces)	-	-	-	-
Media center	10	0.12	25	-
Sports locker rooms _g	-	-	-	0.5
Music/theater/dance	10	0.06	35	-
Smoking lounges _b	60	-	70	-
Daycare (through age 4)	10	0.18	25	-
Classrooms (ages 5-8)	10	0.12	25	-
Classrooms (age 9 plus)	10	0.12	35	-
Lecture classroom	7.5	0.06	65	-
Lecture hall (fixed seats)	7.5	0.06	150	-
Art classroom _g	10	0.18	20	0.7
Science laboratories _g	10	0.18	25	1.0
Wood/metal shops _g	10	0.18	20	0.5
Computer lab	10	0.12	25	-
Multi-use assembly	7.5	0.06	100	-
Locker/dressing rooms _g	-	-	-	0.25
Food and beverage service				
Bars, cocktail lounges	7.5	0.18	100	-
Cafeteria, fast food	7.5	0.18	100	-
Dining rooms	7.5	0.18	70	-
Kitchens (cooking) _b	-	-	-	0.7
Hospitals, nursing and convalescent homes				
Autopsy rooms _b		-	-	0.5
Medical procedure rooms	15	-	20	-
Operating rooms	30	-	20	-
Patient rooms	25	-	10	-
Physical therapy	15	-	20	-
Recovery and ICU	15	-	20	-
Hotels, motels, resorts and dormitories				
Multi-purpose assembly	5	0.06	120	-
Bathrooms/Toilet – private _g	-	-	-	f25/50
Bedroom/living room	5	0.06	10	-
Conference/meeting	5	0.06	50	-
Dormitory sleeping areas	5	0.06	20	-
Gambling casinos	7.5	0.18	120	-
Lobbies/pre-function	7.5	0.06	30	-
Offices				
Conference rooms	5	0.06	50	-
Office spaces	5	0.06	5	-
Reception areas	5	0.06	30	-
Telephone/data entry	5	0.06	60	-
Main entry lobbies	5	0.06	10	-

Occupancy Classification	People Outdoor Airflow Rate in Breathing Zone Cfm/person	Area Outdoor Airflow Rate In Breathing Zone Ra Cfm/ft2a	Default Occupant Density #/1000 ft2a	Exhaust Airflow Rate Cfm/ft2a
Private dwellings, single and multiple Garages, common for multiple units _b Garages, separate for each dwelling _b Kitchens _b Living areas _c	- - - 0.35 ACH but not less than 15 cfm/person	- - - -	- - - Based upon number of bedrooms. first bedroom 2; each additional bedroom: 1	0.75 100 cfm per car 25/100f -
Toilet rooms and bathrooms _g	-	-	-	20/50f
Public spaces Corridors Elevator car Shower room (per shower head) _g Smoking lounges _b Toilet rooms – public _g Places of religious worship Courtrooms Legislative chambers Libraries Museums (children's) Museums/galleries	- - - 60 - 5 5 5 5 7.5 7.5	0.06 - - - - 0.06 0.06 0.06 0.12 0.12 0.06	- - - 70 - 120 70 50 10 40 40	- 1.0 50/20f - 50/70e
Retail stores, sales floors and showroom floors Sales (except as below) Dressing rooms Mall common areas Shipping and receiving Smoking lounges _b Storage rooms Warehouses (See Storage)	7.5 - 7.5 - 60 - -	0.12 - 0.06 0.12 - 0.12 -	15 - 40 - 70 - -	- 0.25 - - - -
Specialty shops Automotive motor-fuel dispensing stations _b Barber Beauty and nail salons _{b,i} Embalming room _b Pet shops (animal areas) _b Supermarkets	- 7.5 20 - 7.5 7.5	- 0.06 0.12 - 0.18 0.06	- 25 25 - 10 8	1.5 0.5 0.6 2.0 0.9 -
Sports and amusement Disco/dance floors Bowling alleys (seating areas) Game arcades Ice arenas without combustion engines Gym, stadium, arena (play area) Spectator areas Swimming pools (pool and deck area) Health club/aerobics room Health club/weight room	20 10 7.5 - - 7.5 - 20 20	0.06 0.12 0.18 0.30 0.30 0.06 0.48 0.06 0.06	100 40 20 - - 150 - 40 10	- - - 0.5 - - - - -
Storage Repair garages, enclosed parking garages _{b,d} Warehouses	- -	- 0.06	- -	0.75 -
Theaters Auditoriums (See Education) Lobbies Stages, studios Ticket booths	- 5 10 5	- 0.06 0.06 0.06	- 150 70 60	- - - -
Transportation Platforms Transportation waiting	7.5 7.5	0.06 0.06	100 100	- -
Workrooms Bank vaults/safe deposit Darkrooms Copy, printing rooms Meat processing _c Pharmacy (prep. area) Photo studios Computer (without printing)	5 - 5 15 5 5 5	0.06 - 0.06 - 0.18 0.12 0.06	5 - 4 10 10 10 4	1.0 0.5 - - - - -

For SI: 1 cubic foot per minute = 0.0004719 m³/s, 1 ton = 908 kg,

1 cubic foot per minute per square foot = 0.00508 m³/(s m²),

C = [(F) -32]/1.8, 1 square foot = 0.0929 m².

- a. Based upon net occupiable floor area
- b. Mechanical exhaust required and the recirculation of air from such spaces is prohibited (see Section 403.2.1, Item 3).
- c. Spaces unheated or maintained below 50° F are not covered by these requirements unless the occupancy is continuous.
- d. Ventilation systems in enclosed parking garages shall comply with Section 404.
- e. Rates are per water closet or urinal. The higher rate shall be provided where periods of heavy use are expected to occur, such as, toilets in theaters, schools, and sports facilities. The lower rate shall be permitted where periods of heavy use are not expected.
- f. Rates are per room unless otherwise indicated. The higher rate shall be provided where the exhaust system is designed to operate intermittently. The lower rate shall be permitted where the exhaust system is designed to operate continuously during normal hours of use.
- g. Mechanical exhaust is required and recirculation is prohibited except that recirculation shall be permitted where the resulting supply airstream consists of not more than 10 percent air recirculated from these spaces (see Section 403.2.1, Items 2 and 4).
- h. For nail salons, the required exhaust shall include ventilation tables or other systems that capture the contaminants and odors at their source and are capable of exhausting a minimum of 50 cfm per station.

Section 403.4 Add new section to read as shown: (M44-06/07)

403.4 Exhaust Ventilation. Exhaust airflow rate shall be provided in accordance with the requirements in Table 403.3. Exhaust makeup air shall be permitted to be any combination of outdoor air, recirculated air and transfer air, except as limited in accordance with Section 403.2.

Section 403.5 Relocated from Section 403.3.1 with no change to current text: (M44-06/07)

Section 403.6 Relocated from 403.3.3 and changed to read as shown: (M44-06/07)

403.6 Variable air volume system control. Variable air volume air distribution systems, other than those designed to supply only 100-percent outdoor air, shall be provided with controls to regulate the flow of outdoor air. Such control system shall be designed to maintain the flow rate of outdoor air at a rate of not less than that required by Section 403.3 over the entire range of supply air operating rates.

Section 403.7 Relocated from Section 403.3.4 and changed to read as shown: (M44-06/07)

403.7 Balancing. The ventilation air distribution system shall be provided with means to adjust the system to achieve at least the minimum ventilation airflow rate as required by Sections 403.3 and 403.4. Ventilation systems shall be balanced by an approved method. Such balancing shall verify that the ventilation system is capable of supplying and exhausting the airflow rates required by Sections 403.3 and 403.4.

5. - 6. ...

7. National Electric Code, 2008 Edition. This Code is to become effective on January 1, 2010.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D) and 40:1730. 26 (1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:292 (February 2007), amended LR 34:93 (January 2008), LR 34:883 (May 2008), LR34:2205 (October 2008), LR 35:1904 (September 2009).

Denise Jobe
Administrator

0909#011

RULE

Department of Transportation and Development Professional Engineering and Land Surveying Board

Committees, Examination, Licensure, Seal, and Signature
(LAC 46:LXI.105, 707, 909, 1301, 1315, and 2701)

Under the authority of the Louisiana Professional Engineering and Land Surveying Licensure Law, R.S. 37:681 et seq., and in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana Professional Engineering and Land Surveying Board has amended its rules contained in LAC 46:LXI.Chapters 1 through 33.

The amendment is primarily a technical housekeeping revision of existing board rules.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXI. Professional Engineers and Land Surveyors Chapter 1. General Provisions

§105. Definitions

A. The words and phrases defined in R.S. 37:682 shall apply to these rules. In addition, the following words and phrases shall have the following meanings, unless the content of the rules clearly states otherwise.

* * *

Signature—handwritten or digital as follows:

- a. a handwritten message identification containing the name of the person who applied it; or
- b. a digital representation of a person's handwritten signature.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Surveyors, LR 4:298 (August 1978), amended LR 5:110 (May 1979), LR 7:643 (December 1981), LR 14:449 (July 1988), LR 16:772 (September 1990), LR 17:804 (August 1991), LR 20:901 (August 1994), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1020 (July 2001), LR 30:1704 (August 2004), LR 32:1618 (September 2006), LR 35:1908 (September 2009).

Chapter 7. Bylaws

§707. Board Organization

A. - D.4 ...

E. Committees. The board may establish standing committees, including but not limited to the following: Executive Committee, Civil Engineering Committee, Other Disciplines Engineering Committee, Land Surveying Committee, Engineer Intern Committee, Liaison and Law Review Committee, Education/Accreditation Committee, Finance Committee, Nominations and Awards Committee, Complaint Review Committees, Continuing Professional Development Committee, and Architect-Engineer Liaison Committee. The board may also establish ad hoc committees from time to time as necessary.

1. - 9. ...

10. Complaint Review Committees. Complaint review committees may be composed of two standing members (the executive secretary or deputy executive secretary and the board attorney) and up to three board members appointed on a case-by-case basis. It shall be the responsibility of each committee to review the results of investigations against licensees, certificate holders and unlicensed persons and recommend appropriate action to the board.

11. - 12. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:52 (February 1976), amended LR 5:110 (May 1979), LR 11:1179 (December 1985), LR 19:54 (January 1993), LR 21:1353 (December 1995), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1024 (July 2001), LR 30:1707 (August 2004), LR 33:2788 (December 2007), LR 35:1908 (September 2009).

Chapter 9. Requirements for Certification and Licensure of Individuals and Temporary Permit to Practice Engineering

§909. Land Surveyor Licensure

A. The requirements for licensure as a professional land surveyor under the two alternatives provided in the licensure law are as follows:

1. ...

2. the applicant shall be an individual who holds a valid license to engage in the practice of land surveying issued to him/her by the proper authority of a state, territory, or possession of the United States, or the District of Columbia, based on requirements that do not conflict with the provisions of the licensure law, and which were of a standard not lower than that specified in the applicable licensure law in effect in Louisiana at the time such license was issued, who is of good character and reputation, who has passed a written examination on the fundamentals of land surveying, principles and practice of land surveying and Louisiana laws of land surveying, who has submitted an application for licensure in accordance with the requirements of R.S. 37:694, and if the state, territory, or possession, or the District of Columbia in which he/she is licensed will accept the licenses issued by the board on a comity basis, and who was duly licensed as a professional land surveyor by the board.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:244 (August 1976), amended LR 2:352 (November 1976), LR 5:114 (May 1979), LR 6:735 (December 1980), LR 7:645 (December 1981), LR 11:362 (April 1985), LR 16:773 (September 1990), LR 19:56 (January 1993), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1029 (July 2001), LR 30:1713 (August 2004), LR 32:1619 (September 2006), LR 35:1909 (September 2009).

Chapter 13. Examinations

§1301. General

A. - B. ...

C. Timely filing of an application with the board does not assure that an applicant will be permitted to take an examination, or be scheduled for examination on a particular date. Effective until January 1, 2010 and ending with the April 2010 exam administration, to be considered for a specific examination date, the application should be received at the board office no later than the following number of days prior to a particular examination scheduled by the board: fundamentals of engineering, 150 days; fundamentals of land surveying, 150 days; principles and practice of engineering, 150 days; principles and practice of land surveying and the Louisiana laws of land surveying, 180 days. Effective January 1, 2010 and beginning with the October 2010 exam administration, to be considered for a specific examination date, the application for the following examinations should be received at the board office no later than January 1 for the April examination administration and July 1 for the October examination administration: fundamentals of engineering; fundamentals of land surveying; principles and practice of engineering; principles and practice of land surveying; and Louisiana laws of land surveying.

D. - F.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:113 (May 1979), amended LR 7:647 (December 1981), LR 11:363 (April 1985), LR 16:774 (September 1990), LR 19:57 (January 1993), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1030 (July 2001), LR 30:1714 (August 2004), LR 35:1909 (September 2009).

§1315. Re-Examinations

A. ...

B. After an individual has failed an examination in any and all jurisdictions for the third time, he/she is not eligible to apply to retake the examination for the next two consecutive test cycles. If an individual has failed an examination in any and all jurisdictions five or more times, following each successive failed examination he/she is not eligible to apply to retake the examination for the next two consecutive test cycles and must successfully complete a review course approved by the board prior to reapplying.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:353 (November 1976), amended LR 4:516 (December 1978), LR 5:114 (May 1979), LR 7:647 (December 1981), LR 12:692 (October 1986), LR 16:774 (September 1990), LR 19:57 (January 1993), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1031 (July 2001), LR 30:1715 (August 2004), LR 32:1620 (September 2006), LR 35:1909 (September 2009).

Chapter 27. Use of Seals
§2701. Seal and Signature

A. The following rules for the use of seals to identify work performed by a professional engineer or professional land surveyor shall be binding on every licensee.

1. - 1.a.ii. ...
2. Seal Design and Signature Requirements
 - a. - d. ...
 - e. Computer generated seals of the same design and size may be used.
 - f. A seal must always be accompanied by the licensee's signature and date. The signature and date must be placed adjacent to or across the seal.

* * *

3. - 4.c.i.(e). ...
5. Electronic Transmission
 - a. Drawings, specifications, plans, reports or other documents which require a seal may be transmitted electronically provided the seal, signature and date of the licensee is transmitted in a secure mode that precludes the seal, signature and date being produced or modified.
 - b. Originally-sealed drawings, specifications, plans, reports or other documents which no longer require a seal may be transmitted electronically but shall have the generated seal, if any, removed before transmitting and shall have the following inserted in lieu of the signature and date:

"This document originally issued and sealed by (name of licensee and license number) on (date of sealing). This document should not be considered a certified document."

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:696.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 8:192 (April 1982), amended LR 12:692 (October 1986), LR 16:774 (September 1990), LR 17:273 (March 1991), LR 19:58 (January 1993), LR 22:287 (April 1996), LR 23:869 (July 1997), amended by the Louisiana Legislature, House Concurrent Resolution Number 2 of the 1998 First Extraordinary Session, LR 24:1207 (June 1998), repromulgated by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 25:1525 (August 1999), amended LR 27:1039 (July 2001), LR 30:1723 (August 2004), LR 33:2789 (December 2007), LR 34:2415 (November 2008), LR 35:1910 (September 2009).

Donna D. Sentell
Executive Secretary

0909#027

RULE

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Deer Management Assistance Program (LAC 76:V.111)

The Wildlife and Fisheries Commission hereby amends the rules and regulations for participation in the Deer Management Assistance Program.

Title 76

WILDLIFE AND FISHERIES

Part V. Wild Quadrupeds and Wild Birds

Chapter 1. Wild Quadrupeds

§111. Rules and Regulations for Participation in the Deer Management Assistance Program

A. The following rules and regulations shall govern the Deer Management Assistance Program.

1. Application Procedure
 - a. Application for enrollment of a new cooperator in the Deer Management Assistance Program (DMAP) must be submitted to the Department of Wildlife and Fisheries by August 1. Application for the renewal enrollment of an active cooperator must be submitted to the Department of Wildlife and Fisheries annually by September 1.

- b. Each application for a new cooperator must be accompanied by a legal description of lands to be enrolled and a map of the property. Renewal applications must be accompanied by a legal description and map only if the boundaries of the enrolled property have changed from records on file from the previous hunting season. This information will remain on file in the appropriate regional office. The applicant must have under lease or otherwise control a minimum of 500 acres of contiguous deer habitat of which up to 250 acres may be agricultural lands, provided the remainder is in forest and/or marsh. Private lands within Wildlife Management Area boundaries shall be enrolled in DMAP regardless of size.

- c. Each cooperator will be assessed a \$25 enrollment fee and \$0.05/acre for participation in the program. DMAP fees must be paid by invoice to the Department of Wildlife and Fisheries Fiscal Section prior to September 15.

- d. An agreement must be completed and signed by the official representative of the cooperator and submitted to the appropriate regional wildlife office for approval. This agreement must be completed and signed annually.

- e. Boundaries of lands enrolled in DMAP shall be clearly marked and posted with DMAP signs in compliance with R.S. 56:110 and the provisions of R.S. 56:110 are only applicable to property enrolled in DMAP. DMAP signs shall be removed if the land is no longer enrolled in DMAP. Rules and regulations for compliance with R.S. 56:110 are as follows.

- i. The color of DMAP signs shall be orange. The words DMAP and Posted shall be printed on the sign in letters no less than 4 inches in height. Signs may be constructed of any material and minimum size is 11 1/4" x 11 1/4".

- ii. Signs will be placed at 1,000 foot intervals around the entire boundary of the property and at every entry point onto the property.

- f. By enrolling in the DMAP, cooperators agree to allow department personnel access to their lands for management surveys, investigation of violations and other inspections deemed appropriate by the department. The person listed on the DMAP application as the contact person will serve as the liaison between the DMAP Cooperator and the department.

g. Each cooperator that enrolls in DMAP is strongly encouraged to provide keys or lock combinations annually to the Enforcement Division of the Department of Wildlife and Fisheries for access to main entrances of the DMAP property. Provision of keys is voluntary. However, the cooperator's compliance will ensure that DMAP enrolled properties will be properly and regularly patrolled.

h. Large landowners (>10,000 acres) may further act as cooperators and enroll additional non-contiguous tracts of land deemed sub-cooperators. Sub-cooperators shall be defined by the large landowner lease agreements. Non-contiguous sub-cooperator lands enrolled by large landowners will have the legal description and a map included for those parcels enrolled as sub-cooperators. Sub-cooperators shall be subject to the same requirements, rules and regulations as cooperators. The \$25 enrollment fee will be waived for sub-cooperators when the sub-cooperator land is included in the cooperator's enrollment acreage.

2. Tags

a. A fixed number of special tags will be provided by the department to each cooperator/sub-cooperator in DMAP to affix to deer taken as authorized by the program. These tags shall be used only on DMAP lands for which the tags were issued.

b. All antlerless deer (and antlered deer if special antlered tags are issued) taken shall be tagged, including those taken during archery and primitive firearms seasons, and on either-sex days of gun season.

c. Each hunter must have a tag in his possession while hunting on DMAP land in order to harvest an antlerless (or an antlered deer if special antlered tags are issued) deer. The tag shall be attached through the hock in such a manner that it cannot be removed before the deer is transported. The DMAP tag will remain with the deer so long as the deer is kept in the camp or field, is in route to the domicile of its possessor, or until it has been stored at the domicile of its possessor, or divided at a cold storage facility and has become identifiable as food rather than as wild game. The DMAP number shall be recorded on the possession tag of the deer or any part of the animal when divided and properly tagged.

d. Antlerless deer harvested on property enrolled in DMAP do not count in the daily or season bag limit for hunters.

e. Special antlered deer tags may be issued on property enrolled in DMAP to increase the antlered deer harvest if a Regional or Deer Program biologist deems it necessary for herd health or habitat management purposes. DMAP tagged antlered deer will not count in the daily or season bag limits.

f. All unused tags shall be returned by March 1 to the regional wildlife office which issued the tags.

3. Records

a. Cooperators/sub-cooperators are responsible for keeping accurate records on forms provided by the department for all deer harvested on lands enrolled in the program. Mandatory information includes tag number, sex of deer, date of kill, name of person taking the deer, hunting license number (transaction number, authorization number,

lifetime number or date of birth for under 16 and over 59 years of age) and biological data (age, weight, antler measurements, lactation) as deemed essential by the Department of Wildlife and Fisheries Deer Section. Biological data collection must meet quality standards established by the Deer Section. Documentation of mandatory information shall be kept daily by the cooperator/sub-cooperator. Additional information may be requested depending on management goals of the cooperator/sub-cooperator.

b. Information on deer harvested shall be submitted by March 1 to the regional wildlife office handling the particular cooperator/sub-cooperator.

c. The contact person shall provide this documentation of harvested deer to the department upon request. Cooperators/sub-cooperators who do not have a field camp will be given 48 hours to provide this requested documentation.

B. Suspension and Cancellation of DMAP Cooperators/Sub-Cooperators

1. Failure of the cooperator/sub-cooperator to follow these rules and regulations may result in suspension and cancellation of the program on those lands involved. Failure to make a good faith attempt to follow harvest recommendations may also result in suspension and cancellation of the program.

a. Suspension of cooperator/sub-cooperator from DMAP. Suspension of the cooperator/sub-cooperator from DMAP, including forfeiture of unused tags, will occur immediately for any misuse of tags, failure to tag any antlerless deer, or failure to submit records to the department for examination in a timely fashion. Suspension of the cooperator/sub-cooperator, including forfeiture of unused tags, may also occur immediately if other DMAP rules or wildlife regulations are violated. Upon suspension of the cooperator/sub-cooperator from DMAP, the contact person may request a Department of Wildlife and Fisheries hearing within 10 working days to appeal said suspension. Cooperation by the DMAP cooperator/sub-cooperator with the investigation of the violation will be taken into account by the department when considering cancellation of the program following a suspension for any of the above listed reasons. The cooperator/sub-cooperator may be allowed to continue with the program on a probational status if, in the judgement of the department, the facts relevant to a suspension do not warrant cancellation.

b. Cancellation of cooperator/sub-cooperator from DMAP. Cancellation of a cooperator/sub-cooperator from DMAP may occur following a guilty plea or conviction for a DMAP rule or regulation violation by any individual or member hunting on the land enrolled in DMAP. The cooperator/sub-cooperator may not be allowed to participate in DMAP for one year following the cancellation for such guilty pleas or conviction. Upon cancellation of the cooperator/sub-cooperator from DMAP, the contact person may request an administrative hearing within 10 working days to appeal said cancellation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 17:204 (February 1991), amended LR 25:1656 (September 1999), LR 26:2011 (September 2000), LR 30:2496 (November 2004), LR 34:1427 (July 2008), LR 35:1910 (September 2009).

Robert J. Barham
Secretary

0909#013

RULE

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

Special Residential Facility Fishing Permit (LAC 76:I.337)

The Wildlife and Fisheries Commission does hereby establish a special permit to persons who reside at publicly-operated residential psychiatric facilities.

Title 76

WILDLIFE AND FISHERIES

**Part I. Wildlife and Fisheries Commission
and Agencies Thereunder**

Chapter 3. Special Powers and Duties

Subchapter I. Special Licenses and License Fee Waivers

**§337. Special Permits: Publicly-Operated Residential
Psychiatric Facilities**

A. In lieu of a license which authorizes a person to take and possess freshwater fish for recreational purposes, the

department may issue a Special Residential Facility Fishing Permit for the benefit of persons who reside at publicly-operated residential psychiatric facilities.

1. Special Residential Facility Fishing Permits shall be issued annually and will be exempt from license fees.

2. Anyone fishing under a Special Residential Facility Fishing Permit must do so only on the grounds of the facility.

3. All Special Residential Facility Fishing Permits shall be issued from the Baton Rouge Headquarters location.

4. To qualify for a Special Residential Facility Fishing Permit, the qualifying facility must submit to the Department of Wildlife and Fisheries a completed application form for the Special Residential Facility Fishing Permit(s).

5. The permit shall be in the name of the facility, and shall entitle all residential patients of the facility to fish on the grounds of the facility for a period of one year from date of issuance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:302.2.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 35:1912 (September 2009).

Robert J. Barham
Secretary

0909#014

Notices of Intent

NOTICE OF INTENT

Department of Agriculture and Forestry Board of Animal Health

Chronic Wasting Disease in Deer (LAC 7:XXI.1515 and 2103)

In accordance with the Administrative Procedures Act, R.S. 49:950 et seq., and with the enabling statutes, R.S. 3:2093, 3:2095, and 3:2097, the Louisiana Board of Animal Health proposes to adopt regulations to impose additional health requirements for the transport or movement of deer through or into this state.

Chronic Wasting Disease (CWD) infects deer and elk herds in several states and in the Canadian province of Saskatchewan. The disease affects animals of the family Cervidae, such as elk, black-tailed deer, mule deer, red deer and white-tailed deer. CWD is a neurodegenerative disease that is related to other spongiform encephalopathies such as Bovine Spongiform Encephalopathy, (Mad Cow Disease), in cattle and Scrapie in sheep. There is no known cure for CWD, which appears to have a one hundred percent mortality rate. The means by which CWD is transmitted is not known at this time, although animal to animal contact appears to be a transmittal method. The disease is very resistant and may be able to live outside an animal for an extended period of time. Although CWD appears to be limited to deer and elk, and is not known to be capable of being transmitted to cattle or other livestock, the disease is so poorly understood that it may pose a risk to other livestock.

In 2001, the United States Department of Agriculture declared a state of emergency in regard to CWD. Other states, such as Texas and Florida, have prohibited the importation of deer and elk. The cost of monitoring and controlling CWD has reached or exceeded \$1,000,000 in some states.

This state has approximately 400 alternative livestock farms that raise imported exotic deer and antelope, elk, and farm-raised white-tailed deer. The alternative livestock industry in Louisiana is growing and is becoming an important part of the Louisiana agricultural industry. The alternative livestock industry generates an economic impact in Louisiana of over \$30,000,000 annually.

For these reasons CWD presents a peril to the public health, safety and welfare, as well as a peril to Louisiana's livestock and wild deer. As a result of this peril, the Louisiana Board of Animal Health, by adoption of these regulations, is exercising its plenary power to deal with contagious and infectious diseases of animals to prevent the introduction of CWD into Louisiana.

Title 7

AGRICULTURE AND ANIMALS

Part XXI. Diseases of Animals

Chapter 15. Alternative Livestock—Imported Exotic Deer and Imported Exotic Antelope, Elk and Farm-Raised White-Tailed Deer

§1515. Health Certificates and Health Requirements

A. Prior to entering Louisiana, all alternative livestock, except those being transported directly to a state or federally approved slaughter facility shall:

1. meet the health requirements promulgated in §107 and §2103 of this Part;

2. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:282 (February 1998), amended LR 24:1675 (September 1998), amended by the Department of Agriculture and Forestry, Board of Animal Health, LR 35:

Chapter 21. Wild Animals and Wildlife in Captivity

§2103. Chronic Wasting Disease; Requirements

Governing Admission of Deer

A. In order to prevent the introduction of Chronic Wasting Disease (CWD) in deer into this state, elk, black-tailed deer, mule deer, red deer, white-tailed deer, and any imported exotic deer as defined in LAC 7:XXI.1503 (collectively referred to in this Section as "deer") shall not be admitted into or transported through this state without the specific written authorization of the commissioner or his designee.

B. To obtain the specific written authorization to admit or transport deer into or through this state, a person must provide to the commissioner through the state veterinarian the following documentation or information as to each animal being admitted or transported.

1. A written request stating the number and type of deer to be admitted or transported, the origin of the deer, the destination of the deer, any stops made or anticipated to be made between the origination point and the final destination, the name and address of the requestor, the name and address of the owner of the deer and the reason for the admission or transportation of the deer.

2. Certification that each deer:

a. is from a herd that has participated in a recognized CWD surveillance and monitoring program for at least 36 months from states in which CWD has not been diagnosed, or is from a herd that has participated in a recognized CWD surveillance and monitoring program for at least 60 months from states in which CWD has been diagnosed; and

b. does not come from a herd that is within 25 miles of a herd in which CWD has been diagnosed within the previous 60 months, and does not come from a herd that is within 50 miles from the location in which CWD has been diagnosed within the previous 60 months in the free ranging population of deer; and

c. has been in the herd of origin for at least 60 months, or has been in the herd of origin for its entire life if younger than 60 months of age, or has originated from a monitored herd of equal status.

3. A certificate of veterinary inspection issued within the preceding 30 days.

4. A permit number obtained from the Louisiana Office of Animal Health Services by the veterinarian issuing the certificate of veterinary inspection.

C. The health requirements for admission of deer into this state under this Section are in addition to the health requirements for admission found in LAC 7:XXI.107, 7:XXI.1515, and 7:XXI.2101.

D. Deer that are moved or transported out of this state shall not be admitted back into or transported through this state without the specific written authorization of the commissioner or his designee and shall not be admitted into this state without meeting the health requirements for admission, as provided in this Section.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Board of Animal Health, LR 35:

Family Impact Statement

The impact of the proposed action regarding the rules and regulations set out in the Notice of Intent on family formation, stability, and autonomy has been considered. It is estimated that the proposed action will have no significant effect on the:

1. stability of the family;
2. authority and rights of parents regarding the education and supervision of their children;
3. functioning of the family;
4. family earnings and family budget;
5. behavior and personal responsibility of children; or
6. ability of the family or a local government to perform the function as contained in the proposed Rule.

Small Business Statement

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed rule on small businesses.

Interested persons may submit written comments, data, opinions, and arguments, whether for, against, or regarding these proposed regulations. Written submissions are to be directed to Dr. Brent Robbins, Deputy Commissioner of the Department of Agriculture and Forestry, 5825 Florida Boulevard, Baton Rouge, LA 70806 and must be received no

later than 4 p.m. on the 26th day of October, 2009. No preamble regarding these proposed regulations is available.

Mike Strain, DVM
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Chronic Wasting Disease in Deer

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is estimated that there will be no implementation costs or savings to any such unit. The proposed administrative rule imposes a quarantine on the movement of deer into the state that was originally adopted on April 30, 2002 by the Livestock Sanitary Board, now the Louisiana Board of Animal Health. The adopted quarantine requires authorization from the commissioner of agriculture and forestry or his designee of the importation of white-tailed deer, imported exotic deer and other types of deer. The rule is intended to help prevent the introduction of Chronic Wasting Disease (CWD) and to prevent the loss of wild and farm-raised deer in Louisiana. Due to the proposed administrative rule mirroring the April 30, 2002 adopted quarantine, this rule merely codifies current practice.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is estimated that there will be no effect on the revenue collections of any such unit.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

It is estimated that there will be no effect on the costs to such persons or groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is estimated that there will be no effect on competition and employment.

Craig Gannuch
Assistant Commissioner
0909#058

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Agriculture and Forestry Office of the Commissioner

Family Farm Credit (LAC 7:III.301-337)

In accordance with the Administrative Procedures Act, R.S. 49:950 et seq., and with R.S. 3:3, the commissioner of agriculture and forestry is intending on changing the name of Part III and repealing the Family Farm Credit Program regulations. The change of the name of Part III allows all regulations regarding agricultural finance programs to be in the same Part, thereby making it easier for the public to find these regulations. The Family Farm Credit Program regulations are to be repealed because the enabling statutes have been repealed and the Family Farm Credit Program abolished.

The Louisiana Family Farm Credit Program was enacted by the Legislature by Act 427 of 1980 as Chapter 3-A of

Title 3 of the Revised Statutes of 1950 (R.S. 3:251-259). The Family Farm Credit Program regulations were promulgated in May of 1981. The Louisiana Family Farm Credit Program was repealed by §8 of Act 662 of 1989. The regulations for the Family Farm Credit Program are, therefore, being repealed.

Title 7
Agriculture and Animals
Part III. Agricultural Finance

Chapter 3. Reserved

§301. Definitions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:252 and R.S. 3:253, repealed in accordance with R.S. 3:3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Family Farm Council, LR 7:254 (May 1981), amended LR 7:623 (December 1981), repealed by the Department of Agriculture and Forestry, Office of the Commissioner, LR 36:

§303. Applicant Eligibility Requirements

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:255 and R.S. 3:253, repealed in accordance with R.S. 3:3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Family Farm Council, LR 7:255 (May 1981), repealed by the Department of Agriculture and Forestry, Office of the Commissioner, LR 36:

§305. Conditions for Approval of Loan Guarantee

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:257 and R.S. 3:253, repealed in accordance with R.S. 3:3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Family Farm Council, LR 7:255 (May 1981), amended LR 7:623 (December 1981), repealed by the Department of Agriculture and Forestry, Office of the Commissioner, LR 36:

§307. Conditions for Approval of Interest Payment Adjustments

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:257 and R.S. 3:253, repealed in accordance with R.S. 3:3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Family Farm Council, LR 7:255 (May 1981), amended LR 7:623 (December 1981), repealed by the Department of Agriculture and Forestry, Office of the Commissioner, LR 36:

§309. Time and Manner of Filing Application

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:256, R.S. 3:255 and R.S. 3:253, repealed in accordance with R.S. 3:3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Family Farm Council, LR 7:255 (May 1981), repealed by the Department of Agriculture and Forestry, Office of the Commissioner, LR 36:

§311. Contents of the Application

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:253 and R.S. 3:256, repealed in accordance with R.S. 3:3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Family Farm Council, LR 7:255 (May 1981), repealed by the Department of Agriculture and Forestry, Office of the Commissioner, LR 36:

§313. Appraisal Requirements

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:253, repealed in accordance with R.S. 3:3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Family Farm Council, LR 7:256 (May 1981), amended LR 7:623 (December 1981), repealed by the Department of Agriculture and Forestry, Office of the Commissioner, LR 36:

§315. Title Opinion Requirements

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:253, repealed in accordance with R.S. 3:3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Family Farm Council, LR 7:257 (May 1981), amended LR 7:623 (December 1981), repealed by the Department of Agriculture and Forestry, Office of the Commissioner, LR 36:

§317. Council Procedures for Initial Approval/Denial of Application for Loan Guarantee/Interest Payment Adjustment; Notification

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:253 and R.S. 3:256, repealed in accordance with R.S. 3:3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Family Farm Council, LR 7:257 (May 1981), repealed by the Department of Agriculture and Forestry, Office of the Commissioner, LR 36:

§319. Re-Application; Review of Determination

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:253 and R.S. 3:256, repealed in accordance with R.S. 3:3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Family Farm Council, LR 7:258 (May 1981), repealed by the Department of Agriculture and Forestry, Office of the Commissioner, LR 36:

§321. Conditions for Execution of Family Farm Loan Guarantee Agreement

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:253, R.S. 3:256 and R.S. 3:257, repealed in accordance with R.S. 3:3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Family Farm Council, LR 7:258 (May 1981), amended LR 7:623 (December 1981), repealed by the Department of Agriculture and Forestry, Office of the Commissioner, LR 36:

§323. Conditions for Execution of Interest Payment Adjustment Agreement

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:257 and R.S. 3:253, repealed in accordance with R.S. 3:3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Family Farm Council, LR 7:258 (May 1981), amended LR 7:623 (December 1981), repealed by the Department of Agriculture and Forestry, Office of the Commissioner, LR 36:

§325. Annual Determination of Eligibility for Interest Payment Adjustment

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:257 and R.S. 3:253, repealed in accordance with R.S. 3:3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Family Farm Council, LR 7:258 (May 1981), repealed by the Department of Agriculture and Forestry, Office of the Commissioner, LR 36:

§327. Repayment of Interest Payment Adjustment; Renewal of Interest Payment Adjustment Agreement

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:257 and R.S. 3:253, repealed in accordance with R.S. 3:3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Family Farm Council, LR 7:258 (May 1981), amended LR 7:624 (December 1981), repealed by the Department of Agriculture and Forestry, Office of the Commissioner, LR 36:

§329. Default for Failure to Farm Lands Purchased with Family Farm Security Loan

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:256 and R.S. 3:253, repealed in accordance with R.S. 3:3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Family Farm Council, LR 7:259 (May 1981), repealed by the Department of Agriculture and Forestry, Office of the Commissioner, LR 36:

§331. Procedure upon Default for Non-Payment

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:256 and R.S. 3:253, repealed in accordance with R.S. 3:3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Family Farm Council, LR 7:259 (May 1981), repealed by the Department of Agriculture and Forestry, Office of the Commissioner, LR 36:

§333. Transfer of Property Secured under a Family Farm Loan Guarantee Agreement

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:259 and R.S. 3:253, repealed in accordance with R.S. 3:3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Family Farm Council, LR 7:259 (May 1981), repealed by the Department of Agriculture and Forestry, Office of the Commissioner, LR 36:

§335. Prohibitions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:253, R.S. 3:255, R.S. 3:256 and R.S. 3:257, repealed in accordance with R.S. 3:3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Family Farm Council, LR 7:259 (May 1981), amended LR 7:624 (December 1981), repealed by the Department of Agriculture and Forestry, Office of the Commissioner, LR 36:

§337. Effective Date

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:253, repealed in accordance with R.S. 3:3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Family Farm Council, LR 7:260 (May 1981), repealed by the Department of Agriculture and Forestry, Office of the Commissioner, LR 36:

Family Impact Statement

The impact of the proposed action regarding the rules and regulations set out in the Notice of Intent on family formation, stability, and autonomy has been considered. It is estimated that the proposed action will have no significant effect on the (1) stability of the family, (2) authority and rights of parents regarding the education and supervision of their children, (3) functioning of the family, (4) family earnings and family budget, (5) behavior and personal responsibility of children, or (6) ability of the family or a local government to perform the function as contained in the proposed rule.

Small Business Statement

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been

considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed rule on small businesses.

Interested persons may submit written comments, data, opinions, and arguments, whether for, against, or regarding these proposed regulations. Written submissions are to be directed to Marvin Montgomery, General Counsel, Department of Agriculture and Forestry, 5825 Florida Boulevard, Baton Rouge, LA 70806 and must be received no later than 4:00 p.m. on the 26th day of October, 2009. No preamble regarding these proposed regulations is available.

Mike Strain, DVM
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Family Farm Credit**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that there will be no implementation costs or savings to any such unit.

The change of the name of Part III of Title 7 from "Agricultural Credit Corporation" to "Agricultural Finance" allows all regulations regarding agricultural finance programs to be in the same section of rules, thereby making it easier for the public to find these regulations.

The Family Farm Credit Program regulations are to be repealed because the enabling statutes have been repealed and the Family Farm Credit Program abolished. The Louisiana Family Farm Credit Program was enacted by the Legislature by Act 427 of 1980 as Chapter 3-A of Title 3 of the Revised Statutes of 1950 (R.S. 3:251- 259). The Family Farm Credit Program regulations were promulgated in May of 1981. The Louisiana Family Farm Credit Program was repealed by §8 of Act 662 of 1989. The regulations for the Family Farm Credit Program are, therefore, being repealed.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that there will be no impact on the revenue collections of any such unit.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

It is anticipated that there will be no impact on the costs or economic benefits of directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that there will be no impact on competition or employment.

Craig Gannuch
Assistant Commissioner
0909#102

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Economic Development
Office of the Secretary
and
Office of Business Development**

**Regional Awards and Matching Grant Awards Program
(LAC 13:III.1709)**

The Department of Economic Development, Office of the Secretary and Office of Business Development, as authorized by and pursuant to the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and in accordance with R.S. 36:104 and 36:108 hereby give notice of their intent to adopt the following Rule of the Regional Awards and Matching Grant Awards Program.

The Department of Economic Development, Office of the Secretary and Office of Business Development, have found a need to amend the Rules for the Regional Awards and Matching Grant Awards Program in order to provide stable Regional Awards Program funding to eligible non-profit economic development organizations (EDOs) in their comprehensive and strategic marketing and/or recruitment plans for towns, cities, parishes and regions as a site for new Regional Awards and Matching Grant Awards, which will help to successfully secure the location, expansion, creation or retention of businesses for Louisiana and jobs for Louisiana citizens. This Rule will help to enhance the growth and stability of Louisiana's entrepreneurial business and/or industrial environment by making available regions to support this environment, and without this Rule the state may suffer the loss of business investment and economic development projects which would create or retain jobs that would improve the standard of living and enrich the quality of life for citizens of this state.

Title 13

ECONOMIC DEVELOPMENT

Part III. Financial Assistance Programs

Chapter 17. Regional Awards and Matching Grant Program

§1709. Regional Awards ("Tier 1")

A. Regional awards shall be in an amount appropriated by the Louisiana Legislature to this program and shall be allocated to the eight regions of this state in accordance with the map to be provided by LED. The regions will closely approximate the regions of the state presently served by LED regional representatives. Subject to Subsection E below, each region shall receive such portion of the available amount in accordance with its percentage of population of the state as established by the most recent census of the state. The secretary of LED shall determine the association of the EDOs for each region with which the department will enter into a CEA through which deliverables reflective of the goals and objectives of this program shall be established. The EDO identified by the regional association and approved by LED as the fiduciary agent for the region shall be responsible for coordination within the region to provide for the delivery of certain administrative documents. The costs related to the production of these documents are to be

paid for using funds provided by Louisiana Economic Development (LED).

B. - D. ...

E. Notwithstanding population percentages for each region, the minimum funding for any region is \$150,000 provided that the appropriation for the Regional Awards Program is \$1,800,000 or greater. In the event that the appropriation for the Regional Awards Program is less than \$1,800,000, the secretary of LED is empowered to establish a funding distribution for the eight regional groups so as to ensure an appropriate distribution of resources. The secretary of LED is empowered to place caps on the maximum amount of funding a regional EDO shall receive so as to ensure an appropriate distribution of resources.

F. - I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104 and 36:108.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary and Office of Business Development, LR 33:41 (January 2007), amended LR 35:635 (April 2009), LR 35:

Family Impact Statement

This proposed Rule should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D, or on family formation, stability and autonomy. There should be no known or foreseeable effect on: the stability of the family; the authority and rights of parents regarding the education and supervision of their children; the functioning of the family; on family earnings and family budget; the behavior and 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 their written comments to Shawn Welcome by 5 p.m. on October 26, 2009 at 1045 North Third Street, Baton Rouge, LA 70802 or via email to Shawn.Welcome@la.gov.

A public hearing to receive comments on the Notice of Intent will be held on October 27, 2009 at 11 a.m. at the Department of Economic Development, 1051 North Third Street, Baton Rouge, LA 70802.

Kristy Mc Kearn
Undersecretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Regional Awards and Matching Grant Awards Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rules will have no impact on state or local governmental expenditures on an aggregate basis. The Legislature appropriated \$1,827,502 in Fiscal Year 2009-10 for the Regional Awards component of the Regional Awards and Matching Grant Awards Program and the department will likely expend this entire amount regardless of the adoption of these proposed rules.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no expected impact on revenue collections of state or local government.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rules changes funding for the Regional Awards Program from \$2,000,000 to an amount appropriated by the Louisiana Legislature. The proposed rules also decreases the minimum funding award for the Regional Awards Program to \$150,000 from \$200,000 and specifically empowers the secretary of Louisiana Economic Development to establish a funding distribution for the eight regional groups to ensure an appropriate distribution of resources in the event that the Legislature appropriates less than \$1,800,000 for the Regional Awards Program.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rules aim to improve assistance to participating Economic Development Organizations in their business retention and recruitment efforts and correspondingly increase employment of Louisiana's citizens.

Kristy Mc Kearn
Undersecretary
0909#064

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Economic Development
Office of Business Development**

Research and Development Tax Credits
(LAC 13:I.2901, 2904, 2905, 2907 and 2509)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 47:6015, the Department of Economic Development hereby gives Notice of Intent to adopt the following Rules. The purpose of the Rule is to establish program policies and procedures in the administration of the Research and Development Tax Credit program.

**Title 13
ECONOMIC DEVELOPMENT**

Part I. Financial Incentive Programs

Chapter 29. Research and Development Tax Credit

§2901. Purpose and Application

A. The purpose of this Chapter is to implement the Research and Development Tax Credit Program as established by R.S. 47:6015.

B. This Chapter shall be administered to achieve the following purposes:

1. encourage the development, growth, and expansion of the private sector within the state; and
2. encourage new and continuing efforts to conduct research and development activities within this state.

C. This Chapter shall apply to any person claiming a credit under this program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6015.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Services, Business Resources Division, LR 30:977 (May 2004), amended by the Office of Business Development, LR 35:

§2904. Type, Amount and Duration of Credit

A. Type. Any taxpayer meeting the following criteria shall be allowed a refundable tax credit to be applied against income and corporation franchise taxes due:

1. employs more than 50 Louisiana residents, and claims for the taxable year a federal income tax credit under 26 U.S.C. §41(a) for increasing research activities;

2. employs up to 50 Louisiana residents, and incurs qualified research expenses for the taxable year, as defined in 26 U.S.C. §41(b); and

3. receives a Small Business Innovation Research Grant, as defined in R.S. 47:6015 (D).

B. Amount. The amount of the credit authorized shall be equal to:

1. 8 percent of the state's apportioned share of the taxpayer's expenditures for increasing research activities, if the applicant is an entity that employs 100 or more Louisiana residents; or

2. 20 percent of the state's apportioned share of the taxpayer's expenditures for increasing research activities, if the applicant is an entity that employs 50 to 99 Louisiana residents; or

3. 25 percent of the state's apportioned share of the federal research credit claimed for research expenditures in the state if the taxpayer claims the alternative incremental tax credit under 26 U.S.C. §41; or

4. 40 percent of the state's apportioned share of the taxpayer's qualified research expenses conducted in the state if the applicant is an entity that employs fewer than 50 Louisiana residents, or

5. 40 percent of the Small Business Innovation Research Grant award received during the tax year.

C. Duration. No credit shall be allowed for research expenditures incurred or Small Business Innovation Research Grant funds received after December 31, 2013.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6015.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development LR 35:

§2905. Certification of Amount of Credit

A. ...

B. The application for a credit certification shall be submitted on a form provided by the DED and shall include, but not be limited to the following information.

1. An application fee of \$250, payable to Louisiana Department of Economic Development:

2. appropriate supporting documentation:

a. for taxpayers employing more than 50 residents, a federal income tax return and evidence of the amount of federal research credit for the same taxable year;

b. for taxpayers employing up to 50 residents, evidence of the amount of qualified research expenses for the same taxable year;

c. for taxpayers claiming credits based upon the federal Small Business Innovation Research Grant, evidence of the amount of such grant;

3. the total amount of qualified research expenses and the qualified research expenses in this state;

4. the total number of Louisiana residents employed by the taxpayer and the number of those Louisiana residents directly engaged in research and development;

5. the average wages of the Louisiana resident employees not directly engaged in research and development and the average wages of the Louisiana resident employees directly engaged in research and development;

6. the average value of benefits received by all Louisiana resident employees;

7. the cost of health insurance coverage offered to all Louisiana resident employees;

8. any other information required by the Department of Economic Development.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6015.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Services, Business Resources Division, LR 30:977 (May 2004), amended by the Office of Business Development, LR 35:

§2907. Sale of Research and Development Tax Credits

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6015.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Services, Business Resources Division, LR 30:978 (May 2004), repealed by the Office of Business Development, LR 35:

§2909. Application Fee

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6015.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Services, Business Resources Division, LR 30:978 (May 2004), repealed by the Office of Business Development, LR 35:

Family Impact Statement

The proposed Rules 13:I.Chapter 29, "Research and Development Tax Credit Program," should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of the children;

6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Interested persons may submit their written comments to Susan Bigner by 5 p.m. on October 28, 2009 at 1045 North Third Street, Baton Rouge, LA 70802 or via email to sbigner@la.gov.

A public hearing to receive comments on the Notice of Intent will be held on October 29, 2009 at 11 a.m. at the Department of Economic Development, 1051 North Third Street, Baton Rouge, LA 70802.

Kristy Mc Kearn
Undersecretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Research and Development Tax Credits**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rules will have no impact on state or local governmental expenditures on an aggregate basis. The Legislature appropriated \$1,827,502 in Fiscal Year 2009-10 for the Regional Awards and Matching Grants Program and the

department will likely expend this entire amount regardless of the adoption of these proposed rules without an additional appropriation required. The awards are made to regional economic development organizations, which are considered non-governmental groups for the purposes of this fiscal impact statement.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no expected impact on revenue collections of state or local government.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule states that funding for the Regional Awards component of the Regional Awards and Matching Grants Program (RAMGP) shall be in an amount appropriated by the Louisiana Legislature. The minimum funding for each region will decrease to \$150,000 from \$200,000, if the program appropriation is \$1,800,000 or greater. The proposed rule empowers the secretary of LED to establish a funding distribution for the eight regional groups when funds appropriated for the Regional Awards Program fall below \$1,800,000. To the extent that local entities are members of regional groups that receive Tier I funding under the RAMGP, lowering the minimum payment may result in a decrease in available funding. However, lowering the minimum will also allow for a more equitable distribution of dollars based on historical allocations since only those entities funded above the minimum currently have the capacity for a budgetary reduction and would face smaller reductions under the proposed rules. Different regional groups could see increases or decreases as a result of the adoption of these rules depending on the current level of funding.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rules aim to improve assistance to participating Economic Development Organizations in their business retention and recruitment efforts and correspondingly increase employment of Louisiana's citizens.

Kristy Mc Kearn
Undersecretary
0909#065

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Economic Development
Office of Business Development**

Small and Emerging Business Development Program
(LAC 19:II.105, 107, 507 and 903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Economic Development, Office of Business Development, hereby proposes to amend its existing Rules and Regulations relative to its Small and Emerging Business Development Program, and to adopt the following amended Rules and Regulations relative to the Small and Emerging Business Development Program. The intended action complies with the statutory law administered by the agency, as authorized by R.S. 51:941 et seq.

The department proposes to amend §§105 and 107 of Chapter 1, §507 of Chapter 5 and §903 of Chapter 9. The proposed amendments clarify the definition of a small and emerging business regarding its principal place of business; clarify the residency requirement for a small and emerging business person; amend the definition of a small and

emerging business person's net worth; increase the frequency of mentor-protégé agreement progress reporting; and extend availability of the bonding assistance program until June 30, 2012 for small construction companies with the SEBD status of "graduated" or "certified active."

Title 19

CORPORATIONS AND BUSINESS

Part II. Small And Emerging Business Development Program

Chapter 1. General Provisions

§105. Definitions

A. When used in these regulations, the following terms shall have meanings as set forth below.

* * *

Small and Emerging Business (SEB)—a small business organized for profit and performing a commercially useful function which is at least 51 percent owned and controlled by one or more small and emerging business persons and for which the principal business operations of the business are located in Louisiana including Louisiana as the primary place of employment for the employees of the business. A nonprofit organization is not a small and emerging business for purposes of this Chapter.

Small and Emerging Business Person—a citizen or legal resident of the United States who has resided in Louisiana for at least 12 consecutive months and whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same or similar line of business, and whose diminished opportunities have precluded, or are likely to preclude, such individual from successfully competing in the open market.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:50 (January 1997), amended LR 24:430 (March 1998), amended by the Department of Economic Development, Office of Business Development, LR 29:542 (April 2003), LR 30:753 (April 2004), LR 33:2030 (October 2007), LR 35:

§107. Eligibility Requirements for Certification

A. - B.2. ...

3. Net Worth. The person's net worth may not exceed \$400,000. The market value of the assets of the person's small and emerging business, personal residence, 401K, IRA, and other legal retirement funds will be excluded from the net worth calculation.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:50 (January 1997), amended LR 24:430 (March 1998), LR 25:1084 (June 1999), LR 26:1572 (August 2000), amended by the Department of Economic Development, Office of Business Development, LR 29:542 (April 2003), LR 30:754 (April 2004), LR 33:2030 (October 2007), LR 35:

Chapter 5. Mentor-Protégé Credit Program §507. Internal Controls and Monitoring

A. - C.1 ...

2. reviewing quarterly progress reports submitted by mentors and protégés on protégé development to measure protégé progress against the approved agreement, and a final report within 30 days following the completion of the agreement, or by July 31 each year, whichever comes first.

C.3 - 4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 26:1574 (August 2000), amended by the Department of Economic Development, Office of Business Development, LR 29:546 (April 2003), LR 30:757 (April 2004), LR 34:603 (April 2008), LR 35:

Chapter 9. Small Business Bonding Program §903. Direct Bonding Assistance

A. Direct Bonding Assistance. All certified active small and emerging construction businesses, and all other certified SEBs (non-construction) may be eligible for surety bond guarantee assistance not to exceed the lesser of 25 percent of contract or \$200,000 on any single project. Small and emerging construction businesses with the status of certified active or graduated may be eligible for surety bond guarantee assistance until June 30, 2012. After June 30, 2012, only certified active small and emerging businesses may be eligible for surety bond guarantee assistance. All obligations, whether contractual or financial, will require the approval of the undersecretary.

B. - C.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 24:430 (March 1998), amended by the Department of Economic Development, Office of Business Development, LR 29:547 (April 2003), LR 30:758 (April 2004), LR 35:

Family Impact Statement

The proposed Rules 19:II.Chapter 1, "Small and Emerging Business Development Program," Chapter 5, "Mentor-Protégé Credit Program," and Chapter 9, "Small Business Bonding Program" should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of the children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Interested persons should submit written comments on the proposed Rules to Craig Hartberg, through the close of business on October 27, 2009, at P.O. Box 94185, Baton Rouge, LA 70804-9185 or 1051 North Third Street, Baton Rouge, LA 70802. Comments may also be submitted by email to CraigHartberg@la.gov. A meeting for the purpose of receiving the presentation of oral comments will be held on October 28, 2009, at 11 a.m. at the Department of Economic Development, 1051 North Third Street, Baton Rouge, LA 70802.

Kristy Mc Kearn
Undersecretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Small and Emerging Business
Development Program**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There will be no incremental costs or savings to state or local governmental units due to the implementation of these rules for the Small and Emerging Business Development Program (SEBDP) as the changes merely serve to delineate the eligible population, not the pool of money available for bonding assistance. Since the full appropriation is not completely bonded out, it is not expected that expanded eligibility will result in supplanted applicants. Current staff of the Department will be sufficient to process and monitor these rules within the Program. Funding for this program will come from the current appropriation of the Department of Economic Development through the LA Economic Development Fund.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

There is no expected impact or effect on revenue collections of state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

There is no anticipated additional costs to directly affected persons or nongovernmental groups. The Small and Emerging Businesses and Small and Emerging Business Owners will be the direct beneficiaries of the proposed revision and re-adoption of the rules of the Small and Emerging Business Development Program. Extending the duration of the SEBD certification for graduated and certified active small construction companies will benefit these small construction businesses since federal funding for recovery contracts related to the recent natural disasters are just now being let. All other revisions are for purposes of clarification of existing rules.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

The purpose and intent of these rules are to provide the maximum opportunity for small and emerging businesses to become competitive in a non-preferential modern economy by placing them into a posture which may allow them to compete with those businesses that have access to more flexible funding mechanisms. Investments by new and expanding Louisiana-based businesses are contemplated by the Rule may enhance the formation of new or expanding businesses and/or retain jobs for Louisiana citizens.

Kristy Mc Kearn
Undersecretary
0909#063

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Economic Development
Office of Business Development
Office of Entertainment Industry Development
and
Office of the Governor
Division of Administration**

Motion Picture Infrastructure Tax Credit Program
(LAC 61:I.1601-1613)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq. and R.S. 47:6007, the Department of Economic Development and the Division of Administration hereby gives Notice of Intent to adopt the following rules. The purpose of this Rule is to establish program policies and procedures in the administration of the Motion Picture Production and Infrastructure Tax Credit program.

Title 61

REVENUE AND TAXATION

**Part I. Taxes Collected and Administered by the
Secretary of Revenue**

**Chapter 16. Louisiana Entertainment Industry Tax
Credit Programs**

**Subchapter A. Motion Picture Investor Tax Credit
Program**

§1601. Purpose

A. The purpose of this Chapter is to implement the Motion Picture Investor Tax Credit Program as established by R.S. 47:6007.

B. This Chapter shall be administered to achieve the following:

1. to encourage development of a strong capital and infrastructure base within the state for the motion picture and related industries;

2. to achieve a self-supporting, independent, indigenous industry; and

3. to encourage development of state of the art motion picture production and post-production facilities:

a. in the short term, to attract private investors in state certified productions and state certified infrastructure projects.

b. in the long term, to encourage the development of a skilled state workforce trained in the film and video industry.

C. This Chapter shall apply to any person:

1. claiming a credit;

2. transferring or selling a credit; or

3. acquiring a credit under this program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1125.1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development and the Office of the Governor, Division of Administration, LR 35:

§1603. General Description

A. The program offers two distinctive incentives: production and infrastructure.

1. Production

a. If the total base investment exceeds \$300,000, each investor shall be allowed a tax credit based upon their investment as follows:

i. for state-certified productions initially certified on or after January 1, 2004, but before January 1, 2006:

(a) a 10 percent tax credit, if the total base investment is more than \$300,000 and less than \$8,000,000;

(b) a 15 percent tax credit, if the total base investment is more than \$8,000,000.

ii. a 25 percent tax credit for state certified productions initially certified on or after January 1, 2006, but before July 1, 2009;

iii. a 30 percent tax credit for state certified productions initially certified on or after July 1, 2009.

b. An additional payroll tax credit shall be allowed for any base investment expended on behalf of employing Louisiana residents on state certified productions as follows:

i. a 10 percent tax credit for state certified productions initially certified before July 1, 2009; or

ii. a 5 percent payroll tax credit for state certified productions initially certified on or after July 1, 2009.

2. Infrastructure

a. If the total base investment exceeds \$300,000, each investor shall be allowed a tax credit based upon their investment as follows:

i. a 40 percent tax credit for state certified infrastructure projects, for which applications for initial certification were received by the office and the department prior to January 1, 2009:

(a) for applications received before August 1, 2007, there shall be no per project cap on tax credits;

(b) for applications received after August 1, 2007, the total tax credit allowed for a state certified infrastructure project shall not exceed \$25,000,000 per project.

B. Investor tax credits shall be transferable under the following conditions.

1. Tax credit shall be earned by investors at the time expenditures are made in a state-certified production or state certified infrastructure project.

2. Credits become transferable only after final certification of expenditures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1125.1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development and the Office of the Governor, Division of Administration, LR 35:

§1605. Definitions

A. Terms not otherwise defined in this Chapter shall have the same meaning given to them in R.S. 47:6007, unless the context clearly requires otherwise.

B. In this Chapter, the following terms shall have the meanings provided herein, unless the context clearly indicates otherwise.

Allocatee—an individual or entity that received an allocation of investment tax credits.

Allocator—an individual or entity that makes an allocation of investment tax credits.

Base Investment—cash or cash equivalent investment made and used for:

a. production expenditures in the state for a state-certified production;

b. infrastructure expenditures in the state for the development of a state-certified infrastructure project. Infrastructure Expenditures shall include, but are not limited

to, expenditures for infrastructure project development, film and television production spaces, post-production equipment, facilities, equipment for distribution companies domiciled within Louisiana, transportation equipment, land acquisition and closing costs, construction costs, design and professional consulting fees associated with the state-certified infrastructure project, furniture, fixtures, equipment, and financing costs. Infrastructure expenditures shall not include indirect costs, any amounts that are later reimbursed by a third party, any costs related to the allocation or transfer of tax credits, any amounts that are paid to persons or entities as a result of their participation in profits from the exploitation of the State-certified infrastructure project, or any other expenditures not allowed as infrastructure expenditures.

Begin Construction—construction of an infrastructure project shall begin when:

a. in the case of a new building, either:

i. materials to be used in the project, worth more than 5 percent of the construction budget, are placed at the project site; or

ii. other work is performed on the site which is visible from a simple inspection and reasonably indicates that the work has begun, such as substantial land fill, soil reinforcement or pouring of a foundation. The following are examples of services which do not indicate that work has begun; services of surveyors or engineers; cutting or removal of trees; demolition of existing structures or clearing of the land surface;

b. in the case of a retrofit project to an existing structure:

i. materials to be used in the project, worth more than 10 percent of the construction budget, are placed at the project site; or

ii. equipment to be used in the project, worth more than 20 percent of the construction budget, is placed and operational at the project site.

Commencement of Production—beginning principal photography or equivalent process, provided production continues without any interruption in excess of 24 months without grant of an extension by the department.

Commissioner—Commissioner of Administration.

Department—Louisiana Department of Economic Development, or its successor.

Developer—a person responsible for the development of a state-certification infrastructure project.

Director—Director of the Office of Entertainment Industry Development (the Office).

Division—Division of Administration.

Expended in the State—

a. an expenditure to lease immovable property located in the state;

b. an expenditure as compensation for services performed in the state; or

c. an expenditure to purchase or lease tangible personal property within the state where the transaction is subject to the state sales or lease tax provisions of Title 47 of the Louisiana Revised Statutes of 1950:

i. a transaction that is subject to the states sales or lease tax provision of Title 47 of the Louisiana Revised Statutes of 1950 shall include transactions that are also subject to statutory exclusion or exemption.

Expenditure—actual payment of cash or cash equivalent exchanged for goods or services, as evidenced by an invoice, receipt or other such document.

Indirect Costs—costs of operation that are not directly associated with a specific production or infrastructure project, such as clerical salaries, general administrative costs and other overhead charges.

Louisiana Resident, Resident, or Resident of Louisiana—a natural person domiciled in the state of Louisiana. Domicile may be established:

a. by maintaining a permanent place of abode within the state and spending in the aggregate more than six months of each year in the state; or

b. by agreeing in writing to file a Form IT 540 or Form IT 540B as applicable, for the taxable year employed by the motion picture production company, provided the person subsequently files the form and pays any Louisiana income tax due.

Non-Applicable Production Expenditures—the following expenses are not eligible to earn tax credits:

a. expenditures for marketing and distribution;
b. non-production related overhead;
c. amounts reimbursed by the state or any other governmental entity;

d. costs related to the transfer of tax credits;
e. amounts that are paid to persons or entities as a result of their participation in profits from the exploitation of the production;

f. the application fee;
g. state or local taxes;
h. any other expenditure not allowed by law or regulation.

Office—Office of Entertainment Industry Development.

Payroll—all salary, wages and other compensation, including benefits paid to an employee and taxable in this state. However, payroll for purposes of the additional tax credit for Louisiana-resident payroll shall exclude any portion of an individual salary in excess of one-million dollars.

Person—there are two kinds of persons; natural and juridical.

a. A natural person is a human being.

b. A juridical person is an entity to which the law attributes personality, such as a corporation, partnership or limited liability company.

Production Expenditures—preproduction, production and postproduction expenditures directly incurred in this state that are directly used in a state-certified production, whether the production company directly contracts or subcontracts such work, including without limitation the following:

a. set construction and operation;
b. wardrobes, make-up, accessories, and related services;

c. costs associated with photography and sound synchronization, lighting, and related services and materials;
d. editing and related services;

e. rental of facilities and equipment;

f. leasing of vehicles;

g. costs of food and lodging;

h. digital or tape editing, film processing, transfer of film to tape or digital format, sound mixing, special and visual effects (if services are performed in Louisiana);

i. total aggregate payroll (limited to the amount of total payroll expended in Louisiana and which is taxable to the recipient in Louisiana. A Louisiana tax return is required to be filed reflecting the amount of compensation paid while the recipient is located in Louisiana. If the recipient is not a Louisiana resident, then a non-resident income tax return should be filed);

j. music, if performed, composed or recorded by a Louisiana resident, or released or published by a Louisiana-domiciled and headquartered company;

k. airfare, if purchased through a;

l. insurance costs or bonding, if purchased through a Louisiana company;

m. payments to a loan-out or personal services corporation for the services of an out-of-state hire are allowed as long as the services are performed in Louisiana on a state-certified production;

n. cost of the independent audit.

Production Facility—a physical facility that provides the goods or services necessary for completing the major activities of motion picture production.

Secretary—Secretary of the Department of Economic Development.

Source within the State—a physical facility in Louisiana, operating with posted business hours and employing at least one full-time equivalent employee.

State-Certified Infrastructure Project—an infrastructure project that meets the definition of a production facility and is initially certified by the Office of Entertainment Industry Development, the Department of Economic Development and the Division of Administration. The term *infrastructure project* shall not include movie theaters or other commercial exhibition facilities.

State-Certified Production—a production initially certified by the Office of Entertainment Industry Development and the Department of Economic Development produced by a motion picture production company domiciled and headquartered in Louisiana which has a viable multi-market commercial distribution plan.

Transferee—an individual or entity that receives a transfer of investor tax credits.

Transferor—an individual or entity that makes a transfer of an investor tax credit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1125.1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development and the Office of the Governor, Division of Administration, LR 35:

§1607. Certification Procedures

A. Application

1. An application for initial certification shall be submitted with an application fee payable to the Office, as required by R.S. 47:6007 D(2)(b).

a. All applications shall include information as required by R.S. 47:6007 D(2)(a).

b. In addition, the following program specific information is required.

i. Production:

(a) working title of the production. Should the title change, the state-certified production needs to inform the office as soon as that change is made;

(b) name of the requesting production company;

(c) name, telephone number, e-mail address and attesting signature of the requesting production company's contact person;

(d) approximate beginning and ending date of production in Louisiana;

(e) Louisiana office address;

(f) telephone number of requesting company's Louisiana office address;

(g) estimated total production-related costs of production ;

(h) estimated total amount of production-related costs to be expended in Louisiana;

(i) estimated total payroll to be paid by the requesting production company to Louisiana residents employed by the requesting production company in connection with the production;

(j) a preliminary budget including the estimated Louisiana payroll and estimated in-state investment;

(k) a copy of script (including synopsis) will be made available to OEID and subsequently returned to the applicant;

(l) list of principal creative elements such as principal cast, producer, and director; and

(m) facts sufficient for the Office and the Department to determine each of the following:

(i) that the requesting production company is a motion picture production company as defined in R.S. 47:6007(B)(6);

(ii) that the requesting production company is domiciled and headquartered in Louisiana; and

(iii) that the requesting production company has either a viable multi market distribution plan or a signed distribution agreement with either a major theatrical exhibitor, television network or cable television programmer for distribution of the production.

ii. Infrastructure:

(a) working name of the infrastructure project;

(b) name of the requesting infrastructure company;

(c) name, telephone number, e-mail address and attesting signature of the requesting infrastructure company's contact person;

(d) approximate beginning and ending date of construction in Louisiana;

(e) Louisiana office address;

(f) telephone number of requesting company's Louisiana office address;

(g) estimated total project-related costs or total costs associated with the infrastructure project;

(h). a preliminary operating budget including the estimated Louisiana payroll and estimated in-state investment;

(i) a detailed business plan outlining the exact proposed costs;

(j) total number of jobs to be created by the infrastructure project.

B. Qualification. The office and the secretary, and in the case of infrastructure projects the division, shall determine whether a production or infrastructure project qualifies for certification, by meeting all requirements of R.S. 47:6007 and these regulations, and taking the following factors into consideration:

1. the impact of the production or infrastructure project on the immediate and long-term objectives of R.S. 47:6007;

2. the impact of the production or infrastructure project on the employment of Louisiana residents;

3. the impact of the production or infrastructure project on the overall economy of the state.

C. Initial Certification

1. After review and upon a determination of qualification initial certification will be issued as follows.

a. Production

i. The office and the department shall issue an initial certification letter to the applicant, verifying the status of the production as a state certified production.

b. Infrastructure

i. The office, the department and the division shall issue an initial certification letter to the applicant, verifying the status of the project as a state certified infrastructure project.

2. Additional information may be requested by the office, the department and/or the division in order to make a determination of eligibility for the program.

3. Initial certifications shall be issued in the amount determined to be eligible, and:

a. shall contain a unique identifying number for each production or project;

b. may require state-certified productions to display an animated state brand or logo as a condition for receiving tax credits.

4. Duration of Effect

a. Once an initial certificate is issued by the office, the department (and the division where appropriate), the applicant or official representative must countersign and return an original to the office, within 30 business days, acknowledging initial certification status.

b. For productions, initial certification shall be effective for a period 12 months prior to and 12 months after the date of initial certification, unless the production has commenced, in which case the initial certification shall be valid until the production is completed.

D. Final Certification; Audit Requirements

1. Prior to any final certification of credits, the motion picture production company or infrastructure project applicant shall submit to the Office a notarized statement demonstrating conformity with and agreeing to the following:

a. to pay all undisputed legal obligations incurred in the state.

b. to publish upon completion of principal photography a notice at least once a week for three consecutive weeks in local newspapers in regions where filming has taken place, notifying creditors to file any claims within a specific date.

c. that the outstanding obligations are not waived should a creditor fail to file by the specific date.

d. to delay any claims for credits until the Office delivers written notice to the secretary of the Department of Revenue that the production company has fulfilled all requirements for the credit.

2. When requesting final certification of credits, the motion picture production company or infrastructure project applicant shall submit to the Office the following:

a. a cost report, certified by a state licensed, independent certified public accountant and complying with the minimum standards as required by R.S. 47:6007 D (2) (d). The cost report may be subject to additional audit by the Department, the Division, or the Department of Revenue, at the applicants expense.

b. additional information as may be requested.

3. After review and upon a determination of qualification, a final tax credit certification letter indicating the amount of tax credits certified for the production or infrastructure project will be issued by the director, the secretary (or his designee) and also in the case of infrastructure projects, the commissioner.

4. Multiple requests for final certification may be submitted;

a. Each submission must be accompanied by an audited cost report indicating expenditures.

b. Two submissions shall be certified at no additional fee by the Office.

c. Additional charges may apply for three or more certification requests.

E. Appeal Process. In the event that an application for initial or final certification is denied:

1. the office shall promptly provide written notice of such denial to the Senate Committee on Revenue and Fiscal Affairs and the House Committee on Ways and Means;

2. the applicant may appeal as follows:

a. an applicant may appeal within 30 days from receipt of a denial. Receipt will be conclusively presumed from the sending of the denial by electronic mail to an address provided by the applicant or by a return receipt evidencing delivery by U.S. Postal Service or private carrier;

b. the appeal is made by delivery of a written objection, with supporting documentation to the secretary and also in the case of infrastructure projects to the commissioner;

c. within 30 days of receipt of a timely appeal, the secretary (or his designee), and the commissioner where applicable, will review the appeal, and issue a joint written determination. The secretary and the commissioner may extend the time for the determination for an additional 30 days. In the event the secretary and the commissioner do not agree, or fail to issue a determination within the required time, the appeal is deemed denied;

d. the written determination shall be the final agency decision of the department, and the division where applicable;

e. the applicant may appeal an adverse decision to the Nineteenth Judicial District Court.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1125.1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development and the Office of the Governor, Division of Administration, LR 35:

§1609. Additional Program Provisions - Production

A. Payroll Tax Credit

1. To the extent base investment is expended on payroll for Louisiana residents employed in connection with a state-certified production:

a. for state-certified productions initially certified before July 1, 2009, each investor shall be allowed an additional tax credit of 10 percent of such payroll;

b. for state-certified productions initially certified after July 1, 2009, each investor shall be allowed an additional tax credit of 5 percent of such payroll.

2. However, if the payroll to any one person exceeds \$1,000,000, this additional credit shall exclude any salary for that person in excess of \$1,000,000.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1125.1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development and the Office of the Governor, Division of Administration, LR 35:

§1611. Additional Program Provisions—Infrastructure

A. Tax credits may be granted only for infrastructure projects directly related to the acquisition and construction of a film, video, television, or video production or postproduction facility and shall not apply to any infrastructure project such as a hotel or lodging facility, golf course, or retail shopping facility or other facility which the department and the division deem unrelated to such purposes.

1. If an infrastructure project may be used for other purposes unrelated to the production or postproduction activities, tax credits may be granted for that portion of the project that is deemed by the department and the division to be necessary to support or secure production or postproduction activities.

2. In the case of immovable assets deemed related, an applicant must provide assurances that:

a. such assets will exclusively support the initially certified film infrastructure project; and

b. that the applicant will not divert the use of the assets to purposes that do not promote or provide for the productions within the state of Louisiana.

3. In the case of movable assets deemed related, an applicant must provide assurances that:

a. the moveable assets shall remain in Louisiana, for as long as specified in any agreements pursuant to §1611.A.4 below;

b. be used in the production of motion pictures or other visual media productions within the state of Louisiana; and

c. used for not less than 80 percent of the asset's useful life.

4. Assurances shall be secured by appropriate agreements, including, but not limited to the following terms and conditions:

a. a requirement of approval prior to sale of such assets;

b. a requirement for a minimum number of years before such assets may be transferred to a different owner;

c. limitations on transferability of the tax credits for current or future holders;

d. a reserve fund that may be re-captured by the state; and/or

e. a structured release of tax credits.

5. Any conditions to meet the requirements of this sub-section shall be explicitly stated in the initial certification issued for the project.

a. In the event an applicant fails to meet the conditions, as specified in the certification letter, any such acts, omissions or failures shall constitute a default, and the office shall retain all rights to modify the terms and conditions of the certification, and to reclaim disbursed credits in an amount commensurate with the scope of the unmet performance objectives and the foregone benefits to the state. Reclamation shall not begin unless the office has determined, after an analysis of the benefits of the project to the state and the unmet performance objectives, that the state has not satisfactorily or adequately recouped its costs through the benefits provided by the project.

B. For infrastructure applications received prior to August 1, 2007:

1. the applicant shall have 24 months from the date of approval of the rules or January 1, 2008, whichever is earlier, in which to qualify for the 40 percent tax credits earned on expenditures;

3. a minimum of 20 percent or \$10,000,000 of the total base investment (as provided for in the initial certification) that is unique to film production infrastructure shall be expended before any infrastructure tax credits can be earned.

4. payment of tax credits earned may be structured over the course of two or more tax years, and may be made after the year expenditures are made, as provided for in the initial certification.

C. For infrastructure applications received after August 1, 2007, and before January 1, 2009:

1. the tax credit shall be 40 percent of the base investment expended in this state on projects, provided that:

a. the total base investment expended in this state, exceeds \$300,000;

b. the total tax credit allowed shall not exceed \$25,000,000;

2. if all or a portion of an infrastructure project is a facility which may be used for other purposes unrelated to production or postproduction activities, then no tax credits shall be earned on such multiple-use facilities until the production or postproduction facility is complete;

3. construction of the infrastructure project shall begin within six months of the preliminary certification;

4. credits may not be earned until 25 percent of the total base investment, provided for in the preliminary certification of an infrastructure project, has been certified as expended;

5. no tax credit shall be allowed for expenditures made for any infrastructure project after December 31, 2008, unless 50 percent of the total base investment provided for in the initial certification of the project has been expended prior to that date. The expenditures may be finally certified at a later date;

a. transactions qualifying toward the 50 percent expenditure requirement include, but are not limited to, an arm's length transaction in which the obligation is secured by the subject of the transaction and the maturity date for

such obligation occurs after December 31, 2008, if such transaction was executed on or before December 31, 2008. However, such transactions shall not qualify to earn tax credits, or otherwise be deemed to be expenditures, until actual payments are made and the transaction meets the definition of *expenditure* provided in §1605.B above;

6. expenditures shall be certified by the department, office and division and credits are not transferable until such certification;

7. for purposes of allowing tax credits against state income tax liability and transferability of the tax credits, the tax credits shall be deemed earned at the time expenditures are made, provided that all requirements of this subsection have been met and after the tax credits have been certified;

8. the department, office and division may require the tax credits to be taken and/or transferred in the period in which the credit is earned or may structure the tax credit in the initial certification of the project to provide that only a portion of the tax credit be taken over the course of two or more tax years;

9. the credit shall be allowed against the income tax for the taxable period in which the credit is earned or for the taxable period in which initial certification authorizes the credit to be taken.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1125.1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development and the Office of the Governor, Division of Administration, LR 35:

§1613 Application of the Tax Credit

A. Prior to claiming a tax credit on any tax return, or transferring any tax credit, a person must apply for and obtain a final certification. The investor tax credit may be earned, transferred, allocated, and claimed as follows.

1. Earn. Individuals or entities may earn investor tax credits pursuant to R.S. 47:6007(C)(1).

a. Once tax credits are earned by an individual or entity, such individual or entity and any subsequent transferee, may transfer or allocate the investor tax credits.

2. Transfer. Any motion picture investor tax credits not previously claimed by any taxpayer against its income tax may be transferred or sold to another Louisiana taxpayer or to the office, pursuant to R.S. 47:6007(C)(4).

a. If the investor tax credits (evidenced by a certification letter) are transferred to the office:

i. on and after January 1, 2007, and prior to December 31, 2008 the state shall make payment to the investor at a value of 72 percent of the face-value of the credits;

ii. on January 1, 2009, and every second year thereafter, the percent of the value of the tax credits paid by the state shall increase 2 percent until the percentage reaches 80 percent;

iii. for state certified productions which receive initial certification on or after July 1, 2009, the state shall make payment to the investor at a value of 85 percent of the face-value of the credits.

3. Allocate. If the investor tax credits are earned by, or allocated or transferred to, an entity not taxed as a corporation, the entity may allocate the credit by issuing ownership interests to any individuals or other entities on such terms that are agreed to by the relevant parties and in

accordance with the terms of the allocating entity's operating agreement or partnership agreement. These terms may result in the allocation of up to 100 percent of the investor tax credits to any individual or entity regardless of the federal tax treatment of the allocation:

- a. the allocating entity:
 - i. may be treated as a "partnership" for federal or state tax purposes; or
 - ii. may be treated as an entity that is disregarded as an entity separate from its owners for federal or state tax purposes, and in which case, each holder may agree that it will not treat the allocating entity as a "partnership" or itself as a "partner" or the ownership interest in the allocating entity as a "partnership interest" for federal tax or state tax purposes.

4. Claim. Tax credits may be claimed as follows:

- a. an owner of tax credits may apply the credits to offset an outstanding Louisiana income tax liability for any tax year beginning in the year that the investor initially earned the tax credit or in any year thereafter within the 10 year carry forward period;

- b. in the case of tax credits owned (held) by an entity not taxed as a corporation, the credits shall be deemed to flow through or be allocated to partners or members at the end of the tax year in which the entity acquired the credits unless the partnership or membership agreement provides otherwise;

- c. any individual or entity shall be allowed to claim the investor tax credit against its Louisiana income tax liability:

- i. whether or not any such individual is a Louisiana resident; and

- ii. whether or not any such entity is domiciled in Louisiana, organized under Louisiana law, or headquartered in Louisiana;

- d. an Investor Tax Credit, in the hands of the taxpayer that earned the credit or received it by flow-through, cannot be used to eliminate any penalties and interest on overdue income taxes from prior tax years:

- i. however, an Investor Tax Credit that is purchased is treated as property and can be applied to penalties and interest on overdue income taxes from prior tax years pursuant to R.S. 47:1675(H)(1)(c):

- (a) penalties and interest will continue to accrue until the taxes on which such penalties and interest are accruing are paid;

- (b) the date of payment is the date that the Louisiana Department of Revenue receives a return from a taxpayer on which the Investor Tax Credits are claimed.

B. If the investor tax credits (evidenced by a tax credit certification letter) are transferred or allocated as provided herein.

1. The transferor shall submit to the office the original certificate of ownership, evidencing the investor tax credits being transferred or allocated, as required by R.S. 47:6007(C)(5).

2. After receipt, the office may issue to each transferee or allocatee, a certificate of ownership signed by the director reflecting:

- a. such transferee's or allocatee's name;
 - b. the dollar amount of investor tax credits transferred or allocated;

- c. the calendar year in which the investor tax credits were originally earned;

- d. the state-certified infrastructure project or the state-certified production with respect to which such investor earned the investor tax credits; and

- e. the identifying number assigned to such state-certified infrastructure project or state-certified production.

3. If the certificate of ownership submitted evidences more investor tax credits than actually transferred or allocated, then the office may issue an additional certificate of ownership, reflecting any remaining investor tax credit balance.

4. Any person or entity engaged in the business of buying and reselling tax credits may elect to maintain its certificate of ownership on file with the Office, such that it need not surrender, and have reissued, its certificate of ownership each time it sells a tax credit.

- a. In such cases, the office may issue comportsing certificates of ownership to transferees or allocates, designated by the transferor or allocator in writing, until such time as the tax credits represented in the original certificate have been exhausted.

5. Any taxpayer claiming investor tax credits against its Louisiana income tax liability shall submit to the Department of Revenue, with its Louisiana income tax return for the year in which the taxpayer is claiming the investor tax credits, an original certificate of ownership issued by the office or the transfer notice pursuant to this rule, evidencing the dollar amount of the investor tax credits being claimed.

6. The failure of the office to timely issue a certificate of ownership in accordance with this rule shall not:

- a. void or otherwise affect, in any way, the legality or validity of any transfer of investor tax credits;

- b. prohibit any Louisiana taxpayer from claiming investor tax credits against its Louisiana income tax liability, if the investor tax credits are otherwise transferred or claimed in accordance with R.S. 47: 6007 and these rules; or

- c. result in any recapture, forfeiture or other disallowance of investor tax credits under R.S. 47:6007(E) or (F) or otherwise.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1125.1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development and the Office of the Governor, Division of Administration, LR 35:

Family Impact Statement

The proposed Rules 61:I.Chapter 16, Subchapter A, "Louisiana Motion Picture Investor Tax Credit Program," should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of the children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Interested persons may submit their written comments to Chris Stelly by 5 p.m. on October 26, 2009 at 1045 North Third Street, Baton Rouge, LA 70802 or via email to cstelly@la.gov.

A public hearing to receive comments on the Notice of Intent will be held on October 27, 2009 at 10:00 a.m. at the Department of Economic Development, 1051 North Third Street, Baton Rouge, LA 70802.

Kristy McKearn
Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Motion Picture Infrastructure Tax Credit Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rules will not directly increase state governmental expenditures. The Louisiana Legislature passed the Motion Picture Production and Infrastructure Tax Credit program in 2005 with adjustments in 2007 and 2009. Louisiana Economic Development (LED) will employ two full time staff members assigned to motion picture Tax Credits at the Department of Economic Development in Fiscal year 2009-2010 at an annual cost of approximately \$130,000. The staff members are part of a total staff of 9 and approximately \$1.4 million in funding assigned to the Entertainment Industry activity at the Department of Economic Development in Fiscal Year 2009-2010. The proposed rules will have no effect on local governmental expenditures. There will be no incremental cost or savings due to the implementation of this program. Existing LED staff will be sufficient to process and monitor this program.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The latest available analysis of motion picture production activity in the state associated with the tax credit program estimated that it has resulted in state and local tax receipts of approximately \$52.3 million over the 2005-2007 period (dollar estimates reported in the Project Report for Louisiana Motion Picture, Sound Recording and Digital Media Industries by Economics Research Associates (ERA), 2009), with approximately 65.4% of these receipts or \$34.2 million received by state government and 34.6% or \$18.1 million received by local governments (shares estimated by ERA, 2009). Production activity is expected to generate more than \$25 million per year of combined state and local tax receipts in subsequent years, growing by at least 5% per year. According to the ERA study, Motion Picture Investor and Employment tax credits generated over the 2005-2007 period were \$495.3 million, and tax credits actually realized against state personal and corporate income taxes and state corporate franchise taxes during state fiscal years 2005-2007 were \$226.3 million. The current state official revenue forecast expects investor and employment tax credit realizations to be approximately \$100 million per year in Fiscal Year 2009-2010 and beyond.

As of December 31, 2008, applications for the motion picture infrastructure program have no longer been accepted as that portion of the statute expired. Infrastructure projects approved so far could generate in excess of \$200 million of tax receipts to both state and local governments over the construction periods of these projects (69 projects with nearly \$3.8 billion of estimated total budgets reported by the Louisiana Economic Development Department; tax receipt estimates by the Legislative Fiscal Office). State income tax

and corporate franchise tax credits associated with the proposed budgets of these projects would be some \$1.6 billion. Each project's credits would be granted only as expenditures occur and would be realized against state tax receipts over multi-year periods. It is highly uncertain to what extent these proposed projects will actually complete participation in the program. As of this note, only 18 projects have provided audited expenditures of \$70.3 million resulting in \$28 million of tax credits being certified. Since many of these expenditures occurred as far back as 2005, most of the credits have been released to date. The remaining amounts of the estimated credits will be released over the next 5 to 7 years with anticipated eligible expenditures being completed for some projects by December 2009 and a smaller portion of others over the next 2 to 3 years. It should be noted that these rules pertaining to the film infrastructure credit program are being promulgated for a program that is no longer active by law, but will continue to provide guidance for existing projects during the certification process.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Motion Picture production activity in the state has resulted in compensation paid to workers directly employed by film productions in the state of \$231.5 million, over the 2005-2007 period, with full-time equivalent employment approximating 3,000 positions per year. Additional employment and earnings are also indirectly generated in the economy as a result of the industry's activity.

According to information from applications, infrastructure projects could result in as much as \$4 billion of construction and equipping activity in the state over the next few years. This activity would also generate earnings and employment over the periods of construction. It is relatively uncertain to what extent these proposed projects will actually complete participation in the program and operate as ongoing concerns in subsequent periods.

As in most credits, entities applying for benefits will have to prepare applications, submit an application fee, and provide verification of expenditures made. The benefits received from the credits will far exceed any costs to the client incurred in the application process.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Louisiana has become a national leader in sites selected for motion picture projects. These projects will stimulate demand for a variety of worker skills, and increase the amount of employment in the state.

Kristy McKearn
Undersecretary
0909#066

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Public Comments (LAC 28:I.713)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education approved for advertisement revisions to the *Louisiana Administrative Code*, Title 28, Part I, §713. Public Comments. BESE is removing the following notation in Section 713: "NOTE: It should be noted that BESE meetings, while open to the public, are not public hearing forums; therefore, public comments shall be allowed at the

discretion of the presiding officer or chair, subject to the provisions provided herein".

**Title 28
EDUCATION**

Part I. Board of Elementary and Secondary Education

§713. Public Comments

NOTE: Repealed.

A. - A.9. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) and R.S. 42:5(D).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:422 (March 2008); amended LR 35:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? Yes.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Interested persons may submit written comments via the U.S. mail until 4:30 p.m., November 9, 2009, to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Jeanette B. Vosburg
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Public Comments**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Louisiana Administrative Code, Title 28, Part I, Section 713 is the Public Comments section. BESE is removing the following notation in section 713: "NOTE: It should be noted that BESE meetings, while open to the public, are not public hearing forums; therefore, public comments shall be allowed at the discretion of the presiding officer or chair, subject to the provisions provided herein".

This action will have no fiscal effect other than an estimated cost of \$164.00 for advertising in the Louisiana Register.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This action will have no effect on revenue collections of state and local government units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This action will have no effect on cost and/or economic benefits to directly affected persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This action will have no effect on competition and employment.

Jeanette B. Vosburg
Executive Director
0909#025

H. Gordon Monk
Executive Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Scholarship/Grant Programs
(LAC 28:IV.301, 507, and 703)

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

This rulemaking will implement Act 232 of the 2009 Regular Session of the Louisiana Legislature by expanding the definition of "returning student" for purposes of the Taylor Opportunity Program (TOPS) to include those students who first enroll as a first-time freshmen in an eligible college or university in Louisiana, subsequently enroll in an out-of-state college or university and then return to an eligible college or university in Louisiana during the 2009-2010 academic year or thereafter.

This rulemaking will implement the provisions of Act 232 that provide a grace period for students returning to Louisiana during the 2007-2008 academic year (college) or thereafter of up to 120 days after the final deadline for receipt of the application to return from an out-of-state college. Eligibility for the award will be reduced by one semester if the application is one to 60 days late and by two semesters if the application is 61 to 120 days late. An application received more than 120 days after the deadline will not be considered.

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972. (SG10109NI)

**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.

* * *

Returning Student—a student who graduated from high school beginning with academic year (high school):

a. 2001-2002, and met all the academic requirements for a TOPS Award, but who enrolled for the first time as a full-time student no later than the deadline established in §703.A.4 in an out-of-state postsecondary institution accredited by a regional accrediting organization recognized by the United States Department of Education and, thereafter, returns to Louisiana and enrolls as a full-time student in an eligible college or university; or

b. who was determined eligible for a TOPS opportunity, performance or honors award and enrolled for the first time as a full-time student no later than the deadline established in §703.A.4 in an eligible college or university in Louisiana, subsequently enrolled in an out-of-state postsecondary institution accredited by a regional accrediting organization recognized by the United States Department of Education and, thereafter, returns to Louisiana and enrolls as a full-time student in an eligible college or university during or after the 2009-2010 academic year (college).

* * *

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 24:2237 (December 1998), LR 25:256 (February 1999), LR 25:654 (April 1999), LR 25:1458 and 1460 (August 1999), LR 25:1794 (October 1999), LR 26:65 (January 2000), LR 26:688 (April 2000), LR 26:1262 (June 2000), LR 26:1601 (August 2000), LR 26:1993, 1999 (September 2000), LR 26:2268 (October 2000), LR 26:2752 (December 2000), LR 27:36 (January 2001), LR 27:284 (March 2001), LR 27:1219 (August 2001), LR 27:1840 (November 2001), LR 27:1875 (November 2001), LR 28:45 (January 2002), LR 28:446 (March 2002), LR 28:772 (April 2002), LR 28:2330, 2331 (November 2002), LR 29:555 (April 2003), LR 29:879 (June 2003), LR 30:1159 (June 2004), LR 30:2015 (September 2004), LR 31:36 (January 2005), LR 31:3112 (December 2005), LR 33:86 (January 2007), LR 33:439 (March 2007), LR 33:1339 (July 2007), LR 33:2612 (December 2007), LR 34:234 (February 2008), LR 34:1388 (July 2008), LR 34:1884 (September 2008), LR 35:228 (February 2009), LR 35:1489 (August 2009), LR 35:1490 (August 2009), LR 35:

Chapter 5. Applications, Federal Grant Aid and ACT Test

§507. Final Deadline for Submitting Documentation of Eligibility

A. - C.3.a. ...

b.i To receive the full benefits of a TOPS award as provided in §701.E, 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.

ii. If an application to return from an out-of-state college is received after the July 1 deadline as provided in the clause above, but not later than 60 days after that date, the time period of eligibility for the award shall be reduced by one semester, two quarters, or an equivalent number of

units at an eligible institution which operates on a schedule based on units other than semesters or quarters.

iii. If an application to return from an out-of-state college is received more than 60 days after the July 1 deadline as provided in the clause above, but not later than 120 days after that date, the time period of eligibility for the award shall be reduced by two semesters, three quarters, or an equivalent number of units at an eligible institution which operates on a schedule based on units other than semesters or quarters.

iv. An application to return from an out-of-state college received more than 120 days after the July 1 deadline shall not be considered.

v. If a prescribed deadline date falls on a weekend or holiday, it will automatically be extended to the next business day.

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.

vi. A returning student who enrolls in an eligible college or university in the fall semester of 2009, and whose application to return from an out-of-state college is received on July 10, 2010, will be eligible for a TOPS award reduced by one semester or two quarters if any required supporting documentation such as college transcripts is received no later than January 15, 2011.

vii. A returning student who enrolls in an eligible college or university in the fall semester of 2009, and whose application to return from an out-of-state college is received on September 10, 2010, will be eligible for a TOPS award reduced by two semesters or three quarters if any required supporting documentation such as college transcripts is received no later than January 15, 2011.

C.4.a. - D.3. ...

E. The reduction of the student's period of eligibility for this award under §507.C above shall not be cumulative with any reduction under §505.D or §509.C.

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), LR 35:

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

§703. Establishing Eligibility

A. - G.2. ...

H. Returning Students

1. A *returning student*, as defined in §301, is eligible for a TOPS Award if:

a. he submits an application to return from an out-of-state college that includes:

H.1.a.i. - J.4.b.ii. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:636 (April 1998), amended LR 24:1902 (October 1998), LR 24:2237 (December 1998), LR 25:257 (February 1999), LR 25:655 (April 1999), LR 25:1794 (October 1999), LR 26:64, 67 (January 2000), LR 26:689 (April 2000), LR 26:1262 (June 2000), LR 26:1602 (August 2000), LR 26:1996, 1999, 2001 (September 2000), LR 26:2268 (October 2000), LR 26:2753 (December 2000), LR 27:36 (January 2001), LR 27:702 (May 2001), LR 27:1219, 1219 (August 2001), repromulgated LR 27:1850 (November 2001), amended LR 28:772 (April 2002), LR 28:2330, 2332 (November 2002), LR 29:125 (February 2003), LR 29:2372 (November 2003), LR 30:1162 (June 2004), LR 30:1471 (July 2004), LR 30:2019 (September 2004), LR 31:37 (January 2005), LR 31:2213 (September 2005), LR 31:3112 (December 2005), LR 32:2239 (December 2006), LR 33:435 (March 2007), LR 33:2357 (November 2007), LR 33:2612 (December 2007), LR 34:1389 (July 2008), LR 35:228 (February 2009), LR 35:

Interested persons may submit written comments on the proposed changes (SG10109NI) until 4:30 p.m., September 10, 2009, to Melanie Amrhein, Executive Director, Office of Student Financial Assistance, P.O. Box 91202, Baton Rouge, LA 70821-9202.

George Badge Eldredge
General Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Scholarship/Grant Programs

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rules provide an alternative TOPS eligibility requirement for certain students returning to Louisiana as required by Act 232 of the 2009 Regular Legislative Session. State general fund expenditures for TOPS awards may increase slightly due to the implementation of Act 232 and the proposed

rules, but there is no way to accurately estimate the fiscal impact. Few students returned to Louisiana to continue their education prior to Act 232. As such, the number of students who will return to Louisiana and seek a TOPS Award per Act 232 and the proposed rules will likely be low, probably less than ten students per year according to the Louisiana Office of Student Financial Assistance (LOSFA). However, some students may initially accept a TOPS award and later attend college outside the state knowing they can return later and obtain a TOPS award, possibly reducing costs associated with Act 232 and the proposed rules. As such, any fiscal impact for the proposed rules would be negligible and well within the cost projection error of the TOPS projection model.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue collections of state and local governments will not be affected by the proposed changes.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The TOPS program affected by this change enables students to access post-secondary education. The higher level of education or technical training for students will have a positive impact on their earning potential, make them more marketable in the job market, and eligible for higher paying jobs. This will provide Louisiana employers a better-educated workforce and may also attract out-of-state employers to Louisiana by providing additional better paying jobs.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

An increase in the number of students attending post-secondary education will result in an increase in the number of educated/trained workers in the state and that will have a positive impact on competition and employment.

George Badge Eldredge
General Counsel
0909#009

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Student Financial Assistance Commission Office of Student Financial Assistance

START Saving Program—Educational Savings Account
(LAC 28:VI.301)

The Louisiana Tuition Trust Authority announces its intention to amend its START Saving Program rules (R.S. 17:3091 et seq.).

The proposed Rule will repeal a provision that requires that at least one year must lapse between the date the account owner makes the first deposit opening an account and the first disbursement from the account to pay a beneficiary's qualified higher education expenses.

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972. (ST10110NI)

Title 28 EDUCATION

Part VI. Student Financial Assistance

Higher Education Savings

Chapter 3. Education Savings Account

§301. Education Savings Accounts

A. - H.4. ...

I. Repealed.

J. ...

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 23:713 (June 1997), amended LR 24:436 (March 1998), LR 24:1269 (July 1998), LR 25:1794 (October 1999), LR 26:2262 (October 2000), LR 27:1878 (November 2001), LR 28:450 (March 2002), LR 28:778 (April 2002), LR 28:2334 (November 2002), LR 30:786 (April 2004), LR 33:443 (March 2007), LR 35:

Interested persons may submit written comments on the proposed changes (ST10110NI) until 4:30 p.m., October 10, 2009, to Melanie Amrhein, Executive Director, Office of Student Financial Assistance, P.O. Box 91202, Baton Rouge, LA 70821-9202.

George Badge Eldredge
General Counsel

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: START Saving Program
Educational Savings Account**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated implementation costs or savings to state or local governmental units from the proposed rules.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue collections of state and local governments will not be affected by the proposed changes.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed change gives START Savings Program account holders the ability to request a disbursement to pay for qualified higher education expenses immediately after making the first deposit instead of waiting one year after initial deposit. This gives beneficiaries immediate access to their money to pay for college education expenses.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no anticipated effects on competition and employment resulting from these measures.

George Badge Eldredge
General Counsel
0909#010

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Environmental Quality
Office of the Secretary
Legal Affairs Division**

**Integration of MACT Standards
(LAC 33:V.3105)(HW105ft)**

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.3105 (Log #HW105ft).

This rule is identical to federal regulations found in 40 CFR 264.340(b)(1), which are applicable in Louisiana. For

more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3985 or Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the rule. This rule will be promulgated in accordance with the procedures in R.S. 49:953(F)(3) and (4).

This rule clarifies compliance monitoring provisions and corrects a typographical error in the regulations. This action is needed as part of the RCRA XVIII authorization package in order for the state hazardous waste regulations to maintain equivalency with the federal regulation. The basis and rationale for this rule are to mirror the federal regulations. This rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental

Quality—Hazardous Waste

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, or 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 34:2396 (November 2008), LR 35:1880 (September 2009), LR 35:

This 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, 2009, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Donald Trahan at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by HW105ft. Such comments must be received no later than October 29, 2009, at 4:30 p.m., and should be sent to Donald Trahan, Attorney Supervisor, Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3398 or by e-mail to donald.trahan@la.gov. 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 HW105ft. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Herman Robinson, CPM
Executive Counsel

0909#040

NOTICE OF INTENT

**Department of Environmental Quality
Office of the Secretary
Legal Affairs Division**

**Training Requirements for Underground
Storage Tank System Operators
(LAC 33:XI.601, 603, 605, 607, 609, and 611)(UT017)**

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 adopt the Underground Storage Tanks regulations, LAC 33:XI.601, 603, 605, 607, 609, and 611 (Log #UT017).

This rule requires training for all operators of underground storage tank (UST) facilities by August 8, 2012. The rule defines the classes of operators (Class A, Class B, and Class

C), lists the acceptable training and certification processes for each class, establishes a phase-in schedule for operators to attend training, and requires that UST owners maintain documentation of certification of operators. The federal 2005 Underground Storage Tank Compliance Act, which amends Section 9003 of Subtitle 1 of the Solid Waste Disposal Act, mandates that states authorized to administer the Underground Storage Tank program take certain actions to reduce the incidence of leaking USTs. One such action is to require that all operators of UST facilities receive training by August 8, 2012. This action must be implemented to maintain federal funding of the UST program in the state and to maintain federal delegation of the UST program. This will further enhance our effort to maintain protection of human health and the environment. The basis and rationale for this rule are to comply with the federal guidelines required by the 2005 Underground Storage Tank Compliance 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 XI. Underground Storage Tanks

Chapter 6. Training Requirements for Underground Storage Tank System Operators

§601. Purpose

A. This Chapter implements requirements mandated by the Underground Storage Tank Compliance Act, 42 U.S.C. 6991.

B. The requirements outlined in this Chapter apply to UST systems regulated under this Part, except those excluded by regulation in LAC 33:XI.101.B and those deferred by regulation in LAC 33:XI.101.C.2.a.i-v.

C. Owners and operators of UST systems described in Subsection B of this Section must comply with the UST operator training requirements listed in this Chapter.

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, Legal Affairs Division, LR 35:

§603. Underground Storage Tank Operator Classes

A. There shall be three classes of UST operators, identified as Class A, Class B, and Class C.

1. Designation. Owners of UST systems described in LAC 33:XI.601.B must designate for each UST system or group of UST systems at a facility, at least one named individual for each class of operators.

a. UST owners may designate a different individual for each class of operators, or one individual for more than one operator class.

b. Any individual designated for more than one operator class shall be trained and certified for each operator class that the individual is designated to represent.

c. During hours of operation, UST facilities must have at least one UST operator (either a Class A, Class B, or Class C UST operator) present at the UST facility, except for un-manned UST facilities. An *un-manned facility* is a storage tank system without a sales office, store, or other business establishment associated with it. Examples of un-manned facilities include, but are not limited to, card lock or card access fueling stations with no attendant and

telecommunication towers or utility transfer stations serviced by emergency generator USTs.

2. Training. Individuals designated as Class A, B, or C UST operators shall be trained and certified in accordance with these regulations by the applicable deadlines in LAC 33:XI.607.

B. The three classes of UST operators are identified as follows.

1. Class A UST Operator

a. Functions. A class A operator of a UST system is the tank owner, or person designated by the tank owner to represent the owner's interest, who has the primary responsibility of ensuring the proper operation and maintenance of the UST system, including managing resources and personnel necessary to achieve and maintain compliance with these regulations.

b. Qualifications and Training. Class A UST operators must be trained in and have a general knowledge of the requirements of these regulations, including, but not limited to, the UST registration, system components, product compatibility, spill and overflow prevention, corrosion protection, and release detection requirements, and the UST recordkeeping and notification requirements, release and suspected release reporting and response requirements, temporary and permanent closure requirements, operator training requirements, and financial responsibility requirements.

2. Class B UST Operator

a. Functions. A class B operator of a UST system is a person or persons designated by the tank owner to implement all applicable requirements of these regulations in the field and to implement the day-to-day aspects of the operation and maintenance of, and recordkeeping for, UST systems at one or more facilities.

b. Qualifications. Class B UST operators must be capable of monitoring, maintaining, and ensuring compliance with all the release detection and prevention methods and equipment requirements, the release detection and prevention recordkeeping and reporting requirements, and the release detection equipment performance standards, and must be capable of ensuring that Class C UST operators are trained in facility-specific emergency procedures and notification requirements, and that these procedures and requirements are posted for the use of Class C UST operators.

c. Training. Class B UST operators must be trained in and have knowledge of:

- i. UST system components, including the materials and compatibility of such components;
- ii. methods of release detection and release prevention; and
- iii. the operation and maintenance requirements that apply to:
 - (a). spill and overflow prevention;
 - (b). release detection and corrosion protection;
 - (c). emergency response procedures;
 - (d). product compatibility;
 - (e). reporting and recordkeeping; and
 - (f). Class C UST operator training.

3. Class C UST Operator

a. Function. A Class C operator of a UST system is a person or persons designated by the tank owner to be

responsible for the effective response to alarms or other indications of emergencies caused by spills, overfills, or releases from UST systems, and to any other indication of possible releases from UST systems.

b. Training. Class C UST operators must be trained in emergency response procedures, which must include the operation of emergency shut-off equipment, initial response procedures to alarms and releases, and required notifications to emergency responders and to the designated Class A and Class B operators of a UST system.

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, Legal Affairs Division, LR 35:

§605. Acceptable UST Operator Training and Certification Processes

A. Training. Operator training must evaluate operator fulfillment of the training requirements described for each class of operator in LAC 33:XI.603. The following is a list of acceptable approaches to meet the operator training requirements.

1. Acceptable Training for Class A and Class B UST Operators. Class A and Class B UST operators must complete a UST operator training seminar that includes the information listed in LAC 33:XI.603.B.1 or 2, respectively, and that has received approval by the department. This program may include in-class or hands-on training performed, contracted for, or approved by the department, and must include an evaluation of operator knowledge through testing, practical demonstration, or other tools deemed acceptable by the department.

2. Acceptable Training for Class C UST Operators

a. Class C UST operators must complete training presented by either a Class A or Class B UST operator that includes the information listed in LAC 33:XI.603.B.3.

b. UST owners and Class B UST operators must ensure that site-specific notices that include site-specific emergency procedures, the location of emergency shut-off devices, and appropriate emergency contact telephone numbers are posted in a prominent area at the UST facility that is easily visible to the Class C UST operator.

B. Certification. UST operators are considered certified UST operators after successfully completing one of the training processes listed in Subsection A of this Section.

1. Class A and Class B UST Operators. The department or a department-approved training contractor will provide written verification to all Class A and Class B UST operators who have successfully completed training, in the form of a training certificate stating the classification(s) obtained.

2. Class C UST Operators. Certified Class A or Class B UST operators who train Class C UST operators must submit a list of all Class C UST operators they have trained, and the information that was included in the training, to the department or a department-approved contractor, and the department or department-approved contractor will provide the Class C UST operators with written verification of successful training completion in the form of a training certificate.

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, Legal Affairs Division, LR 35:

§607. Underground Storage Tank Operator Training Deadlines

A. On or after [insert date of promulgation], owners of UST systems must designate their Class A and Class B UST operators and provide these designations to department personnel or to department-contracted inspectors during department or contract inspections.

B. In order to ensure that all Class A and Class B UST operators have completed an acceptable operator training course as specified in LAC 33:XI.605 by August 8, 2012, the following training schedule for Class A and Class B UST operators who have not been previously certified must be followed.

1. All Class A and Class B UST operators for facilities inspected between [insert date of promulgation] and May 8, 2010, must complete an acceptable operator training course as specified in LAC 33:XI.605 within nine months of the inspection date.

2. All Class A and Class B UST operators for facilities inspected between May 9, 2010 and February 8, 2011, must complete an acceptable operator training course as specified in LAC 33:XI.605 within nine months of the inspection date.

3. All Class A and Class B UST operators for facilities inspected between February 9, 2011 and November 8, 2011, must complete an acceptable operator training course as specified in LAC 33:XI.605 within nine months of the inspection date.

C. All Class A and Class B UST operators, including those Class A and Class B UST operators who have not been given departmental notice of their need to receive qualifying training during inspections, must complete an acceptable operator training course as specified in LAC 33:XI.605 by August 8, 2012.

D. All Class C UST operators must complete an acceptable operator training course as specified in LAC 33:XI.605.A.2 by August 8, 2012.

E. After August 8, 2012, UST owners must require that all newly-designated Class A or Class B UST operators complete an acceptable operator training course as specified in LAC 33:XI.605 within 30 days after assuming operation and maintenance responsibilities at the UST system.

F. After August 8, 2012, UST owners must require that all newly-designated Class C UST operators complete an acceptable operator training course as specified in LAC 33:XI.605 before assuming unsupervised responsibility for responding to emergencies at UST system facilities.

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, Legal Affairs Division, LR 35:

§609. Underground Storage Tank Operator Training Frequency

A. Certified Class A, Class B, and Class C UST operators must be re-trained in accordance with LAC 33:XI.603 and 605 within three years of their last training date.

1. Certified Class A and Class B UST operators who are the designated operators for multiple facilities are only

required to attend one department-approved UST operator training seminar every three years.

2. Certified Class C UST operators must be re-trained once every three years, or prior to assuming responsibility at a facility owned by a different UST owner.

B. Certified Class A and Class B UST operators may work at any UST facility in Louisiana without having to be re-trained until their certifications expire.

C. After August 8, 2012, certified Class C UST operators may only work at UST facilities owned by the UST owners that provided their initial training without having to be re-trained until their certifications expire.

D. When issues of noncompliance are noted at a facility, Class A and/or Class B UST operators, as determined by the department for that UST facility, must attend either a department-sponsored compliance class that addresses the noted noncompliant areas or an acceptable operator training course as specified in LAC 33:XI.605, within the time frame given in the notification by the department.

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, Legal Affairs Division, LR 35:

§611. Documentation of Underground Storage Tank Operator Training

A. Owners and operators must maintain the following records demonstrating compliance with UST operator training requirements for operators associated with the facility:

1. current training certificates for all Class A, Class B, and Class C UST operators; and

2. a list of emergency procedures, which includes site-specific emergency procedures, the location of emergency shut-off devices, and appropriate emergency contact telephone numbers, that is posted in a prominent area at the UST facility that is easily visible to the Class C UST operator.

B. Owners and operators must either keep the required training records at the UST site and immediately available for the department's inspection, or at a readily available alternative location and provide them to the department for inspection upon request.

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, Legal Affairs Division, LR 35:

This 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, 2009, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Donald Trahan at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by UT017. Such

comments must be received no later than November 5, 2009, at 4:30 p.m., and should be sent to Donald Trahan, Attorney Supervisor, Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3398 or by e-mail to donald.trahan@la.gov. Copies of 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 UT017. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Herman Robinson, CPM
Executive Counsel

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Training Requirements for
Underground Storage Tank System Operators**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The approximate cost to contract for the administration of this program and to provide training for all Louisiana UST operators (approximately 3,000) is estimated at \$699,000 every three years. The approximate cost per year is \$233,000. This estimate is based on contractor estimates to conduct this type of training and meet all of the program administration requirements specified in the proposed rule.

The department receives approximately \$650,000 to \$685,000 per year in federal funding to administer the UST program. The amount of funding depends on the amount of federal funding available per year and the percent allocations made to each state. All federal funding will be lost if the program is not implemented.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue collections of state and local governmental units will not change as a result of this proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The cost of administering this program is indirectly related to UST owners, as fuel distributors pay a 0.8 cent per gallon fee for all fuel delivered into underground storage tanks and charge this fee to UST owners. This fee is used to fund the Motor Fuels Underground Storage Tank Trust Fund (MFUSTTF), which is used as financial assurance for UST owners to pay for releases to the environment and third party claims. The MFUSTTF is the planned source for funding for the administration of the operator training required by this proposed rule.

Directly-affected persons, owners and operators of UST facilities, will have to ensure that their UST operators are trained in accordance with these regulations by August 8, 2012. This proposed operator training program will not have an attendance fee, allowing all UST operators to be trained at no cost to the UST owner or operator. An indirect cost to affected

persons is the travel and expenses cost of their UST operators' attending a 4- to 8-hour training course once every three years.

A potential savings that is not quantifiable at this time is that trained UST operators will more likely be able to properly operate UST release detection and corrosion protection equipment, interpret release detection data effectively, and detect and respond to releases quicker, resulting in less environmental contamination, fewer and lower claims to the Motor Fuels Underground Storage Tank Trust Fund (MFUSTTF), and a decrease of third party lawsuits resulting from offsite migration of contaminants. UST owners are responsible for the cost of remediating contaminated sites and/or third party lawsuits once the \$1,000,000 MFUSTTF coverage amount per release is exceeded.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no impact on competition or employment from the proposed rule. All UST owners and operators will be required to participate in this training.

Herman Robinson, CPM
Executive Counsel
0909#039

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Commission on Law Enforcement and
Administration of Criminal Justice**

Peace Officer Training (LAC 22:III.4701)

In accordance with the provision of R.S. 40:2401 et seq., the Peace Officer Standards and Training Act, and R.S. 40:905 et seq., which is the Administrative Procedure Act, the Peace Officer Standards and Training Council hereby gives notice of its intent to promulgate 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
§4701. Definitions**

A. The following terms, as used in these regulations, shall have the following meanings.

* * *

Peace Officer—any full-time employee of the state, a municipality, a sheriff or other public agency, whose permanent duties actually include the making of arrests, the performing of searches and seizures, or the execution of criminal warrants, and is responsible for the prevention or detection of crime or for the enforcement of the penal, traffic, highway laws of this state, but not including any elected or appointed head of a law enforcement department. Peace officer also includes those sheriff's deputies whose duties include the care, custody, and control of inmates, full time military police officers within the Military Department, State of Louisiana, and full-time security personnel employed by the Supreme Court of Louisiana.

* * *

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 25:662 (April 1999), amended LR 31:2007 (August, 2005), LR 35:

Interested persons may submit written comments on this proposed Rule no later than October 20, 2009, at 5 p.m. to Bob Wertz, Peace Officer Standards and Training Council, Louisiana Commission on Law Enforcement, 1885 Wooddale Boulevard, Room 1230, Baton Rouge, LA 70806.

Judy Dupuy
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Peace Officer Training**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
Implementation of the proposed rule will not have any impact on expenditures for state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The proposed rule will not increase revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
The proposed rule will allow security personnel at the Louisiana Supreme Court to maintain their POST certification. The rule adds security personnel at the Louisiana Supreme Court to the definition of a Louisiana peace officer under LRS 40:2402.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no effect on competition or employment in the public or private sector as a result of this proposed amendment.

Judy Dupuy
Executive Director
0909#050

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Dentistry**

General Provisions
(LAC 46:XXXIII.116, 312, 313, 314, 701, and 1713)

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.116, 312, 313, 314, 701, and 1713. 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 1. General Provisions

§116. Reconsideration of Adverse Sanctions

A. - H. ...

I. A licensee may request a reconsideration of adverse sanctions a maximum of three times for the same

disciplinary matter. Any applications beyond this limit will be considered at the discretion of the board.

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 24:1113 (June 1998), amended LR 26:1612 (August 2000), repromulgated LR 27:1890 (November 2001), amended LR 27:1893 (November 2001), LR 35:

Chapter 3. Dentists

§312. Mobile Dental Clinics

Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1497 (August 1998), repealed LR 35:

§313. Portable and Mobile Dentistry

A. Definitions

Mobile Dental Clinic or Mobile Dental Unit—any self-contained facility in which dentistry will be practiced which may be moved, towed, or transported from one location to another using fixed dental equipment and plumbing.

Mobile Operator—a dentist licensed in Louisiana who has registered a mobile dental clinic or mobile dental unit with the dental board pursuant to these rules and who provides dental services in a mobile dental clinic or mobile dental unit either directly and/or through Louisiana licensed dentist associates.

Mobile Operator Permit—an authorization given to a Louisiana licensed dentist for the physical use of a mobile dental clinic or mobile dental unit in which to provide dental services. The mobile permit is required of the owner of the operation and does not apply to any dentist employed or contracted with the owner of the operation.

Operator—a licensed Louisiana dentist that has a current mobile or portable operator permit.

Operation—the activity conducted by mobile or portable operators.

Portable Dental Clinic—the use of portable dental delivery equipment which is set-up on site to provide dental services at locations other than a mobile dental clinic or mobile dental unit and other than a dental office and uses non-fixed dental equipment and plumbing.

Portable Operator—a dentist licensed in Louisiana providing dental services at a location other than a Mobile Dental Clinic or Mobile Dental Unit and other than a fixed dental office either directly and/or through Louisiana licensed dentist associates.

Portable Operator Permit—an authorization given to a Louisiana licensed dentist to provide dental services at locations other than a mobile dental clinic or mobile dental unit and other than a dental office. The portable operator permit is required of the owner of the operation and does not apply to any dentist employed or contracted with the owner of the operation.

B. Exemptions

1. Exempt from the requirements of these regulations for portable or mobile dentistry and for the use of a mobile dental clinic, mobile dental unit, or portable dental clinic are all federal, state, or local governmental agencies.

2. Dentists licensed to practice in Louisiana who have not registered with the Board to operate a mobile dental

facility or a portable dental operation may provide dental services through the use of dental instruments, materials, and equipment taken out of a dental office without registering if the service is provided as emergency treatment for their patients of record.

3. The services are limited to dental sealants, screenings, cleanings, radiographs, and fluoride treatments provided that such services are performed at no charge to the patient, the patient's parent or guardian, or any third-party payor.

C. Application and Criteria for Permit

1. To own Mobile or Portable Operations a dentist must be licensed in Louisiana, in good standing with the dental board, and must have a mobile operator permit, a portable operator permit, or both.

2. A dentist licensed in Louisiana desiring to obtain a mobile operator permit from the dental board in order to provide dental services in a mobile dental clinic or mobile dental unit, shall apply to the dental board for a mobile operator permit on an application form to be provided by the dental board and by providing evidence of compliance with the requirements of this section and paying all appropriate fees.

3. A dentist licensed in Louisiana desiring to obtain a portable operator permit to provide dental services at locations other than his office, shall apply to the dental board for a portable operator permit on an application form to be provided by the dental board and by providing evidence of compliance with the requirements of this section and paying all appropriate fees.

4. Any Louisiana licensed dentist with an existing portable or mobile dental practice shall be entitled to continue operating their portable or mobile dental practice under the prior existing dental board regulations until the necessary permits are granted so long as all application and supporting documentation are submitted for the new permits within 60 days of this rule taking effect.

5. All mobile or portable operations must conform to all existing and applicable dental practice act rules and regulations, federal, state, and local laws, regulations, and ordinances including those relative to radiographic equipment, flammability, construction, sanitation, zoning, OSHA regulations, and applicable Federal Centers for Disease Control Guidelines and Prevention, Louisiana Department of Health and Hospital regulations including those for medical waste transportation, and the applicant possesses any applicable parish and city licenses or permits to operate the unit.

6. Each mobile dental clinic or mobile dental unit shall:

- a. have ready access to a ramp or lift if necessary;
- b. have a properly functioning sterilization system;
- c. have ready access to an adequate supply of potable water;
- d. have ready access to toilet facilities if necessary;
- e. have a covered galvanized, stainless steel, or other non-corrosive container for deposit of refuse and waste materials;
- f. have an emergency kit available at all times;
- g. have portable oxygen available at all times;
- h. have sharps containers and red biohazard bags available on site;

i. have properly functioning radiograph equipment producing fully developed x-rays of diagnostic quality;

j. have suction equipment to achieve a minimum level of 3 cubic feet per minute.

7. Each portable dental clinic shall:

a. have ready access to an adequate supply of potable water;

b. have ready access to toilet facilities if necessary;

c. have a covered galvanized, stainless steel, or other non-corrosive container for deposit of refuse and waste materials;

d. have an emergency kit available at all times;

e. have portable oxygen available at all times;

f. have sharps containers and red biohazard bags available on site-;

g. have a properly functioning sterilization system;

h. have properly functioning radiograph equipment producing fully developed x-rays of diagnostic quality;

i. have suction equipment to achieve a minimum level of 3 cubic feet per minute.

8. The mobile dental clinic, mobile dental unit, or portable dental clinic shall be inspected in a timely fashion by a dental board member or a staff evaluator prior to receiving approval to operate.

9. During operations the mobile dental clinic, mobile dental unit, or portable dental clinic shall prominently display all applicable licenses and permits in compliance with section 104 of these rules. These documents may be kept in a notebook labeled "licenses and permits." Copies of licenses and permits are acceptable.

10. Transferability. Neither the Mobile or Portable permits are transferable.

11. Renewal. Mobile or portable permits expires at the same time as the operator's dental license but shall be renewed at the time the operator renews his or her dental license by completing the renewal form and paying all applicable fees.

D. Record Keeping. The operator or operation shall maintain an official business or mailing and actual, physical address of record which shall not be a post office box except where mail is deliverable to a post office box only and a 24 hour emergency telephone number which shall be filed with the board. The dental board shall be notified within 30 days of any change in the address of record. All written or printed, or electronic documents available from or issued by the operator or operation shall contain the official address of record of the operator or operation. When not in transit, all dental and official records, printed or electronic shall be maintained or available at the official office address of record, in conformity with all record-keeping requirements and provide at no cost within 24 hours via electronic means or 72 hours by other means upon receipt of a HIPAA compliant request with a satisfactory release.

E. Practice Standards

1. All operators and dentists providing care in mobile dental clinics, mobile dental units, or portable dental clinics shall maintain and uphold the prevailing standard of dental care.

2. Anesthesia in all operations shall be limited to local anesthetics only.

3. An operator or operation must have communication facilities immediately available which will enable the

operator thereof to contact necessary parties in the event of a medical or dental emergency including 911 capabilities.

4. An operator or operation which accepts a patient and provides preventative treatment, including prophylaxis, radiographs, and fluoride shall make appropriate referrals for follow-up treatment when indicated in the dentist's professional judgment and is subject to the prevailing standard of dental care.

5. An operator or operation must ensure that all dental services are provided in a clean, sanitary place, and in compliance with applicable Federal Centers for Disease Control and Prevention Guidelines, the Dental Practice Act and regulations, federal, state, and local laws, regulations, and ordinances including those relative to radiographic equipment, flammability, construction, sanitation, zoning, Louisiana Department of Health and Hospital regulations including those for medical waste transportation, and the applicant possesses any applicable parish and city licenses or permits to operate the unit.

6. An operator shall identify and advise the dental board within 30 days of any personnel change relative to all licensed dentists and dental hygienists, associated with the provision of dental services by providing their full names, addresses, telephone numbers, and license numbers.

7. At all times the mobile or portable dental activities shall be under the supervision of the dentist with the operator permit or any dentist working in that practice subject to direct and general supervision stipulations found in §701. Any dentist or dental hygienist rendering services shall be licensed and in good standing with the dental board.

8. The operator or operation must certify and provide the dental board a copy of a written agreement for emergency follow-up care for patients treated at said locations and the agreement is to include identification of and arrangements for treatment in a dental facility which is permanently established within 25 miles of the treatment site. When the operator has demonstrated no emergency facility is available within the area, the board may grant a distance waiver of this rule to promote and foster access to dental care.

9. When radiographs are to be made by the operator or operation, a lead apron which includes a thyroid collar shall be utilized and adequate protection for the x-ray technician shall be utilized.

10. There shall be a designated room with a minimum of 100 square feet where portable dentistry will occur and other children will not be present either during or immediately after dental procedures. Also prior to providing treatment a surgical preprocedural rinse shall be administered to the patient.

F. Cessation of Operations

1. Upon cessation of the operation, the Operator shall notify the dental board within 30 days of the last day of operation in writing of the final disposition of patient records and charts.

2. If the operation is sold, a new registration application must be filed with the board.

3. Upon choosing to discontinue practice or services, the operator or operation shall notify within 30 days all patients where and how they may obtain their dental records.

4. The operator or operation shall make reasonable arrangements with the active patients of the operation for the transfer of the patients' records, including radiographs or diagnostic quality copies thereof, to the succeeding practitioner or, at the written request of the patient, to the patient.

5. As used in this section "active patient" applies and refers to a person whom the operation has examined, treated, cared for, or otherwise consulted with during the two-year period prior to discontinuation of practice, or moving.

G. Consent Forms for Minors. No services may be performed on minors without a signed consent form from the parent or guardian, which includes the following:

1. A statement that if the minor already has a dentist, the parent or guardian should continue to arrange dental care through that provider.

2. A statement that a parent or guardian may attend all dental visits and the form provides a telephone number and address where the parent or guardian can contact the operator's office if they wish to be at the school, facility or site when the minor is being treated. If the parent or guardian contacts the operator's office requesting to be present at the dental visit when their child is being treated, then the operator shall notify the parent or guardian when dental care is to be rendered so the parent or guardian can be present.

3. A telephone number for emergency services.

4. The telephone number of the parent or guardian. If the parent or guardian fails to include a contact phone number, then no dental services can be provided to that minor.

5. The consent form shall be provided in duplicate in order for the parent or guardian to be provided a copy.

6. Before treatment begins, there must be a documented personal or telephone contact by the dentist, hygienist, or trained dental assistant to review the patient's medical history and provide a description of all proposed treatments and the potential negative consequences of each procedure.

7. Confirmation that the patient, parent or legal guardian further understands treatment through such mobile dental or portable dental providers may affect future Medicaid and insurance benefits for the patient for one year.

H. Information for Patients

1. When appropriate, during or at the conclusion of each patient's visit to the operation, the patient shall be provided with an information sheet and a mailed copy to the patient's home. If the patient has provided consent to an institutional facility to access the patient's dental health records, the institution shall also be provided with a copy of the information sheet. An institutional facility includes, but is not limited to, a long-term care facility or school.

2. The information sheet as required herein shall include the following:

a. 24 hour toll free as well as an in-state telephone number and address where the parent, guardian, or patient can contact the Operator 's office for questions or emergency dental care;

b. the name of the dentist who provided services;

c. a description of the treatment rendered;

d. referral information if necessary.

I. Standards for Equipment

1. The equipment and supplies shall be of a type and condition that allows the dentist providing dental services to meet the prevailing standard of dental care.

2. The equipment and supplies shall be subject to inspection by any dental board member, staff member or agent of the dental board.

J. Inspection of Mobile and Portable Operations.

1. inspections of mobile dental clinics, mobile dental units, or a portable operator location of service may be conducted by any dental board member, staff member, or agent of the dental board.

2. The operator shall provide notice to the board no later than 24 hours before providing dental services at a school. Said notice shall disclose the date, time, identity of all dental health care providers and the location. If the location is a school, the operator shall have an agreement with said school to allow board inspectors on campus in order to conduct unannounced inspections.

3. The dental board shall be provided with a list of all sites, including addresses where the operator shall conduct mobile or portable activities, at the time the permit is applied for and it shall be updated as necessary every 30 days.

K. Disposal of Infectious Waste. An operator or operation must handle and dispose of all waste in accordance with §1001 of the board’s rules. The transporting of any biohazardous wastes shall be done in compliance with the Louisiana Department of Health and Hospital regulations for the handling and transportation of medical waste.

L. Non Resident Management and Administration Rules

1.a. Any operator or operation that contracts with or engages any company or entity (“administrative company”) to provide management or administrative services shall not enter into a relationship which causes the dentist or his business entity to be in violation of R.S. 37:776 (A)(9) which provides as follows:

i. Division of fees or other remuneration or consideration with any person not licensed to practice dentistry in Louisiana, or an agreement to divide and share fees received for dental services with any non-dentists in return for referral of patients to the licensed dentists, whether or not the patient or legal representative is aware of the arrangement. However, this Paragraph shall not forbid dentists licensed in Louisiana from practicing in a partnership or professional corporation and sharing professional fees or forbid a dentist licensed in Louisiana from employing another dentist licensed in Louisiana. In addition, no dentist licensed in Louisiana shall share professional fees with a dentist whose license is either suspended or revoked during said period of suspension or revocation.

b. and R.S. 37:776 (A)(10) which provides as follows:

i. Employing, procuring, inducing, aiding, or abetting a person not licensed or registered as a dentist to engage in the practice of dentistry or to possess an ownership interest of any kind in a dental practice, but the person practiced upon shall not be an accomplice, employer, procurer, inducer, aider, or abettor within the meaning of this provision.

2. The operator must provide to the board proof that the administrative company is authorized to conduct

business in the state and has a valid certificate of good standing issued by the Louisiana Secretary of State.

3. An administrative company shall not be permitted to perform any duties or services that are exclusively a Louisiana licensed dentist’s responsibility under the Louisiana Dental Practices Act, including the following:

- a. own a mobile or portable dental practice;
- b. provide dental care;
- c. determine what dental services should or should not be offered to a patient;
- d. establish infection control procedures and standards;
- e. determine patient charges and collection policies;
- f. determine when a patient should or should not be referred and where the patient shall be referred;
- g. establish HIPAA standards;
- h. select and employ associated dentists and dental staff.

M. Miscellaneous Provisions

1. All dental health care providers of mobile or portable dentistry shall wear in a conspicuous place on their person a name tag identifying them and their position (D.D.S., R.D.H., EDDA, or D.A.).

2. All mobile or portable dentistry providers shall have written protocols for each of the following areas which shall be kept at the operator’s office and with all applicable licenses and permits.

- a. Sterilization procedures, including where dedicated and observable sterilization areas are located.
- b. Transportation of all waste materials, instruments and equipment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760 (8), and Act 429 of the Regular Legislative Session of 2009

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 35:

§314. Provision of Dental Services at Locations Other than Dental Office

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 23:1525 (November 1997), amended LR 25:513 (March 1999), LR 27:1891 (November 2001), repealed LR 35:

§701. Authorized Duties

A. - F.7. ...

8. Dental hygienists may perform light enhanced teeth whitening procedures such as Zoom® under general supervision.

G. - G.1. ...

2. No duly licensed and registered dentist shall supervise more than two dental hygienists under general supervision at any one time except in public institutions, federally qualified health care centers, or clinics operated by the Department of Health and Hospitals or a school supervised by a Louisiana licensed dentist. However, a Louisiana licensed dentist may supervise no more than five dental hygienists under general supervision at any one time in any of the aforementioned institutions.

3. No duly licensed and registered dentist shall supervise a dental hygienist for more than five consecutive business days or for more than 20 total days in any calendar year. However, a public institution, federally qualified health

care center, clinic operated by the Department of Health and Hospitals, or school supervised by a Louisiana licensed dentist is not subject to this restriction.

4. - 6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 14:791 (November 1988), amended LR 15:965 (November 1989), LR 19:206 (February 1993), LR 22:22 (January 1996), LR 22:1217 (December 1996), LR 24:1116 (June 1998), LR 27:1892 (November 2001), LR 32:2056 (November 2006), LR 35:

§1713. Board Approved Regional or National

Independent Third Party Clinical Examinations

A. The board shall accept passing scores from board approved testing agencies which administer reliable, accurate, and valid examinations and in which the board has the option of representation on both the board of directors and the examination review committee or equivalent committees and allow for the board's input into the examination development and administration.

B.1. The clinical examination shall be substantially equivalent to the clinical licensure examination most recently administered by the board and include procedures performed on human subjects as part of the assessment of restorative and periodontal clinical competencies and shall have included evaluations in at least four of the following subject matter areas:

- a. periodontics, clinical abilities testing;
- b. endodontics, clinical abilities testing;
- c. amalgam preparation and restoration;
- d. anterior composite preparation and restoration;
- e. posterior ceramic or composite preparation and restoration;
- f. cast gold, clinical abilities testing;
- g. prosthetics, written or clinical abilities testing;
- h. oral diagnosis, written or clinical abilities testing;

or

- i. oral surgery, written or clinical abilities testing.

2. In addition to the foregoing requirements, the examination shall include:

- a. anonymity between candidates and examination raters;
- b. standardization and calibration of raters; and
- c. a mechanism for post examination analysis.

3. The board shall accept scores upon such examination for a period of three years following the date of such examinations. Each applicant shall arrange for and ensure the submission to the board office the applicant's scores.

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 35:

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: General Provisions

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be a one-time cost of \$500 in Fiscal Year 2009-2010 for publication of the proposed rules in the *Louisiana Register*. The Louisiana State Board of Dentistry reports that they can conduct the inspections of mobile clinics required by the proposed rules from within the Board's \$25,000 annual amount budgeted for inspections of fixed and mobile dental clinics. There are no estimated costs or savings to local governmental units from the proposed rules.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The implementation of these rule changes will neither increase nor decrease revenues for the Louisiana State Board of Dentistry.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Operators of mobile or portable dental clinics will be required to purchase additional equipment if they currently do not possess such equipment as now required by the new regulation. This cost cannot be estimated at this time. However, at present only 6 licensees possess mobile permits. Dental hygienists may be able to command a higher salary from their employers by being allowed to utilize certain tooth whitening procedures under general supervision. Their employing dentists may see a slight increase in their earnings since their hygienists will be allowed to whiten teeth while the employing dentist is not physically on the premises.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

C. Barry Ogden
Executive Director
0909#112

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Board of Practical Nurse Examiners

Adjudication (LAC 46:XLVII.306)

The Board of Practical Nurse Examiners proposes to amend 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 proposed amendment to §306 codifies current board policy related to summary suspension of a license.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

**Part XLVII. Nurses: Practical Nurses and Registered
Nurses**

Subpart 1. Practical Nurses

Chapter 3. Board of Practical Nurse Examiners

§306. Adjudication Proceedings

A.-U. ...

V. If the board finds that the public health, safety, or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, summary suspension of a license may be ordered by the executive director pending proceedings for revocation or other action. These proceedings shall be promptly instituted and determined.

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), LR 35:1247 (July 2009), LR 35:

Family Impact Statement

The proposed amendment to LAC 46:XLVII.Subpart 1. should not have any impact on family as defined by R.S. 49:972. There should not be any effect on: the stability of the family, the authority and rights of parents regarding the education and supervision of their children, the functioning of the family, family earnings and family budget, the behavior and personal responsibility of children, and/or the ability of the family or local government to perform the function as contained in the proposed Rule.

Interested persons may submit written comments to Claire Doody Glaviano, Executive Director, Board of Practical Nurse Examiners, 3421 N. Causeway, Ste. 505, Metairie, LA 70002. All comments must be submitted by 3:30 p.m., October 10, 2009.

Claire Doody Glaviano
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Adjudication

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Other than the rule publication costs, which are estimated to be \$100 in fiscal year 2010, it is not anticipated that the proposed rule amendments will result in any material costs or savings to the Board of Practical Nurse Examiners, any state unit or local governmental unit.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule codifies a board policy that has been in effect for over 40 years and relates to agency implementation of Section 961.C of the Administrative Procedure Act. The proposed rule change will have no impact on costs and/or economic benefits to directly affected persons, or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule codifies a board policy that has been in effect for over 40 years and relates to agency implementation of Section 961.C of the Administrative Procedure Act. The proposed rule change will have no impact on competition and employment.

Claire Doody Glaviano, MN, APRN
Executive Director
0909#029

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Facility Need Review—Adult Day Health Care Providers
(LAC 48:I.12501, 12503, 12505 and 12525)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 48:I.12501, §12503, §12505 and to adopt §12525 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 40:2116. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions governing the inclusion of adult residential care providers in the Facility Need Review (FNR) Program and reorganized Chapter 125 of Title 48 of the *Louisiana Administrative Code (Louisiana Register, Volume 34, Number 12)*. The department now proposes to amend the provisions governing the facility need review process to include licensed adult day health care providers.

Title 48

PUBLIC HEALTH—GENERAL

Part 1. General Administration

Subpart 5. Health Planning

Chapter 125. Facility Need Review

Subchapter A. General Provisions

§12501. Definitions

A. Definitions. When used in this Chapter the following terms and phrases shall have the following meanings unless the context requires otherwise.

Adult Day Health Care (ADHC)—provides services five or more hours a day (not to exceed five days per week) for medical, nursing, social, care management, and personal care needs to adults who are functionally impaired.

Adult Day Health Care Provider—any place owned or operated for profit or nonprofit by a person, society, agency,

corporation, institution, or any other group, wherein two or more functionally impaired adults who are not related to the owner or operator of such agency are provided with adult day health care services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:806 (August 1995), amended LR 25:1250 (July 1999), amended LR 28:2190 (October 2002), amended LR 30:1023 (May 2004), amended LR 32:845 (May 2006), LR 34:2611 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

§12503. General Information

A. - B. ...

C. The department will also conduct a FNR for the following provider types to determine if there is a need to license additional units, providers or facilities:

1. adult residential care providers or facilities;
2. home and community-based service providers, as defined under this Chapter; and
3. adult day health care providers.

D. - D.1.d. ...

E. No nursing facility, skilled nursing facility, or ICF-DD bed, nor provider units/beds shall be enrolled in the Title XIX Program unless the bed has been approved through the FNR Program. No adult residential care provider, home and community-based services provider or adult day health care provider may be licensed by the department unless the facility, unit or agency has been approved through the FNR Program.

F. - F.4. ...

G. Additional Grandfather Provision. An approval shall be deemed to have been granted under FNR without review for HCBS providers, ICFs-DD and ADHC providers that meet one of the following conditions:

1. HCBS providers which were licensed by January 31, 2009 or had a completed initial licensing application submitted to the department by June 30, 2008;
2. existing licensed ICFs-DD that are converting to the proposed Residential Options Waiver; or
3. ADHC providers who were licensed as of December 31, 2009 or who had a completed initial licensing application submitted to the department by December 31, 2009, or who are enrolled or will enroll in the Louisiana Medicaid Program solely as a Program for All-Inclusive Care for the Elderly provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Repealed and repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:808 (August 1995), amended LR 28:2190 (October 2002), LR 30:1483 (July 2004), LR 34:2612 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

§12505. Application and Review Process

A. FNR applications shall be submitted to the Bureau of Health Services Financing, Health Standards Section, Facility Need Review Program. Application shall be submitted on the forms (on 8.5 inch by 11 inch paper) provided for that purpose, contain such information as the department may require, and be accompanied by a nonrefundable fee of \$10 per bed or unit for nursing

facilities, ICFs-DD and adult residential care providers. The nonrefundable application fee for an HCBS provider (other than an adult residential care provider) and an ADHC provider shall be a flat fee of \$150. An original and three copies of the application are required for submission.

A.1. - B.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Repealed and repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:812 (August 1995), amended LR 34:2612 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:.

Subchapter B. Determination of Bed, Unit, Facility or Agency Need

§12525. Adult Day Health Care Providers

A. No ADHC provider shall be licensed to operate unless the FNR Program has granted an approval for the issuance of an ADHC provider license. Once the FNR Program approval is granted, an ADHC provider is eligible to be licensed by the department, subject to meeting all of the requirements for licensure.

B. The service area for proposed or existing ADHC providers is the parish in which the ADHC provider is or will be licensed.

C. Determination of Need/Approval

1. The department will review the application to determine if there is a need for an additional ADHC provider in the geographic location for which the application is submitted.

2. The department shall grant FNR approval only if the FNR application, the data contained in the application, and other evidence effectively establishes the probability of serious, adverse consequences to recipients' ability to access adult day health care if the ADHC provider is not allowed to be licensed.

3. In reviewing the application, the department may consider, but is not limited to, evidence showing:

a. the number of other ADHC providers in the same geographic location and parish servicing the same population; and

b. allegations involving issues of access to health care and services.

4. The burden is on the applicant to provide data and evidence to effectively establish the probability of serious, adverse consequences to recipients' ability to access health care if the provider is not allowed to be licensed. The department shall not grant any FNR approvals if the application fails to provide such data and evidence.

D. Applications for approvals of licensed providers submitted under these provisions are bound to the description in the application with regard to the type of services proposed as well as to the site and location as defined in the application. FNR approval of licensed ADHC providers shall expire if these aspects of the application are altered or changed.

E. FNR approvals for licensed ADHC providers are non-transferrable and are limited to the location and the name of the original licensee.

1. An ADHC provider undergoing a change of location in the same parish in which it is licensed shall submit a written attestation of the change of location and the

department shall re-issue the FNR approval with the name and new location. An ADHC provider undergoing a change of location outside of the parish in which it is licensed shall submit a new FNR application and fee and undergo the FNR approval process.

2. An ADHC provider undergoing a change of ownership shall submit a new application to the department's FNR Program. FNR approval for the new owner shall be granted upon submission of the new application and proof of the change of ownership, which shall show the seller's or transferor's intent to relinquish the FNR approval.

3. FNR approval of a licensed ADHC provider shall automatically expire if the ADHC provider moves or relocates, if the ADHC provider sells, transfers, or conveys ownership of the ADHC provider to another party or entity, or if the ADHC provider sells, transfers or conveys the FNR approval to another party, entity, or location, unless the ADHC provider has submitted application to and received approval from the FNR Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability, and autonomy as described in R.S. 49:972 by assuring the availability of and access to facilities that render adult day health care services.

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 Wednesday, October 28, 2009 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Alan Levine
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Facility Need Review—Adult Day Health Care Providers

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 09-10 since existing staff will be absorbing these reviews into their current workload. It is

anticipated that \$656 (\$656 SGF) will be expended in FY 09-10 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule may increase revenue collections as a result of the collection of facility need review application fees; however, there is no way to determine how many providers may apply for licensing and undergo the facility need review process so the anticipated revenue collections are indeterminable.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule proposes to amend the provisions governing the facility need review process to include licensed adult day health care providers. It is anticipated that implementation of this proposed rule will have economic cost for adult day health care providers who seek licensure based on the existing facility need review application fee of \$150; however, the cost is indeterminable since there is now way to establish how many providers will apply for licensing and undergo the FNR process.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Jerry Phillips
Medicaid Director
0909#098

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Bureau of Health Services Financing

Mental Health Rehabilitation Program—Parent/Family Intervention (Intensive) Services (LAC 50:XV.335)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:XV.335 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 Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amended the provisions governing the Mental Health Rehabilitation (MHR) Program to: 1) address service changes; 2) adopt revised medical necessity criteria; 3) clarify provisions regarding provider certification and enrollment; and 4) establish emergency preparedness requirements (*Louisiana Register*, Volume 32, Number 11). The department now proposes to amend the provisions governing the optional services covered under the MHR Program to revise the staffing requirements for Parent/Family Intervention (Intensive) services.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XV. Services for Special Populations
Subpart 1. Mental Health Rehabilitation
Subchapter C. Optional Services
Chapter 3. Covered Services and Staffing
Requirements

§335. Parent/Family Intervention (Intensive)

A. - B.2. ...

3. Beginning with the seventh month after certification as a Parent/Family Intervention (Intensive) services provider or upon admission of at least 12 recipients, whichever comes first, staff assigned to a Parent/Family Intervention (Intensive) team must be exclusive to this team and must not provide any other services outside of the team.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1085 (May 2005), amended LR 32:2067 (November 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability or autonomy as described in R.S. 49:972 by facilitating access to these services through greater provider participation as a result of lessening the staffing restrictions.

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 Wednesday, October 28, 2009 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Alan Levine
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Mental Health Rehabilitation
Program—Parent/Family Intervention (Intensive)
Services

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in an estimated increase in expenses to the state of \$8,526 for FY 09-10, \$19,595 for FY 10-11, and \$20,183 for FY 11-12. It is anticipated that \$246 (\$123 SGF and \$123

FED) will be expended in FY 09-10 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on the current Federal Medical Assistance Percentage (FMAP) as allowed in the American Recovery and Reinvestment Act of 2009 (80.01%). Additional federal funds are projected to be available in the current year through December 2010. To the extent that DHH utilizes federal match, up to the allowable match for the eligibility period (through December 2010), state general fund match could be reduced.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$33,754 for FY 09-10, \$78,431 for FY 10-11, and \$80,784 for FY 11-12. It is anticipated that \$123 will be expended in FY 09-10 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on the current Federal Medical Assistance Percentage (FMAP) as allowed in the American Recovery and Reinvestment Act of 2009 (80.01%). Additional federal funds are projected to be available in the current year through December 2010. To the extent that DHH utilizes federal match, up to the allowable match for the eligibility period (through December 2010), state general fund match could be reduced.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule proposes to amend the provisions governing the Mental Health Rehabilitation Program to revise the staffing requirements for Parent/Family Intervention (Intensive) services to lessen the staffing restrictions (approximately 18,930 service units annually). It is anticipated that implementation of this proposed rule will increase expenditures in the Medicaid Program by approximately \$42,034 for FY 09-10, \$98,026 for FY 10-11 and \$100,967 for FY 11-12.

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
0909#099

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Bureau of Health Services Financing

Multi-Systemic Therapy—Provider Responsibilities and Sanctions (LAC 50:XV.25505, 25901, and 25903)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt LAC 50:XV.25505 and Chapter 259 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing adopted provisions governing the coverage and reimbursement of multi-systemic therapy (MST) for youth with serious emotional/behavioral disturbances who are at risk of out-of-home placement or returning home from out-of-home placement as a result of the emotional/behavioral disturbance (*Louisiana Register*,

Volume 35, Number 2). The department now proposes to amend the February 2009 Rule to adopt provisions governing provider responsibilities and sanctions.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 17. Multi-Systemic Therapy

Chapter 255. Provider Participation

§25505. Provider Responsibilities

A. A complete personnel records creation and retention policy shall be developed, implemented and maintained by all MST providers. Each personnel record shall include, but is not limited to, the following documentation.

1. Employment Verification. Verification of previous employment shall be obtained and maintained in accordance with the criteria specified in the current MST Provider Manual.

2. Educational Verification. Education documents, including diplomas, degrees and certified transcripts shall be maintained in the records. Resumes and documentation of qualifications for all staff, including verification of current licensure and malpractice insurance coverage must also be maintained in the personnel records.

3. Criminal Background Checks. There shall be documentation verifying that a criminal background check was conducted on the employee by the Louisiana Department of Public Safety (State Police) prior to employment with the MST provider as required by R.S. 15:587.1 and R.S. 15:587.3. MST providers shall not hire an individual with a record as a sex offender or permit these individuals to work for them.

4. Drug Testing

a. All prospective employees who apply to work for an MST provider shall be subject to a drug test for illegal drug use. Documentation of the drug test shall be maintained in the personnel record. The drug test shall be administered after the date of the employment interview and before an offer of employment is made. If a prospective employee tests positive for illegal drug use, the MST provider shall not hire the individual.

b. MST providers shall have a drug testing policy that provides for random drug testing of employees and a written plan to handle employees who test positive for illegal drug use, whether the usage occurs at work or during off duty hours.

c. Documentation of the provider's drug testing policy shall be readily available and provided to the department or its designee upon request.

5. Tuberculosis Testing. All persons, prior to or at the time of employment, shall be free of tuberculosis in a communicable state.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

Chapter 259. Sanctions

§25901. Grounds for Sanctions

A. The following are grounds for sanctioning of a multi-systemic therapy provider:

1. failure to comply with any and all certification, administrative, accreditation, training or operational requirements at any time;

2. failure to provide services specified in the recipient's service agreement;

3. failure to uphold recipients' rights when violations may or could result in harm or injury;

4. failure to notify proper authorities of all suspected cases of neglect, criminal activity, or mental or physical abuse which could potentially cause, or actually causes harm to the patient;

5. failure to maintain adequate qualified staff to provide necessary services;

6. failure to adequately document that services billed were actually performed;

7. failure of an MST provider's subcontractors to meet all required standards;

8. failure to fully cooperate with a Department of Health and Hospitals (DHH) survey or investigation including, but not limited to, failure to allow DHH staff entry to the MST provider's or subcontractor's offices or denial of access to any requested records during any survey or investigation;

9. failure to comply with all reporting requirements in a timely manner;

10. failure to provide documentation that verifies compliance with any requirement as set forth in this Subpart 17;

11. failure to comply with any or all federal or state regulations or laws applicable to either the Multi-Systemic Therapy Program or the Medical Assistance Program;

12. failure to protect recipients from harmful actions of an MST provider's employees or subcontractors including, but not limited to:

a. health and safety;

b. coercion;

c. threat;

d. intimidation;

e. solicitation; or

f. harassment;

13. failure to remain fully operational at all times for any reason other than a natural disaster;

14. a substantiated pattern of consistent complaints filed against an MST provider, within a one-year period;

15. a false statement of a material fact knowingly (or with reason to know) made by an owner or staff person of the MST provider in the following areas:

a. an application for enrollment;

b. data forms;

c. a recipient's record;

d. any matter under investigation by the department;

or

e. certification/recertification;

16. use of false, fraudulent or misleading advertising;

17. failure to disclose a conviction for a criminal offense by a person with ownership or controlling interest in the provider agency, or by a person who is an agent or managing employee of the MST provider; or

18. failure to provide optimum care in accordance with current standards of practice.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

§25903. Applicable Sanctions

A. The following sanctions may be applied to any MST provider, independently, consecutively and/or collectively. These sanctions may be imposed in addition to those sanctions cited in the Surveillance and Utilization Review Systems (SURS) Rule, LAC 50:I.Chapter 41 (*Louisiana Register*, Volume 29, Number 4).

1. The MST provider may be terminated as an MST provider. Terminated agencies, including all of their owners, officers or directors, will not be allowed to reapply for enrollment as a Medicaid MST provider for a period of up to five years.

2. Payments for services rendered may be suspended or withheld until program compliance is verified.

3. The MST provider’s current recipients shall be transferred to another MST provider if the bureau determines that recipient health and safety are compromised. Recipients have freedom of choice regarding the selection of service providers.

4. The MST provider and/or the staff may be required to complete education and training in all aspects of MST policy and billing procedures, including training relevant to providing quality MST services.

5. Individuals employed by the provider may be suspended or excluded from providing MST services.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

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 Wednesday, October 28, 2009 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Alan Levine
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Multi-Systemic Therapy—Provider
Responsibilities and Sanctions**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 09-10. It is anticipated that \$656 (\$328 SGF and \$328 FED) will be expended in FY 09-10 for the state’s administrative expense for promulgation of this proposed rule and the final rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections other than the federal share of the promulgation costs for FY 09-10. It is anticipated that \$328 will be collected in FY 09-10 for the federal share of the expense for promulgation of this proposed rule and the final rule.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

This rule proposes to amend the provisions governing multi-systemic therapy to establish provisions governing provider responsibilities and sanctions (approximately 12 providers statewide). It is anticipated that implementation of this proposed rule will not increase the expenditures of multi-systemic therapy providers in FY 09-10, FY 10-11 and FY 11-12 since providers already adhere to these provisions.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

This rule has no known effect on competition and employment.

Jerry Phillips
Medicaid Director
0909#100

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Pediatric Day Health Care Facilities
Minimum Licensing Standards
(LAC 48:I.Chapter 52)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt LAC 48:I.Chapter 52 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 40:40:2193-2193.4. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq.

Act 432 of the 2004 Regular Session of the Louisiana Legislature directed the Department of Health and Hospitals to adopt provisions governing the licensing standards for

pediatric day health care facilities. In compliance with the directives of Act 432, the Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt provisions governing the minimum licensing standards for pediatric day health care facilities.

Title 48

PUBLIC HEALTH—GENERAL

Part 1. General Administration

Subpart 3. Licensing and Certification

Chapter 52. Pediatric Day Health Care Facilities

Licensing Standards

Subchapter A. General Provisions

§5201. Introduction

A. A pediatric day health care (PDHC) facility serves medically fragile individuals under the age of 21, including technology dependent children who require close supervision. These facilities offer an alternative health care choice to receiving in-home nursing care. A PDHC facility may operate seven days per week and may provide up to 12 hours of services per day per individual served.

B. The care and services to be provided by the PDHC facility shall include, but is not limited to:

1. nursing care, including but not limited to tracheotomy and suctioning care, medication management, IV therapy, and gastrostomy care;
2. respiratory care;
3. physical, speech, and occupational therapies;
4. assistance with activities of daily living;
5. transportation services;
6. socialization; and
7. education and training.

C. In addition to the provision of care and services, the PDHC facility shall also function as an emergency shelter as provided in these licensing regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2193–40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

§5203. Definitions

Administrator—the person who is in charge of the daily operation of the PDHC facility.

Department or DHH—the Louisiana Department of Health and Hospitals.

Child—a medically fragile individual under the age of 21 who receives services from a PDHC facility, including a technology dependent child who requires close supervision.

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

Medically Fragile—an individual who has a medically complex condition characterized by multiple, significant medical problems that require extended care.

Parent—parent(s) or guardian with legal custody of the child.

Pediatric Day Health Care (PDHC) Facility—a facility that serves medically fragile individuals under the age of 21, including technology dependent children who require close supervision.

Pediatric Nursing Experience—being responsible for the care of acutely ill or chronically ill children.

Plan of Care—the comprehensive plan developed by the PDHC facility for each child receiving services for implementation of medical, nursing, psychosocial, developmental, and educational therapies.

Prescribing Physician—a physician, currently licensed to practice medicine in Louisiana, who:

1. signs the order admitting the child to the PDHC facility;
2. maintains overall responsibility for the child's medical management; and
3. is available for consultation and collaboration with the pediatric day health care staff.

Secretary—the secretary of the Louisiana Department of Health and Hospitals, or his designee.

Technology Dependent Child—a child who has a chronic disability that requires specific nursing interventions to compensate for the deficit of a life sustaining body function. The child requires daily, ongoing, intermittent care or monitoring by health care professionals or other trained personnel as prescribed by a physician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2193–40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

Subchapter B. Licensing Procedures

§5205. General Provisions

A. All pediatric day health care facilities must be licensed by the department. A PDHC facility shall not be established, opened, operated, managed, maintained, or conducted in this state without a current valid license issued by the Department of Health and Hospitals (DHH). DHH is the only licensing authority for PDHC Facilities in the state of Louisiana. It shall be unlawful to operate a PDHC facility without possessing a current, valid license by DHH. Each PDHC facility shall be separately licensed.

B. A parent or legal guardian or legally responsible person providing care to a medically fragile child in his/her home or any other extended care or long term care facility is not considered to be a PDHC facility and shall not be licensed as a PDHC facility.

C. A PDHC license shall:

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

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

1. The PDHC facility shall always have at least two employees, one of whom is an RN, on duty at the facility location during operational hours.

2. There shall be staff employed and available to be assigned to provide care and services to each child during all operational hours. Services rendered shall be consistent with the medical needs of each child.

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

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

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

G. No branches, satellite locations or offsite campuses shall be authorized for a PDHC facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2193–40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

§5207. Initial Licensing Application Process

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

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

2. a copy of the approval letter of the architectural facility plans from the DHH Department of Engineering and Architectural Services and the Office of the State Fire Marshal (OSFM);

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

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

5. a copy of statewide criminal background checks on all individual owners with a 5 percent or more ownership interest in the PDHC facility entity, and on all members of the PDHC facility's board of directors, if applicable, and administrators;

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

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

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

c. worker's compensation insurance;

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

8. a completed disclosure of ownership and control information form;

9. a floor sketch or drawing of the premises to be licensed;

10. the days and hours of operation; and

11. any other documentation or information required by the Department for licensure.

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

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2193–40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

§5209. Types of Licenses

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

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

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

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

b. The facility must submit a plan of correction to the department for approval and the provider shall be required to correct all such noncompliance or deficiencies prior to the expiration of the provisional initial license.

c. A follow-up survey shall be conducted prior to the expiration of the provisional initial license.

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

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

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

4. Provisional Renewal License. The department, in its sole discretion, may issue a provisional license to an existing licensed PDHC facility for a period not to exceed six months.

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

b. A provisional renewal license may be issued for the following reasons:

i. the existing PDHC facility has more than five deficient practices or deficiencies cited during any one survey;

ii. the existing licensed PDHC facility has more than three validated complaints in a one year period;

iii. the existing PDHC facility has been issued a deficiency that involved placing a child or participant at risk for serious harm or death;

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

v. the existing pediatric day health care provider is not in substantial compliance with all applicable federal, state, departmental, and local statutes, laws, ordinances, rules, regulations and fees at the time of renewal of the license.

c. When the department issues a provisional renewal license to an existing licensed pediatric day health care provider, the department shall conduct an on-site follow-up survey at the pediatric day health care facility prior to the expiration of the provisional license.

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

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

B. If an existing licensed PDHC facility has been issued a notice of license revocation, suspension, or termination, and the facility's license is due for annual renewal, the department shall deny the license renewal application and shall not issue a renewal license.

1. If a timely administrative appeal has been filed by the provider regarding the license revocation, suspension, or termination, the administrative appeal shall be suspensive and the facility shall be allowed to continue to operate and provide services until such time as the department's Bureau of Appeals issues a decision on the license revocation, suspension, or termination.

2. If the secretary of the department determines that the violations of the PDHC facility pose an imminent or immediate threat to the health, welfare, or safety of a child, the imposition of such action may be immediate and may be enforced during the pendency of the administrative appeal. The PDHC facility shall be notified of this determination in writing.

3. The denial of the license renewal application shall not affect in any manner the license revocation, suspension, or termination.

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

D. The license for a PDHC facility shall be valid for one year from the date of issuance, unless revoked, suspended, modified, or terminated prior to that time.

E. The initial pediatric day health care license shall specify the capacity of the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2193-40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

§5211. Licensing Surveys

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

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

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

1. A new provider that is issued a provisional initial license or an existing provider that is issued a provisional renewal license shall be required to correct all noncompliance or deficiencies at the time the follow-up survey is conducted.

2. The department shall issue written notice to the provider of the results of the follow-up survey.

D. An acceptable plan of correction may be required for any survey where deficiencies have been cited.

E. If deficiencies have been cited during a licensing survey, regardless of whether an acceptable plan of

correction is required, the department may issue appropriate sanctions, including, but not limited to:

1. civil monetary penalties;
2. directed plans of correction; and
3. license revocations.

F. DHH surveyors and staff shall be:

1. given access to all areas of the facility and all relevant files during any licensing survey or other survey; and

2. allowed to interview any provider staff, child or participant as necessary to conduct the survey.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2193–40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

§5213. Changes in Licensee Information or Personnel

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

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

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

1. Key administrative personnel include the:
 - a. administrator;
 - b. medical director; and
 - c. director of nursing.

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

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

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

1. The license of a PDHC facility is not transferable or assignable. The license of a PDHC facility cannot be sold.

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

3. A PDHC facility that is under license suspension, revocation, or termination may not undergo a CHOW.

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

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

1. Written notice of intent to relocate must be submitted to the licensing section of the department when

plan review request is submitted to the department for approval.

2. Relocation of the facility’s physical address results in a new anniversary date and the full licensing fee must be paid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2193–40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

§5215. Cessation of Business

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

1. give 30 days advance written notice to:
 - a. the department;
 - b. the prescribing physician; and
 - c. the parent(s) or legal guardian or legal representative;
2. notify the department of the location where the records will be stored and the contact person for the records; and
3. provide for an orderly discharge and transition of all children admitted to the facility.

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2193–40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

§5217. Renewal of License

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

1. the license renewal application;
2. the days and hours of operation;
3. a copy of the current on-site inspection report with approval for occupancy from the:

- a. Office of the State Fire Marshal; and
- b. Office of Public Health;

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

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

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

c. worker’s compensation insurance;

5. the license renewal fee; and

6. any other documentation required by the department.

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

C. Failure to submit a completed license renewal application packet prior to the expiration of the current license shall result in the voluntary non-renewal of the pediatric day health care license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2193–40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

§5219. Denial of License, Revocation of License, Denial of License Renewal

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

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

B. Denial of an Initial License

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

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

C. Voluntary Non-Renewal of a License

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

2. If a provider fails to timely renew its license, the facility shall immediately cease providing services, unless the provider is actively treating children, in which case the provider shall:

- a. immediately provide written notice to the department of the number of children receiving treatment at this PDHC facility;
- b. immediately provide written notice to the prescribing physician and to the child, parent, legal guardian, or legal representative of the following:
 - i. voluntary non-renewal of license;
 - ii. date of closure; and
 - iii. plans for orderly transition of the child;
- c. discharge and transition of each child within 15 days of voluntary non-renewal; and
- d. notify the department of the location where records will be stored and the contact person for the records.

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

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

1. failure to be in substantial compliance with the PDHC facility licensing laws, rules and regulations, or with other required statutes, laws, ordinances, rules, or regulations;
2. failure to comply with the terms and provisions of a settlement agreement or education letter with or from the department, the Attorney General's Office, any regulatory agency, or any law enforcement agency;
3. failure to uphold child rights whereby deficient practices result in harm, injury, or death of a child;

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

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

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

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

6. knowingly making a false statement, including but not limited to:

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

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

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

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

10. an owner, officer, member, manager, administrator, director, or person designated to manage or supervise child care has pled guilty or nolo contendere to a felony, or has been convicted of a felony, as documented by a certified copy of the record of the court.

a. For purposes of these provisions, conviction of a felony means a felony relating to any of the following;

- i. violence, abuse, or negligence of another person;
- ii. misappropriation of property belonging to another person;
- iii. cruelty, exploitation, or sexual battery of a person with disabilities;
- iv. a drug offense;
- v. crimes of a sexual nature;
- vi. a firearm or deadly weapon; or
- vii. fraud or misappropriation of federal or state funds, including Medicare or Medicaid funds;

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

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

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

14. bribery, harassment, or intimidation of any child or family member designed to cause that child or family member to use or retain the services of any particular PDHC facility; or

15. cessation of business or non-operational status.

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2193–40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

§5221. Notice and Appeal of License Denial, License Revocation and License Non-Renewal and Appeal of Provisional License

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

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

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

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

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

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

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

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

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

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

1. The PDHC facility must request the administrative appeal within 30 calendar days of the receipt of the notice of

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

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

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

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

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

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

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

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

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

F. There is no right to an informal reconsideration or an administrative appeal of the issuance of a provisional initial license to a new PDHC facility. The issuance of a provisional license to an existing PDHC facility is not considered to be a denial of license, a denial of license renewal, or a license revocation.

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

and the right to an administrative appeal regarding the deficiencies cited at the follow-up survey.

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

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

3. The facility shall submit a written request for informal reconsideration within five calendar days of receipt of the department's notice of the results of the follow-up survey.

a. The facility may forego its right to an informal reconsideration.

4. The facility shall submit a written request to the DHH Bureau of Appeals for an administrative appeal within five calendar days of receipt of the department's notice of the results of the informal reconsideration.

a. If the facility has opted to forego the informal reconsideration process, a written request for an administrative appeal shall be made within five calendar days of receipt of the department's notice of the results of the follow-up survey.

H. A facility with a provisional initial license or an existing provider with a provisional license that expires under the provisions of this Chapter shall cease providing services and discharge children unless the Bureau of Appeals issues a stay of the expiration.

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

a. after a contradictory hearing; and

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

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

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

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2193-40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

§5223. Complaint Surveys

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

B. Complaint surveys shall be unannounced surveys.

C. An acceptable plan of correction may be required by the department for any complaint survey where deficiencies have been cited. If the department determines other action, such as license revocation is appropriate, a plan of correction may not be required and the facility will be notified of such action.

D. A follow-up survey may be conducted for any complaint survey where deficiencies have been cited to ensure correction of the deficient practices. If the department determines that other action, such as license revocation, is appropriate, a follow-up survey may not be required. The facility will be notified of any action.

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

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

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

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

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

J. Except as provided in §5223.K, the informal reconsideration shall constitute final action by the department regarding the complaint survey or investigation, and there shall be no right to an administrative appeal.

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

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

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

3. The administrative law judge shall only make a determination on the administrative appeal, based on the evidence presented, as to whether or not the complaint investigation or survey was conducted properly or improperly. The administrative law judge shall not have the authority to overturn or delete deficiencies or violations and shall not have the authority to add deficiencies or violations.

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

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2193–40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

§5225. Statement of Deficiencies

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

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

2. any subsequent complaint survey statement of deficiencies.

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

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

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

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

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

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

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2193–40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:
Subchapter C. Administration and Organization
§5231. Facility Administration and Management

A. The licensee of each PDHC facility shall have full legal authority and responsibility for the operation of the facility.

B. Each PDHC facility shall be organized in accordance with a written table of organization which describes the lines of authority and communication from the administrative level to the child care level. The organizational structure shall be designed to ensure an integrated continuum of services to the children.

C. The licensee of each facility shall designate one person as administrator who is responsible and accountable for the overall management and supervision of the PDHC facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2193–40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:
§5233. Policy and Procedures

A. The PDHC facility through collaboration by the medical director, administrator, and director of nursing shall develop, implement and maintain written policies and procedures governing all child care and related medical or other services provided to participants. The child care policies and procedures shall ensure compliance with these licensing standards.

B. All child care policies and procedures shall be reviewed at least annually and revised as needed.

C. Child care policies and procedures shall address the prevention, reporting, and investigation of abuse and neglect. All facility staff shall immediately report any suspected abuse and/or neglect of a child in accordance with state law.

D. The facility's written policy on prevention, reporting, and investigation of abuse and neglect, as well as the local child protection agency's telephone number, shall be posted in the facility in a conspicuous location.

E. The PDHC facility shall develop and implement a grievance policy and procedures. The grievance policy shall be used to process complaints by the child or parent.

1. The child or parent shall be entitled to initiate a grievance at any time.

2. The child and/or parent shall be informed of and provided a written copy of the grievance policy of the PDHC facility upon acceptance to the facility.

3. The administrator of the facility or his designee shall investigate all grievances and shall make reasonable attempts to address the grievance(s).

4. The administrator or his designee shall issue a written report or decision to the child and/or parent within five business days of receipt of the grievance. The written report shall contain:

- a. the findings of the investigation;
- b. resolution of the investigation; and
- c. the address and contact number of the licensing section of the department to which a complaint may be filed.

5. The facility shall prominently post the grievance procedure in an area accessible to the child and family.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2193–40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

Subchapter D. Participation Requirements

§5237. Acceptance Criteria

A. Each PDHC facility shall have written policies and procedures governing the acceptance and participation of children in their pediatric day health care program.

B. Infants or children shall be considered for acceptance to the facility if they have been diagnosed with a medically complex condition(s) which is characterized by multiple significant medical problems that require extended care (i.e., medically fragile).

1. For purposes of these provisions, medically fragile conditions include, but are not limited to:

- a. severe lung disease requiring oxygen;
- b. severe lung disease requiring ventilator or tracheotomy care;
- c. complicated spina bifida;
- d. heart disease;
- e. malignancy;
- f. asthmatic exacerbations;
- g. cystic fibrosis exacerbations;
- h. neuromuscular disease;
- i. encephalopathy; and
- j. seizure disorders.

C. The child shall be stable for outpatient medical services and require ongoing nursing care and other interventions. Children with risk of infectious disease or acute infection shall be accepted only as authorized by the prescribing physician in collaboration with the PDHC facility medical director.

D. The prescribing physician, in consultation with the parent(s), shall recommend participation in a pediatric day health care program, taking into consideration the medical, emotional, psychosocial and environmental factors.

1. No child shall be accepted to participate in PDHC facility services without a prescription from the child's prescribing physician.

2. The medical director of the PDHC facility may provide the referral to the facility if he/she is the child's prescribing physician.

E. A consent form, outlining the purpose of the facility, parent's responsibilities, authorized treatment and emergency disposition plans shall be signed by the parent(s) and witnessed prior to acceptance into the facility's PDHC program. The parent(s) shall be provided a copy of the consent form and the facility shall retain a copy in their records.

F. Before care is initiated, the PDHC facility shall inform the parent orally and in writing of:

- a. those charges for services that will not be covered by the child's payor source; and
- b. the charges that the parent may be responsible for paying.

G. Conference Prior to Attendance. If the child meets the criteria for acceptance into a PDHC facility program, the prescribing physician or his/her designee shall contact the medical or nursing director of the PDHC facility to schedule a conference prior to the child attending the facility.

1. If the child is hospitalized at the time of referral, planning for PDHC participation shall include the parent(s),

relevant hospital medical, nursing, social services and developmental staff to begin development of the plan of care that will be implemented following acceptance to the PDHC facility.

2. If the child is not hospitalized at the time of referral, planning for PDHC participation shall be conducted with the prescribing physician, parent(s), PDHC facility representative(s), and representative(s) of other relevant agencies to begin development of the plan of care that will be implemented following acceptance to the PDHC facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2193–40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

§5239. Plan of Care

A. Each child that has been accepted to a facility and participates in a PDHC program shall have a plan of care developed to assure that the child receives appropriate services. Development of the plan of care shall begin within 72 hours of receipt of the referral to allow sufficient time for implementation of the plan upon placement in the facility.

B. The plan of care shall be developed under the direction of the facility's nursing director and shall:

1. be individualized to address the child's problems, goals, and required services including, but not limited to medical, nursing, psychosocial, therapy, dietary, and educational services;

2. ensure that the child's developmental needs are addressed;

a. the PDHC facility shall consider developmentally appropriate learning and play experiences as well as social interaction with other children;

3. identify specific goals for care;

a. plans for achieving the goals shall be determined and a schedule for evaluation of progress shall be established; and

4. contain specific criteria for transitioning from or discontinuing participation in pediatric day health care with the facility.

C. The plan of care shall be signed by the prescribing physician, the authorized representative of the facility, and the parent(s). Copies of the plan of care shall be given to the prescribing physician and other agencies as appropriate. The facility shall retain a copy in their records and a copy shall be given to the parent(s) if requested.

D. The plan of care for continuation of services shall be:

1. reviewed and updated at least quarterly or as indicated by the needs of the child;

2. completed by a registered nurse;

3. reviewed and ordered by the prescribing physician; and

4. incorporated into the patient's clinical record within seven calendar days of receipt of the prescribing physician's order.

E. The medical director shall review the plans of care in consultation with PDHC staff and the prescribing physician, every 60 days or more frequently as the child's condition dictates. Prescribed services and therapies included in the plan of care shall be adjusted in consultation with the prescribing physician to accommodate the child's condition.

F. Facility staff shall administer services and treatments in accordance with the plan of care as ordered by the physician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2193–40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

§5241. Participant Rights

A. The parent(s) of a child who participates in PDHC services shall, prior to or upon acceptance, receive a written statement of the services provided by the facility.

B. Before care is initiated, the child and or the parent have the right to be advised in writing of his/her liability for payment for services rendered by the PDHC facility.

C. Each child that participates in PDHC facility services shall:

1. be treated with consideration, respect, and full recognition of his or her dignity and individuality;

2. receive care, treatment, and services in accordance with their plan of care;

3. have the right to privacy regarding medical treatment and medical records; and

a. personal and medical records shall be treated confidentially in compliance with federal and state laws, rules and regulations;

4. be free from mental and physical abuse.

D. The PDHC facility shall refrain from using chemical and physical restraints unless authorized by a physician according to clear and indicated medical requirements.

E. Each child or parent shall have the right, personally or through others, to present grievances without reprisal, interference, coercion, or discrimination against the child as a result of such grievance.

F. The facility shall prominently post the child's rights and the abuse and neglect procedures in an area accessible to the child and family.

G. Each parent shall be notified of any accidents or incidents involving their child.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2193–40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

Subchapter E. Pediatric Day Health Care Services

§5245. General Provisions

A. During the delivery of services, child care goals and interventions shall be coordinated in conjunction with providers and caregivers to ensure appropriate continuity of care from acceptance to the PDHC facility until the child's participation ends.

B. The facility shall maintain a system of communication and integration of services, whether provided directly or under arrangement, that ensures:

1. identification of the child's needs and barriers to care;

2. ongoing coordination of all disciplines providing care; and

3. contact with the physician regarding any relevant medical issues.

C. The child's prescribing physician shall maintain responsibility for the overall medical therapeutic plan and shall be available for consultation and collaboration with the facility's medical and nursing personnel as needed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2193–40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

§5247. Developmental and Educational Services

A. If the PDHC facility provides services for which a school district is responsible, the PDHC facility may enter into a Memorandum of Understanding (MOU) with the school district.

B. For any child enrolled in the early intervention program (EarlySteps) or the local school district's program under the Individuals with Disabilities Act, the PDHC facility shall adhere to the following.

1. In the development of the plan of care, the PDHC facility shall consider the components of the individualized family services plan for children under 3 years old or the individualized education program for children from 3 years old through 21 years old.

2. The PDHC facility shall not duplicate services already provided through the early intervention program or the local school district.

3. Upon request by the early intervention program or the local school district, the PDHC facility shall make available any records necessary to develop, review or revise an individualized family service plan or individualized education plan.

C. If a child has not been previously enrolled in a Local Education Agency (LEA), the PDHC facility shall make a referral to the LEA in the area where the PDHC facility is located. If a child has not been previously enrolled in the early intervention system, the PDHC facility shall refer the child to the regional single point of entry (SPOE).

D. The PDHC facility shall secure a signed release from the child's parent or guardian in order to receive copies of records for a:

1. school aged child from any school system that the child may have been enrolled in; or

2. child, from birth to three years old, for early intervention services from the regional SPOE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2193–40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

§5249. Medication Administration

A. All medications administered to children in the PDHC facility shall be ordered in writing by the child's prescribing physician or by a specialty physician after consultation and coordination with the PDHC facility. This includes, but is not limited to:

1. over the counter medications;

2. oral electrolyte solutions (Pedialyte, Pedia Vance or similar products); and

3. oxygen.

B. The PDHC facility shall coordinate with the child/parent(s) to ensure that the child's medications are brought to the facility each day the child receives services at the facility.

C. The facility shall adhere to the following medication handling and administration standards.

1. Medications shall be kept in their original packaging and contain the original labeling from the pharmacy.

2. Each child's medications shall be individually stored in a secured location.

3. The PDHC facility shall demonstrate coordination between family and staff regarding medication administration (i.e. last dose given by family or staff).

4. Schedule II substances shall be kept in a separately locked, securely fixed box or drawer(s) in a locked medication cabinet, hence under two separate locks.

a. The facility shall have established policies and procedures for the handling and administration of controlled substances.

5. Medications requiring refrigeration shall be kept in a refrigerator separate from foods.

D. The PDHC facility shall maintain a record of medication administration. The record shall contain:

1. each medication ordered;
2. each medication administered;
3. the date, time and dosage of each medication administered; and
4. the initials of the person administering the medication.

D. The PDHC facility shall have policies and procedures that address notification of the appropriate authorities of any theft or unexplained loss of any controlled substances, syringes, needles or prescription pads within 48 hours of discovery of such loss or theft.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2193–40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

§5251. Nutritional Services

A. The facility shall ensure that if dietary services are ordered in the child's plan of care, the services shall be provided by a Louisiana licensed registered dietician. The registered dietician shall be available regarding the nutritional needs, the special diets of individual children, and to assist in the development of policies and procedures for the handling, serving, and storage of food.

B. Meals shall be provided on an as needed or prescribed basis. The facility shall incorporate appropriate nutritional services into the child's plan of care as prescribed by the physician and in collaboration with the child and parents to ensure appropriate formula, foods, utensils, equipment, and supplies are readily available. Therapeutic diet orders shall be maintained in the child's file.

C. A minimum of one meal and appropriate snacks and beverages shall be provided as prescribed in the plan of care. The meals and snacks shall be age appropriate.

1. If the plan of care requires more frequent meals or nutrition, the PDHC facility shall provide these services while the child is at the PDHC facility. The PDHC facility shall coordinate with the child and family to ensure that nutritional supplies and formula used by the child are available at the PDHC facility without duplication.

D. All food in the facility shall be safe for human consumption.

1. Grade "A" pasteurized fluid milk and fluid milk products shall be used or served.

E. All food preparation areas shall be maintained in accordance with state and local sanitation and safe food handling standards. Pets are not allowed in food preparation and serving areas.

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

G. The facility's refrigerator(s) shall be maintained at a temperature of 45 degrees Fahrenheit or below. Thermometers shall be provided for all refrigerators. A daily temperature log of the refrigerator shall be maintained by the PDHC facility. Food stored in the refrigerator shall be dated, labeled and appropriately packaged.

H. The water supply shall be adequate, of a safe sanitary quality and from an approved source. Clean sanitary drinking water shall be available and accessible in adequate amounts at all times.

1. Disposable cups, if used, shall be stored in such a way as to prevent contamination.

I. The ice scoop for ice machines shall be maintained in a sanitary manner with the handle at no time coming in contact with the ice.

J. Staff shall be available in the dining area to serve the food and to give individual attention as needed.

K. Specific times for serving meals shall be established and posted.

L. Written reports of inspections by the Office of Public Health shall be kept on file in the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2193–40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

§5253. Social Services

A. The facility shall provide directly or through contract or arrangement the social services as ordered by the prescribing physician or medical director. Social services shall be provided in accordance with the Louisiana State Board of Social Work Examiners requirements.

B. The facility shall ensure that if social services are ordered in the child's plan of care, the care or services shall be rendered by a social worker.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2193–40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

§5255. Therapy Services

A. The facility shall provide directly or through contract or arrangement the therapies as ordered by the prescribing physician or medical director. Therapies and services shall be provided in accordance with applicable State Boards' requirements and the child's plan of care if so ordered.

B. Occupational Therapy. The facility shall ensure that occupational therapy services are provided by:

1. an individual authorized by the Louisiana State Board of Medical Examiners (LSBME); or

2. a certified occupational therapy assistant in accordance with the LSBME's requirements.

C. Physical Therapy. The facility shall ensure that physical therapy services are provided by:

1. an individual licensed by the Louisiana State Board of Physical Therapy Examiners (LSBPTE); or

2. a physical therapy assistant in accordance with the LSBPTE requirements.

D. Respiratory Care. The facility shall ensure that respiratory care shall be provided by:

1. an individual licensed as a respiratory therapist by the LSBME;

2. a registered nurse with documented experience in providing respiratory care in accordance with the Louisiana State Board of Nursing; or

3. a licensed practical nurse with documented experience in providing respiratory care in accordance with the Louisiana State Board of Practical Nurse Examiners.

E. Speech-Language Pathology. The facility shall ensure that speech-language pathology services are provided by an individual authorized by the Louisiana Board of Examiners for Speech-Language Pathology and Audiology.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2193–40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

§5257. Transportation

A. The PDHC facility shall provide or arrange transportation of children to and from the facility and is responsible for the safety of the children during transport. The family may choose to provide their own transportation. Whether transportation is provided by the facility on a daily basis or as needed, these general regulations shall apply.

1. If the PDHC facility arranges transportation for participants through a transportation agency, the facility shall maintain a written contract which is signed by a facility representative and a representative of the transportation agency. The contract shall outline the circumstances under which transportation will be provided.

a. This written contract shall be dated and time limited and shall conform to these licensing regulations.

b. The transportation agency shall maintain in force at all times current commercial liability insurance for the operation of transportation vehicles, including medical coverage for children in the event of accident or injury. Documentation of the insurance shall consist of the insurance policy or current binder that includes the name of the transportation agency, the name of the insurance agency, policy number, and period of coverage and explanation of the coverage.

B. Transportation arrangements shall conform to state laws, including laws governing the use of seat belts and child restraints. Vehicles shall be accessible for people with disabilities or so equipped to meet the needs of the children served by the PDHC facility.

C. The driver or attendant shall not leave the child unattended in the vehicle at any time.

D. Vehicle and Driver Requirements.

1. The vehicle shall be maintained in good repair with evidence of an annual safety inspection.

2. The use of tobacco in any form, use of alcohol and possession of illegal substances or unauthorized potentially toxic substances, firearms, pellet or BB guns (loaded or unloaded) in any vehicle while transporting children is prohibited.

3. The number of persons in a vehicle used to transport children shall not exceed the manufacturer's recommended capacity.

4. The facility shall maintain a copy of a valid appropriate Louisiana driver's license for all individuals who drive vehicles used to transport children on behalf of the PDHC facility.

5. The facility shall maintain in force at all times current commercial liability insurance for the operation of center vehicles, including medical coverage for children in the event of accident or injury.

a. This policy shall extend coverage to any staff member who provides transportation for any child in the course and scope of his/her employment.

b. Documentation shall consist of the insurance policy or current binder that includes the name of the PDHC facility, the name of the insurance company, policy number, and period of coverage and explanation of the coverage.

6. The vehicle shall have evidence of a current safety inspection.

7. There shall be first aid supplies in each facility or contracted vehicle. This shall include oxygen, pulse oximeter and suction equipment.

8. Each driver or attendant shall be provided with a current master transportation list including each child's name, pick up and drop off locations and authorized persons to whom the child may be released.

a. Documentation shall be maintained on file at the PDHC facility whether transportation is provided by the facility or contracted.

9. The driver or attendant shall maintain an attendance record for each trip. The record shall include the driver's name, the date, names of all passengers (children and adults) in the vehicle, and the name of the person to whom the child was released and the time of release.

a. Documentation shall be maintained on file at the facility whether transportation is provided by the facility or contracted.

10. There shall be information in each vehicle identifying the name of the administrator and the name, telephone number and address of the facility for emergency situations.

E. Child Safety Provisions

1. The driver plus one appropriately trained staff member shall be required at all times in each vehicle when transporting any child. Staff shall be appropriately trained on the needs of each child.

2. Each child shall be safely and properly:

- a. assisted into the vehicle;
- b. restrained in the vehicle; and
- c. assisted out of the vehicle.

3. Only one child shall be restrained in a single safety belt or secured in an American Academy of Pediatrics recommended, age appropriate safety seat.

4. The driver or appropriate staff person shall check the vehicle at the completion of each trip to ensure that no child is left on the vehicle.

a. Documentation shall include the signature of the person conducting the check and the time the vehicle is checked. Documentation shall be maintained on file at the PDHC facility whether transportation is provided by the facility or contracted.

5. During field trips, the driver or staff member shall check the vehicle and account for each child upon arrival at and departure from each destination to ensure that no child is left on the vehicle or at any destination.

a. Documentation shall include the signature of the person conducting the check and the time the vehicle was checked for each loading and unloading of children during the field trip.

6. Appropriate staff person(s) shall be present when each child is delivered to the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2193–40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

Subchapter G. Facility Responsibilities

§5263. General Provisions

A. A PDHC facility shall employ a sufficient number of qualified staff and delegate sufficient authority to such staff to ensure that the facility's responsibilities are carried out and that the following functions are adequately performed:

1. administrative functions;
2. fiscal functions;
3. clerical functions;
4. housekeeping, maintenance and food service functions;
5. direct service functions;
6. supervisory functions;
7. record-keeping and reporting functions;
8. social services functions; and
9. ancillary service functions.

B. The facility shall ensure that all staff members are properly certified and/or licensed as legally required.

C. The facility shall establish procedures to assure adequate communication among staff in order to provide continuity of services to the participant. This system of communication shall include:

1. a regular review of individual and aggregate problems of participants, including actions taken to resolve these problems;
2. sharing daily information, noting unusual circumstances and other information requiring continued action by staff; and
3. the maintenance of all accidents, personal injuries and pertinent incidents records related to implementation of the child's plan of care.

D. The facility shall not provide service to more participants than the number specified on its license on any given day or at any given time.

E. The facility shall make available to the department any information, which the facility is required to have under these licensing provisions and is reasonably related to the assessment of compliance with these provisions. The participant's rights shall not be considered abridged by this requirement.

F. The PDHC facility shall request a criminal history check on non-licensed persons prior to employment, upon rehire at the PDHC facility, and at least once every three years.

1. A PDHC facility may make an offer of temporary employment to a non-licensed person pending receipt of the results of the criminal history check provided that the check has been requested of the appropriate agency. Any non-licensed individual offered temporary employment prior to the receipt of the results of the criminal history check shall be under the direct supervision of a permanent employee or shall be in the presence of an adult member of the immediate family of the patient.

G. The PDHC facility shall not hire any non-licensed individual who has been convicted of a crime listed in R.S. 40:1300.53(A)(1).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2193–40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

§5265. Staffing Requirements

A. Administrator. The facility administrator shall be a full time employee of the PDHC facility and shall designate in writing a person to be responsible for the facility when he/she is absent from the facility for more than 24 hours. This person is known as the administrator's designee.

1. Qualifications. The administrator and administrator's designee shall have three years of experience in the delivery of health care services and meet one of the following criteria:

- a. be a physician currently licensed in Louisiana;
- b. be a registered nurse currently licensed in Louisiana;
- c. be a college graduate with a bachelors degree; or
- d. have an associate's degree, with one additional year of documented management experience.

2. Any licensed person functioning in the role of administrator or administrator's designee shall have an unrestricted, current license issued by the appropriate Louisiana licensing board.

3. The administrator and the administrator's designee shall be at least 21 years of age.

4. The administrator or the administrator's designee shall have the following responsibilities:

- a. ensuring that the PDHC facility complies with federal, state and local laws, rules and regulations;
- b. maintaining the following written records and any other records required by local, state or federal laws and these licensing provisions:
 - i. daily census record, which shall indicate the name of each child currently receiving services in the facility; and
 - ii. a record of all accidents, unusual incidents, and incidents involving alleged abuse or neglect involving any child or staff member that caused, or had the potential to cause, injury or harm to any person or property within the facility;

(a). Such records shall contain a clear description of each accident or incident, the names of the persons involved, a description of all medical or other services provided to these , specifying who provided such services, and the steps taken to prevent recurrence of such accident or incidents in the future.

c. ensuring that the facility immediately notifies the parent/guardian of any and all accidents or incidents involving their child;

d. ensuring that the facility provides written notification within 24 hours to the parent/guardian of any and all accidents or incidents; and

e. making all reports and referrals to law enforcement or other authorities as required by Federal or State law, rule or regulation.

5. The administrator shall maintain a copy of current agreements with consultants and contracted individuals utilized by the PDHC facility in the facility's records. The record shall include verification of credentials and relevant experience of each person providing service.

6. The administrator shall maintain a personnel record for each employee which shall contain:

a. a current copy of a Louisiana certificate and/or license as applicable;

b. the original employment application, references, employment history for the preceding five years if applicable; and

c. a copy of all job performance evaluations.

7. The administrator shall ensure that the facility develops and maintains a current job description for each employee.

8. The administrator shall provide each employee access to written personnel policies governing conditions of employment. The PDHC facility shall develop and implement an employee grievance procedure.

9. The administrator shall ensure that the facility conducts annual written job performance evaluations or contract monitoring for each employee and contracted individual. The performance evaluation shall note strengths and weaknesses and shall include plans to correct any job performance weakness. Performance evaluations or contract monitoring shall be reviewed with each employee and each contracted individual.

10. The administrator shall ensure that the facility assigns duties to employees that are consistent with their job descriptions and with their levels of education, preparation and experience.

11. The administrator shall ensure that the facility provides necessary qualified personnel and ancillary services to ensure the health, safety, and proper care of each child.

12. The administrator shall ensure that the facility develops and implements policies and procedures which shall be included in the facility's policy manual.

13. The Administrator shall ensure that the facility has documentation of a satisfactory criminal record check of each non-licensed employee, and shall comply with the provisions of R.S. 40:1300.51-56.

B. Medical Director. The medical director of the PDHC shall be a physician currently licensed in Louisiana without restrictions.

1. The medical director shall be:

a. a board certified pediatrician;

b. a pediatric specialist with knowledge of medically fragile children; or

c. another medical specialist or subspecialist with knowledge of medically fragile children.

2. Responsibilities of the medical director include, but are not limited to:

a. periodic review of the services provided by the PDHC facility to assure acceptable levels of quality of care and services;

b. participation in development and implementation of appropriate performance improvement and safety initiatives;

c. participation in the development of new programs and modifications of existing programs;

d. assurance that medical consultation will be available in the event of the medical director's absence;

e. serving on committees as defined and required by these rules and by the facility's policies;

f. consulting with the facility's administrator on the health status of the facility's personnel as it relates to infection control and or the child's health and safety;

g. reviewing reports of all accidents or unusual incidents occurring on the premises and identifying to the facility's administrator hazards to health and safety; and

h. development and implementation of a policy and procedure for the delivery of emergency services and the delivery of regular physician's services when the child's attending physician or designated alternative is not available.

3. The medical director shall be available for consultation or collaboration with the prescribing physician and/or facility staff.

4. The medical director shall participate in reviews of the plan of care for each child receiving services.

5. The Medical Director may serve as the administrator of the PDHC facility.

C. Director of Nursing (DON). Each PDHC shall have a full time director of nursing.

1. The director of nursing shall be a registered nurse (RN) currently licensed in the state of Louisiana without restrictions, and shall:

a. hold a current certification in Cardio Pulmonary Resuscitation (CPR);

b. hold current certification in Basic Cardiac Life Support (BCLS) and Pediatric Advanced Life Support (PALS); and

c. have a minimum of two years general pediatric nursing experience of which at least six months shall have been spent caring for medically fragile or technology dependent infants or children in one of the following settings:

i. pediatric intensive care;

ii. neonatal intensive care;

iii. pediatric emergency care;

iv. PDHC facility;

v. prescribed pediatric extended care center; or

vi. similar care setting during the previous five years.

2. The DON's responsibilities shall include, but are not limited to:

a. the supervision of all aspects of patient care to ensure compliance with the plan of care;

b. all activities of professional nursing staff and direct care staff to ensure compliance with current standards of accepted nursing and medical practice;

c. compliance with all federal and state laws, rules and regulation related to the delivery of nursing care and services;

d. daily clinical operations of the PDHC facility;

e. implementation of personnel and employment policies to assure that only qualified personnel are hired, including verification of licensure and/or certification prior to employment and annually thereafter;

f. maintaining records to support competency of all nursing and direct care staff;

g. implementation of PDHC facility policy and procedures that establish and support quality patient care;

h. development, implementation and supervision of an employee health program in accordance with state laws, rules or regulations;

i. providing for orientation and in-service training to employees to promote effective PDHC services and safety to the patient and to familiarize staff with regulatory issues, as well as agency policy and procedures;

- j. performing timely annual nursing and direct care personnel performance evaluations;
- k. ensuring the PDHC facility has mechanisms for disciplinary action for nursing and direct care personnel;
- l. assuring participation in regularly scheduled appropriate continuing education for all nursing and direct care personnel;
- m. assuring that the care provided by the nursing and direct care personnel promotes effective PDHC services and the safety of the child; and
- n. being on-site during normal operating hours.

3. The agency shall designate in writing a registered nurse who will assume the responsibilities of the DON during his/her absence.

4. The DON may serve as the administrator or administrator's designee if qualified. If the DON is functioning as the administrator or administrator's designee, the DON shall not be included in the total staffing ratio for nursing or direct care services.

D. Registered Nurse (RN). Each PDHC shall have sufficient RN staffing to ensure that the care and services provided to each child is in accordance with the child's plan of care.

1. Each RN employed by the facility shall have at least the following qualifications and experience:

- a. be currently licensed in the state of Louisiana without restrictions as a registered nurse;
- b. hold a current certification in CPR; and
- c. have either:
 - i. one or more years of pediatric experience as an RN, with at least six months experience caring for medically fragile or technologically dependent children; or
 - ii. two or more years of documented prior pediatric nursing experience as a licensed practical nurse (LPN) and with at least six months experience caring for medically fragile or technologically dependent children.

E. Licensed Practical Nurse (LPN). Each PDHC facility shall have sufficient LPN staffing to ensure that the care and services provided to each child is in accordance with the child's plan of care.

1. Each LPN employed by the facility shall have at least the following qualifications and experience:

- a. be currently licensed in the state of Louisiana without restrictions as a licensed practical nurse; and
- b. hold a current certification in CPR; and
- c. have either:
 - i. one year or more years experience in pediatrics as an LPN; or
 - ii. two years of documented prior pediatric experience working as a direct care worker caring for medically fragile child(ren).

F. Direct Care Staff. Direct care staff shall work under the supervision of the registered nurse and shall be responsible for providing direct care to children at the PDHC facility.

1. For the purposes of this Section, other direct care staff shall include:

- a. nursing assistants;
- b. certified nursing assistants;
- c. patient care technicians;
- d. medical assistants;
- e. emergency medical technicians (EMT);

- f. on-site therapists; and
- g. individuals with training and experience in education, social services or child care related fields.

2. Each direct care staff person employed by the facility shall have at least the following qualifications and experience:

- a. one year documented employment experience in the care of infants or children or one year experience in caring for a medically fragile child;
- b. be able to demonstrate the necessary skills and competency to meet the direct care needs of the child(ren) to which they are assigned;
- c. be currently registered with the Certified Nurse Aide (CAN) Registry or Direct Service Worker (DSW) Registry as a CNA or DSW in good standing and without restrictions;
- d. hold a current certification in Cardio Pulmonary Resuscitation (CPR); and
- e. be 18 years of age or older.

G. Nursing and Direct Care Staffing Levels

1. PDHC facilities shall have sufficient nursing and direct care staff to meet the needs of each infant and child receiving services in the PDHC in accordance with the plan of care.

2. Total staffing for nursing services and direct care shall, at a minimum, meet the following ratios according to the daily census:

Children	Total Nursing or Direct Care Staff	RN	RN or LPN	RN, LPN, or Direct Care staff
1	1	1		
2-6	2	1		1
7-9	3	1	1	1
10-12	4	1	1	2
13-15	5	2	1	2
16-18	6	2	1	3
19-21	7	2	2	3
22-24	8	2	2	4
25-27	9	3	2	4
28-30	10	3	2	5
31-33	11	3	3	5
34-36	12	3	3	6
37-39	13	4	3	6
40-42	14	4	3	7
43-45	15	4	4	7

3. If the PDHC facility has a census of more than 45 children, the staffing shall increase by one staff for every three children alternating between a direct care staff, an RN, and an LPN in such order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2193-40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

§5267. Orientation, Staff Development and Training

A. Each PDHC facility shall develop staff and parent orientation and training programs.

B. The PDHC facility shall maintain documentation of orientation and training of each new employee. The orientation shall include, but is not limited to the PDHC facility's:

1. philosophy;
2. organization;
3. practices, policies and procedures;
4. ethics and confidentiality;
5. record keeping;
6. information related to child development; and
7. goals.

C. Orientation shall be given to parents with children who are accepted at the PDHC facility to acquaint the parent(s) with the philosophy and services that will be provided.

D. The PDHC facility shall maintain documentation of an assessment of the skills, knowledge and competencies of the staff.

E. The PDHC facility shall develop training to include:

1. quarterly staff development programs appropriate to the category of personnel;
2. documentation of all staff development programs, and required participation; and
3. Current Basic Life Support certification for all staff.

E. On-going training shall be provided to the parent(s) as necessary and based on the individual needs of the child.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2193-40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

§5269. Record Keeping

A. Medical Records. A medical record shall be developed at the time the child is accepted at the PDHC facility and maintained throughout the facility's care of the child.

1. The record shall be signed by authorized personnel and shall contain at least the following documents:

- a. a medical plan of treatment and a nursing plan of care;
- b. the referral and admission documents concerning the child;
- c. physician orders;
- d. medical history, including allergies and special precautions;
- e. documentation of immunizations;
- f. medication/treatment administration record;

g. concise, accurate information and initialed case notes reflecting progress toward achievement of care goals or reasons for lack of progress;

h. documentation of nutritional management and therapeutic diets, as appropriate;

i. documentation of physical, occupational, speech and other special therapies;

j. correspondence and other documents concerning the child;

k. an order written by the prescribing physician if the child terminates services with the facility, if applicable; and

1. a summary, including the reason why the child is terminating services with the facility, if applicable.

2. The medical records shall contain the individualized nursing care plan that shall be developed within 10 working days of the child's acceptance to the PDHC facility.

a. The nursing care plan shall be reviewed and revised quarterly, or more frequently as necessary. The nursing care plan shall include any recommendations and

revisions to the care plan based on consultation with other professionals involved in the child's care.

3. The plan of care, telephone and/or verbal orders shall be signed by the physician within a timely manner, not to exceed 30 days.

a. The physician's verbal orders may be accepted by a registered nurse, a qualified therapist or a licensed practical nurse as authorized by state and federal laws and regulations.

b. Verbal orders taken by an LPN shall be cosigned by an RN or appropriate therapist.

c. Electronic physician signatures may be accepted per PDHC facility policies.

d. Stamped physician signatures shall not be accepted.

4. All medical and patient records shall be maintained by the PDHC facility in accordance with federal and state law, rule, and regulation regarding confidentiality, privacy and retention.

B. Personnel Records. Personnel records shall be kept in a place, form and system in accordance with appropriate medical and business practices. All personnel records shall be available in the facility for inspection by the department during normal business hours. These records shall be maintained in accordance with federal and state laws, rules, and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2193-40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

§5271. Infection Control

A. The PDHC facility, at the minimum, shall meet the following infection control requirements.

1. The PDHC facility shall have an isolation room with a glass area for observation of the child.

2. Isolation procedures shall be used to prevent cross-infections.

3. All cribs and beds shall be labeled with the child's name. Linens shall be removed from the crib for laundering purposes only.

4. Bed linens shall be changed when soiled and as necessary, but not less than twice weekly.

5. Antimicrobial soap and disposable paper towels shall be at each sink.

6. To prevent the spread of infection from one child to another, staff shall wash their hands using appropriate hand washing techniques or use antibacterial agents after direct contact with each child,.

7. Children suspected of having a communicable disease, which may be transmitted through casual contact, as determined by the facility's medical director in consultation with the prescribing physician or other specialist, shall be isolated. The following actions must be taken:

a. the parents shall be notified of the condition immediately;

b. the child shall be removed from the PDHC facility as soon as possible; and

c. when the communicable disease is no longer present, as evidenced by a written physician's statement, the child may return to the PDHC facility.

B. The facility shall have policies and procedures that address staff members who are suspected of having a communicable disease.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2193–40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

§5273. Quality Assurance

A. All PDHC facilities shall have a quality assurance program and shall conduct quarterly reviews of the facility's medical records for at least a fourth of the children served by the PDHC facility at the time of the quality assurance review. The quarterly review sample shall be randomly selected so each child served at the center has an equal opportunity to be included in the review.

B. Each facility shall establish a quality assurance committee comprised of the following members:

1. the medical director;
2. the administrator;
3. the director of nursing; and
4. three other committee members as determined by

each PDHC facility.

C. The quality assurance review shall be conducted by at least two members of the quality assurance committee. Within 15 calendar days of its review, the quality assurance committee shall furnish copies of its report to the PDHC facility medical and nursing directors.

D. Each quarterly quality assurance review shall include:

1. a review of the goals in each child's nursing plan of care;
2. a review of the steps, process, and success in achieving the goals;
3. identification of goals not achieved as expected;
4. reasons for lack of goal achievement;
5. plans to promote goal achievement;
6. recommendations to be implemented; and
7. a review of previous recommendations or revisions to determine if such were implemented and effective.

E. The quality assurance review will also ascertain and assure the presence of the following documents in each child's medical record:

1. a properly executed consent form;
2. a medical history for the child including notations from visits to health care providers; and
3. documentation of immunizations, allergies and special precautions.

F. The PDHC facility medical and nursing directors shall review the quality assurance committee report within 10 days. The medical director in consultation with the prescribing physician shall approve and order implementation of revisions to the plan of care as appropriate.

G. The PDHC facility shall ensure the plan of care has been revised to implement the approved recommendations of the quality assurance report.

1. Evidence that the plan of care has been revised shall be forwarded to the quality assurance committee within 10 calendar days of receipt of the quality assurance committee report.

2. Implementation of revisions to the plan of care shall be documented in the child's record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2193–40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

Subchapter H. Safety and Emergency Preparedness

§5279. Safety and Emergency Services

A. All PDHC facilities shall conform to state standards prepared by the Office of State Fire Marshal (OFSM), and shall be inspected annually by OFSM. A copy of the current annual fire inspection report shall be on file at the facility. Documentation of a satisfactory fire safety inspection shall be provided at the time of the licensee's annual licensure renewal.

B. A working telephone capable of incoming and outgoing calls shall be available at all times in the PDHC facility. Coin operated telephones or cellular telephones are not acceptable for this purpose. If the PDHC has multiple buildings, such a working telephone shall be located in each of the buildings.

C. Emergency telephone numbers shall be posted on or in the immediate vicinity of all telephones. Fire, police, medical facility and poison control shall be posted on or near each telephone.

D. The PDHC facility's address shall be posted with the emergency numbers.

E. Emergency transportation shall be provided by a licensed emergency medical services provider. If emergency transportation is necessary, the PDHC facility shall immediately notify the parents. If the parents are not able to be contacted, the PDHC facility shall send a staff member to meet the child at the hospital.

1. The PDHC facility shall provide a transfer form to the emergency transportation provider.

2. The transfer form shall include:

- a. the child's name and age;
- b. contact information for the family;
- c. the prescribing physician's name and contact information;
- d. the PDHC facility's name and contact information; and
- e. the child's diagnoses, allergies, and medications.

F. Construction, remodeling or alteration of structures shall be done in such a manner to prevent hazards or unsafe conditions (fumes, dust, safety hazards).

G. Unused electrical outlets shall be protected by a safety plug cover.

H. Strings and cords such as those used on window coverings shall not be within the reach of children.

I. First aid supplies shall be kept on site and easily accessible to employees, but not within the reach of children.

J. Fire drills shall be conducted at least once per quarter. These shall be conducted at various times of the day and night (if night time care is provided) and shall be documented. Documentation shall include:

1. the date and time of the drill;
2. the number of children present;
3. the amount of time to evacuate the PDHC facility;
4. any problems noted during the drill and corrective action taken; and
5. the signatures (not initials) of staff present.

K. The entire PDHC facility shall be checked after the last child departs to ensure that no child is left unattended at the facility. Documentation of the visual check shall include the date, time and signature of the staff member(s) conducting the visual check.

L. Sharp wastes, including needles, scalpels, razors or other sharp instruments used for patient care procedures shall be segregated from other wastes and aggregated in puncture resistant containers immediately after use.

1. Needles and syringes shall not be recapped, cut, dismantled, or destroyed after use, but shall be placed intact directly into a puncture resistant container.

2. The containers of sharp wastes shall either be incinerated, on site or off site, or rendered nonhazardous by a technology of equal or superior efficacy, which is approved by both the Cabinet for Human Resources and the Natural Resources and Environmental Protection Cabinet.

M. The PDHC facility shall establish a written policy that is compliant with Occupational Safety and Health Administration standards for the handling and disposal of all infectious, pathological, and contaminated waste.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2193–40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

§5281. Emergency Preparedness

A. A disaster or emergency is a man-made or natural event or occurrence which causes harm or damage, or has the potential to cause harm or damage. A disaster or emergency may be local, community-wide, regional or statewide. Disasters or emergencies include, but are not limited to:

1. tornados;
2. fires;
3. floods;
4. hurricanes;
5. power outages;
6. chemical spills;
7. biohazards;
8. train wrecks; or
9. health crisis.

B. The PDHC facility shall provide education and resources to assist the parents in developing an emergency preparedness plan for their family. The PDHC facility shall ensure that each child has a plan in the event of an emergency or disaster.

C. The PDHC facility's emergency preparedness plan shall include provisions for providing shelter and services during a disaster or emergency situation to each technology dependent child admitted to or receiving services at the PDHC facility. The PDHC facility's emergency preparedness plan shall also contain provisions for assisting the state, parish, and Office of Homeland Security and Emergency Preparedness (OHSEP) with the provision of shelter and services during a disaster or emergency situation to other technology dependent children on a case-by-case basis considering the PDHC's capacity and safety to all children receiving services.

D. Continuity of Operations. The PDHC facility shall have an emergency preparedness plan to maintain continuity of the facility's operations in preparation for, during and after an emergency or disaster. The plan shall be designed to manage the consequences of all hazards, declared disasters or other emergencies that disrupt the facility's ability to provide care and treatment or threatens the lives or safety of the children. The facility shall follow and execute its emergency preparedness plan in the event of the occurrence

of a declared disaster or other emergency. The plan shall address at a minimum:

1. provisions for the delivery of essential care and services to children;

2. provisions for the management of staff, including provisions for adequate, qualified staff as well as for distribution and assignment of responsibilities and functions;

3. provisions for back up staff;

4. the method that the PDHC facility will utilize in notifying the child's family if the child is evacuated to another location while in the direct care of the PDHC facility. This notification shall include:

a. the date and approximate time that the facility is evacuating;

b. the place or location to which the child is evacuating, including the:

i. name;

ii. address; and

iii. telephone number; and

c. a telephone number that the family may call for information regarding the facility's evacuation;

5. provisions for ensuring that supplies, medications, and a copy of the plan of care are sent with the child if the child is evacuated; and

6. the procedure or methods that will be used to attach identification to the child. The facility shall designate a staff person to be responsible for this identification procedure. This identification shall remain attached to the child 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.

E. The PDHC facility shall have an emergency generator with sufficient generating power to continue the functions of medical equipment and the HVAC system in the event of a power failure. The emergency generator shall be tested every 30 days and satisfactory mechanical operation shall be documented on a log designed for that purpose and signed by the person conducting the test.

F. If the state, parish or local office of OHSEP orders a mandatory evacuation of the parish in which the PDHC facility is located, the PDHC facility shall ensure that any child at the PDHC facility at that time shall be evacuated in accordance with the child's emergency plan and the PDHC facility's emergency preparedness plan.

G. Emergency Plan, Review and Summary

1. The PDHC facility shall review and update each child's emergency plan in coordination with the parent(s) at least annually.

2. The PDHC facility shall review and update its emergency preparedness plan at least annually.

3. The facility's emergency plan shall be activated, either in response to an actual emergency or in a drill at least annually.

H. Facility Requirements

1. The PDHC facility shall cooperate with the department and with the state, parish and local OHSEP in

the event of an emergency or disaster and shall provide information as requested.

2. The PDHC facility shall monitor weather warnings and watches as well as evacuation orders from local and state emergency preparedness officials.

I. All PDHC facility employees shall be trained in emergency or disaster preparedness. Training shall include orientation, ongoing training, and participation in planned drills for all personnel. The purpose shall be that each employee promptly and correctly performs his/her specific role in the event of a disaster or emergency.

J. Upon request by the department, the PDHC facility shall submit a copy of its emergency preparedness plan and a written summary attesting how the plan was followed and executed. The summary shall contain, at a minimum:

1. pertinent plan provisions and how the plan was followed and executed;

2. plan provisions that were not followed;

3. reasons and mitigating circumstances for failure to follow and execute certain plan provisions;

4. contingency arrangements made for those plan provisions not followed; and

5. a list of all injuries and deaths of children that occurred during execution of the plan, evacuation or temporary relocation, including the date, time, causes and circumstances of the injuries and deaths.

K. Inactivation of License due to Declared Disaster or Emergency

1. A licensed PDHC facility licensed in a parish which is the subject of an executive order or proclamation of emergency or disaster issued in accordance with R.S. 29:724 or R.S. 29:766 may seek to inactivate its license for a period not to exceed one year, provided that the following conditions are met:

a. the licensed PDHC facility provider shall submit written notification to the Health Standards Section within 60 days of the date of the executive order or proclamation of emergency or disaster that:

i. the PDHC facility has experienced an interruption in the provisions of services as a result of events that are the subject of such executive order or proclamation of emergency or disaster;

ii. the licensed PDHC facility intends to resume operation as a PDHC facility in the same service area;

iii. includes an attestation that the emergency or disaster is the sole casual factor in the interruption of the provision of services;

iv. includes an attestation that all children have been properly released or transferred to another provider; and

v. provides a list of each child's name and the location where that child has been released or transferred to;

b. the licensed PDHC facility resumes operating as a PDHC facility in the same service area within one year of the issuance of such an executive order or proclamation of emergency or disaster;

c. the licensed PDHC facility continues to pay all fees and costs due and owed to the department including, but not limited to:

i. annual licensing fees; and

ii. outstanding civil monetary penalties; and

d. the licensed PDHC facility continues to submit required documentation and information to the Department, including but not limited to cost reports.

2. Upon receiving a completed written request to inactivate a PDHC facility license, the department shall issue a notice of inactivation of license to the PDHC facility.

3. Upon completion of repairs, renovations, rebuilding or replacement of the facility, a PDHC facility which has received a notice of inactivation of its license from the department shall be allowed to reinstate its license upon the following conditions being met:

a. the PDHC facility shall submit a written license reinstatement request to the licensing agency of the department 60 days prior to the anticipated date of reopening;

b. the license reinstatement request shall inform the department of the anticipated date of opening and shall request scheduling of a licensing survey;

c. the license reinstatement request shall include a completed licensing application with appropriate licensing fees, approval from the Office of Public Health and the Office of State Fire Marshall; and

d. the provider resumes operating as a PDHC facility in the same service area within one year.

4. Upon receiving a completed written request to reinstate a PDHC facility license, the department shall schedule a licensing survey. If the PDHC facility meets the requirements for licensure and the requirements under this Subsection, the department shall issue a notice of reinstatement of the PDHC facility license.

5. No change of ownership in the PDHC facility shall occur until such PDHC facility has completed repairs, renovations, rebuilding or replacement construction and has resumed operations as a PDHC facility.

6. The provisions of this Subsection shall not apply to a PDHC facility which has voluntarily surrendered its license and ceased operation.

7. Failure to comply with any of the provisions of this Subsection shall be deemed a voluntary surrender of the PDHC facility license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2193-40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

Subchapter I. Physical Environment

§5285. General Requirements

A. The standards in this Subchapter I shall apply to newly constructed PDHC facilities and alterations, additions, or renovations to an existing PDHC facility and to an existing building to create a PDHC facility.

B. Plan Review

1. A PDHC facility must submit architectural plans and specifications to the department's Division of Engineering and Architectural Services and any other documents as the division so requires.

2. A PDHC facility must also submit plans and specifications to the Office of the State Fire Marshal, and any other documents as the OSFM requires.

3. Plans and specifications must be prepared by or under the direction of a licensed architect or qualified engineer and shall include scaled architectural plans stamped by an architect.

4. Approval of such plans by the DHH Division of Engineering and Architectural Services and the OSFM shall be submitted to the Health Standards Section with all new applications for a PDHC facility or with any alterations, additions, or renovations to an existing PDHC facility or to an existing building that will be used to create a new PDHC facility.

5. All PDHC facilities shall comply with the rules, sanitary code and enforcement policies as promulgated by the Office of Public Health. It shall be the primary responsibility of the OPH to determine if applicants are complying with those requirements.

6. The PDHC facility shall have approval for occupancy from the OPH and the OSFM which shall be submitted to the Health Standards Section as part of the application packet. It shall be the responsibility of the PDHC facility to contact the OPH and the OSFM to schedule an onsite visit for each of these offices to verify and grant approval of occupancy.

C. Design Criteria. The project shall be designed in accordance with the:

1. current edition of NFPA 101 Life Safety Code;
2. current edition of the Standard Plumbing Code;
3. American's with Disabilities Act/Accessibility Guidelines for Buildings and Facilities; and,
4. department's licensing regulations for PDHC facilities.

D. Interior Spaces

1. The PDHC facility shall consist of a building(s) suitable for the purpose intended, and shall have a minimum of 50 square feet of space per child exclusive of kitchen, toilet facilities, storage areas, hallways, stairways, basements and attics.

2. If rooms are used exclusively for dining or sleeping the space shall not be included in the licensed capacity.

3. The PDHC facility shall have sufficient rooms to accommodate and segregate the different age groups being served by the facility.

4. As the child ages, the PDHC facility shall make privacy accommodations for the PDHC facility staff to attend to the personal care needs of the child.

5. The PDHC facility shall have a kitchen or food preparation area designated for the preparation of meals, snacks or prescribed nourishments which shall be maintained in accordance with state and local sanitation and safe food handling standards.

6. Toileting facilities shall be appropriately accessible to persons with disabilities and age appropriate in design and shall contain hand-washing stations.

7. The PDHC facility shall have separate toilet facilities for PDHC staff.

8. There shall be a hand-washing station in each play area, classroom and therapy room or area.

9. The PDHC facility shall have individual labeled space available for each child's personal belongings.

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

11. The PDHC facility shall have secure clean storage areas for supplies and equipment.

12. The PDHC facility shall have separate storage areas for clean and soiled linen.

13. The PDHC facility shall have a secure room for the safe storage of janitorial supplies and equipment, poisonous materials, and toxic materials.

a. Poisonous and toxic materials shall be so labeled and identified and placed in cabinets which are used for no other purpose.

14. Areas determined to be unsafe for the child or family shall be secured and locked. These areas would include high voltage areas, equipment rooms, etc.

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

16. Garbage, rubbish and trash shall be stored in areas separate from those used for the preparation and storage of food and shall be removed from the premises regularly. Containers shall be cleaned regularly.

E. Exterior Spaces

1. The PDHC facility shall have a covered entry. Such roof overhang or canopy shall extend as far as practicable to the face of the driveway or curb of the passenger access door of the passenger vehicle.

2. The PDHC facility shall provide for an outdoor play space with a direct exit from the center into the outdoor play yard.

3. A PDHC facility shall ensure that the structures and the grounds of the facility that are accessible to children are maintained in good repair and are free from hazards to health and safety.

4. Areas determined to be unsafe, including but not limited to steep grades, cliffs, open pits, swimming pools, high voltage boosters, high voltage equipment or high speed roads shall be fenced off or have natural barriers to protect children.

5. Fences shall be in good repair.

6. Garbage, rubbish and trash that is stored outside shall be stored securely in covered containers. Trash collection receptacles and incinerators shall be separate from outdoor recreational space and located as to avoid being a nuisance.

F. Housekeeping, laundry and maintenance services

1. Housekeeping. The center shall maintain a clean and safe facility. The facility shall be free of unpleasant odors. Odors shall be eliminated at their source by prompt and thorough cleaning of commodes, urinals, bedpans and other sources.

2. Laundry. The PDHC facility shall have a supply of clean linen sufficient to meet the needs of the children. Clean laundry shall be provided by a laundry service either in-house, contracted with another health care facility or in accordance with an outside commercial laundry service. Laundry services shall be provided in compliance with OPH requirements. Linens shall be handled, stored, processed and transported in such a manner as to prevent the spread of infection.

3. Maintenance. The premises shall be well kept and in good repair.

a. The center shall insure that the grounds are well kept and the exterior of the building, including the sidewalks, steps, porches, ramps, and fences are in good repair.

b. The interior of the building including walls, ceilings, floors, windows, window coverings, doors, plumbing and electrical fixtures shall be in good repair.

G. A pest control program shall be in operation and the center's pest control services shall be provided by maintenance personnel of the facility or by contract with a pest control company. If pest control chemicals are stored in the facility, they shall be kept in a locked location.

H. Heating, Ventilation and Air Conditioning (HVAC)/Ventilation.

1. The facility shall provide safe HVAC systems sufficient to maintain comfortable temperatures with a minimum of 65 degrees and a maximum of 80 degrees Fahrenheit in all public and private areas in all seasons of the year. During warm weather conditions the temperature within the facility shall not exceed 80 degrees Fahrenheit. The HVAC system(s) shall be maintained in good repair.

2. All gas heating units shall bear the stamp of approval of the American Gas Association Testing Laboratories, Inc. or other nationally recognized testing agency for enclosed, vented heaters for the type of fuel used.

3. All gas heating units and water heaters shall be vented adequately to carry the products of combustion to the outside atmosphere. Vents shall be constructed and maintained to provide a continuous draft to the outside atmosphere in accordance with the American Gas Association recommended procedures.

4. All heating units shall be provided with a sufficient supply of outside air so as to support combustion without depletion of the air in the occupied room.

5. The use of portable heaters by the PDHC facility is strictly prohibited.

6. Filters for heaters and air conditioners shall be provided as needed and maintained in accordance with the manufacturer's specifications.

I. Water Supply.

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

2. When a public water system is available, a connection shall be made thereto. If water from a source other than a public water supply is used, the supply shall meet the requirements set forth under these regulations and OPH.

3. A PDHC facility shall have a plan and policy for an alternative water supply in the event of interruption of water supply and for the prolonged loss of water to the facility.

J. Sewage

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

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

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

K. Signage. The facility's address and name shall be displayed so as to be easily visible from the street.

L. Distinct Part Facilities

1. Physical and Programmatic Separation. A PDHC facility shall be both physically and programmatically distinct from any business to which it is attached or of which it is a part.

2. Physical Separation. If more than one business occupies the same building, premises, or physical location, the PDHC facility shall have its own entrance. This separate entrance shall not be accessed solely through another business or health care provider. This separate entrance shall have appropriate signage and shall be clearly identifiable as belonging to the PDHC facility.

3. All spaces licensed as the PDHC facility shall be contiguous. If a PDHC facility has more than one building, protection from the elements shall be provided.

M. Furnishings and Equipment

1. Each PDHC facility shall maintain an age appropriate and developmentally appropriate environment in each of the areas where services are provided to a child.

2. At a minimum each PDHC facility shall provide or arrange to provide the following:

a. suctioning supplies and equipment to meet the routine or emergency needs of the children;

b. oxygen supplies and equipment to meet the routine or emergency needs of the children;

c. pulse oximeter and supplies; and

d. any supplies or equipment necessary to meet the emergency needs of the children.

3. The PDHC facility shall coordinate with the child and family to ensure that equipment and supplies used by the child are available to the child at the PDHC facility without duplication.

N. Waivers. The secretary of the department may, within his sole discretion, grant waivers to building and construction guidelines.

1. The facility shall submit a waiver request in writing to the Division of Engineering and Architectural Services.

2. The facility shall demonstrate how patient safety and the quality of care offered are not compromised by the waiver.

3. The secretary shall make a written determination of the waiver request.

4. Waivers are not transferrable in an ownership change and are subject to review or revocation upon any change in circumstances to the waiver.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2193-40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability, and autonomy as described in R.S. 49:972 by assuring the safe operation of facilities that render pediatric day health care services.

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 Wednesday, October 28, 2009 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an

opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Alan Levine
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **Pediatric Day Health Care Facilities—Minimum Licensing Standards**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed licensing rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 09-10. It is anticipated that \$8,856 (SGF) will be expended in FY 09-10 for the state's administrative expense for promulgation of this proposed rule and the final rule. Anticipated increases in expenditures for the implementation of Medicaid-covered pediatric day health care services (PDHC) will be addressed in a separate rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule may increase federal revenue collections as a result of the collection of licensing fees, however there is no way to determine how many providers may apply to be licensed so the anticipated revenue collections are indeterminable.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule proposes to adopt provisions governing the minimum licensing standards for pediatric day health care (PDHC) facilities. It is anticipated that implementation of this proposed rule will have economic cost for pediatric day health care facilities; however, the costs is indeterminable since there is no way to establish how many facilities will apply for licensure.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule proposes to adopt provisions governing the minimum licensing standards for pediatric day health care (PDHC) facilities. It is anticipated that implementation of this proposed rule will have economic cost for pediatric day health care facilities; however, the costs is indeterminable since there is no way to establish how many facilities will apply for licensure.

Jerry Phillips
Medicaid Director
0909#101

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Office of Aging and Adult Services Division of Adult Protective Services

Adult Protective Services (LAC 48:XIII.17101-17125)

The Department of Health and Hospitals, Office of Aging and Adult Services, Division of Adult Protective Services proposes to amend LAC 48:XIII.17101-17125 under the Adult Protective Services Program as authorized by R.S.

15:1501-1511. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

During the 2008 Regular Session of the Louisiana Legislature, the Louisiana Revised Statute which authorizes the Adult Protective Services program (R.S. 14:403.2) was amended and portions of the statute were placed in R.S. 15:1501-511. At the same time, the office of Aging and Adult Services was created within the Department of Health and Hospitals and the Bureau of Protective Services was transferred into that office becoming the Division of Adult Protective Services within that office. This proposed Rule is being promulgated to adopt the changes created by the new legislation and the administrative changes within the department.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability or autonomy as described in R.S. 49:972 by ensuring the investigation of allegations of abuse, neglect, exploitation or extortion of adults with disabilities living in family settings.

A regulatory flexibility analysis pursuant to R.S. 49:965.6 has been conducted. It has been determined that the promulgation of this Rule will not have an adverse impact on small business.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 13. Protective Services Agency

Chapter 171. Division of Adult Protective Services

§17101. Statement of Policy

A. The Department of Health and Hospitals is committed to preserving and protecting the rights of individuals to be free from abuse, neglect, exploitation, or extortion.

B. In pursuit of this commitment and in accordance with the provisions of R.S. 14:403.2, and R.S. 15:1501-15:1511 the Department of Health and Hospitals names the Office of Aging and Adult Services, Division of Adult Protective Services (APS) as the Protective Services Agency in order to provide protection to persons ages 18-59 with mental, physical, or developmental disabilities that substantially impair the person's ability to provide adequately for his/her own protection.

C. The primary function of Adult Protective Services is to investigate and/or assess reports of abuse, neglect, exploitation, or extortion consistent with the criteria contained in R.S. 14:403.2 and R.S. 15:1501-15:1511 to determine if the situation and condition of the subject of the report warrant further action and, if so, to prepare and implement a plan aimed at remedying or improving the situation. Adult Protective Services staff will provide protective services to each individual in need of protection until that person's situation has stabilized, that person is no longer at risk from the situation described in the report, or that person, having demonstrated the capacity to do so, refuses assistance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R. S. 14:403.2 and R.S. 15:1501-15:1511.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Protective Services LR 20:434 (April 1994), amended LR 27:312 (March

2001), amended by the Office of Aging and Adult Services, Division of Adult Protective Services, LR 35:

§17103. Goals and Objectives

A. The primary goal of the OAAS Division of Adult Protective Services is to prevent, remedy, halt, or hinder abuse, neglect, exploitation, or extortion of individuals in need of services as defined in this regulation and consistent with the provisions of R.S. 14:403.2 and R.S. 15:1501-15:1511. In order to achieve this goal, Adult Protective Services shall pursue the following objectives:

1. to establish a system of mandatory reporting, intake, classification, timely investigation and response to allegations of abuse, neglect, exploitation, and extortion;

2. to provide protective services to the individual while assuring the maximum possible degree of self-determination and dignity;

3. in concert with other community service and health service providers, to arrange and facilitate the process toward developing individual and family capacities to promote safe and caring environments for individuals in need of protection;

4. to secure referral or admission to appropriate alternative living arrangements if all efforts to maintain the individual in his/her own home fail;

5. to assist individuals in need of protection to maintain the highest quality of life with the least possible restriction on the exercise of personal and civil rights;

6. to educate the general public, as well as private and public service agencies, regarding the Protective Services Agency and the requirements of R.S. 14:403.2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 14:403.2 and R.S. 15:1501-15:1511.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Protective Services LR 20:435 (April 1994), amended LR 27:313 (March 2001), amended by the Office of Aging and Adult Services, Division of Adult Protective Services, LR 35:

§17105. Definitions

For the purposes of this chapter, the following definitions shall apply.

Abandonment—the desertion or willful forsaking of an adult by anyone having care or custody of that person under circumstances in which a reasonable person would continue to provide care and custody.

Abuse—the infliction of physical or mental injury on an adult by other parties, including but not limited to such means as sexual abuse, abandonment, isolation, exploitation, or extortion of funds or other things of value, to such an extent that his/her health, self-determination, or emotional well-being is endangered. In determining whether an injury is sufficient to endanger the health, self-determination, or emotional well-being of the adult, the following criteria shall be considered:

a. with respect to physical injury, the injury must be sufficient to ordinarily require professional medical intervention beyond first-aid, or, the behavior in question must be sufficient to create a potential injury of that severity;

b. with respect to mental injury, the injury must be sufficient to ordinarily require mental health services of a clinical nature, or, the behavior in question must be sufficient to create a potential injury of that severity;

c. with respect to isolation, acts of isolation used in a manner where the individual is alone in a room/area from

which he/she cannot leave, constitute behavior which has the potential to result in mental injury or unwarranted restriction of the adult's self-determination;

d. with respect to use of restraints, inappropriate and unauthorized use of any chemical and/or mechanical restraints, or any type of restraint which prevents the free movement of either the arms or legs and which immobilizes the individual, shall represent potential physical or mental injury and possible violation of an individual's self-determination. Chemical and/or mechanical restraints ordered by a physician and used in accordance with medical guidelines shall not constitute abuse.

Adult—any individual 18 years of age or older and under the age of 60, or an emancipated minor who, due to a physical, mental, or developmental disability is unable to manage his own resources, carry out the activities of daily living, or protect himself from abuse, neglect or exploitation.

Adult Protective Services (APS)—that division within the Department of Health and Hospitals' Office of Aging and Adult Services determined by the department as the Protective Services Agency for any individual between the ages of 18 and 59 years of age in need of adult protective services, pursuant to the provisions of R.S. 14:403.2 and R.S. 15:1501-15:1511, to provide protection to adults with disabilities as defined herein.

Capacity to Consent—the ability to understand and appreciate the nature and consequences of making decisions concerning one's person, including but not limited to provisions for health or mental health care, food, shelter, clothing, safety, or financial affairs. This determination may be based on assessment, or investigative findings, observation or medical or mental health evaluations.

Caregiver—any person or persons, either temporarily or permanently responsible for the care of a physically or mentally disabled adult. Caregiver includes but is not limited to adult children, parents, relatives, neighbors, day-care personnel, adult foster home sponsors, providers of substitute family care, personnel of public and private institutions and facilities, adult congregate living facilities, and nursing homes which have voluntarily assumed the care of an adult as defined herein have assumed voluntary residence with an individual, or have assumed voluntary use or tutelage of an individual's assets, funds, or property, and specifically shall include city, parish, or state law enforcement agencies.

Emancipated Minor—a person under the age of 18 who administers his/her own affairs or who is relieved of the incapacities which normally attach to minority. Minors can be emancipated by notarial act, marriage, or judicial pronouncement.

Exploitation—the illegal or improper use or management of an adult's funds, assets, or property, or the use of an adult's power of attorney or guardianship for one's own profit or advantage.

Extortion—the acquisition of a thing of value from an unwilling or reluctant adult by physical force, intimidation, abuse, neglect, or official authority.

Isolation—includes:

a. intentional acts committed for the purpose of preventing, and which do serve to prevent, an adult from form having contact with family, friends, or concerned

persons. This shall not be construed to affect a legal restraining order;

b. intentional acts committed to prevent an adult from receiving his mail or telephone calls;

c. intentional acts of physical or chemical restraint of an adult committed for the purpose of preventing contact with visitors, family, friends, or other concerned persons;

d. intentional acts which restrict, place, or confine an adult in a restricted area for the purposes of social deprivation or preventing contact with family, friends, visitors, or other concerned persons. However, medical isolation prescribed by a licensed physician caring for the adult shall not be included in this definition.

Neglect—the failure by the caregiver responsible for an adult's care or by other parties, to provide the proper or necessary support or medical, surgical, or any other care necessary for his well-being. No adult who is being provided treatment in accordance with a recognized religious method of healing in lieu of medical treatment shall, for that reason alone, be considered to be neglected or abused.

Protective Services—those activities developed to assist individuals in need of protection. Protective services include but are not limited to: receiving and screening information on allegations of abuse, neglect, exploitation or extortion; conducting investigations and/or assessments of those allegations to determine if the situation and condition of the alleged victim warrants corrective or other action, preparing a plan using available community resources aimed at remedying or reducing the risk from abuse, neglect, exploitation or extortion, providing case management, as needed, to assure stabilization of the situation, and arranging of or making referrals for needed services and/or legal assistance to initiate any necessary remedial action.

Regional Coordinating Council—a regionally constituted committee composed of representatives of both public and private agencies providing services, with the objectives of identifying resources, increasing needed supportive services, avoiding duplication of effort, and assuring maximum community coordination.

Self-Neglect—the failure, either by the adult's action or inaction, to provide the proper or necessary support or medical/surgical or other care necessary for his/her well-being. No individual who is provided treatment in accordance with a recognized religious method of healing in lieu of medical treatment shall, for that reason alone, be considered to be self-neglected.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 14:403.2 and R.S. 15:1501-15:1511.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Protective Services LR 20:435 (April 1994), amended LR 27:313 (March 2001), amended by the Office of Aging and Adult Services, Division of Adult Protective Services, LR 35:

§17107. Eligibility for Services

A. The protection of this Rule extends to any adult as defined by law, 18-59 years of age or emancipated minors, living in unlicensed community settings, either independently or with the help of others, who is alleged to be abused, neglected, exploited, or extorted.

B. There is no financial eligibility requirement for services provided by Adult Protective Services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 14:403.2 and R.S. 15:1501-15:1511.

HISTORICAL NOTE: Promulgated by the Department of health and Hospitals, Office of the Secretary, Bureau of Protective Services LR 20:436 (April 1994), amended LR 27:313 (March 2001), amended by the Office of Aging and Adult Services, Division of Adult Protective Services, LR 35:

§17109. Reporting

A.1. Any person having cause to believe that an individual's physical or mental health or welfare has been or may be further adversely affected by abuse, neglect, exploitation, or extortion shall report that knowledge or belief. These reports can be made to:

- a. Adult Protective Services; and/or,
- b. any local or state law enforcement agency.

2. Reports of abuse, neglect, exploitation and extortion shall be processed through the DHH Office of Aging and Adult Services, Division of Adult Protective Services' central intake system. Reports should be made/forwarded to: Adult Protective Services, P.O. Box 3518, Bin #11, Baton Rouge, LA 70821. The local telephone number is (225) 342-9057. The state-wide, toll-free telephone number is 1-800-898-4910.

B. Intake. Incident reports received by APS shall be screened to determine eligibility, and shall be assigned a priority status for investigation as described in §17121 of this Chapter. When reports are not accepted by APS, the reporter shall be advised why his/her report was rejected for investigation. Such reports will be referred to other social, medical, and law enforcement agencies, as deemed appropriate or required by law.

C. Priorities. In order to assure the timely delivery of protective services and to eliminate the potential danger of prolonging an abusive situation, a priority system for case response has been established. At the time a report of abuse is received in Adult Protective Services, the report will be prioritized and assigned for investigation. In making assignments, the following categories will be used.

1. Priority One

a. Priority One reports are those which allege the individual in need of protection is abused, neglected, exploited, or extorted, and has suffered or is at imminent risk of suffering serious harm or serious physical injury which, if untreated, may result in permanent physical damage or death.

b. Examples of Priority One reports include but are not limited to head injuries, spinal injuries, severe cuts, broken limbs, severe burns, and/or internal injuries and sexual abuse where there is danger of repeated abuse, situations where medical treatment, medications or nutrition necessary to sustain the individual are not obtained or administered, as well as over-medication or unreasonable confinement.

c. Staff must respond to Priority One cases within 24 hours of receipt by Adult Protective Services. For purposes of this Section, "case response" means that the investigator must attempt a face-to-face visit with the individual in need of protection within this 24-hour period.

2. Priority Two

a. Priority Two reports allege the individual in need of protection is abused, neglected, exploited, or extorted, and as a result, is at risk of imminent serious physical injury, or harm.

b. Priority Two reports may include, but not be limited to, those situations in which there is failure to

provide or obtain mental health and medical treatment which, if untreated, may cause serious harm to the individual. This includes self-abusive behavior and failure to treat physical ailments. It could also include inadequate attention to physical needs such as insufficient food, medicine, inadequate heat or excessive heat, unauthorized use, and/or exploitation of the victim's income or property.

c. Staff must respond to Priority Two cases within five working days of receipt by Adult Protective Services. For purposes of this Section, "case response" means that the investigator must attempt a face-to-face visit with the individual in need of protection within a five working day period, so long as the investigation of Priority One cases is not delayed.

3. Priority Three

a. Priority Three reports include all other allegations in which the individual in need of protection is alleged to be abused, neglected, exploited, or extorted which do not involve risk of imminent serious physical injury, or harm and pose no immediate threat of serious injury or harm.

b. Staff must respond to Priority Three cases within 10 working days of receipt by Adult Protective Services. For purpose of this Section, "case response" means that the investigator must attempt a face-to-face interview with the individual in need of protection within this 10 day working period, so long as the investigation of Priority One and Two cases are not delayed.

4. When APS is not staffed sufficiently to respond promptly to all reported cases, APS shall set priorities for case response and allocate staff resources to serve those adults with disabilities with the most immediate need for protection.

D. Reporting Requirements

1. Allegations of known or suspected abuse, neglect, exploitation, or extortion shall include:

- a. the name and address of the alleged victim;
- b. the name and address of the person providing care to the alleged victim, if available; and
- c. the name of the person(s) suspected of abuse, neglect, extortion or exploitation, where different from item b above, if available; and
- d. other pertinent information.

2. Allegations of abuse, neglect, exploitation or extortion made by the alleged victim shall not be considered to be any less credible than allegations made by others and shall be reported according to procedures established in this Chapter.

3. All allegations of physical or sexual abuse shall be reported to the chief law enforcement agency of the parish in which the incident is reported to have occurred. This report is to be made by the end of the business day subsequent to the day on which the report is received.

E. Failure to report, false reporting, or obstructing reports or investigations may be reported by APS to law enforcement or other regulatory agencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 14:403.2 and R.S. 15:1501-15:1511.

HISTORICAL NOTE: Promulgated by the Department of health and Hospitals, Office of the Secretary, Bureau of Protective Services LR 20:436 (April 1994), amended LR 27:314 (March 2001), amended by the Office of Aging and Adult Services, Division of Adult Protective Services, LR 35:

§17111. Investigation and Service Planning

A. Investigation. Reports accepted by Adult Protective Services for investigation shall be prioritized according to §17109 of this Rule. The subsequent investigation and assessment shall determine if the situation and condition of the adult requires further action and shall include determining the nature, extent, and cause of the abuse, neglect, exploitation, extortion, identifying the person or persons responsible for abuse, neglect, exploitation, or extortion, if known; if possible, interviewing the individual and visiting the individual's home or the location where the incident occurred. The investigation or assessment shall also include consultation with others having knowledge of the facts of the case. An Adult Protection worker shall have access to any records or documents including client-identifying information and medical, psychological, criminal or financial records necessary to the performance of the agency's duties without cost and without unnecessary delay. APS may petition a court of competent jurisdiction for such documents if access to them is refused. A report of the investigation shall be prepared, which contains an assessment of the individual's present condition/status.

B. Service Plan. The Protective Service worker will be responsible for developing a service plan based upon the case determination. If, at the end of the investigation, it is determined that the individual has been abused, neglected, exploited, and/or extorted by other parties, and that the problem cannot be remedied by extrajudicial means, Adult Protective Services shall refer the matter to the local district attorney's office. Evidence must be presented, together with an account of the protective services given or available to the individual, and a recommendation as to what services, if ordered, would eliminate the abuse/neglect.

C. Right to Refuse Services. Protective Services may not be provided in cases of self-neglect to any individual who does not consent to such services or who, having consented, withdraws such consent. Nothing herein shall prohibit Adult Protective Services, the district attorney, the coroner, or the judge from petitioning for interdiction pursuant to Civil Code, Articles 389 through 399 or petitioning for an order for protective custody or for judicial commitment pursuant to R.S. 28.50 et seq., seeking an order for emergency protective services pursuant to R.S. 15:1511, or prohibit the district attorney from seeking an order for involuntary protective services pursuant to R.S.15:1508(B)(5).

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 14:403.2 and R.S. 15:1501-15:1511.

HISTORICAL NOTE: Promulgated by the Department of health and Hospitals, Office of the Secretary, Bureau of Protective Services LR 20:436 (April 1994), amended LR 27:314 (March 2001), amended by the Office of Aging and Adult Services, Division of Adult Protective Services, LR 35:

§17113. Legal Interventions

A. The Adult Protective Services Agency may petition any court of competent jurisdiction for the following types of orders. Except in the case of emergency orders, the DHH Bureau of Legal Services shall be consulted for assistance in preparing petitions:

1. order to be granted access [R. S. 15:1507 C];
2. order of protective services [R. S. 15:1507 F and 15:508];
 - a. to provide mandatory counseling;

- b. enjoin the accused to prevent continued abuse, neglect, exploitation or extortion;
- c. require an medical or psychiatric/psychological of the client to determine least restrictive setting;
- d. enjoin any party from interfering with the provision of protective services;
- e. provide protective services, if the adult lacks capacity to consent and no other authorized person is available or willing.

3. Ex parte order for emergency protective services may be filed to prevent immediate harm, and may be requested orally or telephonically when there is not time to file in writing. Oral orders are to be followed with written petitions by close of business of the following day.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 14:403.2 and R.S. 15:1501-15:1511.

HISTORICAL NOTE: Promulgated by the Department of health and Hospitals, Office of the Secretary, Bureau of Protective Services LR 20:437 (April 1994), amended LR 27:314 (March 2001), amended by the Office of Aging and Adult Services, Division of Adult Protective Services, LR 35:

§17115. Confidentiality

A. Information contained in the case records of Adult Protective Services shall not be released without a written authorization from the involved individual or his/her legally authorized representative, except that the information may be released to law enforcement agencies pursuing enforcement of criminal statutes related to the abuse of the adult or the filing of false reports of abuse or neglect, or to social service agencies, licensed health care providers, and appropriate local or state agencies where indicated for the purpose of coordinating the provision of services or treatment necessary to reduce the risk to the adult from abuse, neglect, exploitation, or extortion and to state regulatory agencies for the purpose of enforcing federal or state laws and regulations relating to abuse, neglect, exploitation or extortion by persons compensated through state or federal funds.

1. Requests for copies of confidential information are to be forwarded to the APS Director, P.O. Box 3518, Bin #11, Baton Rouge, La 70821.

2. In instances where the adult is determined by Adult Protective Services as unable to give consent and there is no legally appointed guardian, records may be released in response to an order by a judge of a court of competent jurisdiction.

B. The identity of any person who in good faith makes a report of abuse, neglect, exploitation, or extortion shall be confidential and shall not be released without the written authorization of the person making the report, except that the information may be released to law enforcement agencies pursuing enforcement of criminal statutes related to the abuse of the adult or to the filing of false reports of abuse or neglect.

C. Prior to releasing any information, except information released to law enforcement agencies as provided herein, the adult protection agency shall edit the released information to protect the confidentiality of the reporter's identity and to protect any other individual whose safety or welfare may be endangered by disclosure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 14:403.2 and R.S. 15:1501-15:1511

HISTORICAL NOTE: Promulgated by the Department of health and Hospitals, Office of the Secretary, Bureau of Protective Services LR 20:437 (April 1994), amended by the Office of Aging and Adult Services, Division of Adult Protective Services, LR 35:

§17117. Immunity

A. Under the provision of R.S. 15:1504.B, no cause of action shall exist against:

1. any person who, in good faith, makes a report, cooperates in an investigation by an agency, or participates in judicial proceedings;

2. any DHH Protective Services staff who, in good faith, conducts an investigation or makes an investigative judgment or disposition;

3. the persons listed in Items 1 and 2 of this section shall have immunity from Civil or Criminal liability that otherwise might be imposed or incurred.

B. This immunity shall not extend to:

1. any alleged principal, conspirator, or accessory to an offense involving the abuse or neglect of the individual;

2. any person who makes a report known to be false or with reckless disregard for the truth of the report;

3. any person charged with direct or constructive contempt of court, any act of perjury as defined in Subpart C of Part VII of the Louisiana Criminal Code or any offense affecting judicial functions and public records as defined in Subpart D of Part VII of the Louisiana Criminal Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 14:403.2 and R.S. 15:1501-15:1511

HISTORICAL NOTE: Promulgated by the Department of health and Hospitals, Office of the Secretary, Bureau of Protective Services LR 20:437 (April 1994), amended LR 27:314 (March 2001), amended by the Office of Aging and Adult Services, Division of Adult Protective Services, LR 35:

§17119. The Department of Health and Hospitals' Protective Services System

A. The department will deliver protective services to adults living in unlicensed community settings through the Office of Aging and Adult Services, Division of Adult Protective Services

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 14:403.2 and R.S. 15:1501-15:1511.

HISTORICAL NOTE: Promulgated by the Department of health and Hospitals, Office of the Secretary, Bureau of Protective Services LR 20:437 (April 1994), amended by the Office of Aging and Adult Services, Division of Adult Protective Services, LR 35:

§17121. Responsibilities of Regional Coordinating Councils

A. The Office of Aging and Adult Services, Division of Adult Protective Services shall convene and participate in Regional Coordinating Councils in each region of the state to coordinate community services in support of individuals in need of protection.

B. These Councils will have as their objective to achieve maximum community coordination by efforts to:

1. identify resources, both in common to the agencies represented and available from outside resources; and

2. increase availability of needed services by maximizing existing resources and decreasing duplication of effort;

3. assure maximum community coordination of effort in providing necessary services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 14:403.2 and R.S. 15:1501-15:1511.

HISTORICAL NOTE: Promulgated by the Department of health and Hospitals, Office of the Secretary, Bureau of Protective Services LR 20:438 (April 1994), amended by the Office of Aging and Adult Services, Division of Adult Protective Services, LR 35:

§17123. Training

A. To encourage prompt reporting of suspected abuse, neglect, exploitation, or extortion, Adult Protective Services staff shall provide for and/or participate in activities to inform the general public and, in particular, targeted professionals and service providers about the Adult Protective Service Program.

B. The adult protection agency shall also be responsible for ongoing inservice training for its staff which assures adequate performance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 14:403.2 and R.S. 15:1501-15:1511

HISTORICAL NOTE: Promulgated by the Department of health and Hospitals, Office of the Secretary, Bureau of Protective Services LR 20:438 (April 1994), amended by the Office of Aging and Adult Services, Division of Adult Protective Services, LR 35:

§17125. Dissemination

A. A copy of this Rule shall be made available to anyone, including individuals in need of protection, upon request.

B. Copies of this Rule shall be disseminated to state and local agencies which serve populations of persons with mental, physical, or emotional disabilities (including but not limited to community services offices of the Office for Citizens with Developmental disabilities, Office of Mental Health, Office of Addictive Disorders, Office of Public Health and state and local law enforcement agencies, advocacy agencies, nursing homes, hospitals, private care agencies, and other related service agencies).

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 14:403.2 and R.S. 15:1501-15:1511

HISTORICAL NOTE: Promulgated by the Department of health and Hospitals, Office of the Secretary, Bureau of Protective Services LR 20:438 (April 1994), amended by the Office of Aging and Adult Services, Division of Adult Protective Services, LR 35:

Interested persons may submit written comments to Hugh Eley, Office of Aging and Adult Services, P.O. Box 2031, Baton Rouge, LA 70821-2031. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for 9:30 am, October 26, 2009 at 9:30 a.m. in Room 118, Bienville Building, 628 North 4th Street, Baton Rouge, LA. At that time all interested individuals will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Alan Levine
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Adult Protective Services

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This rule proposes to repeal and repromulgate LAC 48:I.17101-17125, to adopt technical changes to the Adult Protective Services program required by the enactment of R.S. 15:1501-1511 in the 2008 Regular Session of the Louisiana Legislature. The rule also adopts administrative changes made within the Department of Health and Hospitals to reflect the transfer of the Bureau of Protective Services into the Office of Aging and Adult Services and the renaming of the agency to the Division of Adult Protective Services.

These changes do not affect current services offered through the Adult Protective Services program and therefore are not anticipated to result in any additional savings or costs, other than the cost of promulgation of the rule in the amount of \$2,050 (SGF) in FY 09-10. This cost is routinely included in the agency's budget.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no known effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is no known cost and/or economic benefit to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this rule will have no effect on competition and employment.

Hugh Eley
Assistant Secretary
0909#052

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Insurance
Office of the Commissioner**

**Regulation 28—Variable Contract Regulation
(LAC 37:XIII.Chapter 77)**

Under the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Commissioner of Insurance hereby gives notice that the Department's Regulation 28, Variable Contract Regulation, will be amended as required to bring it into compliance with the National Association of Insurance Commissioner's (NAIC) uniformity standards. The amendments herein will remove the requirement of holding a life insurance producer license in order to obtain the producer license required for selling variable annuity products. The criteria used for the issuance, denial or any other regulatory action authorized under the Louisiana Insurance Code, with regard to the variable annuity license, shall remain the same as that criteria applicable to the life insurance producer license.

On Friday, January 6, 2009, beginning at 9 a.m., the Department of Insurance will hold a public hearing in the Plaza Hearing Room of the Poydras Building located at 1702 North Third Street, Baton Rouge, Louisiana, 70802. The purpose of the hearing is to allow for public commentary concerning the proposed amendment to Regulation 28 as set forth below.

Title 37
INSURANCE

Part XIII. Regulations

Chapter 77. Regulation 28—Variable Contract Regulation

§7700. Authority

A. This regulation is adopted and promulgated by the Department of Insurance pursuant to the authority granted by R.S. 22: 781 and the Administrative Procedure Act, R.S. 49:950 et seq. This regulation replaces and repeals the regulation of similar purpose which took effect on January 1, 1969.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1500 of the Revised Statutes of 1950.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, January 1969, amended LR 24:67 (January 1998), amended LR 35:

§7701. Definition

Company—any insurer which possesses a certificate of authority to conduct life insurance business or annuity business in the state of Louisiana.

Contract on a Variable Basis or Variable Contract—any policy or contract which provides for annuity benefits which may vary according to the investment experience of any separate account or accounts maintained by the insurer as to such policy or contract, as provided for in R.S. 22: 781.

Producer—any person, corporation, partnership, or other legal entity which, under the laws of this state, is licensed as an insurance producer.

Variable Contract Producer—a producer who shall sell or offer to sell any contract on a variable basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1500 of the Revised Statutes of 1950.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, January 1969, amended LR 24:67 (January 1998), amended LR 35:

§7703. Qualification of Insurance Companies to Issue Variable Contracts

A. No company shall deliver or issue for delivery variable contracts within this state unless the company is appropriately licensed for life insurance for the issuance of variable life insurance products or the annuity line for issuance of variable annuity contracts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1500 of the Revised Statutes of 1950.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, January 1969, amended LR 24:68 (January 1998), amended LR 35:

§7705. Separate Account or Separate Accounts

A. A domestic company issuing variable contracts shall establish one or more separate accounts pursuant to R.S. 22:781.

1. - 5. ...

6. Rules under any provision of R.S. 22: 781 or any regulation applicable to the officers and directors of insurance companies with respect to conflicts of interest shall also apply to members of any separate account's

committee, board, or other similar body. No officers or directors of such company nor any member of the committee, board, or separate account shall receive directly or indirectly any commission or any other compensation with respect to the purchase or sale of assets of such separate account.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1500 of the Revised Statutes of 1950.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, January 1969, amended LR 24:68 (January 1998), amended LR 35:

§7709. Contracts Providing for Variable Benefits

A. - B. ...

C.1. Any individual variable annuity contract delivered or issued for delivery in this state shall stipulate the investment increment factors to be used in computing the dollar amount of variable benefits or other contractual payments or values thereunder, and may guarantee that expenses and/or mortality results shall not adversely affect such dollar amounts. If not guaranteed, the expense and mortality factors shall also be stipulated in the contract.

2. - 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1500 of the Revised Statutes of 1950.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, January 1969, amended LR 24:69 (January 1998) ; amended LR 35:

§7715. Licensing of Agents and Other Persons

A.1. No producer shall be eligible to sell or offer for sale a contract on a variable basis unless, prior to making any solicitation or sale of such a contract, that producer presents evidence of satisfactorily passing one of the following written examinations upon securities and variable contracts and is afterwards duly licensed to sell variable annuities in this state:

a. - c. ...

d. the Securities and Exchange Commission test given pursuant to 15 U.S.C. 78o(b)(7) of the Securities Exchange Act of 1934.

2. Any producer who participates only in the sale or offering for sale of variable contracts that are not registered under the Federal Securities Act of 1933 need not be licensed as a variable contract producer.

3. Any producer applying for a license as a variable contract producer shall do so by filing an application. All applications for a license shall be in writing on uniform forms prescribed by the Commissioner of Insurance.

4. Any producer who participates only in the sale or offering for sale of variable annuity contracts need not be licensed as a life producer also. All other licensing requirements continue to apply.

B. Any applicant for license as a variable contract producer shall present evidence that the applicant is currently registered with the Federal Securities and Exchange Commission as a broker-dealer or is currently associated with a broker-dealer and has met qualification requirements with respect to such association.

C. Except as modified by this regulation, refer to Title 22 Chapter 5 and the Insurance Regulations of this Department governing the licensing of life insurance producers.

D. Any person licensed in this state as a variable contract producer shall immediately report to the commissioner:

1. any suspension or revocation of the producer's variable contract license or life insurance license, if so licensed, in any other state or territory of the United States;

2. - 3. ...

E. The commissioner may reject any application or suspend, revoke, or refuse to renew any producer's variable contract license upon any ground that would bar such applicant or such producer from being licensed to sell life insurance contracts in this state. The rules governing any proceeding relating to the suspension or revocation of an producer's life insurance license shall also govern any proceeding for suspension or revocation of an producer's variable contract license.

F. A variable contract license shall be renewed biannually.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1500 of the Revised Statutes of 1950.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, January 1969, amended LR 24:69 (January 1998), amended LR 35:

Persons interested in obtaining copies of Regulation 28 or in making comments relative to proposed Regulation 28 may do so at the public hearing or by writing to Barry E. Ward, Department of Insurance, P.O. Box 94214, Baton Rouge, LA 70804-9214. Written comments will be accepted through the close of business at 4:30 p.m. on October 28, 2009.

James J. Donelon
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Regulation 28—Variable Contract Regulation

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The Louisiana Department of Insurance (DOI) does not anticipate any implementation costs (savings) as a result of the proposed amended regulation. The amendment removes the requirements of holding a life insurance producer license for those producers who participate only in the sale or offering for sale of variable annuity contracts. Therefore, this amendment will divide the life insurance producer license and the variable annuity contract license into two producer licenses, each with their own biennial renewal. All other licensing requirements continue to apply. The amended Regulation 28 is required to bring it into compliance with the National Association of Insurance Commissioner's (NAIC) uniformity standards.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will likely result in an increase in revenue to the Louisiana Department of Insurance (DOI); however the amount is indeterminable. The regulation separates the life insurance producer license and variable annuity contract license into two separate licenses each with a biennial renewal fee of \$50 as opposed to the current fee of \$50 for the combined license. The DOI is unable to estimate how many producers will renew under both licenses. There are currently 13,890 producers/producer agencies with this line of authority. To the extent all 13,890 renew under both licenses, the DOI will collect an additional \$694,500 in fees over a two-year period.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed amended Regulation 28 will have a cost and/or economic benefits to directly affected persons or non-governmental groups. Regulation 28 will impact producers who participate in the sale of variable annuity and life insurance products. These producers will be required to renew both licenses biennially at a cost of \$50 each. However, producers who participate only in the sale of variable annuity contracts will continue to renew one license, variable contract license, on a biennial basis. However, the DOI is unable to determine of the current 13,890 producers/producer agencies, how many will renew under both licenses, which will cost an additional \$50.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Implementation of proposed Regulation 28 should have no significant impact upon competition and employment in the state.

Shirley D. Bowler
Deputy Commissioner
0909#105

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Insurance Office of the Commissioner

Regulation 81—Military Personnel—Automobile Liability
Insurance Premium Discount and Insurer Premium Tax
Credit Program (LAC 37:Part XIII.9519)

Under the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana Department of Insurance (LDOI) gives notice that rulemaking procedures have been initiated to amend Regulation 81 promulgated by the LDOI, Office of the Commissioner, LR 31:673 (March 20, 2005), amended LR 32:94 (January 2006) and amended LR 33:1661 (August 20, 2007). Specifically, the LDOI intends to amend the current "Louisiana Application for Military Discount" form that acts as the documentary proof required for a person to verify eligibility for the discount. The amended form shall require the active military personnel (AMP) to submit their Permanent Change of Station (PCS) Orders or acknowledge their previous submittal of the PCS orders for eligibility purposes.

The purpose of the amendment is to reduce a significant error rate that has been documented by insurers during the application process. The LDOI believes that the majority of these errors can be avoided by requiring the AMP to submit a copy of his PCS orders which contain all the information currently required by law and Regulation 81.

A copy of the amendment to Regulation 81 may be obtained from the LDOI by contacting Walter Corey, Esq., in writing to Louisiana Department of Insurance, 1702 N. Third Street, Baton Rouge, LA 70802, or by telephone at (225) 219-0605, or by electronic e-mail at wcorey@ldi.state.la.us.

**Title 37
INSURANCE**

Part XIII. Regulations

**Chapter 95. Regulation 81—Military Personnel—
Automobile Liability Insurance Premium
Discount and Insurer Premium Tax
Credit Program**

**§9519. Louisiana Application for Military
Discount—Appendix**

LOUISIANA APPLICATION FOR MILITARY DISCOUNT

Name of Insurance Company _____ Policy No. or Application No. _____

READ THIS DOCUMENT CAREFULLY BEFORE SIGNING. If you have any questions about this "Louisiana Application For Military Discount" form ask your agent for an explanation or contact the Louisiana Department of Insurance at (800) 259-5300 or (225) 342-5900.

You must complete all sections on this form. If the spouse or dependent sections are not applicable, you must check the N/A box next to the associated fields.

Full Name of Active Military Personnel _____ Date _____

Date of Birth _____ Home Phone _____

Home Address _____ N/A

Name of Spouse _____ Spouse Date of Birth _____
(if not applicable, check N/A) (if not applicable, check N/A)

Full Name and Date of Birth of Licensed Dependents _____ N/A
(if not applicable, check N/A)

Copy of Permanent Change of Station (PCS) Orders attached

OR

Permanent Change of Station (PCS) Orders previously submitted

The undersigned hereby certifies that he/she is on active duty and permanently based in Louisiana and qualifies as "active military personnel" (AMP) as defined by LSA-R.S. 22:1482 and Regulation 81, and is eligible for the military discount set forth in LSA-R.S. 22:1482 for personal automobile liability insurance policy. The AMP further certifies that the information provided in this "Louisiana Application For Military Discount" form is true and correct and that he/she will promptly notify his/her automobile insurer of any change in the above information. The AMP acknowledges that any false, fraudulent or misleading statement may subject him/her to civil and criminal penalties, including those penalties set forth in LSA-R.S. 22:1924, and any applicable provisions of Title 14, the Louisiana Criminal Code.

Signature of Active Military Personnel (AMP) _____ Print Name of Active Military Personnel (AMP) _____

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:1425.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:97 (January 2006), amended LR 33:1662 (August 2007), LR 35:

Family Impact Statement

Pursuant to R.S. 49:953.A.(1)(a)(viii) the commissioner of the LDOI states that there will be no adverse impact on family formation, family stability, and family autonomy, as set forth in R.S. 49:972, from the amendment to Regulation 81.

Pursuant to R.S. 49:953.A.(1)(a), the commissioner for the LDOI states that the time when, the place where, and the

manner in which interested persons may present their views with regard to the proposed amendment to Regulation 81 will be at a Public Hearing that will be held on Tuesday October 27, 2009, at 10 a.m., in the Poydras Hearing Room of the Louisiana Department of Insurance, 1702 N. Third Street, Baton Rouge, LA 70802.

James J. Donelon
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Regulation 81—Military Personnel—
Automobile Liability Insurance Premium Discount and
Insurer Premium Tax Credit Program**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

Louisiana Department of Insurance does not anticipate any implementation costs for proposed amended Regulation 81. Under the authority of the Louisiana Insurance Code, LSA-R.S. 22:1 et seq, the Department of Insurance (DOI) intends to amend the current "Louisiana Application for Military Discount" form. This form acts as the documentary proof for a person to verify they are active military personnel and therefore are eligible for a discount on automobile insurance. The DOI has discovered a 65% error rate in the application process of the current form. The current form requires the active military to complete certain questions which can be found in their Permanent Change of Station (PCS) orders; for example, branch of service, rank, etc. The proposed amended form shall eliminate these questions and require a copy of their PCS orders or acknowledge they have previously submitted their PCS orders. In this effort of supplying a copy of the PCS orders along with the Louisiana Application for Military Discount form, it will help eliminate errors and improve the application process for active military personnel.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed amended Regulation 81 will have no impact on state or local governmental revenues.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

The proposed amended Regulation 81 will not have any cost to directly affected persons or non-governmental groups. The amended regulation will improve the application process for active military personnel seeking the automobile insurance discount. The DOI has discovered a 65% error rate in the application process of the current 'Louisiana Application for Military Discount' form. The amended regulation will replace the form with one that will require active military personnel to provide a copy of their Permanent Change of Station (PCS) orders along with their Louisiana Application for Military Discount form. This shall reduce errors and improve the application process for active military personnel seeking the automobile insurance discount.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

The proposed administrative rule changes to Regulation 81 should have no adverse impact upon competition and employment in the state.

James J. Donelon
Commissioner
0909#057

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Insurance Office of the Commissioner

Regulation 82—Insure Louisiana Incentive Program (LAC 37:XIII.Chapter 123)

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950, et seq., hereby gives notice of its intent to amend Regulation 82 regarding the Insure Louisiana Incentive Program.

Regulation 82 is being amended to establish applicable, relevant and appropriate guidelines relative to risk-based capital, and the repayment of funds on a pro rata basis in accordance with the passage of Acts 2008, No. 390 of the Regular Session of the Louisiana Legislature.

Title 37

INSURANCE

Part XIII. Regulations

Chapter 123. Regulation 82—Insure Louisiana Incentive Program

Editor's Note: Title 22 of the Louisiana Revised Statutes was amended and reenacted by Acts 2008, No. 415, §1, effective January 1, 2009. The citations in this Chapter have been renumbered from R.S. 22:3301 et seq. to R.S. 22:2361 et seq. When referring to Title 22 or R.S. 22:3301 et seq., please note the new statute numbers.

§12301. Purpose

A. The purpose and intent of Regulation 82 is to exercise the authority and carry out the duties and responsibilities of the Commissioner of Insurance for implementation and regulation of the Insure Louisiana Incentive Program, hereinafter referred to as the "Incentive Program." Regulation 82 sets forth rules and procedural requirements which the Commissioner of Insurance deems necessary for participation in the Incentive Program by qualified property insurers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3301 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:2658 (December 2007), amended LR 35:

§12303. Authority

A. Regulation 82 is promulgated pursuant to the authority and responsibility delegated to the Commissioner of Insurance under R.S. 22:3301 through 3311 and pursuant to the general powers granted by law to the commissioner and the Department of Insurance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3301 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:2658 (December 2007), amended LR 35:

§12305. Applicability and Scope

A. Regulation 82 applies to all property insurers with respect to their qualification and participation in the Incentive Program.

B. Regulation 82 governs all aspects of the Incentive Program including, but not limited to, the application process for grants, the qualifications of grantees, the award

of grants, the use of grant funds, the reporting requirements for grantees, the requirements for matching capital funds, the requirements for minimum capital and surplus, the requirements for earned capital and other regulation and administration of the Incentive Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3301 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:2658 (December 2007), amended LR 35:

§12307. Definitions

A. For the purposes of Regulation 82, the following terms shall have the meaning or definition as indicated herein.

Approved Unauthorized Insurer—an insurer without a certificate of authority, or otherwise qualified under the provisions of Title 22, and which is on the list of approved unauthorized insurers under the provisions of R.S. 22:1262.1, and from which a licensed surplus lines broker may procure insurance under the provisions of R.S. 22:1257.

Commissioner—the Commissioner of Insurance of the state of Louisiana.

Department—the Department of Insurance of the state of Louisiana.

Domestic Insurer—an insurer formed under the laws of the state of Louisiana that has been authorized by the department to sell insurance products in the state of Louisiana.

Earning Period—the timeframe, including any extension granted by the commissioner, in which the grantee can earn 20 percent or the pro-rata share of the grant award.

Grantee—a property insurer to whom a grant is made from the Incentive Program Fund.

Incentive Program (where capitalized)—the Insure Louisiana Incentive Program as created, authorized and administered pursuant to R.S. 22:3301 et seq., and Regulation 82.

Incentive Program Fund (where capitalized)—the Insure Louisiana Incentive Program Fund established and created pursuant to R.S. 22:3311 and Regulation 82.

Net Written Premiums—the total premiums, exclusive of assessments and other charges, paid by policyholders to an insurer for policies that comply with Regulation 82, minus any return premiums or other premium credits due policyholders, as defined in R.S. 22:3309(A).

Non-Admitted Insurer—an insurer that has not been licensed by the department to sell insurance products in the state of Louisiana.

Reporting Period—the financial statement reporting date of March 31, June 30, September 30, and December 31 of each respective year in the Incentive Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3301 et seq., 22:2361 et seq. (re-designated from R.S. 22:3301 pursuant to Acts 2008, No. 415, effective January 1, 2009), and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:2658 (December 2007), amended LR 35:

§12309. Matching Capital Grants

A. From funds appropriated by the legislature for the Incentive Program Fund established and created in the state treasury under R.S. 22:3311, the commissioner may grant matching capital funds to qualified property insurers in

accordance with the requirements of R.S. 22:3301 through 3311 and Regulation 82.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3301 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:2659 (December 2007), amended LR 35:

§12311. Public Invitation for Grant Applications

A. Pursuant to R.S. 22:3301 et seq., and Regulation 82, the commissioner shall issue an initial public invitation to property insurers to submit applications for grants under the Incentive Program.

B. The invitation shall be published for at least a 30-day period on the department's web site and in state and national insurance journals and publications as the commissioner deems appropriate.

C. The invitation shall describe the Incentive Program and provide general information about the grant application process.

D. The invitation shall set a deadline for receipt of grant applications. All grant applications should be submitted to the department either by certified mail, return receipt requested, or actual delivery by a commercial interstate courier. Failure to timely submit a grant application may render the insurer ineligible to participate in the Incentive Program. However, for good cause shown, the commissioner may extend the deadline and consider applications received after the deadline or give an insurer the opportunity to cure a non-substantive deficiency in the application.

E. In the event that all monies in the Incentive Program Fund are not allocated in response to the first invitation, the commissioner shall issue a second invitation for grant applications in the form and pursuant to the procedures utilized for the first invitation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3301 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:2659 (December 2007), amended LR 35:

§12313. Applications

A. The department shall prepare an application form to be fully completed by grant applicants. The application form may be revised by the department as it deems appropriate.

B. The grant application shall require the property insurer to designate a point of contact with a telephone number and physical address to represent the property insurer on all matters pertaining to the grant process and the Incentive Program.

C. The grant application shall be filed contemporaneously with the application for licensure with the department by a non-admitted insurer. The application for licensure expresses the applicant's intent to become licensed in this state and, if specifically requested in writing by the grant applicant in the application for licensure, will be processed contingent upon approval of the allocation of a grant award.

D. Only fully completed grant applications or those deemed acceptable by the commissioner shall be considered for a grant award.

E. The grant application, whether completed by an admitted or non-admitted insurer, shall be submitted to the department's Office of Financial Solvency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3301 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:2659 (December 2007), amended LR 35:

§12315. Qualifications for Applying for Grant Funds

A. Minimum Solvency Requirements. Grants shall be made only to property insurers who initially satisfy and thereafter maintain the following minimum solvency requirements:

1. capital and surplus in an amount not less than \$25,000,000;

2. A.M. Best rating of B++ or better or an equivalent rating by a nationally recognized rating service;

3. risk-based capital ratio of 500 percent at the initial grant award. The risk-based capital ratio must be at least 400 percent during the property insurer's participation in the Incentive Program; and

4. sufficient reinsurance to demonstrate that its reinsurance program is sufficient for the amount of business to be written pursuant to the Incentive Program.

B. Certificate of Authority

1. A property insurer must have an existing certificate of authority in Louisiana for the line or lines of insurance which the insurer applicant will write pursuant to the Incentive Program or documentation that an application for such licensure has been filed with the Company Licensing Division of the department contemporaneous with the filing of the grant application.

C. Satisfactory Prior Experience

1. Grants shall be made only to property insurers with satisfactory prior experience in writing property insurance or to new property insurers whose management has satisfactory experience in property insurance. The grant application shall accurately disclose the prior experience of property insurers and their management. The commissioner may request additional information from the applicant insurer and conduct such investigation of prior experience as the commissioner deems appropriate.

2. The commissioner shall determine whether an applicant insurer has adequate or satisfactory prior experience.

D. Other Requirements

1. Applicant shall maintain premium to surplus ratio no greater than 4 to 1 pursuant to R.S. 22:891.1.A.

2. Applicant shall not insure more than 10 percent of its surplus in any one risk pursuant to R.S. 22:1470.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:2361 et seq. (re-designated from R.S. 22:3301 pursuant to Acts 2008, No. 415, effective January 1, 2009), and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:2659 (December 2007), amended LR 35:

§12317. Award and Allocation of Grants

A. Subject to the requirements of this Section, the commissioner shall award and allocate grants among

qualified property insurers who have applied for grants as the commissioner deems appropriate to carry out the purpose and intent of the Incentive Program. The commissioner has the discretion to create an advisory committee to assist in the analysis of grant applications. If created, the advisory committee will be composed of up to seven members, designated to serve thereon by the commissioner.

B. The factors considered in awarding grants shall include, but are not limited to, the following:

1. the financial strength and satisfactory prior experience of the applicant;

2. the ability of the applicant to invest new capital and to comply with the other requirements of the grant;

3. the potential of the applicant for providing property insurance as required by the Incentive Program at reasonable and competitive costs, particularly for property owners in the Louisiana parishes included in the federal Gulf Opportunity Zone Act of 2005. The current 37 parishes in the Gulf Opportunity Zone are Acadia, Allen, Ascension, Assumption, Beauregard, Calcasieu, Cameron, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Sabine, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Vermilion, Vernon, Washington, West Baton Rouge, and West Feliciana. These parishes may be subject to change by subsequent legislation;

4. the marketing and claims handling capability and experience of the applicant, and particularly its ability to market property insurance in areas affected by Hurricane Katrina and Hurricane Rita and to handle future claims that may arise;

5. the applicant's longevity in the Incentive Program including a statement or plan of operation by the applicant demonstrating its intent to remain in this state following the completion of the Incentive Program;

6. the current licensure of the applicant where preference and priority will be given to those admitted insurers that are currently licensed to do business in this state for the line or lines of business that are the subject of the grant; and

7. any other factors that the commissioner deems applicable, relevant and appropriate in carrying out the purpose and intent of the Incentive Program.

C. For grant applications in response to the initial invitation, the commissioner shall not allocate individual grants less than \$2,000,000 nor in excess of \$10,000,000.

D. For the initial allocation of grants only, the commissioner shall allocate at least 20 percent of the total amount available for grants to domestic insurers unless the commissioner has not received sufficient applications from qualified domestic insurers to allocate such sum.

E. If the commissioner issues a second invitation for grant application, the commissioner shall not allocate individual grants less than \$2,000,000 nor in excess of \$10,000,000. Insurers who have been allocated a grant in response to the first invitation may apply for and receive an additional grant, provided the total of the grants to an insurer does not exceed \$10,000,000.

F. In no event shall the total amount of the grant to an insurer exceed 20 percent of that insurer's capital and surplus as reported to and verified by the department.

G. Prior to the award of a grant, such grant shall be subject to the review and approval of the Joint Legislative Committee on the Budget. The commissioner shall provide written notice to the committee of the grant awards that have been approved. Upon written approval by the committee, the commissioner will be authorized to award the grant and deliver the amount of the grant to the grantee from monies in the Incentive Program Fund.

H. In the event that monies remain in the Incentive Program Fund after allocations pursuant to the second invitation, the commissioner shall cause all remaining monies to be returned to the state general fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3301 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:2659 (December 2007), amended LR 35:

§12319. Authorized Insurers

A. A non-admitted insurer, including an approved unauthorized insurer, may apply for a grant, provided that the non-admitted insurer shall, contemporaneously with the grant application, file an application for licensure with the department for the line or lines of insurance for which the non-admitted insurer, including an approved unauthorized insurer, must be authorized and licensed to write for a grant award. If specifically requested in writing by the grant applicant in the application for licensure, such application will be processed contingent upon approval of a grant award.

B. A non-admitted insurer, including an approved unauthorized insurer, must become admitted and licensed to do business in Louisiana before it may actually receive grant funding.

C. If the non-admitted insurer does not apply timely to be admitted or subsequently is not approved as an admitted and licensed insurer, the non-admitted insurer shall not be entitled to receive a grant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3301 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:2660 (December 2007).

§12321. Matching Capital Requirements

A. To be eligible for a grant, the insurer shall make a commitment of capital at least equal to the amount of the grant to write property insurance in Louisiana that complies with the requirements of R.S. 22:3309 and §12323 of Regulation 82. Grants from the Incentive Program Fund must be matched by such newly allocated insurer capital at a ratio of at least one dollar of allocated insurer capital funds for each dollar of state capital grant funds.

B. Within 10 days of receipt of any Incentive Program Funds, the insurer shall provide to the commissioner written certification signed by two principal officers of the grantee that the Incentive Program Funds have been deposited in an account held in the name of the insurer applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3301 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:2660 (December 2007), amended LR 35:

§12323. Property Insurance Requirements

A. The grantee shall write new property insurance in Louisiana of the types described in R.S. 22:3309 and this Section of Regulation 82 with net written premiums of at least a ratio of \$2 of premium for each \$1 of the total of newly allocated insurer capital combined with the grant from the Incentive Program Fund. Thus, if the insurer allocates \$2,000,000 in capital and receives a matching state grant of \$2,000,000, the insurer must write property insurance in Louisiana with net written premiums of at least \$8,000,000.

B. To comply with the requirements of the grant, the new property insurance written by the grantee shall be residential, commercial, mono-line, or package property insurance policies in Louisiana and must include coverage for wind and hail with limits equal to the limits provided for other perils insured under such policies.

C. The net written premium requirements of this Section will be satisfied only by new property insurance coverages reported on the Annual Statement State Page filed with the department under lines 1 (Fire), 2.1 (Allied Lines), 3 (Farmowners), 4 (Homeowners), or 5.1 (Commercial Multi-peril Non-liability).

D. Grantees shall also comply with the following.

1. By the end of the second year after receipt of the grant and in each succeeding year, the grantee shall maintain at least 25 percent of the net written premiums for policyholders whose property was formerly insured by the Louisiana Citizens Property Insurance Corporation. At least 50 percent of such policyholders insured by the Louisiana Citizens Property Insurance Corporation shall be located in the parishes included in the federal Gulf Opportunity Zone Act of 2005.

2. By the end of the second year after receipt of the grant and in each succeeding year, the grantee shall write at least 50 percent of the net written premiums for policyholders whose insured property is located in Louisiana in a parish included in the federal Gulf Opportunity Zone Act of 2005.

3. The grantee must comply with the requirements of both §12323.D.1 and 2 by the end of the second year and must continue to comply with all requirements in each of the succeeding years of the grant unless an extension has been granted by the commissioner under R.S. 22:2370.B or §12329.C of Regulation 82.

4. The requirements of §12323.D.1 and 2 apply separately, but net written premiums from policyholders formerly insured by the Louisiana Citizens Property Insurance Corporation with property in the federal Gulf Opportunity Zone used to comply with D.1 may also be used to comply with D.2.

5. The net written premium ratios of §12323.D.1 and 2 apply only to the net minimum premium required under §12323.A. Thus the grantee may write additional Louisiana property coverage without regard to ratios required by §12323.D.1 and 2.

E. The requirements of the grant that must be satisfied by the grantee are illustrated by the following example assuming a grant of \$2,000,000.

1. Example

a. The applicant is awarded a \$2,000,000 grant. Within 10 days of receipt of the grant of Incentive Program Funds, the applicant must match the grant with newly allocated capital funds of at least \$2,000,000 and provide written certification of compliance to the department. By the end of the second year after receipt of the grant, the grantee must write property insurance in Louisiana with net written premiums of at least \$8,000,000. At least \$2,000,000 of the \$8,000,000 of net written premiums must be written for policyholders whose property was formerly insured by the Louisiana Citizens Property Insurance Corporation and at least \$1,000,000 of that premium must be from policyholders whose insured property is located in Louisiana in a parish included in the federal Gulf Opportunity Zone of 2005. By the end of the second year after receipt of the grant, the grantee must write at least \$4,000,000 of the net written premiums for policyholders whose insured property is located in Louisiana in a parish included in the federal Gulf Opportunity Zone of 2005. By the end of the second year and for each of the succeeding years of the grant, the grantee must maintain net written premiums that comply with all of the requirements set forth above. Compliance with the requirements for the second year and for each succeeding year must be demonstrated on the grantee's annual reports.

F. Applicants shall also satisfy the requirements for licensing, form filings, rate filings, and any other applicable provisions contained in Title 22.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:2361 et seq. (re-designated from R.S. 22:3301 pursuant to Acts 2008, No. 415, effective January 1, 2009), and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:2661 (December 2007), amended LR 35:

§12331. Earned Capital

Editor's Note: This section was formerly §12325.

A. An insurer who has received a grant is entitled to earn the grant at the rate of 20 percent per earning period for the last 12 months of that earning period in which the insurer is in compliance with the requirements of R.S. 22:2361 et seq., and Regulation 82, so that the insurer can earn the entire grant after five years of full compliance with the requirements.

B. The grantee may begin to earn the grant from the reporting period in which the grantee first demonstrates that its net written premiums have reached compliance with all requirements of both §12323.D.1 and 2. The grantee will earn 20 percent of the grant in each 12 month period thereafter in which the grantee demonstrates that it has maintained compliance with all requirements for net written premiums. Thus, if in compliance with §12323.D.1 and 2, the grantee may begin to earn the grant at the end of the first year.

C. Upon verification of the net written premium requirements during the preceding 12 months, the commissioner will issue written declaration that the grantee

has earned 20 percent of the grant or a pro rata share thereof awarded to the grantee. No funds may be earned by the grantee until it receives official notification from the commissioner.

D. If the grantee does not meet the grant requirements during any year but shows promise of future compliance based on good cause having been demonstrated, the commissioner may extend the period of time from five years in order for the grantee to earn the entire grant. The extension may be granted for up to one year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:2361 et seq. (re-designated from R.S. 22:3301 pursuant to Acts 2008, No. 415, effective January 1, 2009), and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:2661 (December 2007), amended LR 35:

§12325. Funding Schedule

Editor's Note: This Section was formerly §12327.

A. Unless requested by the grantee and authorized by the commissioner, a grant that has been fully approved shall be funded on the next regular quarterly period thereafter, i.e., January 1, April 1, July 1, or October 1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:2361 et seq. (re-designated from R.S. 22:3301 pursuant to Acts 2008, No. 415, effective January 1, 2009), and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:2662 (December 2007), repromulgated LR 35:

§12327. Reporting Requirements

Editor's Note: This section was formerly §12329.

A. Grantee shall segregate and report any grants received on the line titled "Aggregate Write-In for Special Surplus Funds" in the NAIC Annual and Quarterly Statement Blanks.

B. Grantee shall report annually by March 1 of each year on a form acceptable to the commissioner the following information:

1. the amount of premium written under the Incentive Program;
2. the amount of premium associated with policies for which the Louisiana Citizens Property Insurance Corporation was the immediate previous insurer;
3. the amount of premium associated with properties located in the Federal Gulf Opportunity Zone Act of 2005.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:2361 et seq. (re-designated from R.S. 22:3301 pursuant to Acts 2008, No. 415, effective January 1, 2009), and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:2662 (December 2007), amended LR 35:

§12329. Compliance

Editor's Note: This section was formerly §12331.

A. The commissioner shall conduct an examination and/or investigation annually, or more often as the commissioner deems necessary to determine the grantee's compliance with the requirements of the grant, as per R.S. 22:3301 et seq., and Regulation 82. Any examination or investigation shall be performed pursuant to R.S. 22:1301 et seq. In addition to the requirements of R.S. 22:1301 et seq., the department may require such reports and/or conduct such examinations or investigations as the commissioner deems necessary to verify compliance with the property insurance

requirements set forth in the Incentive Program and Regulation 82.

B. If the commissioner determines that a grantee has complied with the terms of the grant, the commissioner shall notify the grantee in writing that the grantee has earned the 20 percent portion of the grant pursuant to R.S. 22:3310.

C. If the commissioner determines that the grantee shows promise of future compliance, the commissioner may grant an extension of not more than one year to a grantee insurer who has failed to satisfy all requirements of the grant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:2361 et seq. (re-designated from R.S. 22:3301 pursuant to Acts 2008, No. 415, effective January 1, 2009), and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:2662 (December 2007), amended LR 35:

§12333. Declaration of Default

A. The commissioner may declare an insurer in default of the requirements for a grant should he find any of the following exists.

1. The insurer fails at any time to meet the specific minimum requirements of §12315.A.1-4. The commissioner may take into consideration the effects of the Incentive Program, including efforts demonstrated by the grantee, when monitoring compliance with this criteria.

2. The insurer fails to maintain a certificate of authority for the line or lines of insurance written pursuant to the grant program.

3. The insurer fails to meet the specific requirements of §12323.

4. The insurer fails to comply with any other applicable provisions of R.S. 22:3301 et seq., or Regulation 82.

B. If the commissioner determines that the grantee is in default, the commissioner shall notify the grantee in writing of such default. Any grantee declared in default by the commissioner shall have 30 days from the date of the declaration of default to request reconsideration by the commissioner. The written request for reconsideration shall set forth, in detail, each and every reason why the grantee is entitled to the relief requested, including any documents tendered in support thereof. The commissioner shall have 30 days from the mailing of the request for reconsideration to review it and render a decision. The commissioner's decision upon reconsideration is final. Unless modified on reconsideration, the default is effective from the date of the original declaration, and the grantee shall not be eligible to continue its participation in the Incentive Program unless the default is for failure to meet the requirements referenced in §12333.A.3.

C. The grantee in default is liable for and shall repay all grant funds that have not been earned by the grantee, plus legal interest from date of the commissioner's default declaration. In the event of default, a portion of the grant award for the current year may be earned on a pro rata basis to give credit for premiums written under the Incentive Program. Repayment on a pro rata basis shall be determined using a method prescribed by the commissioner. If a request for reconsideration is not timely made, repayment is due upon the expiration of 30 days from the declaration of

default. If a request for reconsideration is timely made and denied, repayment is due within 10 days of the denial of the reconsideration request.

D.1. In determining the pro rata earnings, the commissioner shall divide the actual amount of written premiums by the amount required to be written under the Incentive Program, in each of the following categories:

a. policyholders whose property was formerly insured by the Louisiana Citizens Property Insurance Corporation;

b. policyholders under §12333.D.1 who are located in the parishes included in the Federal Gulf Opportunity Zone Act of 2005;

c. policyholders whose insured property is located in Louisiana in a parish included in the Federal Gulf Opportunity Zone Act of 2005; and

d. the total amount of net premiums written by the grantee under the Incentive Program.

2. Each category is weighted equally at 25 percent, and credit shall be given based on the percentage of premiums written per category. The resulting factor is then multiplied by 25 percent of the amount the grantee is entitled to earn per category for each year of compliance under the Incentive Program (earned capital). The factor shall not exceed 1.00 for additional writings in any category. The sum of all categories shall equal the pro rata amount earned by the grantee.

E. The requirements for earning on a pro rata basis are illustrated by the following example assuming a grant of \$5,000,000, presuming a maximum earned capital of \$1,000,000 (20 percent per year entitlement assuming full compliance), and the grantee is declared in default.

Example: [The required amounts of premium for each of the four categories are listed in the table below under "Requirement." Each requirement equates to 25% of the earned capital for the earning period or \$250,000. The "Actual" column represents the actual amount of writings by the grantee. The "Factor" column is the actual amount of writings divided by the requirement in each category. The "Earned" column represents the factor multiplied by \$250,000. Thus, under this example, the amount of money earned by the grantee on a pro rata basis is \$687,500.]

Category	Requirement	Weight	Actual	Factor	Earned
Total Net Written Premium	\$20,000,000	25%	\$15,000,000	.75	\$187,500
Gulf Opportunity Zone	\$10,000,000	25%	\$8,000,000	.80	\$200,000
Formerly Citizens	\$5,000,000	25%	\$1,000,000	.20	\$50,000
Citizens and Gulf Opportunity Zone	\$2,500,000	25%	\$2,500,000	1.00	\$250,000
			Total:		\$687,500

F. The commissioner may institute legal action to recover all sums due by the grantee in default.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:2361 et seq. (re-designated from R.S. 22:3301 pursuant to Acts 2008, No. 415, effective January 1, 2009), and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:2662 (December 2007), amended LR 35:

§12335. Cooperative Endeavor Agreements

A. In furtherance of R.S. 22:3301 et seq., and in accordance with R.S. 22:3303.A, the grantee shall execute a cooperative endeavor agreement with and in a form prescribed by the commissioner subject to approval by the Office of Contractual Review of the Division of Administration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3301 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:2662 (December 2007), amended LR 35:

§12337. Severability

A. If any provision of Regulation 82 or its application to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of Regulation 82 which can be given effect without the invalid provision or application, and to that end, the provisions of Regulation 82 are severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3301 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:2663 (December 2007), amended LR 35:

§12339. Effective Date

A. This regulation shall become effective upon final publication in the Louisiana Register.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:2361 et seq. (re-designated from R.S. 22:3301 pursuant to Acts 2008, No. 415, effective January 1, 2009), and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:2663 (December 2007), amended LR 35:

Family Impact Statement

The proposed Regulation 82 LAC 37:XIII., Chapter 123 titled Insure Louisiana Incentive Program should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically, there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of the children;
6. the ability of the family or a local government to perform the function as contained in the proposed regulation.

NOTICE OF INTENT

Louisiana State University System Louisiana State University Health Sciences Center Louisiana Tumor Registry

Tumor Registry (LAC 48:V.Chapter 85)

A public hearing on this proposed regulation will be held on October 26, 2009 at 9 a.m., in the Poydras Hearing Room of the Poydras Building, 1702 North Third Street, Baton Rouge, LA. Interested persons who wish to make comments may do so at the public hearing or by writing to Carol Fowler-Guidry, Esq., Louisiana Department of Insurance, P.O. Box 94214, Baton Rouge, LA 70804-9214. Comments will be accepted through the close of business, 4:30 p.m., October 26, 2009. No preamble concerning the proposed regulation is available.

James J. Donelon
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Regulation 82—Insure Louisiana Incentive Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The Louisiana Department of Insurance (DOI) does not anticipate any implementation costs (savings) as a result of the proposed rule to the Insure Louisiana Incentive Program.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There could be a financial impact upon the state as a result of these proposed changes. The proposed rule modifies the risk-based capital requirements, clarifies the language for earned capital, modifies grant repayment of funds on a pro rata basis and clarifies guidelines associated with default. During an insurer's participation in the program, this rule changes the risk-based capital ratio from 500 percent to 400 percent and, in accordance with Act 390 of the 2008 Regular Legislative Session, provides that program participants who default to repay grant funds on a pro rata basis as opposed to the repayment of the full grant amount. As a result of this rule, the state is less likely to receive repayment of the grant funds due to the risk-based capital ratio being lowered and to the extent participants do default, the state will receive less grant repayments than it would have otherwise received before the adoption of these rule changes.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The economic costs and/or benefits of the proposed rule will impact the 5 insurers who are currently participating in the Incentive Program. The change of the risk-based capital ratio from 500 percent to 400 percent, during an insurer's participation in the Incentive Program, will likely benefit the insurers when or if declaring default. Insurers that are defaulted will pay the grant funds on a pro rata basis rather than the entire grant fund.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Implementation of proposed Regulation 82 should have no significant impact upon competition and employment in the state.

Shirley D. Bowler
Deputy Commissioner
0909#036

Robert E. Hosse
Staff Director
Legislative Fiscal Office

Under the authority of Louisiana R.S. 40:1299.80 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., as amended, the President of the Louisiana State University System gives notice of his intent to amend a Rule to clarify reportability, reporters, and the format for reporting; to define the format for pathology laboratories to report new cases; to authorize the reporting of cancer data for special studies; to update the list of required data items; to allow the linking of the Registry database with outside databases; to clarify data release policies and interstate data exchange agreements; to adjust the cost of reimbursement when the Registry must abstract cases at noncompliant facilities and provide for related matters by supplanting Chapter 85 of Title 48 of the Louisiana Administrative Code in its entirety with the following.

Title 48

PUBLIC HEALTH—GENERAL

Part V. Preventive Health Services

Subpart 31. Louisiana Tumor Registry

Chapter 85. Statewide Tumor Registry Program

§8501. Purpose

A. Louisiana R.S. 40:1299.80 et seq., established a "statewide registry program for reporting cancer cases for the purpose of gathering statistical data to aid in the assessment of cancer incidence, survival rates, possible causes of specific cancers, and other related aspects of cancer in Louisiana." In carrying out this mandate, the Louisiana Tumor Registry collaborates with the National Cancer Institute, the Centers for Disease Control and Prevention, national and international cancer surveillance programs, health care providers and facilities, public health agencies, and research institutions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.82(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Louisiana State University Medical Center, Office of the Chancellor, LR 24:1298 (July 1998), amended by the LSU Health Sciences Center, Health Care Services Division, Tumor Registry, LR 30:2836 (December 2004), amended by LSU System, Louisiana State University Health Sciences Center, Louisiana Tumor Registry, LR 35:

§8502. Background

A. In December 1971, President Richard Nixon signed the National Cancer Act (P.L. 92-218). As a result of this act, the Surveillance, Epidemiology and End Results (SEER) Program, a national cancer surveillance program within the National Cancer Institute, was established. Data on cancer incidence and survival were collected in selected states and regions, beginning with cases diagnosed on January 1, 1973. The importance of cancer registration was subsequently

reinforced by the passage of federal legislation in 1992 (Public Law 102-515) establishing the National Program of Cancer Registries within the CDC. Louisiana participates in both cancer surveillance programs.

B. Acts No. 1197 of the 1995 Louisiana Legislative Session clarified the cancer-reporting responsibilities of medical care professionals and institutions, provided for intervention in cases of noncompliance, reinforced the confidentiality requirements to protect participants from civil liability, authorized the exchange of cancer incidence data with other states, and provided for related matters.

C. Acts No. 1138 §2 of the 1995 Session transferred the Louisiana Tumor Registry program and the Louisiana Cancer and Lung Trust Fund Board to the Board of Supervisors of the Louisiana State University Agricultural and Mechanical College, to be administered by the Louisiana State University Health Sciences Center at New Orleans.

D. Acts No. 197 of the 2001 regular legislative session replaced "Secretary of the Department of Health and Hospitals" and "Secretary" with "President of the Louisiana State University System, or his designee" or "President" and replaced "office of public health in the Department of Health and Hospitals" with "office of the President." It also mandated the reporting of follow-up information and revised the liability requirement for data releases to qualified researchers and state cancer registries.

E. Acts No. 225 of the 2003 regular legislative session added benign and borderline tumors of the brain and central nervous system to the reportability list and authorized the LTR to cooperate with other designated national and international cancer surveillance programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.82(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Louisiana State University Medical Center, Office of the Chancellor, LR 24:1298 (July 1998), amended by the LSU Health Sciences Center, Health Care Services Division, Tumor Registry, LR 30:2836 (December 2004), amended by LSU System, Louisiana State University Health Sciences Center, Louisiana Tumor Registry, LR 35:

§8503. Definitions

Confidential Data—shall include any information that pertains to an individual case, as ordinarily distinguished from group, aggregate, or tabular data. Statistical totals of "0" or "1" may be deemed confidential, case-specific data. Confidential, case-specific data include, but are not limited to, primary or potential personal identifiers. In addition, in research involving data contained in the National Center for Health Statistics database, statistical totals of 5 or less are also deemed confidential data and are suppressed unless prior written consent of all of the affected respondents has been obtained in accordance with 42 U.S.C. §242k(1); 5 U.S.C. §552(a); and OMB order, Vol. 62, No. 124, 6/27/97, OMB Regulations pp. 35044ff; <http://www.cdc.gov/nchs/r&d/rdc.htm>.

Director—the director of the Louisiana Tumor Registry, who is appointed by the President of the Louisiana State University System.

Health Care Provider—every licensed health care facility and licensed health care provider, as defined in R.S. 40:1299.41(A)(1), in the state of Louisiana, as well as out-of-state facilities and providers that diagnose and/or treat Louisiana residents.

Follow-Up Information—information that is used to document outcome and survival for all types of cancer. The information includes, but is not limited to, patient name, treatment and recurrence, vital status, and date of last contact. If the patient is deceased, date of death and causes of death are included.

Louisiana Tumor Registry/LTR—the program in Louisiana State University System that administers a population-based statewide cancer registry.

Regional Tumor Registry—an organization that has contracted with the Louisiana Tumor Registry (LTR) to provide in its region such services as: screening all possible sources to identify reportable cases, abstracting required information on all reportable cases, obtaining current follow-up information, editing data, performing quality assurance programs, training personnel from hospitals and other reporting facilities, and furnishing electronic records of acceptable quality to the LTR from all medical facilities and health care providers in the parishes assigned to that region.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.82(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Louisiana State University Medical Center, Office of the Chancellor, LR 24:1298 (July 1998), amended by the LSU Health Sciences Center, Health Care Services Division, Tumor Registry, LR 30:2836 (December 2004), amended by LSU System, Louisiana State University Health Sciences Center, Louisiana Tumor Registry, LR 35:

§8505. Responsibilities of Health Care Facilities and Providers

A. All hospitals, pathology laboratories, radiation centers, physicians, nursing homes, hospices, and other licensed health care facilities and providers, as defined in R.S. 40:1299.41(A)(1), shall report all reportable cases (see §8507.A) and shall provide information for all cancer-related studies conducted by the cancer registry program. Health care facilities and providers shall report cases regardless of whether the patient is a resident of Louisiana or of where the patient was originally diagnosed and/or treated. The LTR shall have physical access to all medical records and related diagnostic material that would determine reportability or would describe a patient's demographics, disease, treatment, or medical status as needed for surveillance or special studies. Patients seen in—a Louisiana hospital shall be registered through the hospital; physicians shall report patients not admitted to hospitals.

B. The LTR is mandated to conduct special studies and may request additional information and or diagnostic material in order to carry out these studies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.82(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Louisiana State University Medical Center, Office of the Chancellor, LR 24:1298 (July 1998), amended by the LSU Health Sciences Center, Health Care Services Division, Tumor Registry, LR 30:2837 (December 2004), amended by LSU System, Louisiana State University Health Sciences Center, Louisiana Tumor Registry, LR 35:

§8507. Case Reporting

A. Reportable Cases. Any newly diagnosed in situ or invasive neoplasm is considered a reportable diagnosis (these bear a behavior code of '2' or '3' in the *International Classification of Diseases for Oncology*, 2d edition (1992) or 3d edition (2000), published by the World Health Organization. In addition, the following tumors shall be considered reportable: juvenile astrocytoma (*ICD-O-3* code M-9421/1); tumors with a behavior code of '0' (benign) or '1' (borderline) if diagnosed at *ICD-O-3* anatomical sites C70.0–C72.9 or C75.1–C75.3; and other histologies mandated by the LTR or its funding agencies. The LTR may require the reporting of precursor lesions for special surveillance programs.

1. If a patient subsequently develops a new primary cancer, it shall be reported separately.

B. Format for Reporting. The format for reporting, the required codes, and the standards for completeness and quality are described in the *Standards for Cancer Registries*, compiled by the North American Association of Central Cancer Registries. The LTR will also stipulate the format for transmitting data, including electronic reporting, by hospitals, pathology laboratories, and physician offices. Descriptive text is required for specified variables and shall be adequate to permit quality assurance evaluation of coding decisions. Records and diagnosis-related material shall be sent to the Louisiana Tumor Registry.

C. Data Quality. Data must meet the quality standards defined by the LTR. Data submissions of unacceptable quality will be returned for correction and must be resubmitted.

D. Variables to be Reported

1. At a minimum, the reports shall include the demographic, diagnostic, treatment, and follow-up information required by U.S. Public Law 102-151. Standard variables and codes established by the North American Association of Central Cancer Registries (NAACCR) shall be used. Additional variables may be added to the list as they are needed to carry out the full mandate of registry operations, including studying Louisiana-specific cancer questions and meeting the requirements of the LTR funding agencies.

2. The standardized report shall include the following information as a minimum. Those followed by an asterisk must include enough text to permit quality assurance evaluation of coding decisions.

Report Source	
1.	reporting facility or physician (ACoS-assigned Facility Identification Number or CMS-assigned National Provider Identifier)
2.	date of admission or first contact
3.	medical record number
4.	hospital accession number

5.	class of case
6.	institutions referred to and from
7.	physicians and their Louisiana medical license numbers: managing, follow-up, and referring physicians, surgeon, oncologist
8.	case-finding source
Patient Information	
9.	patient's name: first, last, middle, maiden, alias, prefix, suffix
10.	date and place of birth
11.	age at diagnosis
12.	sex
13.	race
14.	address at diagnosis: building name, number and street, city, parish, state, zip code
15.	telephone number
16.	Social Security number
17.	marital status
18.	religion
19.	Spanish/Hispanic origin
20.	usual occupation *
21.	usual industry *
22.	tobacco history
23.	family and patient history of cancer
24.	type of health insurance
25.	comorbid conditions
Description of Disease	
26.	history and physical exam*
27.	date of first diagnosis
28.	primary site *
29.	dates and descriptions of diagnostic/staging procedures: physical exam, X-rays, scans, scopes, lab tests, and operative, and pathological reports
30.	pathology report number and name of laboratory
31.	type of diagnostic confirmation *
32.	ambiguous terminology at diagnosis
33.	date of conclusive diagnosis
34.	laterality
35.	histology *
36.	neoplasm behavior
37.	grade/differentiation* and grading system
38.	tumor size
39.	lymph system: nodes examined, nodes positive, and lymph-vascular invasion
40.	tumor extension, lymph node involvement, and vascular invasion
41.	metastasis at diagnosis
42.	sites of distant metastasis
43.	extent of disease (cases diagnosed before 2004)
44.	summary stage, directly coded or derived*
45.	Collaborative Staging, including mode of evaluation and site-specific factors * (cases diagnosed 2004 and later)
46.	types of evaluation procedures
47.	coding systems for site, morphology, comorbidities, and treatment
48.	sequence number
49.	tumor markers
50.	multiplicity data for multiple primaries
Treatment	
51.	dates of first course of treatment
52.	descriptions, dates, and summaries of treatments: surgery (including primary site, regional and distant lymph nodes, and other sites), chemotherapy, hormone, biological response modification, hematologic transplant, endocrine procedures, regional and boost radiation (including to central nervous system), active surveillance ("watchful waiting"), and other modalities*
53.	reason for no treatment
54.	surgery/radiation sequence
55.	systemic treatment/surgery sequence
56.	complications from surgery
Survival	
57.	name, address, phone number of parent/spouse/follow-up contact
58.	date of last contact
59.	patient's current address (building name, number and street, city, parish, state, zip code)
60.	vital status
61.	recurrence date and site/type
62.	place (state), date and cause of death
63.	death certificate file number
64.	International Classification of Diseases revision
65.	follow-up source

Administration	
66.	abstractor's initials
67.	date case put in file to transmit to LTR
68.	remarks*
*must include enough text to permit quality assurance evaluation of coding decisions	

E. **Deadline for Reporting.** Each completed cancer abstract shall be submitted within six months of diagnosis. Pathology reports shall be submitted within two months of diagnosis. All reports are to be transmitted electronically.

F. **Failure to Report.** If a facility fails to meet the deadline for reporting in the format specified by the Louisiana Tumor Registry or if the data are of unacceptable quality, personnel from the Louisiana Tumor Registry may enter the facility to screen and abstract the information. In such situations, the facility shall reimburse the Louisiana Tumor Registry or its contractor \$45 per case or the actual cost of screening, abstracting, coding and editing, whichever is greater.

G. **Quality Assurance**

1. Staff members from the central registry, the regional registries and national cancer surveillance programs designated by the LTR shall perform periodic quality assurance studies at all reporting facilities. These studies shall include:

a. rescreening medical records, including those in hospital pathology, outpatient, and radiology departments and in freestanding facilities, to ensure that all reportable cases have been identified;

b. reabstracting the records of patients to ensure that all data have been abstracted and coded correctly.

2. Reporting facilities shall assist LTR staff by compiling a list of cancer patients in the format required by the LTR and by obtaining the necessary medical records.

H. **Follow-Up.** Current follow-up is required for all cases. Health care facilities and providers will supply this information when requested.

I. **External Linkages.** LTR data may be linked with external databases in order to improve the accuracy and completeness of data or for research. All linkages shall be carried out in compliance with LTR confidentiality rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.82(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Louisiana State University Medical Center, Office of the Chancellor, LR 24:1298 (July 1998), amended by the LSU Health Sciences Center, Health Care Services Division, Tumor Registry, LR 30:2837 (December 2004), amended by LSU System, Louisiana State University Health Sciences Center, Louisiana Tumor Registry, LR 35:

§8509. Confidentiality

A. R.S. 40:1299.85 and 1299.87 of Acts 1995, No. 1197, strengthen and enforce previous legislative provisions to ensure the confidentiality of patients, health care providers, and reporting facilities. These laws protect licensed health care providers and facilities that participate in the cancer registration program from liability. They also specify the confidentiality requirements of the Louisiana Tumor Registry.

B. **LTR Responsibilities.** The president or his or her designee shall take strict measures to ensure that all case-specific information is treated as confidential and privileged. All employees, consultants, and contractors of the Louisiana Tumor Registry and of its regional offices shall sign an "Agreement to Maintain Confidentiality of Data" each year, and these agreements shall be kept on file. An employee who discloses confidential information through gross negligence or willful misconduct is subject to penalty under the law.

C. **Protection of Reporting Sources.** Health care providers and facilities that disclose cancer morbidity or mortality information to the Louisiana Tumor Registry or its employees in conformity with the law shall not be subject to actions for damages. Their licenses shall be not be denied, suspended, or revoked for good-faith release of confidential information to the Louisiana Tumor Registry.

D. **Protection of Case-Specific Data Obtained by Special Morbidity and Mortality Studies and Other Research Studies**

1. Louisiana R.S. 40:3.1(A) through (H) and R.S. 40:1299.87(F) state that all confidential data such as records of interviews, questionnaires, reports, statements, notes, and memoranda that are procured or prepared by employees or agents of the Office of Public Health shall be used solely for statistical, scientific and medical research purposes. This applies also to data procured by employees or agents of the Louisiana Tumor Registry or organizations, including public or private college universities acting in collaboration with the Louisiana Tumor Registry in special cancer studies. No case-specific data shall be available for subpoena, nor shall they be disclosed, discoverable, or compelled to be produced in any civil, criminal, administrative, or other proceeding, nor shall such records be deemed admissible as evidence in any civil, criminal, administrative, or other tribunal or court for any reason.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.82(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Louisiana State University Medical Center, Office of the Chancellor, LR 24:1298 (July 1998), amended by the LSU Health Sciences Center, Health Care Services Division, Tumor Registry, LR 30:2838 (December 2004), amended by LSU System, Louisiana State University Health Sciences Center, Louisiana Tumor Registry, LR 35:

§8511. Release of Information

A. Reports published or presented by the Louisiana Tumor Registry shall include aggregate, not case-specific, data. Information that would potentially identify a patient or a health care provider or facility shall not be disclosed.

B. **Diagnostic, Treatment and Follow-Up Information.** Diagnostic, treatment and follow-up information about a patient shall be provided, if requested, to a physician or medical facility diagnosing or treating the case. Section 45CFR 164.506 of the Health Information Portability and Accountability Act (HIPAA) allows such sharing of health information.

C. **Collaboration with Federal and State Public Health Agencies and National and International Cancer Surveillance Programs.** The LTR is authorized to collaborate with the National Cancer Institute, the Centers for Disease

Control and Prevention, and other national and international cancer surveillance programs designated by the LTR, including but not limited to the North American Association of Central Cancer Registries and the International Agency for Research on Cancer, in providing cancer data and participating in cancer studies. In addition, it shall work closely with the Louisiana Office of Public Health (LOPH) in investigating cancer concerns and other cancer-related issues and in evaluating programs. Because the LTR data are an integral part of national and state cancer prevention and control programs, the use of Registry data by LOPH officials and LTR-designated national cancer surveillance programs shall be considered an in-house activity and shall be processed expeditiously. LOPH requests for case-specific data will require annual approval by the LOPH Institutional Review Board and by the Institutional Review Board of the Louisiana State University Health Sciences Center-New Orleans (LSUHSC-New Orleans). In addition, the LOPH must comply with LTR confidentiality standards, and reports written for public release using Registry data must be reviewed by the Registry in advance.

D. Requests for Case-Specific LTR Incidence Data. Case-specific data may be released to qualified persons or organizations for the purposes of cancer prevention, control, and research. Such data do not include information collected for special studies or other research projects. The LTR reserves the right to prioritize its responses to data requests.

1. Requests from researchers for case-specific LTR incidence data, including data linkages, must be submitted in writing and shall be reviewed and approved by the LTR Research Committee following the established policies of the Louisiana Tumor Registry. A detailed description of the policies and procedures for requesting Registry data, "Louisiana Tumor Registry: Researchers' Requests for Data," can be obtained from the LTR website: <http://publichealth.lsuhs.edu/tumorregistry>. These established policies include, but are not limited to, the following requirements:

a. approval from the LSUHSC-New Orleans Institutional Review Board and compliance with the LSUHSC-New Orleans HIPAA research policy as well as approval from the researcher's Institutional Review Board and compliance with that institution's HIPAA research policy;

b. signature of the LTR "Agreement to Maintain Confidentiality of Data" by all investigators who will have access to the data, agreeing to adhere to the LTR confidentiality provisions and prohibiting the disclosure of LTR data in any civil, criminal, administrative, or other proceeding;

c. provision of a copy of the complete protocol for the project;

d. completion of all requirements in the document "Louisiana Tumor Registry: Researchers' Requests for Data," available at <http://publichealth.lsuhs.edu/tumorregistry>;

e. notification of physician, if required, before contacting patients or their next-of-kin;

f. destruction or return of data once the research is completed.

2. LTR Research Committee. The research committee shall be coordinated by the director of the LTR or designee

and may include, but not be limited to, the director of the LTR and a qualified representative selected from each of the following: the LSUHSC-New Orleans, the Louisiana Office of Public Health, and the Louisiana Cancer and Lung Trust Fund Board. The committee will verify that the researchers are able to execute the proposal, in terms of both financial support and professional qualifications; that the study has scientific and ethical merit; and that appropriate consent will be obtained.

E. Requests for Aggregate Data

1. Data requested by the Louisiana Office of Public Health for responding to concerns about threats to the public health shall receive priority in determining the order of processing requests.

2. Subject to the provisions of the Louisiana Public Records Act, R.S. 44:4.1 et seq., other requests for aggregate data shall be processed in the order of their receipt. The Registry shall respond to public requests in a timely manner as resources permit, provided that these requests meet certain requirements in conformity with R.S.40:3.1(A) and (F) and R.S.40:1299.87(F) et seq.

3. Those requesting data may be asked to reimburse the LTR for actual costs for compiling and providing data. Details are available in the document "Louisiana Tumor Registry: Researchers' Requests for Data," which can be obtained from the LTR website: <http://publichealth.lsuhs.edu/tumorregistry>.

4. The parish (county) is the smallest geographic area for which aggregate data may be released. In no event shall the LTR be obligated to perform original work to create data not currently in existence.

F. Annual Report. A statistical report shall be prepared for and disseminated to the Governor, the Speaker of the House of Representatives, the President of the Senate, the House and Senate Committees on Health and Welfare, the Louisiana State University Health Sciences Center, the Louisiana Cancer and Lung Trust Fund Board, and each participating hospital.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.82(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Louisiana State University Medical Center, Office of the Chancellor, LR 24:1298 (July 1998), amended by the LSU Health Sciences Center, Health Care Services Division, Tumor Registry, LR 30:2839 (December 2004), amended by LSU System, Louisiana State University Health Sciences Center, Louisiana Tumor Registry, LR 35:

§8513. Interstate Exchange of Data

A. Because cancer patients may be diagnosed or receive treatment in another state, the Louisiana Tumor Registry is authorized to sign agreements with other states to acquire cancer data concerning Louisiana residents and, in return, to provide those states with cancer data relating to their residents. Each signatory state shall agree in writing to follow standard procedures to safeguard patient confidentiality and ensure data security.

B. Before the release of any confidential information to other state cancer registries an Interstate Data Exchange Agreement shall be executed by a representative of the other state registry who is authorized to legally obligate the

registry and by a representative of the Louisiana State University system.

C. Contact Information for the Louisiana Tumor Registry

Louisiana Tumor Registry
1615 Poydras St, Ste 1400
New Orleans, LA 70112
Phone: 504/568-5757
Fax: 504/568-5800

Website: <http://publichealth.lsuhs.edu/tumorregistry>

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.82(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Louisiana State University Medical Center, Office of the Chancellor, LR 24:1298 (July 1998), amended by the LSU Health Sciences Center, Health Care Services Division, Tumor Registry, LR 30:2840 (December 2004), amended by LSU System, Louisiana State University Health Sciences Center, Louisiana Tumor Registry, LR 35:

Family Impact Statement

The proposed Rules of the Louisiana Tumor Registry should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically, there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. a family's earnings and budget;
5. the behavior and personal responsibility of children; or
6. the family's ability or that of the local government to perform the function as contained in the proposed Rule.

All interested persons are invited to submit written comments on the proposed regulations. Such comments must be received no later than October 31, 2009, at 4:30 p.m. and should be sent to Patricia A. Andrews, Louisiana Tumor Registry, 1615 Poydras St., Ste 1400, New Orleans, LA 70112. Comments may also be faxed to 504/568-5800, phoned to 504/568-5795 or 504/568-5757, or e-mailed to pandre@lsuhsc.edu

Vivien W. Chen, Ph.D.
Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Tumor Registry**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rules will increase state expenditures at the Louisiana Tumor Registry (LTR) by an estimated \$1,000 in Fiscal Year 2009-2010 to publish the proposed rules. The proposed rules have no impact on costs at local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rules will generate approximately \$1,500 per year in additional fees for the Louisiana Tumor Registry beginning in Fiscal Year 2011-2012. This estimate is based on increasing the fee per case at one hospital from \$40 to \$45 for an estimated 300 cases a year. There is only one hospital that currently pays \$40/case. Small hospitals are usually not charged for abstracting.

The proposed rules will have no impact on local governmental revenues.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The Louisiana Tumor Registry does not anticipate significant compliance costs or economic benefits for affected hospitals or other affected parties or groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The Louisiana Tumor Registry anticipates no impacts on competition or employment from the proposed rules.

Vivien W. Chen, Ph.D.
Director

Joseph M. Moerschbaeche, III, Ph.D.
Vice Chancellor for Academic Affairs
0909#046

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Natural Resources
Office of Conservation**

Ground Water Management
(LAC 43:VI. 103 and 307)

The Louisiana Office of Conservation proposes to amend LAC 43:VI.Chapter 1 et seq., in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to power delegated under the laws of the state of Louisiana and particularly Title 38 of the Louisiana Revised Statutes, Sections 38:3097.1 et seq. The proposed amendment modifies the specific provisions at LAC 43:VI.103 and 307 which set forth definitions, the procedures for registering new water wells, the procedures for seeking and declaring areas of ground water concern.

The amendments to the above existing Rules are intended to revise the regulations to correspond with recent amendments to the Ground Water Resources Management Law (R.S. 38:3097.1 et seq.).

Title 43

NATURAL RESOURCES

Part VI. Water Resources Management

Subpart 1. Ground Water Management

Chapter 1. General Provisions

§103. Definitions

A. ...

* * *

Critical Ground Water Area—Repealed.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3097.1 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Groundwater Management Commission, LR 28:1584 (July 2002), amended by the Department of Natural Resources, Office of Conservation, LR 30:1212 (June 2004), LR 35:249 (February 2009), LR 35:

**Chapter 3. Area of Ground Water Concern
Application Procedure**

**§307. Criteria for an Area of Ground Water Concern
Designation**

A. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3097.1 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Groundwater Management Commission, LR 28:1584 (July 2002), amended by the Department of Natural Resources, Office of Conservation, LR 30:1212 (June 2004), LR 35:251 (February 2009), LR 35:

Family Impact Statement

In accordance with RS 49:972, the following statements are submitted after consideration of the impact of the proposed Rule amendments at LAC 43:VI.103 and 307 on family as defined therein.

1. The proposed Rule amendment will have no effect on the stability of the family.
2. The proposed Rule amendment will have no effect on the authority and rights of parents regarding the education and supervision of their children.
3. The proposed Rule amendment will have no effect on the functioning of the family.
4. The proposed Rule amendment will have no effect on family earnings and family budget.
5. The proposed Rule amendment will have no effect on the behavior and personal responsibility of children.
6. Family or local government are not required to perform any function contained in the proposed Rule amendment.

The Commissioner of Conservation will conduct a public hearing at 9 a.m., October 26, 2009, in the LaBelle Room located on the first floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA.

All interested parties will be afforded the opportunity to submit data, views, or arguments, orally or in writing at the public hearing in accordance with R.S. 49:953. Written comments will be accepted until 4:30 p.m., October 23, 2009, at Office of Conservation, Environmental Division, P.O. Box 94275, Baton Rouge, LA, 70804-9275; or Office of Conservation, Environmental Division, 617 North Third St., Room 817, Baton Rouge, LA 70802. Reference Docket No. ENV 2009-02 on all correspondence.

James H. Welsh
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Ground Water Management**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
No additional implementation costs (savings) to State or Local governmental units are anticipated to implement the proposed rule amendment.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no anticipated effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
No costs and/or economic benefits are anticipated to directly impact affected persons or non-governmental groups. The proposed rule amendment seeks to update the regulations to mirror changes in terminology found in LSA-R.S. 38:3097.1 et seq.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

James H. Welsh
Commissioner
0909#055

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Natural Resources
Office of Conservation**

Hazardous Liquids Pipeline Safety
(LAC 33:V.Chapters 301-313)

The Louisiana Office of Conservation proposes to amend LAC 33:V.301et seq. in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. and pursuant to power delegated under the laws of the State of Louisiana and particularly Title 30 of the Louisiana Revised Statutes of 1950, Section 30:501 et seq. This proposed Rule amends the minimum pipeline safety requirements for hazardous liquids pipelines.

There will be negligible cost to directly affected persons or hazardous liquids pipeline operators. Benefits will be realized by persons living and working near hazardous liquids pipelines through safer construction and operation standards imposed by the rule amendments. Moreover, Louisiana presently receives federal funds and pipeline inspection fees to administer the Hazardous Liquids Pipeline Safety Program. Failure to amend the Louisiana rules to make them consistent with federal regulations would cause the state to lose federal funding.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Material

Subpart 3. Natural Resources

Chapter 301. Transportation of Hazardous Liquids by Pipeline [49 CFR Part 195]

Subchapter A. General [Subpart A]

§30103. Which pipelines are covered by this Subpart? [49 CFR 195.1]

A. Covered. Except for the pipelines listed in Subsection B of this Section, this Subpart applies to pipeline facilities and the transportation of hazardous liquids or carbon dioxide associated with those facilities in or affecting interstate or foreign commerce, including pipeline facilities on the Outer Continental Shelf (OCS). This includes: [49 CFR 195.1(a)]

1. any pipeline that transports a highly volatile liquid (HVL); [49 CFR 195.1(a)(1)]
2. transportation through any pipeline, other than a gathering line, that has a maximum operating pressure (MOP) greater than 20 percent of the specified minimum yield strength; [49 CFR 195.1(a)(2)]
3. any pipeline segment that crosses a waterway currently used for commercial navigation; [49 CFR 195.1(a)(3)]
4. transportation of petroleum in any of the following onshore gathering lines: [49 CFR 195.1(a)(4)]

a. a pipeline located in a non-rural area; [49 CFR 195.1(a)(4)(i)]

b. to the extent provided in §30117, a regulated rural gathering line defined in §30117; or [49 CFR 195.1(a)(4)(ii)]

c. to the extent provided in §30413, a pipeline located in an inlet of the Gulf of Mexico. [49 CFR 195.1(a)(4)(iii)]

5. transportation of a hazardous liquid or carbon dioxide through a low-stress pipeline or segment of pipeline that: [49 CFR 195.1(a)(5)]

a. is in a non-rural area; or [49 CFR 195.1(a)(5)(i)]

b. meets the criteria defined in §30118.A. [49 CFR 195.1(a)(5)(ii)]

6. For purposes of the reporting requirements in Subchapter B of Chapter 301, a rural low-stress pipeline of any diameter. [49 CFR 195.1(a)(6)]

B. Excepted. This Subpart does not apply to any of the following: [49 CFR 195.1(b)]

1. transportation of a hazardous liquid transported in a gaseous state; [49 CFR 195.1(b)(1)]

2. transportation of a hazardous liquid through a pipeline by gravity; [49 CFR 195.1(b)(2)]

3. a pipeline subject to safety regulations of the U.S. Coast Guard; [49 CFR 195.1(b)(3)]

4. a low-stress pipeline that serves refining, manufacturing, or truck, rail, or vessel terminal facilities, if the pipeline is less than one mile long (measured outside facility grounds) and does not cross an offshore area or a waterway currently used for commercial navigation; [49 CFR 195.1(b)(4)]

5. transportation of hazardous liquid or carbon dioxide in an offshore pipeline in State waters where the pipeline is located upstream from the outlet flange of the following farthest downstream facility: The facility where hydrocarbons or carbon dioxide are produced or the facility where produced hydrocarbons or carbon dioxide are first separated, dehydrated, or otherwise processed; [49 CFR 195.1(b)(5)]

6. transportation of hazardous liquid or carbon dioxide in a pipeline on the OCS where the pipeline is located upstream of the point at which operating responsibility transfers from a producing operator to a transporting operator; [49 CFR 195.1(b)(6)]

7. a pipeline segment upstream (generally seaward) of the last valve on the last production facility on the OCS where a pipeline on the OCS is producer-operated and crosses into State waters without first connecting to a transporting operator's facility on the OCS. Safety equipment protecting PHMSA-regulated pipeline segments is not excluded. A producing operator of a segment falling within this exception may petition the Administrator, under §190.9 of this chapter, for approval to operate under PHMSA regulations governing pipeline design, construction, operation, and maintenance; [49 CFR 195.1(b)(7)]

8. transportation of a hazardous liquid or carbon dioxide through onshore production (including flow lines), refining, or manufacturing facilities or storage or in-plant piping systems associated with such facilities; [49 CFR 195.1(b)(8)]

9. transportation of a hazardous liquid or carbon dioxide; [49 CFR 195.1(b)(9)]

a. by vessel, aircraft, tank truck, tank car, or other non-pipeline mode of transportation; or [49 CFR 195.1(b)(9)(i)]

b. through facilities located on the grounds of a materials transportation terminal if the facilities are used exclusively to transfer hazardous liquid or carbon dioxide between non-pipeline modes of transportation or between a non-pipeline mode and a pipeline. These facilities do not include any device and associated piping that are necessary to control pressure in the pipeline under §30406.B; or [49 CFR 195.1(b)(9)(ii)]

10. transportation of carbon dioxide downstream from the applicable following point: [49 CFR 195.1(b)(10)]

a. the inlet of a compressor used in the injection of carbon dioxide for oil recovery operations, or the point where recycled carbon dioxide enters the injection system, whichever is farther upstream; or [49 CFR 195.1(b)(10)(i)]

b. the connection of the first branch pipeline in the production field where the pipeline transports carbon dioxide to an injection well or to a header or manifold from which a pipeline branches to an injection well. [49 CFR 195.1(b)(10)(ii)]

C. Breakout Tanks. Breakout tanks subject to this Subpart must comply with requirements that apply specifically to breakout tanks and, to the extent applicable, with requirements that apply to pipeline systems and pipeline facilities. If a conflict exists between a requirement that applies specifically to breakout tanks and a requirement that applies to pipeline systems or pipeline facilities, the requirement that applies specifically to breakout tanks prevails. Anhydrous ammonia breakout tanks need not comply with Sections §30189.B, 30205.B, 30264.B and E, 30307, 30428.C and D, and 30432.B and C. [49 CFR 195.1(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18:861 (August 1992), LR 20:439 (1994), LR 21:814 (August 1995), LR 27:1523 (September 2001), LR 29:2804 (December 2003), LR 33:466 (March 2007), LR 35:

§30107. Matter Incorporated by Reference in Whole or in Part [49 CFR 195.3]

A. ...

B. All incorporated materials are available for inspection in the Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue, SE, Washington, DC, 20590-0001 or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030 or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html. These materials have been approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. In addition, materials incorporated by reference are available as follows [49 CFR 195.3(b)].

B.1. - B.7. ...

C. The full titles of publications incorporated by reference wholly or partially in this Subpart are as follows. Numbers in parentheses indicate applicable editions: [49 CFR 195.3(c)].

Source and Name of Referenced Material	Title 33 Reference
A. Pipeline Research Council International, Inc. (PRCI):	
(1) AGA Pipeline Research Committee, Project PR-3-805, "A Modified Criterion for Evaluating the Remaining Strength of Corroded Pipe" (December 22, 1989). The RSTRENG program may be used for calculating remaining strength.	§30452.H.4.a.ii.
B. American Petroleum Institute (API):	
(1) ANSI/API Specification 5L/ISO 3183 "Specification for Line Pipe" (43rd edition and errata, 2004, and 44th edition, 2007).	§§30161.B.1; 30161.E.
(2) API Specification 6D "Specification for Pipeline Valves (Gate, Plug, Ball, and Check Valves)" (22nd edition, January 2002)	§30173.A.4.
(3) API Specification 12F "Specification for Shop Welded Tanks for Storage of Production Liquids" (11th edition, November 1994)	§§30189.B.1; 30205.B.2; 30264.B.1; 30264.E.1; 30307.A; 30565; 30579.D.
(4) API 510 "Pressure Vessel Inspection Code: Maintenance Inspection, Rating, Repair, and Alteration" (8th edition, June 1997, and Addenda 1 through 4)	§§30205.B.3; 30432.C.
(5) API Standard 620 "Design and Construction of Large, Welded, Low-Pressure Storage Tanks" (10th edition, 2002 including Addendum 1)	§§30189.B.2; 30205.B.2; 30264.B.1; 30264.E.3; 30307.B.
(6) API 650 "Welded Steel Tanks for Oil Storage" (10th edition, 1998 including Addenda 1-3)	§§30189.B.3; 30205.B.1; 30264.B.1; 30264.E.2; 30307.C; 30307.D; 30565; 30579.D.
(7) API Recommended Practice 651 "Cathodic Protection of Aboveground Petroleum Storage Tanks" (2nd edition, December 1997)	§§30565; 30579.D.
(8) API Recommended Practice 652 "Lining of Aboveground Petroleum Storage Tank Bottoms" (2nd edition, December 1997)	§30579.D.
(9) API Standard 653 "Tank Inspection, Repair, Alteration, and Reconstruction" (3rd edition, 2001, including Addendum 1, 2003)	§§30205.B.1; 30432.B.
(10) API 1104 "Welding of Pipelines and Related Facilities" (19th edition 1999, including errata October 31, 2001; and 20th edition 2007, including errata 2008).	§§30222; 30228.B.; 30214.A
(11) API 1130 "Computational Pipeline Monitoring" (2nd edition, 2002)	§§30191; 30444.
(12) API Standard 2000 "Venting Atmospheric and Low Pressure Storage Tanks" (5th edition, April 1998)	§§30264.E.2; 30264.E.3.
(13) API Recommended Practice 2003 "Protection Against Ignitions Arising out of Static, Lightning, and Stray Currents" (6th edition, 1998).	§30405.A.
(14) API Publication 2026 "Safe Access/Egress Involving Floating Roofs of Storage Tanks in Petroleum Service" (2nd edition, 1998)	§30405.B.
(15) API Recommended Practice 2350 "Overfill Protection for Storage Tanks In Petroleum Facilities" (2nd edition, 1996)	§30428.C.
(16) API Standard 2510 "Design and Construction of LPG Installations" (8th edition, 2001)	§§30189.B.3; 30205.B.3; 30264.B.2; 30264.E.4; 30307.E; 30428.C; 30432.C.
(17) API Recommended Practice 1162 "Public Awareness Programs for Pipeline Operators," (1st edition, December 2003	§§30440.A; 30440.B; 30440.C.

Source and Name of Referenced Material	Title 33 Reference
C. ASME International (ASME):	
(1) ASME B16.9-2003 (February 2004) "Factory-Made Wrought Steel Butt Welding Fittings"	§30175.A.
(2) ASME B31.4 -2002 (October 2002) "Pipeline Transportation Systems for Liquid Hydrocarbons and Other Liquids"	§30452.H.4.a.
(3) ASME B31G-1991 (Reaffirmed; 2004) "Manual for Determining the Remaining Strength of Corroded Pipelines"	§§30452.H.4.a.ii; 30452.H.4.c.iv.
(4) ASME B31.8-2003 (February 2004) "Gas Transmission and Distribution Piping Systems"	§§30111.A.1.a; 30406.A.1.a.
(5) ASME Boiler and Pressure Vessel Code, Section VIII, Division 1 "Rules for Construction of Pressure Vessels," (2004 edition, including addenda through July 1, 2005)	§§30181; 30307.E.
(6) ASME Boiler and Pressure Vessel Code, Section VIII, Division 2 "Alternate Rules for Construction for Pressure Vessels" (2004 edition, including addenda through July 1, 2005)	§30307.E.
(7) ASME Boiler and Pressure Vessel Code, Section IX "Welding and Brazing Qualifications," (2004 edition, including addenda through July 1, 2005)	§30222.
D. Manufacturers Standardization Society of the Valve and Fittings Industry, Inc. (MSS):	
(1) MSS SP-75-2004 "Specification for High Test Wrought Butt Welding Fittings"	§30175.A.
2) [Reserved]	
E. American Society for Testing and Materials (ASTM):	
(1) ASTM Designation: A53/A53M-04a (2004) "Standard Specification for Pipe, Steel, Black and Hot-Dipped, Zinc-Coated Welded and Seamless"	§30161.E.
(2) ASTM Designation: A106/A106M-04b (2004) "Standard Specification for Seamless Carbon Steel Pipe for High-Temperature Service"	§30161.E.
(3) ASTM Designation: A 333/A 333M-05 "Standard Specification for Seamless and Welded Steel Pipe for Low-Temperature Service"	§30161.E.
(4) ASTM Designation: A 381-96 (Reapproved 2001) "Standard Specification for Metal-Arc-Welded Steel Pipe for Use With High-Pressure Transmission Systems"	§30161.E.
(5) ASTM Designation: A 671-04 (2004) "Standard Specification for Electric-Fusion-Welded Steel Pipe for Atmospheric and Lower Temperatures"	§30161.E.
(6) ASTM Designation: A 672-96 (Reapproved 2001) "Standard Specification for Electric-Fusion-Welded Steel Pipe for High-Pressure Service at Moderate Temperatures"	§30161.E.
(7) ASTM Designation: A 691 -98 (Reapproved 2002) "Standard Specification for Carbon and Alloy Steel Pipe Electric-Fusion-Welded for High-Pressure Service at High Temperatures"	§30161.E.
F. National Fire Protection Association (NFPA):	
(1) NFPA 30 (2003) "Flammable and Combustible Liquids Code"	§30264.B.1.
2) [Reserved]	
G. NACE International (NACE):	
(1) NACE Standard RP 0169-2002: "Control of External Corrosion on Underground or Submerged Metallic Piping Systems"	§30571.
(2) NACE Standard RP0502-2002 "Pipeline External Corrosion Direct Assessment Methodology"	§30588.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 20:439 (1994), LR 21:815 (August 1995), LR 24:1313 (1998), LR 27:1523 (September 2001), LR 29:2806 (December 2003), LR 31:676 (March 2005), LR 33:467 (March 2007), LR 35:

§30117. What is a regulated rural gathering line and what requirements apply? [49 CFR 195.11]

A. Each operator of a regulated rural gathering line, as defined in Paragraph 1 of this section, must comply with the safety requirements described in Paragraph 2 of this Section. [49 CFR 195.11]

1. Definition. As used in this section, a *regulated rural gathering line* means an onshore gathering line in a rural area that meets all of the following criteria— [49 CFR 195.11(a)]

a. has a nominal diameter from 6 $\frac{5}{8}$ inches (168 mm) to 8 $\frac{5}{8}$ inches (219.1 mm); [49 CFR 195.11(a)(1)]

b. is located in or within one-quarter mile (.40 km) of an unusually sensitive area as defined in §30112; and [49 CFR 195.11(a)(2)]

c. operates at a maximum pressure established under §30406 corresponding to: [49 CFR 195.11(a)(3)]

i. A stress level greater than 20 percent of the specified minimum yield strength of the line pipe; or [49 CFR 195.11(a)(3)(i)]

ii. if the stress level is unknown or the pipeline is not constructed with steel pipe, a pressure of more than 125 psi (861 kPa) gage. [49 CFR 195.11(a)(3)(ii)]

2. Safety Requirements. Each operator must prepare, follow, and maintain written procedures to carry out the requirements of this section. Except for the requirements in Subparagraphs A.2.b, A.2.c, A.2.i and A.2.j of this section, the safety requirements apply to all materials of construction. [49 CFR 195.11(b)]

a. Identify all segments of pipeline meeting the criteria in Paragraph 1 of this section before April 3, 2009. [49 CFR 195.11(b)(1)]

b. For steel pipelines constructed, replaced, relocated, or otherwise changed after July 3, 2009, design, install, construct, initially inspect, and initially test the pipeline in compliance with this Subpart, unless the pipeline is converted under §30111. [49 CFR 195.11(b)(2)]

c. For non-steel pipelines constructed after July 3, 2009, notify the Administrator according to §30114. [49 CFR 195.11(b)(3)]

d. Beginning no later than January 3, 2009, comply with the reporting requirements in Subchapter B of Chapter 301 this Subpart. [49 CFR 195.11(b)(4)]

e. Establish the maximum operating pressure of the pipeline according to §30406 before transportation begins, or if the pipeline exists on July 3, 2008, before July 3, 2009. [49 CFR 195.11(b)(5)]

f. Install line markers according to §30410 before transportation begins, or if the pipeline exists on July 3, 2008, before July 3, 2009. Continue to maintain line markers in compliance with §30410. [49 CFR 195.11(b)(6)]

g. Establish a continuing public education program in compliance with §30440 before transportation begins, or if the pipeline exists on July 3, 2008, before January 3, 2010. Continue to carry out such program in compliance with §30440. [49 CFR 195.11(b)(7)]

h. Establish a damage prevention program in compliance with §30442 before transportation begins, or if the pipeline exists on July 3, 2008, before July 3, 2009. Continue to carry out such program in compliance with §30442. [49 CFR 195.11(b)(8)]

i. For steel pipelines, comply with Subchapter B of Chapter 305 of this Subpart, except corrosion control is not required for pipelines existing on July 3, 2008 before July 3, 2011. [49 CFR 195.11(b)(9)]

j. For steel pipelines, establish and follow a comprehensive and effective program to continuously identify operating conditions that could contribute to internal corrosion. The program must include measures to prevent and mitigate internal corrosion, such as cleaning the pipeline and using inhibitors. This program must be established before transportation begins or if the pipeline exists on July 3, 2008, before July 3, 2009. [49 CFR 195.11(b)(10)]

k. To comply with the Operator Qualification program requirements in Subchapter A of Chapter 305 of this Subpart, have a written description of the processes used to carry out the requirements in §30505 to determine the qualification of persons performing operations and maintenance tasks. These processes must be established before transportation begins or if the pipeline exists on July 3, 2008, before July 3, 2009. [49 CFR 195.11(b)(11)]

3. New Unusually Sensitive Areas. If, after July 3, 2008, a new unusually sensitive area is identified and a segment of pipeline becomes regulated as a result, except for the requirements of Subparagraphs A.2.i and A.2.j of this section, the operator must implement the requirements in Subparagraphs A.2.b through A.2.k of this section for the affected segment within 6 months of identification. For steel pipelines, comply with the deadlines in Subparagraph A.2.i and A.2.j. [49 CFR 195.11(c)]

4. Record Retention. An operator must maintain records demonstrating compliance with each requirement according to the following schedule. [49 CFR 195.11(d)]

a. An operator must maintain the segment identification records required in Subparagraph A.2.a of this section and the records required to comply with A.2.j of this section, for the life of the pipe. [49 CFR 195.11(d)(1)]

b. An operator must maintain the records necessary to demonstrate compliance with each requirement in Subparagraphs A.2.b through A.2.i, and A.2.k of this section according to the record retention requirements of the referenced section or Chapter. [49 CFR 195.11(d)(2)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 35:

§30118. What requirements apply to low-stress pipelines in rural areas? [49 CFR 195.12]

A. General. This section does not apply to a rural low-stress pipeline regulated under this Subpart as a low-stress pipeline that crosses a waterway currently used for commercial navigation. An operator of a rural low-stress pipeline meeting the following criteria must comply with the safety requirements described in Subsection B of this Section. The pipeline: [49 CFR 195.12(a)]

1. has a nominal diameter of 8 $\frac{5}{8}$ inches (219.1 mm) or more; [49 CFR 195.12(a)(1)]

2. is located in or within a half mile (.80 km) of an unusually sensitive area (USA) as defined in §30112; and [49 CFR 195.12(a)(2)]

3. operates at a maximum pressure established under §30406 corresponding to: [49 CFR 195.12(a)(3)]

a. a stress level equal to or less than 20 percent of the specified minimum yield strength of the line pipe; or [49 CFR 195.12(a)(3)(i)]

b. if the stress level is unknown or the pipeline is not constructed with steel pipe, a pressure equal to or less than 125 psi (861 kPa) gage. [49 CFR 195.12(a)(3)(ii)]

B. Requirements. An operator of a pipeline meeting the criteria in Subsection A of this section must comply with the following safety requirements and compliance deadlines. [49 CFR 195.12(b)]

1. Identify all segments of pipeline meeting the criteria in Subsection A of this section before April 3, 2009. [49 CFR 195.12(b)(1)]

2. Beginning no later than January 3, 2009, comply with the reporting requirements of Subchapter B of Chapter 301 for the identified segments. [49 CFR 195.12(b)(2)]

3.a. Establish a written program in compliance with §30452 before July 3, 2009, to assure the integrity of the low-stress pipeline segments. Continue to carry out such program in compliance with §30452. [49 CFR 195.12(b)(3)(i)]

b. To carry out the integrity management requirements in §30452, an operator may conduct a determination per §30452.A in lieu of the half mile buffer. [49 CFR 195.12(b)(3)(ii)]

c. Complete the baseline assessment of all segments in accordance with §30452.C before July 3, 2015, and complete at least 50 percent of the assessments, beginning with the highest risk pipe, before January 3, 2012. [49 CFR 195.12(b)(3)(iii)]

4. Comply with all other safety requirements of this Subpart, except Subchapter B of Chapter 305, before July 3, 2009. Comply with Subchapter B of Chapter 305 before July 3, 2011. [49 CFR 195.12(b)(4)]

C. Economic Compliance Burden [49 CFR 195.12(c)]

1. An operator may notify PHMSA in accordance with §30452.M of a situation meeting the following criteria: [49 CFR 195.12(c)(1)]

a. the pipeline meets the criteria in Subsection A of this section; [49 CFR 195.12(c)(1)(i)]

b. the pipeline carries crude oil from a production facility; [49 CFR 195.12(c)(1)(ii)]

c. the pipeline, when in operation, operates at a flow rate less than or equal to 14,000 barrels per day; and [49 CFR 195.12(c)(1)(iii)]

d. the operator determines it would abandon or shut-down the pipeline as a result of the economic burden to comply with the assessment requirements in §§30452.D or 30452.J. [49 CFR 195.12(c)(1)(iv)]

2. A notification submitted under this provision must include, at minimum, the following information about the pipeline: Its operating, maintenance and leak history; the estimated cost to comply with the integrity assessment requirements (with a brief description of the basis for the estimate); the estimated amount of production from affected wells per year, whether wells will be shut in or alternate

transportation used, and if alternate transportation will be used, the estimated cost to do so. [49 CFR 195.12(c)(2)]

3. When an operator notifies PHMSA in accordance with Paragraph C.1 of this section, PHMSA will stay compliant with §§30452.D and 30452.J.3 until it has completed an analysis of the notification. PHMSA will consult the Department of Energy (DOE), as appropriate, to help analyze the potential energy impact of loss of the pipeline. Based on the analysis, PHMSA may grant the operator a special permit to allow continued operation of the pipeline subject to alternative safety requirements. [49 CFR 195.12(c)(3)]

D. New Unusually Sensitive Areas. If, after July 3, 2008, an operator identifies a new unusually sensitive area and a segment of pipeline meets the criteria in Subsection A of this section, the operator must take the following actions: [49 CFR 195.12(d)]

1. except for Paragraph B.2 of this section and the requirements of Subchapter B of Chapter 305, comply with all other safety requirements of this Subpart before July 3, 2009. Comply with Subchapter B of Chapter 305 before July 3, 2011. [49 CFR 195.12(d)(1)]

2. establish the program required in Subparagraph B.3.a within 12 months following the date the area is identified. Continue to carry out such program in compliance with §30452; and [49 CFR 195.12(d)(2)]

3. complete the baseline assessment required by Subparagraph B.3.b of this section according to the schedule in §30452.D.3. [49 CFR 195.12(d)(3)]

E. Record Retention. An operator must maintain records demonstrating compliance with each requirement according to the following schedule. [49 CFR 195.12(e)]

1. An operator must maintain the segment identification records required in Paragraph B.1 of this section for the life of the pipe. [49 CFR 195.12(e)(1)]

2. An operator must maintain the records necessary to demonstrate compliance with each requirement in Paragraphs B.2 through B.4 of this section according to the record retention requirements of the referenced section or Chapter. [49 CFR 195.12(e)(2)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 35:

Subchapter B. Reporting Accidents and Safety-Related Conditions [Subpart B]

§30123. Scope [49 CFR 195.48]

A. This Subchapter prescribes requirements for periodic reporting and for reporting of accidents and safety-related conditions. This Subchapter applies to all pipelines subject to this Subpart and, beginning January 5, 2009, applies to all rural low-stress hazardous liquid pipelines. An operator of a rural low-stress pipeline not otherwise subject to this Subpart is not required to complete Parts J and K of the hazardous liquid annual report form (PHMSA F 7000-1.1) required by §30137 or to provide the estimate of total miles that could affect high consequence areas in Part B of that form. [49CFR 195.48]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 35:

§30127. Telephonic Notice of Certain Accidents

[49 CFR 195.52]

A. - A.5. ...

B. Reports made under §30127.A are made by telephone to 800-424-8802 (in Washington, D.C. 20590-0001 (202) 372-2428) as well as Louisiana (225) 342-5505 (day or night) and must include the following information: [49 CFR 195.52(b)]

B.1. - B.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18:863 (August 1992), LR 20:440 (April 1994), LR 21:816 (August 1995), LR 29:2811 (December 2003), LR 35:

§30135. Filing Safety-Related Condition Reports

[49 CFR 195.56]

A. Each report of a safety-related condition under §30133.A must be filed (received by the commissioner and administrator) in writing within five working days (not including Saturday, Sunday, or Federal holidays) after the day a representative of the operator first determines that the condition exists, but not later than 10 working days after the day a representative of the operator discovers the condition. Separate conditions may be described in a single report if they are closely related. To file a report by telefacsimile (FAX), dial (202) 366-7128 and for Louisiana (225) 342-5529.[49 CFR 195.56(a)]

B. - B.8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18:863 (August 1992), LR 20:440 (April 1994), LR 28:85 (January 2002), LR 29:2812 (December 2003), LR 35:

§30137. Annual Report

A. Each operator must annually complete and submit DOT Form PHMSA F 7000-1.1 for each type of hazardous liquid pipeline facility operated at the end of the previous year. The hazardous liquid operator annual report must be filed by June 15 each year. A separate report is required for crude oil, HVL (including anhydrous ammonia), petroleum products, and carbon dioxide pipelines. [49 CFR 195.49]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 29:2812 (December 2003), LR 35:

§30139. Filing Offshore Pipeline Condition Reports

[49 CFR 195.57]

A. - A.6. ...

B. The report shall be mailed to the Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Information Resources Manager, PHP-10, 1200 New Jersey Avenue, SE, Washington, DC, 20590-0001 and concurrently to the Commissioner of Conservation, Office of

Conservation, P.O. Box 94275, Baton Rouge, LA 70804-9275 [49 CFR 195.57(b)].

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:2812 (December 2003), amended LR 33:468 (March 2007), LR 35:

§30140. Address for Written Reports

[49 CFR 195.58]

A. Each written report required by this Subchapter must be made to the Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Information Resources Manager, PHP-10, 1200 New Jersey Avenue, SE, Washington, DC, 20590-0001 and concurrently to Office of Conservation, Pipeline Safety, P.O. Box 94275, Baton Rouge, LA 70804-9275. Safety-related condition reports required by §30133 for intrastate pipelines must be submitted concurrently to the state agency, and if that agency acts as an agent of the secretary with respect to interstate pipelines, safety related condition reports for these pipelines must be submitted concurrently to that agency [49 CFR 195.58].

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:2812 (December 2003), amended LR 33:469 (March 2007), LR 35:

§30141. Abandonment or Deactivation of Facilities.

[49 CFR 195.59]

A. ...

1. The preferred method to submit data on pipeline facilities abandoned after October 10, 2000 is to the National Pipeline Mapping System (NPMS) in accordance with NPMS "Standards for Pipeline and Liquefied Natural Gas Operator Submissions". To obtain a copy of the NPMS Standards, please refer to the NPMS homepage at <http://www.npms.PHMSA.dot.gov> or contact the NPMS National Repository at (703) 317-3073. A digital data format is preferred, but hard copy submissions are acceptable if they comply with the NPMS Standards. In addition to the NPMS-required attributes, operators must submit the date of abandonment, diameter, method of abandonment, and certification that, to the best of the operator's knowledge, all of the reasonably available information requested was provided and, to the best of the operator's knowledge, the abandonment was completed in accordance with applicable laws. Refer to the NPMS Standards for details in preparing your data for submission. The NPMS Standards also include details of how to submit data. Alternatively, operators may submit reports by mail, fax, or e-mail to the Office of Pipeline Safety, Pipeline Hazardous Materials Safety Administration, Department of Transportation, Information Resources Manager, PHP-10, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001; fax (202) 366-4566; e-mail, "InformationResourcesManager@PHMSA.dot.gov". The information in the report must contain all reasonably available information related to the facility, including information in the possession of a third party. The report must contain the location, size, date, method of

abandonment, and a certification that the facility has been abandoned in accordance with all applicable laws [49 CFR 195.59(a)].

2. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:2813 (December 2003), amended LR 33:469 (March 2007), LR 35:

§30144. Supplies of Accident Report DOT Form 7000-1 [49 CFR 195.62]

A. Each operator shall maintain an adequate supply of forms that are a facsimile of DOT Form 7000-1 and Louisiana's Accident Report Form to enable it to promptly report accidents. The department will, upon request, furnish specimen copies of the form. Requests for DOT Form 7000-1 should be addressed to the Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Information Resources Manager, PHP-10, 1200 New Jersey Avenue, SE, Washington, DC, 20590-0001. Requests for Louisiana's Accident Report Form should be addressed to Office of Pipeline Safety, Office of Conservation, Box 94275, Baton Rouge, LA 70804-9275. [49 CFR 195.62]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:2813 (December 2003), LR 35:

Subchapter C. Design Requirements [Subpart C]

§30173. Valves [49 CFR 195.116]

A. - A.3. ...

4. Each valve must be both hydrostatically shell tested and hydrostatically seat tested without leakage to at least the requirements set forth in Section 10 of API Standard 6D (incorporated by reference, see §30107). [49 CFR 195.116(d)]

A.5. - A.6.d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18:864 (August 1992), LR 29:2816 (December 2003), LR 33:469 (March 2007), LR 35:

Chapter 302. Transportation of Hazardous Liquids by Pipeline—Construction [49 CFR Part 195 Subpart D]

§30228. Welds and Welding Inspection: Standards of Acceptability [49 CFR 195.228]

A. ...

B. The acceptability of a weld is determined according to the standards in Section 9 of API 1104. However, if a girth weld is unacceptable under those standards for a reason other than a crack, and if Appendix A to API 1104 (incorporated by reference, see §30107) applies to the weld, the acceptability of the weld may be determined under that Appendix. [49 CFR 195.228(b)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:2819 (December 2003), amended LR 31:677 (March 2005), LR 35:

§30246. Installation of Pipe in a Ditch [49 CFR 195.246]

A. ...

B. Except for pipe in the Gulf of Mexico and its inlets in waters less than 15 feet deep, all offshore pipe in water at least 12 feet deep (3.7 meters) but not more than 200 feet deep (61 meters) deep as measured from the mean low water must be installed so that the top of the pipe is below the underwater natural bottom (as determined by recognized and generally accepted practices) unless the pipe is supported by stanchions held in place by anchors or heavy concrete coating or protected by an equivalent means. [49 CFR 195.246(b)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:2819 (December 2003), amended LR 31:677 (March 2005), LR 35:

§30264. Impoundment, Protection against Entry, Normal/Emergency Venting or Pressure/Vacuum Relief for Aboveground Breakout Tanks [49 CFR 195.264]

A. - B.1. ...

a. impoundment around a breakout tank must be installed in accordance with Section 4.3.2.3.2.; and [49 CFR 195.264(b)(1)(i)]

b. impoundment by drainage to a remote impounding area must be installed in accordance with Section 4.3.2.3.1. [49 CFR 195.264(b)(1)(ii)]

2. For tanks built to API Standard 2510, the installation of impoundment must be in accordance with Section 5 or 11 of API Standard 2510 (incorporated by reference, see §30107). [49 CFR 195.264(b)(2)]

C. - E.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:2821 (December 2003), amended LR 33:470 (March 2007), LR 35:

Chapter 304. Transportation of Hazardous Liquids by Pipeline—Operation and Maintenance [49 CFR Part 195 Subpart F]

§30434. Signs [49 CFR 195.434]

A. Each operator must maintain signs visible to the public around each pumping station and breakout tank area. Each sign must contain the name of the operator and a telephone number (including area code) where the operator can be reached at all times. [49 CFR 195.434]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:2829 (December 2003), amended LR 31:679 (March 2005), LR 35:

§30440. Public Awareness [49 CFR 195.440]

A. Each pipeline operator must develop and implement a written continuing public education program that follows the guidance provided in the American Petroleum Institute's (API) Recommended Practice (RP) 1162 (incorporated by reference, see §30107). [49 CFR 195.440(a)]

B. The operator's program must follow the general program recommendations of API RP 1162 and assess the unique attributes and characteristics of the operator's pipeline and facilities. [49 CFR 195.440(b)]

C. The operator must follow the general program recommendations, including baseline and supplemental requirements of API RP 1162, unless the operator provides justification in its program or procedural manual as to why compliance with all or certain provisions of the recommended practice is not practicable and not necessary for safety. [49 CFR 195.440(c)]

D. The operator's program must specifically include provisions to educate the public, appropriate government organizations, and persons engaged in excavation related activities on: [49 CFR 195.440(d)]

1. use of a one-call notification system prior to excavation and other damage prevention activities; [49 CFR 195.440(d)(1)]

2. possible hazards associated with unintended releases from a hazardous liquid or carbon dioxide pipeline facility; [49 CFR 195.440(d)(2)]

3. physical indications that such a release may have occurred; [49 CFR 195.440(d)(3)]

4. steps that should be taken for public safety in the event of a hazardous liquid or carbon dioxide pipeline release; and [49 CFR 195.440(d)(4)]

5. procedures to report such an event. [49 CFR 195.440(d)(5)]

E. The program must include activities to advise affected municipalities, school districts, businesses, and residents of pipeline facility locations. [49 CFR 195.440(e)]

F. The program and the media used must be as comprehensive as necessary to reach all areas in which the operator transports hazardous liquid or carbon dioxide. [49 CFR 195.440(f)]

G. The program must be conducted in English and in other languages commonly understood by a significant number and concentration of the non-English speaking population in the operator's area. [49 CFR 195.440(g)]

H. Operators in existence on June 20, 2005, must have completed their written programs no later than June 20, 2006. Upon request, operators must submit their completed programs to PHMSA or, in the case of an intrastate pipeline facility operator, the appropriate state agency. [49 CFR 195.440(h)]

I. The operator's program documentation and evaluation results must be available for periodic review by appropriate regulatory agencies. [49 CFR 195.440(i)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:2829 (December 2003), amended LR 33:470 (March 2007), LR 35:

§30442. Damage Prevention Program **[49 CFR 195.442]**

A. - C.6.b. ...

D. A damage prevention program under this Section is not required for the following pipelines: [49 CFR 195.442(d)]

1. - 2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:2829 (December 2003), LR 35:

§30452. Pipeline Integrity Management in High Consequence Areas [49 CFR 195.452]

A. - C.1.a.i. ...

ii. pressure test conducted in accordance with Chapter 303. of this Subpart; [49 CFR 195.452 (c)(1)(i)(B)]

iii. external corrosion direct assessment in accordance with §30588; or [49 CFR 195.452(c)(1)(i)(C)]

C.1.a.iv. - G.4. ...

H. What actions must an operator take to address integrity issues? [49 CFR 195.452(h)]

1. General Requirements. An operator must take prompt action to address all anomalous conditions the operator discovers through the integrity assessment or information analysis. In addressing all conditions, an operator must evaluate all anomalous conditions and remediate those that could reduce a pipeline's integrity. An operator must be able to demonstrate that the remediation of the condition will ensure the condition is unlikely to pose a threat to the long-term integrity of the pipeline. An operator must comply with §30422 when making a repair. [49 CFR 195.452(h)(1)]

a. Temporary Pressure Reduction. An operator must notify PHMSA, in accordance with Subsection M of this section, if the operator cannot meet the schedule for evaluation and remediation required under Paragraph H.3 of this section and cannot provide safety through a temporary reduction in operating pressure. [49 CFR 195.452(h)(1)(i)]

b. Long-Term Pressure Reduction. When a pressure reduction exceeds 365 days, the operator must notify PHMSA in accordance with Subsection M of this section and explain the reasons for the delay. An operator must also take further remedial action to ensure the safety of the pipeline. [49 CFR 195.452(h)(1)(ii)]

2. ...

3. Schedule for Evaluation and Remediation. An operator must complete remediation of a condition according to a schedule prioritizing the conditions for evaluation and remediation. If an operator cannot meet the schedule for any condition, the operator must explain the reasons why it cannot meet the schedule and how the changed schedule will not jeopardize public safety or environmental protection. [49 CFR 195.452(h)(3)]

4. Special Requirements for Scheduling Remediation [49 CFR 195.452(h)(4)]

a. Immediate Repair Conditions. An operator's evaluation and remediation schedule must provide for immediate repair conditions. To maintain safety, an operator must temporarily reduce operating pressure or shut down the pipeline until the operator completes the repair of these conditions. An operator must calculate the temporary reduction in operating pressure using the formula in section 451.7 of ASME/ANSI B31.4 (incorporated by reference, see §30107); if applicable. If the formula is not applicable to the type of anomaly or would produce a higher operating pressure, an operator must use an alternative acceptable method to calculate a reduced operating pressure. An operator must treat the following conditions as immediate repair conditions: [49 CFR 195.452(h)(4)(i)]

H.4.a.i. - J.2. ...

3. Assessment Intervals. An operator must establish five-year intervals, not to exceed 68 months, for continually assessing the line pipe's integrity. An operator must base the assessment intervals on the risk the line pipe poses to the high consequence area to determine the priority for assessing the pipeline segments. An operator must establish the assessment intervals based on the factors specified in Subsection E of this Section, the analysis of the results from the last integrity assessment, and the information analysis required by Subsection G of this Section. [49 CFR 195.452(j)(3)]

4. - J.5.b ...

c. external corrosion direct assessment in accordance with §30588; or [49 CFR 195.452(j)(5)(iii)]

J.5.d. - L.2. ...

M. How does an operator notify PHMSA? An operator must provide any notification required by this section by: [49 CFR 195.452(m)]

1. entering the information directly on the Integrity Management Database Web site at <http://primis.PHMSA.dot.gov/imdb/>; [49 CFR 195.452(m)(1)]

2. sending the notification to the Information Resources Manager, Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590, and to the Commissioner of Conservation, Pipeline Safety Section, P.O. Box 94275, Baton Rouge, LA 70804-9275; or [195.452(m)(2)]

3. sending the notification to the Information Resources Manager by facsimile to (202) 366-7128, and to the Commissioner of Conservation, Pipeline Safety Section, by facsimile number (225) 342-5529. [195.452(m)(3)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:2830 (December 2003), amended LR 30:1216 (June 2004), LR 33:471 (March 2007), LR 35:

Chapter 305. Transportation of Hazardous Liquids by Pipeline—Qualification of Pipeline Personnel [49 CFR Part 195 Subpart G] and Corrosion Control [49 CFR Part 195 Subpart H]

Subchapter A. Qualification of Pipeline Personnel [49 CFR Part 195 Subpart G]

§30505. Qualification Program [49 CFR 195.505]

A. - A.5. ...

6. communicate changes that affect covered tasks to individuals performing those covered tasks; [49 CFR 195.505(f)]

7. identify those covered tasks and the intervals at which evaluation of the individual's qualifications is needed; [49 CFR 195.505(g)]

8. after December 16, 2004, provide training, as appropriate, to ensure that individuals performing covered tasks have the necessary knowledge and skills to perform the tasks in a manner that ensures the safe operation of pipeline facilities; and [49 CFR 195.505(h)]

9. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:2835 (December 2003), amended LR 33:471 (March 2007), LR 35:

Subchapter B. Corrosion Control [49 CFR Part 195 Subpart H]

§30573. What must I do to monitor external corrosion control? [49 CFR 195.573]

A. - A.1. ...

2. Identify not more than two years after cathodic protection is installed, the circumstances in which a close-interval survey or comparable technology is practicable and necessary to accomplish the objectives of paragraph 10.1.1.3 of NACE Standard RP0169 (incorporated by reference, see §30107). [49 CFR 195.573(a)(2)]

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:2838 (December 2003), amended LR 33:472 (March 2007), LR 35:

§30588. What standards apply to direct assessment? [49 CFR 195.588]

A. If you use direct assessment on an onshore pipeline to evaluate the effects of external corrosion, you must follow the requirements of this section for performing external corrosion direct assessment. This section does not apply to methods associated with direct assessment, such as close interval surveys, voltage gradient surveys, or examination of exposed pipelines, when used separately from the direct assessment process. [49 CFR 195.588(a)]

B. The requirements for performing external corrosion direct assessment are as follows: [49 CFR 195.588(b)]

1. General. You must follow the requirements of NACE Standard RP0502-2002 (incorporated by reference, see §30107). Also, you must develop and implement an ECDA plan that includes procedures addressing pre-assessment, indirect examination, direct examination, and post-assessment. [49 CFR 195.588(b)(1)]

2. Pre-assessment. In addition to the requirements in Section 3 of NACE Standard RP0502-2002, the ECDA plan procedures for pre-assessment must include: [49 CFR 195.588(b)(2)]

a. provisions for applying more restrictive criteria when conducting ECDA for the first time on a pipeline segment; [49 CFR 195.588(b)(2)(i)]

b. the basis on which you select at least two different, but complementary, indirect assessment tools to assess each ECDA region; and [49 CFR 195.588(b)(2)(ii)]

c. if you utilize an indirect inspection method not described in Appendix A of NACE Standard RP0502-2002, you must demonstrate the applicability, validation basis, equipment used, application procedure, and utilization of data for the inspection method. [49 CFR 195.588(b)(2)(iii)]

3. Indirect examination. In addition to the requirements in Section 4 of NACE Standard RP0502-2002, the procedures for indirect examination of the ECDA regions must include: [49 CFR 195.588(b)(3)]

a. provisions for applying more restrictive criteria when conducting ECDA for the first time on a pipeline segment; [49 CFR 195.588(b)(3)(i)]

b. criteria for identifying and documenting those indications that must be considered for excavation and direct examination, including at least the following: [49 CFR 195.588(b)(3)(ii)]

i. the known sensitivities of assessment tools; [49 CFR 195.588(b)(3)(ii)(A)]

ii. the procedures for using each tool; and [49 CFR 195.588(b)(3)(ii)(B)]

iii. the approach to be used for decreasing the physical spacing of indirect assessment tool readings when the presence of a defect is suspected; [49 CFR 195.588(b)(3)(ii)(C)]

c. for each indication identified during the indirect examination, criteria for: [49 CFR 195.588(b)(3)(iii)]:

i. defining the urgency of excavation and direct examination of the indication; and [49 CFR 195.588(b)(3)(iii)(A)]

ii. defining the excavation urgency as immediate, scheduled, or monitored; and [49 CFR 195.588(b)(3)(iii)(B)]

d. criteria for scheduling excavations of indications in each urgency level. [49 CFR 195.588(b)(3)(iv)]

4. direct examination. In addition to the requirements in Section 5 of NACE Standard RP0502-2002, the procedures for direct examination of indications from the indirect examination must include: [49 CFR 195.588(b)(4)]

a. provisions for applying more restrictive criteria when conducting ECDA for the first time on a pipeline segment; [49 CFR 195.588(b)(4)(i)]

b. criteria for deciding what action should be taken if either: [49 CFR 195.588(b)(4)(ii)]

i. corrosion defects are discovered that exceed allowable limits (Section 5.5.2.2 of NACE Standard RP0502-2002 provides guidance for criteria); or [49 CFR 195.588(b)(4)(ii)(A)]

ii. root cause analysis reveals conditions for which ECDA is not suitable (Section 5.6.2 of NACE Standard RP0502-2002 provides guidance for criteria); [49 CFR 195.588(b)(4)(ii)(B)]

c. criteria and notification procedures for any changes in the ECDA plan, including changes that affect the severity classification, the priority of direct examination, and the time frame for direct examination of indications; and [49 CFR 195.588(b)(4)(iii)]

d. criteria that describe how and on what basis you will reclassify and re-prioritize any of the provisions specified in Section 5.9 of NACE Standard RP0502-2002. [49 CFR 195.588(b)(4)(iv)]

5. post assessment and continuing evaluation. In addition to the requirements in Section 6 of NACE Standard UP 0502-2002, the procedures for post assessment of the effectiveness of the ECDA process must include: [49 CFR 195.588(b)(5)]

a. measures for evaluating the long-term effectiveness of ECDA in addressing external corrosion in pipeline segments; and [49 CFR 195.588(b)(5)(i)]

b. criteria for evaluating whether conditions discovered by direct examination of indications in each ECDA region indicate a need for reassessment of the pipeline segment at an interval less than that specified in Sections 6.2 and 6.3 of NACE Standard RP0502-2002 (see Appendix D of NACE Standard RP0502-2002). [49 CFR 195.588(b)(5)(ii)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 33:472 (March 2007), LR 35:

Family Impact Statement

In accordance with LSA-RS 49:972, the following statements are submitted after consideration of the impact of the proposed Rule on family as defined therein.

1. The effect of this Rule on the Stability of the Family. This Rule will have no known effect on the stability of the family.

2. The Effect of this Rule on the Authority and Rights of Parents Regarding the Education and Supervision of their children. This Rule will have no known effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect of this Rule on the Functioning of the Family. This Rule will have no known effect on the functioning of the family.

4. The Effect of this Rule on Family Earnings and Family Budget. This Rule will have no known effect on family earnings and family budget.

5. The Effect on the Behavior and Personal Responsibility of Children. This Rule will have no known effect on the behavior and personal responsibility of children.

6. The Effect of this Rule on the Ability of the Family or Local Government to Perform the Function as Contained in the proposed Rule. This Rule will have no known effect on the ability of the family or local government to perform the function as contained in the proposed Rule.

In accordance with the laws of the State of Louisiana, and with reference to the provisions of Title 30 of the Louisiana Revised Statutes of 1950, a public hearing will be held in the La Belle Room located on the first floor of the LaSalle Building, 617 North Third Street, Baton Rouge, Louisiana, at 9:00 a.m. on October 29, 2009.

All interested parties will be afforded the opportunity to submit data, views, or arguments, orally or in writing at said public hearing in accordance with R.S. 49:953. Written comments will be accepted until 4:30 p.m., Thursday, November 5, 2009. If accommodations are required under the Americans with Disabilities Act, please contact the Pipeline Division at (225) 342-5505 within 10 working days of the hearing date. Direct comments to James H. Welsh, Commissioner of Conservation, P.O. Box 94275, Baton Rouge, LA 70804-9275, RE: Docket No. PL 09-073.

James H. Welsh
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Hazardous Liquids Pipeline Safety

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There should be no additional costs or savings regarding the amendment of this rule. This action adopts federal amendments to pipeline safety regulations

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be no effect on revenue or costs as the Department was previously enforcing similar rules.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule affects hazardous liquid pipelines operating in Louisiana. All of the requirements of this rule have already been implemented by federal laws. Any cost associated with compliance with the safety regulations should have already been absorbed by the regulated companies. Therefore, adoption of this rule should not affect cost.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no effect on competition and employment

Gary P. Ross
Assistant Commissioner
0909#053

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Natural Resources
Office of Conservation**

Natural Gas Pipeline Safety
(LAC 43:XIII. Chapters 1-65)

The Louisiana Office of Conservation proposes to amend LAC 43:XIII.101 et seq. in accordance with the provisions of the Administrative Procedure Act, R. S. 49:950 et seq. and pursuant to power delegated under the laws of the State of Louisiana and particularly Title 30 of the Louisiana Revised Statutes of 1950, Section 30:501 et seq. These proposed Rules amend the minimum pipeline safety requirements for natural gas pipelines.

There will be negligible cost to directly affected persons or natural gas pipeline operators. Benefits will be realized by persons living and working near natural gas pipelines through safer construction and operation standards imposed by the rule amendments. Moreover, Louisiana presently receives federal funds and pipeline inspection fees to administer the Natural Gas Pipeline Safety Program. Failure to amend the Louisiana rules to make them consistent with federal regulations would cause the state to lose federal funding.

Title 43

NATURAL RESOURCES

**Part XIII. Office of Conservation—Pipeline Safety
Subpart 2. Transportation of Natural Gas and Other Gas
by Pipeline [49 CFR Part 191]**

**Chapter 3. Annual Reports, Incident Reports and
Safety Related Condition Reports [49
CFR Part 191]**

**§307. Addressee for Written Reports
[49 CFR 191.7]**

A. One copy of each written report, required by Part XIII, for intrastate facilities subject to the jurisdiction of the Office of Conservation pursuant to certification under Section 5(a) of the Natural Gas Pipeline Safety Act must be submitted to the Commissioner of Conservation, P.O. Box 94275, Baton Rouge, LA 70804-9275. One copy of each written report required by Part XIII must be submitted to

Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, the Information Resources Manager, PHP-10, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001. Safety-related condition reports required by §323 for intrastate pipeline transportation must be submitted concurrently to that state agency, and if that agency acts as an agent of the secretary with respect to interstate transmission facilities, safety-related condition reports for these facilities must be submitted concurrently to that agency. [49 CFR 191.7]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:219 (April 1983), amended LR 10:510 (July 1984), LR 11:255 (March 1985), LR 20:442 (April 1994), LR 27:1536 (September 2001), LR 30:1221 (June 2004), LR 31:679 (March 2005), LR 33:473 (March 2007), LR 35:

**§325. Filing Safety-Related Condition Reports
[49 CFR 191.25]**

A. Each report of a safety-related condition under §323.A must be filed concurrently (received by the commissioner and associate administrator, OPS) in writing within five working days (not including Saturday, Sunday, or federal holidays) after the day a representative of the operator first determines that the condition exists, but not later than 10 working days after the day a representative of the operator discovers the condition. Separate conditions may be described in a single report if they are closely related. To file a report by facsimile (FAX), dial (225) 342-5529 (state) and (202) 366-7128 (federal). [49 CFR 191.25]

B. - B.8 ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 30:1223 (June 2004), LR 35:

**§327. Filing Offshore Pipeline Condition Reports
[49 CFR 191.27]**

A. - A.6. ...

B. The report shall be mailed to the Commissioner of Conservation, Office of Conservation, P.O. Box 94275, Baton Rouge, LA 70804-9275 and concurrently to Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, the Information Resources Manager, PHP-10, 1200 New Jersey Avenue, SE, Washington, DC 20590-0001. [49 CFR 191.27(b)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 18:854 (August 1992), amended LR 20:443 (April 1994), LR 30:1224 (June 2004), LR 33:474 (March 2007), LR 35:

**Subpart 3. Transportation of Natural Gas or Other Gas
By Pipeline: Minimum Safety Standards
[49 CFR Part 192]**

Chapter 5. General [Subpart A]

**§501. What is the scope of this Subpart? [49 CFR
192.1]**

A. - B.4.b ...

c. within inlets of the Gulf of Mexico, except for the requirements in §2712; or [CFR 49 192. 1(b)(4)(iii)]

5. - 5.b ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 30:1224 (June 2004), amended LR 33:474 (March 2007), LR 35:

§503. Definitions [49 CFR 192.3]

A. ...

Special Class System—a pipeline system for distributing gas to a federal, state, or local government facility or a private facility performing a government function, where the operator receives or purchases gas from an outside source and distributes the gas through a pipeline system to more than one outlet (building) beyond the meter or regulator, which ultimate outlet may, but need not be, individually metered or charged a fee for the gas. Any exemption from pipeline safety regulation granted to master meter systems will apply to special class systems.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 30:1224 (June 2004), amended LR 31:679 (March 2005), LR 33:474 (March 2007), LR 35:

§507. What documents are incorporated by reference partly or wholly in this Part? [49 CFR 192.7]

A. ...

B. All incorporated materials are available for inspection in the Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC, 20590-0001 or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030 or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html. These materials have been approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. In addition, the incorporated materials are available from the respective organizations listed in Paragraph C.1 of this section. [49 CFR 192.7(b)]

C. - C.1.i. ...

2. Documents incorporated by reference (Numbers in Parentheses Indicate Applicable Editions). [49 CFR 192.7(c)(2)]

Source and Name of Referenced Material	Title 43 Reference
(3) API Specification 6D "Pipeline Valves" (22nd edition, January 2002).	§1105.A.
(4) API Recommended Practice 80 (API RP 80) "Guidelines for the Definition of Onshore Gas Gathering Lines" (1st edition, April 2000)	§508.A; 508.A.1; 508.A.2; 508.A.3; 508.A.4
(5) API 1104 "Welding of Pipelines and Related Facilities" (19th edition, 1999, including Errata October 31, 2001; and 20th edition 2007, including errata 2008).	§§ 1307.A; 1309.C.1; 1321.C; 5103 Item II.
(6) API Recommended Practice 1162 "Public Awareness Programs for Pipeline Operators," (1st edition, December 2003)	§2716.A; 2716.B; 2716.C
C. American Society for Testing and Materials (ASTM):	
(1) ASTM Designation: A 53/A53M-04a (2004) "Standard Specification for Pipe, Steel, Black and Hot-Dipped, Zinc Coated, Welded and Seamless".	§§ 913; 5103 Item I.
(2) ASTM Designation: A106/A106M-04b (2004) "Standard Specification for Seamless Carbon Steel Pipe for High-Temperature Service".	§§ 913; 5103 Item I.
(3) ASTM Designation: A333/A333M-05 (2005) "Standard Specification for Seamless and Welded Steel Pipe for Low- Temperature Service."	§§ 913; 5103 Item I.
(4) ASTM Designation: A372/A372M-03 (2003) "Standard Specification for Carbon and Alloy Steel Forgings for Thin-Walled Pressure Vessels".	§1137.B.1.
(5) ASTM Designation: A381-96 (Reapproved 2001) "Standard Specification for Metal-Arc-Welded Steel Pipe for Use With High-Pressure Transmission Systems".	§§ 913; 5103 Item I.
(6) ASTM Designation: A 578/A578M-96 (Re-approved 2001) "Standard Specification for Straight-Beam Ultrasonic Examination of Plain and Clad Steel Plates for Special Applications".	§ 912.C.2.iii
(7) ASTM Designation: A671-04 (2004) "Standard Specification for Electric-Fusion-Welded Steel Pipe for Atmospheric and Lower Temperatures".	§§ 913; 5103 Item I.
(8) ASTM Designation: A672-96 (Reapproved 2001) "Standard Specification for Electric-Fusion-Welded Steel Pipe for High-Pressure Service at Moderate Temperatures" (A672-1996).	§§ 913; 5103 Item I.
(9) ASTM Designation: A691 "Standard Specification for Carbon and Alloy Steel Pipe, Electric-Fusion-Welded for High- Pressure Service at High Temperatures".	§§ 913; 5103 Item I.
(10) ASTM Designation: D638-03 "Standard Test Method for Tensile Properties of Plastics".	§§ 1513.A.3; 1513.B.1.
(11) ASTM Designation: D2513-87 "Standard Specification for Thermoplastic Gas Pressure Pipe, Tubing, and Fittings".	§ 713.A.1.
(12) ASTM Designation: D2513-99 "Standard Specification for Thermoplastic Gas Pressure Pipe, Tubing, and Fittings.	§§ 1151.B; 1511.B.2; 1513.A.1.a; 5103 Item I.
(13) ASTM Designation: D 2517-00 "Standard Specification for Reinforced Epoxy Resin Gas Pressure Pipe and Fittings".	§§ 1151.A; 1511.D.1; 1513.A.1.b; 5103 Item I.
(14) ASTM Designation: F1055-1998 "Standard Specification for Electrofusion Type Polyethylene Fittings for Outside Diameter Controlled Polyethylene Pipe and Tubing".	§ 1513.A.1.c.
D. ASME International (ASME):	
(1) ASME B16.1-1998 "Cast Iron Pipe Flanges and Flanged Fittings".	§ 1107.C.
(2) ASME B16.5-2003 (October 2004) "Pipe Flanges and Flanged Fittings".	§§ 1107.A; 1509.

Source and Name of Referenced Material	Title 43 Reference
A. Pipeline Research Council International (PRCI):	
(1) AGA Pipeline Research Committee, Project PR-3-805, "A Modified Criterion for Evaluating the Remaining Strength of Corroded Pipe"(December 22, 1989). The RSTRENG program may be used for calculating remaining strength.	§§ 3333.A; 2137.C.
B. American Petroleum Institute (API):	
(1) ANSI/API Specification 5L/ISO 3183 "Specification for Line Pipe" (43rd edition and errata, 2004, and 44th edition, 2007).	§§ 705.E; 912; 913; §5103 Item I.
(2) API Recommended Practice 5L1 "Recommended Practice for Railroad Transportation of Line Pipe" (6th edition, 2002).	§715.A.1.

Source and Name of Referenced Material	Title 43 Reference
(3) ASME B31G-1991 (Reaffirmed 2004) "Manual for Determining the Remaining Strength of Corroded Pipelines".	§§ 2137.C; 3333.A.
(4) ASME B31.8-2003 (February 2004) "Gas Transmission and Distribution Piping Systems".	§2719.A.1.a.
(5) ASME B31.8S-2004 "Supplement to B31.8 on Managing System Integrity of Gas Pipelines".	§§ 3303.C; 3307.B; 3311.A; 3311.A.9; 3311.A.11; 3311.A.12; 3311.A.13; 3313.A; 3313.B.1; 3317.A; 3317.B; 3317.C; 3317.E.1; 3317.E.4; 3321.A.1; 3323.B.2; 3323.B.3; 3325.B; 3325.B.1; 3325.B.2; 3325.B.3; 3325.B.4; 3327.B; 3327.C.1.a; 3329.B.1; 3329.B.2; 3333.A; 3333.D.1; 3333.D.1.a; 3335.A; 3335.B.1.d; 3337.C.1; 3339.A.1.a.i; 3339.A.1.a.ii; 3339.A.1.c; 3345.A.
(6) ASME Boiler and Pressure Vessel Code, Section I, Rules for Construction of Power Boilers (2004 edition including addenda through July 1, 2005).	§ 1113.A.
(7) ASME Boiler and Pressure Vessel Code, Section VIII, Division 1, "Rules for Construction of Pressure Vessels," (2004 edition, including addenda through July 1, 2005).	§§ 1113.A; 1113.B; 1113.D; 1125.B.3.
(8) ASME Boiler and Pressure Vessel Code, Section VIII, Division 2, "Rules for Construction of Pressure Vessels-Alternative Rules," (2004 edition, including addenda through July 1, 2005).	§§ 1113.B; 1125.B.3.
(9) ASME Boiler and Pressure Vessel Code, Section IX, "Welding and Brazing Qualifications" (2004 edition, including addenda through July 1, 2005).	§§ 1307.A; 5103 Item II.
E. Manufacturers Standardization Society of the Valve and Fittings Industry, Inc. (MSS):	
(1) MSS SP44-1996(Reaffirmed; 2001) "Steel Pipe Line Flanges".	§ 1107.A.
(2) [Reserved]	
F. National Fire Protection Association (NFPA):	
(1) NFPA 30 (2003) "Flammable and Combustible Liquids Code".	§2935.B.
(2) NFPA 58 (2004) "Liquefied Petroleum Gas Code (LP-Gas Code)".	§§ 511.A; 511.B; 511.C.
(3) NFPA 59 (2004) "Utility LP-Gas Plant Code".	§§ 511.A; 511.B; 511.C
(4) NFPA 70 (2005) "National Electrical Code".	§§ 1123.E; 1149.C.
G. Plastics Pipe Institute, Inc. (PPI):	
(1) PPI TR-3/2004 (2004) "Policies and Procedures for Developing Hydrostatic Design Bases (HDB), Pressure Design Bases (PDB), Strength Design Basis (SDB), and Minimum Required Strength (MRS) Ratings for Thermoplastic Piping Materials or Pipe.	§921.
H. NACE International (NACE):	
(1) NACE Standard RP-0502-2002 "Pipeline External Corrosion Direct Assessment Methodology".	§§ 3323.B.1; 3325.B; 3325.B.1; 3325.B.1.b; 3325.B.2; 3325.B.3; 3325.B.3.b; 3325.B.3.d; 3325.B.4; 3325.B.4.b; 3331.D; 3335.B.1.d; 3339.A.2.

Source and Name of Referenced Material	Title 43 Reference
I. Gas Technology Institute (GTI). (Formerly Gas Research Institute):	
(1) GRI 02/0057 (2002) "Internal Corrosion Direct Assessment of Gas Transmission Pipelines—Methodology."	§§ 3327.C.2; 307.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 30:1226 (June 2004), amended LR 31:681 (March 2005), LR 33:474 (March 2007), LR 35:

Subpart 3. Transportation of Natural Gas or Other Gas By Pipeline: Minimum Safety Standards [49 CFR Part 192]

Chapter 9. Pipe Design [Subpart C]

§912. Additional Design Requirements for Steel Pipe Using Alternative Maximum Allowable Operating Pressure. [49 CFR 192.112]

A. For a new or existing pipeline segment to be eligible for operation at the alternative maximum allowable operating pressure (MAOP) calculated under §2720, a segment must meet the following additional design requirements. Records for alternative MAOP must be maintained, for the useful life of the pipeline, demonstrating compliance with these requirements: [49 CFR 192.112]

1. To address this design issue (a-h): The pipeline segment must meet these additional requirements: [49 CFR 192.112]

a. general standards for the steel pipe. [49 CFR 192.112(a)]

i. The plate, skelp, or coil used for the pipe must be micro-alloyed, fine grain, fully killed, continuously cast steel with calcium treatment. [49 CFR 192.112(a)(1)]

ii. The carbon equivalents of the steel used for pipe must not exceed 0.25 percent by weight, as calculated by the Ito-Bessyo formula (Pcm formula) or 0.43 percent by weight, as calculated by the International Institute of Welding (IIW) formula. [49 CFR 192.112(a)(2)]

iii. The ratio of the specified outside diameter of the pipe to the specified wall thickness must be less than 100. The wall thickness or other mitigative measures must prevent denting and ovality anomalies during construction, strength testing and anticipated operational stresses. [49 CFR 192.112(a)(3)]

iv. The pipe must be manufactured using API Specification 5L, product specification level 2 (incorporated by reference, see §507) for maximum operating pressures and minimum and maximum operating temperatures and other requirements under this Section. [49 CFR 192.112(a)(4)]

b. Fracture control. [49 CFR 192.112(b)]

i. The toughness properties for pipe must address the potential for initiation, propagation and arrest of fractures in accordance with: [49 CFR 192.112(b)(1)]

(a). API Specification 5L (incorporated by reference, see §507); or [49 CFR 192.112(b)(1)(i)]

(b). American Society of Mechanical Engineers (ASME) B31.8 (incorporated by reference, see §507); and [49 CFR 192.112(b)(1)(ii)]

(c). Any correction factors needed to address pipe grades, pressures, temperatures, or gas compositions

not expressly addressed in API Specification 5L, product specification level 2 or ASME B31.8 (incorporated by reference, see §507). [49 CFR 192.112(b)(1)(iii)]

ii. Fracture control must: [49 CFR 192.112(b)(2)]

(a). Ensure resistance to fracture initiation while addressing the full range of operating temperatures, pressures, gas compositions, pipe grade and operating stress levels, including maximum pressures and minimum temperatures for shut-in conditions, that the pipeline is expected to experience. If these parameters change during operation of the pipeline such that they are outside the bounds of what was considered in the design evaluation, the evaluation must be reviewed and updated to assure continued resistance to fracture initiation over the operating life of the pipeline; [49 CFR 192.112(b)(2)(i)]

(b). Address adjustments to toughness of pipe for each grade used and the decompression behavior of the gas at operating parameters; [49 CFR 192.112(b)(2)(ii)]

(c). Ensure at least 99 percent probability of fracture arrest within eight pipe lengths with a probability of not less than 90 percent within five pipe lengths; and [49 CFR 192.112(b)(2)(iii)]

(d). Include fracture toughness testing that is equivalent to that described in supplementary requirements SR5A, SR5B, and SR6 of API Specification 5L (incorporated by reference, see §507) and ensures ductile fracture and arrest with the following exceptions: [49 CFR 192.112(b)(2)(iv)]

(i). The results of the Charpy impact test prescribed in SR5A must indicate at least 80 percent minimum shear area for any single test on each heat of steel; and [49 CFR 192.112(b)(2)(iv)(A)]

(ii). The results of the drop weight test prescribed in SR6 must indicate 80 percent average shear area with a minimum single test result of 60 percent shear area for any steel test samples. The test results must ensure a ductile fracture and arrest. [49 CFR 192.112(b)(2)(iv)(B)]

(iii). If it is not physically possible to achieve the pipeline toughness properties of Clause b.i and b.ii of this section, additional design features, such as mechanical or composite crack arrestors and/or heavier walled pipe of proper design and spacing, must be used to ensure fracture arrest as described in Subclause b.ii.c of this section. [49 CFR 192.112(b)(3)]

c. Plate/coil quality control. [49 CFR 192.112(c)]

i. There must be an internal quality management program at all mills involved in producing steel, plate, coil, skelp, and/or rolling pipe to be operated at alternative MAOP. These programs must be structured to eliminate or detect defects and inclusions affecting pipe quality. [49 CFR 192.112(c)(1)]

ii. A mill inspection program or internal quality management program must include (a) and either (b) or (c): [49 CFR 192.112(c)(2)]

(a). An ultrasonic test of the ends and at least 35 percent of the surface of the plate/coil or pipe to identify imperfections that impair serviceability such as laminations, cracks, and inclusions. At least 95 percent of the lengths of pipe manufactured must be tested. For all pipelines designed after November 17, 2008, the test must be done in accordance with ASTM A578/A578M Level B, or API 5L

Paragraph 7.8.10 (incorporated by reference, see §507) or equivalent method, and either [49 CFR 192.112(c)(2)(i)]

(b). A macro etch test or other equivalent method to identify inclusions that may form centerline segregation during the continuous casting process. Use of sulfur prints is not an equivalent method. The test must be carried out on the first or second slab of each sequence graded with an acceptance criteria of one or two on the Mannesmann scale or equivalent; or [49 CFR 192.112(c)(2)(ii)]

(c). A quality assurance monitoring program implemented by the operator that includes audits of: [49 CFR 192.112(c)(2)(iii)]

(i). all steelmaking and casting facilities, [49 CFR 192.112(c)(2)(iii)(a)]

(ii). quality control plans and manufacturing procedure specifications, [49 CFR 192.112(c)(2)(iii)(b)]

(iii). equipment maintenance and records of conformance, [49 CFR 192.112(c)(2)(iii)(c)]

(iv). applicable casting superheat and speeds, and [49 CFR 192.112(c)(2)(iii)(d)]

(v). centerline segregation monitoring records to ensure mitigation of centerline segregation during the continuous casting process. [49 CFR 192.112(c)(2)(iii)(e)]

d. Seam quality control. [49 CFR 192.112(d)]

i. There must be a quality assurance program for pipe seam welds to assure tensile strength provided in API Specification 5L (incorporated by reference, see §507) for appropriate grades. [49 CFR 192.112(d)(1)]

ii. There must be a hardness test, using Vickers (Hv10) hardness test method or equivalent test method, to assure a maximum hardness of 280 Vickers of the following: [49 CFR 192.112(d)(2)]

(a). A cross section of the weld seam of one pipe from each heat plus one pipe from each welding line per day; and [49 CFR 192.112(d)(2)(i)]

(b). For each sample cross section, a minimum of 13 readings (three for each heat affected zone, three in the weld metal, and two in each section of pipe base metal). [49 CFR 192.112(d)(2)(ii)]

iii. All of the seams must be ultrasonically tested after cold expansion and mill hydrostatic testing. [49 CFR 192.112(d)(3)]

e. Mill hydrostatic test. [49 CFR 192.112(e)]

i. All pipe to be used in a new pipeline segment must be hydrostatically tested at the mill at a test pressure corresponding to a hoop stress of 95 percent SMYS for 10 seconds. The test pressure may include a combination of internal test pressure and the allowance for end loading stresses imposed by the pipe mill hydrostatic testing equipment as allowed by API Specification 5L, Appendix K (incorporated by reference, see §507). [49 CFR 192.112(e)(1)]

ii. Pipe in operation prior to November 17, 2008, must have been hydrostatically tested at the mill at a test pressure corresponding to a hoop stress of 90 percent SMYS for 10 seconds. [49 CFR 192.112(e)(2)]

f. Coating. [49 CFR 192.112(f)]

i. The pipe must be protected against external corrosion by a non-shielding coating. [49 CFR 192.112(f)(1)]

ii. Coating on pipe used for trenchless installation must be non-shielding and resist abrasions and other damage possible during installation. [49 CFR 192.112(f)(2)]

iii. A quality assurance inspection and testing program for the coating must cover the surface quality of the bare pipe, surface cleanliness and chlorides, blast cleaning, application temperature control, adhesion, cathodic disbondment, moisture permeation, bending, coating thickness, holiday detection, and repair. [49 CFR 192.112(f)(3)]

g. Fittings and flanges. [49 CFR 192.112(g)]

i. There must be certification records of flanges, factory induction bends and factory welds. Certification must address material properties such as chemistry, minimum yield strength and minimum wall thickness to meet design conditions. [49 CFR 192.112(g)(1)]

ii. If the carbon equivalents of flanges, bends and welds are greater than 0.42 percent by weight, the qualified welding procedures must include a pre-heat procedure. [49 CFR 192.112(g)(2)]

iii. Valves, flanges and fittings must be rated based upon the required specification rating class for the alternative MAOP. [49 CFR 192.112(g)(3)]

h. Compressor stations. [49 CFR 192.112(h)]

i. A compressor station must be designed to limit the temperature of the nearest downstream segment operating at alternative MAOP to a maximum of 120 degrees Fahrenheit (49 degrees Celsius) or the higher temperature allowed in Clause h.ii of this section unless a long-term coating integrity monitoring program is implemented in accordance with Clause h.iii of this section. [49 CFR 192.112(h)(1)]

ii. If research, testing and field monitoring tests demonstrate that the coating type being used will withstand a higher temperature in long-term operations, the compressor station may be designed to limit downstream piping to that higher temperature. Test results and acceptance criteria addressing coating adhesion, cathodic disbondment, and coating condition must be provided to each PHMSA pipeline safety regional office where the pipeline is in service at least 60 days prior to operating above 120 degrees Fahrenheit (49 degrees Celsius). An operator must also notify a State pipeline safety authority when the pipeline is located in a State where PHMSA has an interstate agent agreement, or an intrastate pipeline is regulated by that State. [49 CFR 192.112(h)(2)]

iii. Pipeline segments operating at alternative MAOP may operate at temperatures above 120 degrees Fahrenheit (49 degrees Celsius) if the operator implements a long-term coating integrity monitoring program. The monitoring program must include examinations using direct current voltage gradient (DCVG), alternating current voltage gradient (ACVG), or an equivalent method of monitoring coating integrity. An operator must specify the periodicity at which these examinations occur and criteria for repairing identified indications. An operator must submit its long-term coating integrity monitoring program to each PHMSA pipeline safety regional office in which the pipeline is located for review before the pipeline segments may be operated at temperatures in excess of 120 degrees Fahrenheit (49 degrees Celsius). An operator must also notify a State pipeline safety authority when the pipeline is located in a

State where PHMSA has an interstate agent agreement, or an intrastate pipeline is regulated by that State. [49 CFR 192.112(h)(3)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 35:

§921. Design of Plastic Pipe [49 CFR 192.121]

A. Subject to the limitations of §923, the design pressure for plastic pipe is determined in accordance with either of the following formulas.

$$P = 2S \frac{L}{D - t} (DF)$$

$$P = \frac{2S}{(SDR - 1)} (DF)$$

where:

P = Design pressure, gauge, psig (kPa)

S = For thermoplastic pipe, the HDB is determined in accordance with the listed specification at a temperature equal to 73 °F (23°C), 100°F (38°C), 120°F (49°C), or 140°F (60°C). In the absence of an HDB established at the specified temperature, the HDB of a higher temperature may be used in determining a design pressure rating at the specified temperature by arithmetic interpolation using the procedure in Part D.2 of PPI TR-3/2004, *HDB/PDB/SDB/MRS Policies*, (incorporated by reference, see §507). For reinforced thermosetting plastic pipe, 11,000 psig (75,842 kPa). [Note: Arithmetic interpolation is not allowed for PA-11 pipe.]

t = Specified wall thickness, in. (mm)

D = Specified outside diameter, in (mm)

SDR = Standard dimension ratio, the ratio of the average specified outside diameter to the minimum specified wall thickness, corresponding to a value from a common numbering system that was derived from the American National Standards Institute preferred number series 10.

DF = 0.32 or

= 0.40 for nominal pipe size (IPS or CTS) 4-inch or less,

SDR-11 or greater (i.e., thicker pipe wall), PA-11 pipe produced after January 23, 2009. [49 CFR 192.121]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:222 (April 1983), amended LR 10:515 (July 1984), LR 18:855 (August 1992), LR 24:1308 (July 1998), LR 27:1538 (September 2001), LR 30:1231 (June 2004), LR 31:682 (March 2005), LR 33:478 (March 2007), LR 35:

§923. Design Limitations for Plastic Pipe [49 CFR 192.123]

A. Except as provided in Subsection E and Subsection F of this section, the design pressure may not exceed a gauge pressure of 100 psig (689 kPa) for plastic pipe used in: [49 CFR 192.123(a)]

A.1 - C. ...

D. The wall thickness for reinforced thermosetting plastic pipe may not be less than that listed in the following table. [49 CFR 192.123(d)]

Nominal Size in Inches (Millimeters)	Minimum Wall Thickness Inches (Millimeters)
2 (51)	0.060 (1.52)
3 (76)	0.060 (1.52)
4 (102)	0.070 (1.78)
6 (152)	0.100 (2.54)

E. - E.4. ...

F. The design pressure for polyamide-11 (PA-11) pipe produced after January 23, 2009 may exceed a gauge pressure of 100 psig (689 kPa) provided that: [49 CFR 192.123(f)]

1. The design pressure does not exceed 200 psig (1379 kPa); [49 CFR 192.123(f)(1)]

2. The pipe size is nominal pipe size (IPS or CTS) 4-inch or less; and [49 CFR 192.123(f)(2)]

3. The pipe has a standard dimension ratio of SDR-11 or greater (i.e., thicker pipe wall). [49 CFR 192.123(f)(3)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:222 (April 1983), amended LR 10:515 (July 1984), LR 24:1308 (July 1998), LR 27:1538 (September 2001), LR 30:1231 (June 2004), LR 31:682 (March 2005), LR 33:478 (March 2007), LR 35:

**Subpart 3. Transportation of Natural Gas or Other Gas
By Pipeline: Minimum Safety Standards
[49 CFR Part 192]**

**Chapter 11. Design of Pipeline Components
[Subpart D]**

§1103. General Requirements [49 CFR 192.143]

A. Each component of a pipeline must be able to withstand operating pressures and other anticipated loadings without impairment of its serviceability with unit stresses equivalent to those allowed for comparable material in pipe in the same location and kind of service. However, if design based upon unit stresses is impractical for a particular component, design may be based upon a pressure rating established by the manufacturer by pressure testing that component or a prototype of the component. [49 CFR 192.143(a)]

B. The design and installation of pipeline components and facilities must meet applicable requirements for corrosion control found in Chapter 21 of this Subpart. [49 CFR 192.143(b)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:223 (April 1983), amended LR 10:515 (July 1984), LR 30:1232 (June 2004), LR 35:

**§1143. Vaults: Structural Design Requirements
[49 CFR 192.183]**

A. - C ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:226 (April 1983), amended LR 10:518 (July 1984), LR 30:1238 (June 2004), LR 35:

**Subpart 3. Transportation of Natural or Other Gas by
Pipeline: Minimum Safety Standards [49CFR Part 192]
Chapter 17. General Construction Requirements for
Transmission Lines and Mains
[Subpart G]**

§1727. Cover [49 CFR 192.327]

A. - E ...

F. All pipe installed offshore, except in the Gulf of Mexico and its inlets, under water not more than 200 feet (60 meters) deep, as measured from the mean low tide, must be installed as follows. [49 CFR 192.327(f)]

1. Except as provided in Subsection C of this Section, pipe under water less than 12 feet (3.66 meters) deep, must be installed with a minimum cover of 36 inches (914 millimeters) in soil or 18 inches (457 millimeters) in consolidated rock between the top of the pipe and the natural bottom. [49 CFR 192.327(f)(1)]

2. Pipe under water at least 12 feet (3.66 meters) deep must be installed so that the top of the pipe is below the natural bottom, unless the pipe is supported by stanchions, held in place by anchors or heavy concrete coating, or protected by an equivalent means. [49 CFR 192.327(f)(2)]

G. All pipelines installed under water in the Gulf of Mexico and its inlets, as defined in §503, must be installed in accordance with §2712.C.3. [49 CFR 192.327(g)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:233 (April 1983), amended LR 10:525 (July 1984), LR 20:446 (April 1994), LR 24:1310 (July 1998), LR 27:1542 (September 2001), LR 30:1247 (June 2004), LR 31:684 (March 2005), LR 35:

**§1728. Additional Construction Requirements for Steel
Pipe Using Alternative Maximum Allowable
Operating Pressure [49 CFR 192.328]**

A. For a new or existing pipeline segment to be eligible for operation at the alternative maximum allowable operating pressure calculated under §2720, a segment must meet the following additional construction requirements. Records must be maintained, for the useful life of the pipeline, demonstrating compliance with these requirements: [49 CFR 192.328]

1. to address these construction issues (a.-e.): The pipeline segment must meet this additional construction requirement: [49 CFR 192.328]

a. quality assurance. [49 CFR 192.328(a)]

i. the construction of the pipeline segment must be done under a quality assurance plan addressing pipe inspection, hauling and stringing, field bending, welding, non-destructive examination of girth welds, applying and testing field applied coating, lowering of the pipeline into the ditch, padding and backfilling, and hydrostatic testing. [49 CFR 192.328(a)(1)]

ii. The quality assurance plan for applying and testing field applied coating to girth welds must be: [49 CFR 192.328(a)(2)]

(a). Equivalent to that required under §912.A.1.f.iii for pipe; and [49 CFR 192.328(a)(2)(i)]

(b). Performed by an individual with the knowledge, skills, and ability to assure effective coating application. [49 CFR 192.328(a)(2)(ii)]

b. Girth welds. [49 CFR 192.328(b)]

i. All girth welds on a new pipeline segment must be non-destructively examined in accordance with §1323.B and C. [49 CFR 192.328(b)(1)]

c. Depth of cover. [49 CFR 192.328(c)]

i. Notwithstanding any lesser depth of cover otherwise allowed in §1727, there must be at least 36 inches (914 millimeters) of cover or equivalent means to protect the pipeline from outside force damage. [49 CFR 192.328(c)(1)]

ii. In areas where deep tilling or other activities could threaten the pipeline, the top of the pipeline must be installed at least one foot below the deepest expected penetration of the soil. [49 CFR 192.328(c)(2)]

d. Initial strength testing. [49 CFR 192.328(d)]

i. The pipeline segment must not have experienced failures indicative of systemic material defects during strength testing, including initial hydrostatic testing. A root cause analysis, including metallurgical examination of the failed pipe, must be performed for any failure experienced to verify that it is not indicative of a systemic concern. The results of this root cause analysis must be reported to each PHMSA pipeline safety regional office where the pipe is in service at least 60 days prior to operating at the alternative MAOP. An operator must also notify a state pipeline safety authority when the pipeline is located in a state where PHMSA has an interstate agent agreement, or an intrastate pipeline is regulated by that state. [49 CFR 192.328(d)(1)]

e. Interference currents. [49 CFR 192.328(e)]

i. For a new pipeline segment, the construction must address the impacts of induced alternating current from parallel electric transmission lines and other known sources of potential interference with corrosion control. [49 CFR 192.328(e)(1)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 35:

Subpart 3. Transportation of Natural or Other Gas by Pipeline: Minimum Safety Standards [49CFR Part 192] Chapter 21. Requirements for Corrosion Control [Subpart I]

§2128. Internal Corrosion Control: Design and Construction of Transmission Line [49 CFR 192.476]

A. Design and construction. Except as provided in subsection B of this section, each new transmission line and each replacement of line pipe, valve, fitting, or other line component in a transmission line must have features incorporated into its design and construction to reduce the risk of internal corrosion. At a minimum, unless it is impracticable or unnecessary to do so, each new transmission line or replacement of line pipe, valve, fitting, or other line component in a transmission line must: [49 CFR 192.476(a)]

1. be configured to reduce the risk that liquids will collect in the line; [49 CFR 192.476(a)(1)]

2. have effective liquid removal features whenever the configuration would allow liquids to collect; and [49 CFR 192.476(a)(2)]

3. allow use of devices for monitoring internal corrosion at locations with significant potential for internal corrosion. [49 CFR 192.476(a)(3)]

B. Exceptions to applicability. The design and construction requirements of Subsection A of this Section do not apply to the following: [49 CFR 192.476(b)]

1. offshore pipeline; and [49 CFR 192.476(b)(1)]

2. pipeline installed or line pipe, valve, fitting or other line component replaced before May 23, 2007. [49 CFR 192.476(b)(2)]

C. Change to existing transmission line. When an operator changes the configuration of a transmission line, the operator must evaluate the impact of the change on internal corrosion risk to the downstream portion of an existing onshore transmission line and provide for removal of liquids and monitoring of internal corrosion as appropriate. [49 CFR 192.476(c)]

D. Records. An operator must maintain records demonstrating compliance with this section. Provided the records show why incorporating design features addressing paragraph A.1, A.2, or A.3 of this section is impracticable or unnecessary, an operator may fulfill this requirement through written procedures supported by as-built drawings or other construction records. [49 CFR 192.476(d)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 35:

Subpart 3. Transportation of Natural or Other Gas by Pipeline: Minimum Safety Standards [49CFR Part 192] Chapter 27. Operations [Subpart L] §2711. Change in Class Location: Confirmation or Revision of Maximum Allowable Operating Pressure [49 CFR 192.611]

A. ...

1. If the segment involved has been previously tested in place for a period of not less than 8 hours: [49 CFR 192.611(a)(1)]

a. The maximum allowable operating pressure is 0.8 times the test pressure in Class 2 locations, 0.667 times the test pressure in Class 3 locations, or 0.555 times the test pressure in Class 4 locations. The corresponding hoop stress may not exceed 72 percent of the SMYS of the pipe in Class 2 locations, 60 percent of SMYS in Class 3 locations, or 50 percent of SMYS in Class 4 locations. [49 CFR 192.611(a)(1)(i)]

b. The alternative maximum allowable operating pressure is 0.8 times the test pressure in Class 2 locations and 0.667 times the test pressure in Class 3 locations. For pipelines operating at alternative maximum allowable pressure per §2720, the corresponding hoop stress may not exceed 80 percent of the SMYS of the pipe in Class 2 locations and 67 percent of SMYS in Class 3 locations. [49 CFR 192.611(a)(1)(ii)]

2. - 3.b. ...

c. For pipeline operating at an alternative maximum allowable operating pressure per §2720, the alternative maximum allowable operating pressure after the requalification test is 0.8 times the test pressure for Class 2

locations and 0.667 times the test pressure for Class 3 locations. The corresponding hoop stress may not exceed 80 percent of the SMYS of the pipe in Class 2 locations and 67 percent of SMYS in Class 3 locations. [49 CFR 192.611(a)(3)(iii)]

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:241 (April 1983), amended LR 10:533 (July 1984), LR 18:858 (August 1992), LR 30:1261 (June 2004), LR 31:684 (March 2005), LR 35:

§2716. Public Awareness [49 CFR 192.616]

A. Except for an operator of a master meter or petroleum gas system covered under Subsection J of this Section, each pipeline operator must develop and implement a written continuing public education program that follows the guidance provided in the American Petroleum Institute's (API) Recommended Practice (RP) 1162 (Incorporated by Reference, see §507). [49 CFR 192.616(a)]

B. - G. ...

H. Operators in existence on June 20, 2005, must have completed their written programs no later than June 20, 2006. The operator of a master meter or petroleum gas system covered under Subsection J of this section must complete development of its written procedure by June 13, 2008. Upon request, operators must submit their completed programs to PHMSA or, in the case of an intrastate pipeline facility operator, the appropriate state agency. [49 CFR 192.616(h)]

I. ...

J. Unless the operator transports gas as a primary activity, the operator of a master meter or petroleum gas system is not required to develop a public awareness program as prescribed in Subsections A through G of this Section. Instead the operator must develop and implement a written procedure to provide its customers public awareness messages twice annually. If the master meter or petroleum gas system is located on property the operator does not control, the operator must provide similar messages twice annually to persons controlling the property. The public awareness message must include: [49 CFR 192.616(j)]

1. a description of the purpose and reliability of the pipeline; [49 CFR 192.616(j)(1)]
2. an overview of the hazards of the pipeline and prevention measures used; [49 CFR 192.616(j)(2)]
3. information about damage prevention; [49 CFR 192.616(j)(3)]
4. how to recognize and respond to a leak; and [49 CFR 192.616(j)(4)]
5. how to get additional information. [49 CFR 192.616(j)(5)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 21:823 (August 1995), LR 30:1264 (June 2004), LR 33:480 (March 2007), LR 35:

§2719. What is the maximum allowable operating pressure for steel or plastic pipelines? [49 CFR 192.619]

A. No person may operate a segment of steel or plastic pipeline at a pressure that exceeds a maximum allowable operating pressure determined under Subsection C or D of

this Section, or the lowest of the following: [49 CFR 192.619(a)]

A.1. - C. ...

D. The operator of a pipeline segment of steel pipeline meeting the conditions prescribed in §2720.B may elect to operate the segment at a maximum allowable operating pressure determined under §2720.A. [49 CFR 192.619(d)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:242 (April 1983), amended LR 10:534 (July 1984), LR 24:1312 (July 1998), LR 27:1547 (September 2001), LR 30:1264 (June 2004), LR 33:481 (March 2007), LR 35:

§2720 Alternative maximum allowable operating pressure for certain steel pipelines. [49 CFR 192.620]

A. *How does an operator calculate the alternative maximum allowable operating pressure?* An operator calculates the alternative maximum allowable operating pressure by using different factors in the same formulas used for calculating maximum allowable operating pressure under §2719.A as follows: [49 CFR 192.620(a)]

1. In determining the alternative design pressure under §905, use a design factor determined in accordance with §911.B, C, or D or, if none of these Subsections apply, in accordance with the following table: [49 CFR 192.620(a)(1)]

Class Location	Alternative design factor (F)
1	0.80
2	0.67
3	0.56

a. For facilities installed prior to November 17, 2008, for which §911.B, C, or D apply, use the following design factors as alternatives for the factors specified in those Subsections: §911.B–0.67 or less; 911.C and D–0.56 or less. [49 CFR 192.620(a)(1)(i)]

2. The alternative maximum allowable operating pressure is the lower of the following: [49 CFR 192.620(a)(2)]

a. The design pressure of the weakest element in the pipeline segment, determined under Chapters 9 and 11 of this Subpart. [49 CFR 192.620(a)(2)(i)]

b. The pressure obtained by dividing the pressure to which the pipeline segment was tested after construction by a factor determined in the following table: [49 CFR 192.620(a)(2)(ii)]

Class Location	Alternative test factor
1	1.25
2	¹ 1.50
3	1.50

¹For Class 2 alternative maximum allowable operating pressure segments installed prior to November 17, 2008, the alternative test factor is 1.25.

B. *When may an operator use the alternative maximum allowable operating pressure calculated under subsection A of this section?* An operator may use an alternative maximum allowable operating pressure calculated under subsection A of this Section if the following conditions are met: [49 CFR 192.620(b)]

1. The pipeline segment is in a Class 1, 2, or 3 location; [49 CFR 192.620(b)(1)]

2. The pipeline segment is constructed of steel pipe meeting the additional design requirements in §912; [49 CFR 192.620(b)(2)]

3. A supervisory control and data acquisition system provides remote monitoring and control of the pipeline segment. The control provided must include monitoring of pressures and flows, monitoring compressor start-ups and shut-downs, and remote closure of valves; [49 CFR 192.620(b)(3)]

4. The pipeline segment meets the additional construction requirements described in §1728; [49 CFR 192.620(b)(4)]

5. The pipeline segment does not contain any mechanical couplings used in place of girth welds; [49 CFR 192.620(b)(5)]

6. If a pipeline segment has been previously operated, the segment has not experienced any failure during normal operations indicative of a systemic fault in material as determined by a root cause analysis, including metallurgical examination of the failed pipe. The results of this root cause analysis must be reported to each PHMSA pipeline safety regional office where the pipeline is in service at least 60 days prior to operation at the alternative MAOP. An operator must also notify a state pipeline safety authority when the pipeline is located in a state where PHMSA has an interstate agent agreement, or an intrastate pipeline is regulated by that State; and [49 CFR 192.620(b)(6)]

7. At least 95 percent of girth welds on a segment that was constructed prior to November 17, 2008, must have been non-destructively examined in accordance with §1323.B and C. [49 CFR 192.620(b)(7)]

C. *What is an operator electing to use the alternative maximum allowable operating pressure required to do?* If an operator elects to use the alternative maximum allowable operating pressure calculated under subsection A of this Section for a pipeline segment, the operator must do each of the following. [49 CFR 192.620(c)]

1. Notify each PHMSA pipeline safety regional office where the pipeline is in service of its election with respect to a segment at least 180 days before operating at the alternative maximum allowable operating pressure. An operator must also notify a state pipeline safety authority when the pipeline is located in a state where PHMSA has an interstate agent agreement, or an intrastate pipeline is regulated by that state. [49 CFR 192.620(c)(1)]

2. Certify, by signature of a senior executive officer of the company, as follows: [49 CFR 192.620(c)(2)]

a. the pipeline segment meets the conditions described in Subsection B of this Section; and [49 CFR 192.620(c)(2)(i)]

b. the operating and maintenance procedures include the additional operating and maintenance requirements of Subsection D of this Section; and [49 CFR 192.620(c)(2)(ii)]

c. the review and any needed program upgrade of the damage prevention program required by Clause D.1.d.v of this Section has been completed. [49 CFR 192.620(c)(2)(iii)]

3. Send a copy of the certification required by Paragraph C.2 of this Section to each PHMSA pipeline

safety regional office where the pipeline is in service 30 days prior to operating at the alternative MAOP. An operator must also send a copy to a state pipeline safety authority when the pipeline is located in a state where PHMSA has an interstate agent agreement, or an intrastate pipeline is regulated by that state. [49 CFR 192.620(c)(3)]

4. For each pipeline segment, do one of the following: [49 CFR 192.620(c)(4)]

a. perform a strength test as described in §2305 at a test pressure calculated under Subsection A of this Section; or [49 CFR 192.620(c)(4)(i)]

b. for a pipeline segment in existence prior to November 17, 2008, certify, under Paragraph C.2 of this Section, that the strength test performed under §2305 was conducted at a test pressure calculated under Subsection A of this Section, or conduct a new strength test in accordance with Subparagraph C.4.a of this Section. [49 CFR 192.620(c)(4)(ii)]

5. Comply with the additional operation and maintenance requirements described in Subsection D of this Section. [49 CFR 192.620(c)(5)]

6. If the performance of a construction task associated with implementing alternative MAOP can affect the integrity of the pipeline segment, treat that task as a "covered task", notwithstanding the definition in §3101.B and implement the requirements of Chapter 31 as appropriate. [49 CFR 192.620(c)(6)]

7. Maintain, for the useful life of the pipeline, records demonstrating compliance with Subsections B, C.6, and D of this Section. [49 CFR 192.620(c)(7)]

8. A Class 1 and Class 2 pipeline location can be upgraded one class due to class changes per §2711.A.3.a. All class location changes from Class 1 to Class 2 and from Class 2 to Class 3 must have all anomalies evaluated and remediated per: The "original pipeline class grade" §2720.D.1.k anomaly repair requirements; and all anomalies with a wall loss equal to or greater than 40 percent must be excavated and remediated. Pipelines in Class 4 may not operate at an alternative MAOP. [49 CFR 192.620(c)(8)]

D. What additional operation and maintenance requirements apply to operation at the alternative maximum allowable operating pressure? In addition to compliance with other applicable safety standards in this Part, if an operator establishes a maximum allowable operating pressure for a pipeline segment under Subsection A of this Section, an operator must comply with the additional operation and maintenance requirements as follows. [49 CFR 192.620(d)]

1. To address increased risk of a maximum allowable operating pressure based on higher stress levels in the following areas (a–k): Take the following additional steps: [49 CFR 192.620(d)]

a. identifying and evaluating threats. Develop a threat matrix consistent with §3317 to do the following: [49 CFR 192.620(d)(1)]

i. identify and compare the increased risk of operating the pipeline at the increased stress level under this Section with conventional operation; and [49 CFR 192.620(d)(1)(i)]

ii. describe and implement procedures used to mitigate the risk; [49 CFR 192.620(d)(1)(ii)]

b. notifying the public: [49 CFR 192.620(d)(2)]

i. recalculate the potential impact circle as defined in §3303 to reflect use of the alternative maximum operating pressure calculated under Subsection A of this Section and pipeline operating conditions; and [49 CFR 192.620(d)(2)(i)]

ii. in implementing the public education program required under §2716, perform the following: [49 CFR 192.620(d)(2)(ii)]

(a). include persons occupying property within 220 yards of the centerline and within the potential impact circle within the targeted audience; and [49 CFR 192.620(d)(2)(ii)(A)]

(b). include information about the integrity management activities performed under this Section within the message provided to the audience; [49 CFR 192.620(d)(2)(ii)(B)]

c. responding to an emergency in an area defined as a high consequence area in §3303: [49 CFR 192.620(d)(3)]

i. ensure that the identification of high consequence areas reflects the larger potential impact circle recalculated under Clause D.1.a.i of this Section; [49 CFR 192.620(d)(3)(i)]

ii. if personnel response time to mainline valves on either side of the high consequence area exceeds one hour (under normal driving conditions and speed limits) from the time the event is identified in the control room, provide remote valve control through a supervisory control and data acquisition (SCADA) system, other leak detection system, or an alternative method of control; [49 CFR 192.620(d)(3)(ii)]

iii. remote valve control must include the ability to close and monitor the valve position (open or closed), and monitor pressure upstream and downstream; [49 CFR 192.620(d)(3)(iii)]

iv. a line break valve control system using differential pressure, rate of pressure drop or other widely-accepted method is an acceptable alternative to remote valve control; [49 CFR 192.620(d)(3)(iv)]

d. protecting the right-of-way: [49 CFR 192.620(d)(4)]

i. patrol the right-of-way at intervals not exceeding 45 days, but at least 12 times each calendar year, to inspect for excavation activities, ground movement, wash outs, leakage, or other activities or conditions affecting the safety operation of the pipeline: [49 CFR 192.620(d)(4)(i)]

ii. develop and implement a plan to monitor for and mitigate occurrences of unstable soil and ground movement; [49 CFR 192.620(d)(4)(ii)]

iii. if observed conditions indicate the possible loss of cover, perform a depth of cover study and replace cover as necessary to restore the depth of cover or apply alternative means to provide protection equivalent to the originally-required depth of cover; [49 CFR 192.620(d)(4)(iii)]

iv. use line-of-sight line markers satisfying the requirements of §2907.D except in agricultural areas, large water crossings or swamp, steep terrain, or where prohibited by Federal Energy Regulatory Commission orders, permits, or local law; [49 CFR 192.620(d)(4)(iv)]

v. review the damage prevention program under §2714.A in light of national consensus practices, to ensure the program provides adequate protection of the right-of-

way. Identify the standards or practices considered in the review, and meet or exceed those standards or practices by incorporating appropriate changes into the program; [49 CFR 192.620(d)(4)(v)]

vi. develop and implement a right-of-way management plan to protect the pipeline segment from damage due to excavation activities; [49 CFR 192.620(d)(4)(vi)]

e. controlling internal corrosion: [49 CFR 192.620(d)(5)]

i. develop and implement a program to monitor for and mitigate the presence of, deleterious gas stream constituents; [192.620(d)(5)(i)]

ii. at points where gas with potentially deleterious contaminants enters the pipeline, use filter separators or separators and gas quality monitoring equipment. [49 CFR 192.620(d)(5)(ii)]

iii. Use gas quality monitoring equipment that includes a moisture analyzer, chromatograph, and periodic hydrogen sulfide sampling. [49 CFR 192.620(d)(5)(iii)]

iv. use cleaning pigs and inhibitors, and sample accumulated liquids when corrosive gas is present; [49 CFR 192.620(d)(5)(iv)]

v. address deleterious gas stream constituents as follows: [49 CFR 192.620(d)(5)(v)]

(a). limit carbon dioxide to 3 percent by volume; [49 CFR 192.620(d)(5)(v)(A)]

(b). allow no free water and otherwise limit water to seven pounds per million cubic feet of gas; and [49 CFR 192.620(d)(5)(v)(B)]

(c). limit hydrogen sulfide to 1.0 grain per hundred cubic feet (16 ppm) of gas, where the hydrogen sulfide is greater than 0.5 grain per hundred cubic feet (8 ppm) of gas, implement a pigging and inhibitor injection program to address deleterious gas stream constituents, including follow-up sampling and quality testing of liquids at receipt points; [49 CFR 192.620(d)(5)(v)(C)]

vi. review the program at least quarterly based on the gas stream experience and implement adjustments to monitor for, and mitigate the presence of, deleterious gas stream constituents; [49 CFR 192.620(d)(5)(vi)]

f. controlling interference that can impact external corrosion: [49 CFR 192.620(d)(6)]

i. prior to operating an existing pipeline segment at an alternate maximum allowable operating pressure calculated under this section, or within six months after placing a new pipeline segment in service at an alternate maximum allowable operating pressure calculated under this section, address any interference currents on the pipeline segment; [49 CFR 192.620(d)(6)(i)]

ii. to address interference currents, perform the following: [49 CFR 192.620(d)(6)(ii)]

(a). conduct an interference survey to detect the presence and level of any electrical current that could impact external corrosion where interference is suspected; [49 CFR 192.620(d)(6)(ii)(A)]

(b). analyze the results of the survey; and [49 CFR 192.620(d)(6)(ii)(B)]

(c). take any remedial action needed within 6 months after completing the survey to protect the pipeline segment from deleterious current; [49 CFR 192.620(d)(6)(ii)(C)]

g. confirming external corrosion control through indirect assessment: [49 CFR 192.620(d)(7)]

i. within six months after placing the cathodic protection of a new pipeline segment in operation, or within six months after certifying a segment under §2720.C.1 of an existing pipeline segment under this Section, assess the adequacy of the cathodic protection through an indirect method such as close- interval survey, and the integrity of the coating using direct current voltage gradient (DCVG) or alternating current voltage gradient (ACVG); [49 CFR 192.620(d)(7)(i)]

ii. remediate any construction damaged coating with a voltage drop classified as moderate or severe (IR drop greater than 35% for DCVG or 50 dB[μv for ACVG) under section 4 of NACE RP-0502-2002 (incorporated by reference, see §507); [49 CFR 192.620(d)(7)(ii)]

iii. within six months after completing the baseline internal inspection required under Subparagraph h of this Section, integrate the results of the indirect assessment required under Clause D.1.f.i of this Section with the results of the baseline internal inspection and take any needed remedial actions; [49 CFR 192.620(d)(7)(iii)]

iv. for all pipeline segments in high consequence areas, perform periodic assessments as follows: [49 CFR 192.620(d)(7)(iv)]

(a). conduct periodic close interval surveys with current interrupted to confirm voltage drops in association with periodic assessments under Chapter 33 of this Subpart: [49 CFR 192.620(d)(7)(iv)(A)]

(b). locate pipe-to-soil test stations at half-mile intervals within each high consequence area ensuring at least one station is within each high consequence area, if practicable; [49 CFR 192.620(d)(7)(iv)(B)]

(c). integrate the results with those of the baseline and periodic assessments for integrity done under Subparagraphs D.1.h and D.1.i of this section; [49 CFR 192.620(d)(7)(iv)(C)]

h. controlling external corrosion through cathodic protection: [49 CFR 192.620(d)(8)]

i. if an annual test station reading indicates cathodic protection below the level of protection required in Chapter 21 of this Subpart, complete remedial action within six months of the failed reading or notify each PHMSA pipeline safety regional office where the pipeline is in service demonstrating that the integrity of the pipeline is not compromised if the repair takes longer than 6 months. An operator must also notify a state pipeline safety authority when the pipeline is located in a state where PHMSA has an interstate agent agreement, or an intrastate pipeline is regulated by that state; and [49 CFR 192.620(d)(8)(i)]

ii. after remedial action to address a failed reading, confirm restoration of adequate corrosion control by a close interval survey on either side of the affected test station to the next test station; [49 CFR 192.620(d)(8)(ii)]

iii. If the pipeline segment has been in operation, the cathodic protection system on the pipeline segment must have been operational within 12 months of the completion of construction; [49 CFR 192.620(d)(8)(iii)]

i. conducting a baseline assessment of integrity; [49 CFR 192.620(d)(9)]

i. Except as provided in Clause D.1.h.iii of this section, for a new pipeline segment operating at the new

alternative maximum allowable operating pressure, perform a baseline internal inspection of the entire pipeline segment as follows: [49 CFR 192.620(d)(9)(i)]

(a). assess using a geometry tool after the initial hydrostatic test and backfill and within six months after placing the new pipeline segment in service; and [49 CFR 192.620(d)(9)(i)(A)]

(b). assess using a high resolution magnetic flux tool within three years after placing the new pipeline segment in service at the alternative maximum allowable operating pressure; [49 CFR 192.620(d)(9)(i)(B)]

ii. except as provided in Clause D.1.h.iii of this section, for an existing pipeline segment, perform a baseline internal assessment using a geometry tool and a high resolution magnetic flux tool before, but within two years prior to, raising pressure to the alternative maximum allowable operating pressure as allowed under this section; [49 CFR 192.620(d)(9)(ii)]

iii. if headers, mainline valve by-passes, compressor station piping, meter station piping, or other short portion of a pipeline segment operating at alternative maximum allowable operating pressure cannot accommodate a geometry tool and a high resolution magnetic flux tool, use direct assessment (per §3325, §3327 and/or §3329) or pressure testing (per Chapter 23 of this Subpart) to assess that portion; [49 CFR 192.620(d)(9)(iii)]

j. conducting periodic assessments of integrity: [49 CFR 192.620(d)(10)]

i. determine a frequency for subsequent periodic integrity assessments as if all the alternative maximum allowable operating pressure pipeline segments were covered by Chapter 33 of this Subpart; and [49 CFR 192.620(d)(10)(i)]

ii. conduct periodic internal inspections using a high resolution magnetic flux tool on the frequency determined under Clause D.1.i.i of this Section, or [49 CFR 192.620(d)(10)(ii)]

iii. use direct assessment (per §3325, §3327 and/or §3329) or pressure testing (per Chapter 23 of this Subpart) for periodic assessment of a portion of a segment to the extent permitted for a baseline assessment under Clause D.1.h.iii of this Section;

k. making repairs: [49 CFR 192.620(d)(11)]

i. perform the following when evaluating an anomaly: [49 CFR 192.620(d)(11)(i)]

(a). use the most conservative calculation for determining remaining strength or an alternative validated calculation based on pipe diameter, wall thickness, grade, operating pressure, operating stress level, and operating temperature: and [49 CFR 192.620(d)(11)(i)(A)]

(b). take into account the tolerances of the tools used for the inspection; [49 CFR 192.620(d)(11)(i)(B)]

ii. repair a defect immediately if any of the following apply: [49 CFR 192.620(d)(11)(ii)]

(a). the defect is a dent discovered during the baseline assessment for integrity under Subparagraph D.1.h of this Section and the defect meets the criteria for immediate repair in §1709.B; [49 CFR 192.620(d)(11)(ii)(A)]

(b). the defect meets the criteria for immediate repair in §3333.D; [49 CFR 192.620(d)(11)(ii)(B)]

(c). the alternative maximum allowable operating pressure was based on a design factor of 0.67 under Subsection A of this Section and the failure pressure is less than 1.25 times the alternative maximum allowable operating pressure; [49 CFR 192.620(d)(11)(ii)(C)]

(d). the alternative maximum allowable operating pressure was based on a design factor of 0.56 under Subsection A of this Section and the failure pressure is less than or equal to 1.4 times the alternative maximum allowable operating pressure; [49 CFR 192.620(11)(ii)(D)]

iii. if Clause D.1.j.ii of this section does not require immediate repair, repair a defect within one year if any of the following apply: [49 CFR 192.620(d)(11)(iii)]

(a). the defect meets the criteria for repair within one year in §3333.D; [49 CFR 192.620(d)(11)(iii)(A)]

(b). the alternative maximum allowable operating pressure was based on a design factor of 0.80 under Subsection A of this Section and the failure pressure is less than 1.25 times the alternative maximum allowable operating pressure; [49 CFR 192.620(d)(11)(iii)(B)]

(c). the alternative maximum allowable operating pressure was based on a design factor of 0.67 under Subsection A of this Section and the failure pressure is less than 1.50 times the alternative maximum allowable operating pressure; [49 CFR 192.620(d)(11)(iii)(C)]

(d). the alternative maximum allowable operating pressure was based on a design factor of 0.56 under Subsection A of this Section and the failure pressure is less than or equal to 1.80 times the alternative maximum allowable operating pressure; [49 CFR 192.620(d)(11)(iii)(D)]

iv. evaluate any defect not required to be repaired under Clause D.1.j.ii or iii of this Section to determine its growth rate, set the maximum interval for repair or re-inspection, and repair or re-inspect within that interval. [49 CFR 192.620(d)(11)(iv)]

E. Is there any change in overpressure protection associated with operating at the alternative maximum allowable operating pressure? Notwithstanding the required capacity of pressure relieving and limiting stations otherwise required by §1161, if an operator establishes a maximum allowable operating pressure for a pipeline segment in accordance with Subsection A of this Section, an operator must: [49 CFR 192.620(e)]

1. provide overpressure protection that limits mainline pressure to a maximum of 104 percent of the maximum allowable operating pressure; and [49 CFR 192.620(e)(1)]

2. develop and follow a procedure for establishing and maintaining accurate set points for the supervisory control and data acquisition system. [49 CFR 192.620(e)(2)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 35:

Subpart 3. Transportation of Natural or Other Gas by Pipeline: Minimum Safety Standards [49CFR Part 192]
Chapter 29. Maintenance [Subpart M]
§2927. Abandonment or Deactivation of Facilities [49 CFR 192.727]

A. - G. ...

1. The preferred method to submit data on pipeline facilities abandoned after October 10, 2000 is to the National Pipeline Mapping System (NPMS) in accordance with the

NPMS "Standards for Pipeline and Liquefied Natural Gas Operator Submissions." To obtain a copy of the NPMS Standards, please refer to the NPMS homepage at <http://www.npms.phmsa.dot.gov> or contact the NPMS National Repository at 703-317-3073. A digital data format is preferred, but hard copy submissions are acceptable if they comply with the NPMS standards. In addition to the NPMS-required attributes, operators must submit the date of abandonment, diameter, method of abandonment, and certification that, to the best of the operator's knowledge, all of the reasonably available information requested was provided and, to the best of the operator's knowledge, the abandonment was completed in accordance with applicable laws. Refer to the NPMS Standards for details in preparing your data for submission. The NPMS Standards also include details of how to submit data. Alternatively, operators may submit reports by mail, fax or e-mail to the Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Information Resources Manager, PHP-10, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001; fax (202) 366-4566; e-mail: InformationResourcesManager@PHMSA.dot.gov.

The information in the report must contain all reasonably available information related to the facility, including information in the possession of a third party. The report must contain the location, size, date, method of abandonment, and a certification that the facility has been abandoned in accordance with all applicable laws. [49 CFR 192.727(g)(1)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:245 (April 1983), amended LR 10:538 (July 1984), LR 21:824 (August 1995), LR 27:1549 (September 2001), LR 30:1269 (June 2004), LR 33:481 (March 2007), LR 35:

Subpart 3. Transportation of Natural or Other Gas by Pipeline: Minimum Safety Standards [49CFR Part 192]
Chapter 31. Operator Qualification [Subpart N]
§3105. Qualification Program [49 CFR 192.805]

A. - A.5. ...

6. communicate changes that affect covered tasks to individuals performing those covered tasks; [49 CFR 192.805(f)]

A.7. - A.9. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:1550 (September 2001), amended LR 30:1272 (June 2004), LR 31:685 (March 2005), LR 33:482 (March 2007), LR 35:

Subpart 3. Transportation of Natural or Other Gas by Pipeline: Minimum Safety Standards [49CFR Part 192]
Chapter 33. Gas Transmission Pipeline Integrity Management [Subpart O]

§3303. What Definitions Apply to this Chapter? [49 CFR 192.903]

A. ...

High Consequence Area—an area established by one of the methods described in Subparagraphs a or b as follows:

a. - c. ...

d. If in identifying a high consequence area under Clause a.iii of this definition or Clause b.i of this definition, the radius of the potential impact circle is greater than 660 feet (200 meters), the operator may identify a high consequence area based on a prorated number of buildings intended for human occupancy within a distance 660 feet (200 meters) from the centerline of the pipeline until December 17, 2006. If an operator chooses this approach, the operator must prorate the number of buildings intended for human occupancy based on the ratio of an area with a radius of 660 feet (200 meters) to the area of the potential impact circle (i.e., the prorated number of buildings intended for human occupancy is equal to $20 \times (660 \text{ feet})$ [or 200 meters]/ potential impact radius in feet [or meters]²).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 30:1273 (June 2004), LR 31:685 (March 2005), LR 33:483 (March 2007), LR 35:

§3327. What Are the Requirements for Using Internal Corrosion Direct Assessment (ICDA)?
[49 CFR 192.927]

A. - C.1. ...

a. all data elements listed in Appendix A2 of ASME/ANSI B31.8S; [49 CFR 192.927(c)(1)(i)]

C.1.b.-5.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 30:1279 (June 2004), amended LR 31:687 (March 2005), LR 33:484 (March 2007), LR 35:

§3333. What Actions Must Be Taken to Address Integrity Issues? [49 CFR 192.933]

A. General Requirements. An operator must take prompt action to address all anomalous conditions the operator discovers through the integrity assessment. In addressing all conditions, an operator must evaluate all anomalous conditions and remediate those that could reduce a pipeline's integrity. An operator must be able to demonstrate that the remediation of the condition will ensure the condition is unlikely to pose a threat to the integrity of the pipeline until the next reassessment of the covered segment. [49 CFR 192.933(a)]

1. Temporary Pressure Reduction. If an operator is unable to respond within the time limits for certain conditions specified in this Section, the operator must temporarily reduce the operating pressure of the pipeline or take other action that ensures the safety of the covered segment. An operator must determine any temporary reduction in operating pressure required by this Section using ASME/ANSI B31G (incorporated by reference, see §507) or AGA Pipeline Research Committee Project PR-3-805 ("RSTRENG," incorporated by reference, see §507) or reduce the operating pressure to a level not exceeding 80 percent of the level at the time the condition was discovered. (See §507 to this Part for information on availability of incorporation by reference information.) An operator must notify PHMSA in accordance with §3349 if it cannot meet the schedule for evaluation and remediation required under subsection C of this Section and cannot provide safety

through temporary reduction in operating pressure or other action. An operator must also notify a state pipeline safety authority when either a covered segment is located in a state where PHMSA has an interstate agent agreement, or an intrastate covered segment is regulated by that state. [49 CFR 192.933(a)(1)]

2. Long-term Pressure Reduction. When a pressure reduction exceeds 365 days, the operator must notify PHMSA under §3349 and explain the reasons for the remediation delay. This notice must include a technical justification that the continued pressure reduction will not jeopardize the integrity of the pipeline. The operator also must notify a state pipeline safety authority when either a covered segment is located in a state where PHMSA has an interstate agent agreement, or an intrastate covered segment is regulated by that State. [49 CFR 192.933(a)(2)]

B. ...

C. Schedule for Evaluation and Remediation. An operator must complete remediation of a condition according to a schedule prioritizing the conditions for evaluation and remediation. Unless a special requirement for remediating certain conditions applies, as provided in subsection D of this Section, an operator must follow the schedule in ASME/ANSI B31.8S (incorporated by reference, see §507), section 7, Figure 4. If an operator cannot meet the schedule for any condition, the operator must explain the reasons why it cannot meet the schedule and how the changed schedule will not jeopardize public safety. [49 CFR 192.933(c)]

D. - D.3.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 30:1281 (June 2004), amended LR 31:688 (March 2005), LR 33:485 (March 2007), LR 35:

§3349. How Does an Operator Notify PHMSA and the Louisiana Commissioner of Conservation?
[49 CFR 192.949]

A. An operator must provide any notification required by this Chapter to PHMSA by: [49 CFR 192.949]

1. sending the notification to the Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Information Resources Manager, PHP-10, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001; [49 CFR 192.949(a)]

2. sending the notification by facsimile to (202) 366-4566; or [49 CFR 192.949(b)]

3. entering the information directly on the Integrity Management Database (IMDB) web site at <http://primis.phmsa.dot.gov/gasimp/>. [49 CFR 192.949(c)]

B. Any notification required by §3349.A must be sent concurrently to the Commissioner of Conservation, Office of Conservation, Pipeline Safety Section, P.O. Box 94279 Baton Rouge, LA 70804-9275.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 30:1286 (June 2004), amended LR 33:487 (March 2007), LR 35:

§3351. Where Does an Operator File a Report?
[49 CFR 192.951]

A. ...

1. by mail to the Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Information Resources Manager, PHP-10, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001; [49 CFR 192.951(a)]

2. via facsimile to (202) 366-4566; or [49 CFR 192.951(b)]

3. through the online reporting system provided by PHMSA for electronic reporting available at the PHMSA Home Page at <http://phmsa.dot.gov> [49 CFR 192.951(c)]

B. Any report required by §3351.A must be sent concurrently to the Commissioner of Conservation, Office of Conservation, Pipeline Safety Section, P.O. Box 94279 Baton Rouge, LA 70804-9275.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 30:1286 (June 2004), amended LR 33:487 (March 2007), LR 35:

Subpart 3. Transportation of Natural or Other Gas by Pipeline: Minimum Safety Standards [49 CFR Part 192] Chapter 51. Appendices

§5103. Appendix B—Qualification of Pipe

I. Listed Pipe Specifications

API 5L—Steel pipe, "API Specification for Line Pipe" (incorporated by reference, see §507)

ASTM A 53/A53M—Steel pipe, "Standard Specification for Pipe, Steel Black and Hot-Dipped, Zinc-Coated, welded and Seamless"(incorporated by reference, see §507)

ASTM A 106—Steel pipe, "Standard Specification for Seamless Carbon Steel Pipe for High temperature Service" (incorporated by reference, see §507)

ASTM A 333/A 333M—Steel pipe, "Standard Specification for Seamless and Welded steel Pipe for Low Temperature Service" (incorporated by reference, see §507)

ASTM A 381—Steel pipe, "Standard specification for Metal-Arc-Welded Steel Pipe for Use with High-Pressure Transmission Systems" (incorporated by reference, see §507)

ASTM A 671—Steel pipe, "Standard Specification for Electric-Fusion-Welded Pipe for Atmospheric and Lower Temperatures" (incorporated by reference, see §507)

ASTM A 672—Steel pipe, "Standard Specification for Electric-Fusion-Welded Steel Pipe for High-Pressure Service at Moderate Temperatures" (incorporated by reference, see §507)

ASTM A 691—Steel pipe, "Standard Specification for Carbon and Alloy Steel Pipe, Electric-Fusion-Welded for High Pressure Service at High Temperatures" (incorporated by reference, see §507)

ASTM D 2513—"Thermoplastic pipe and tubing, "Standard Specification for Thermoplastic Gas Pressure Pipe, Tubing, and Fittings" (incorporated by reference, see §507)

ASTM D 2517—Thermosetting plastic pipe and tubing, "Standard Specification Reinforced Epoxy Resin Gas Pressure Pipe and Fittings" (incorporated by reference, see §507)

II. - III.C.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 10:541 (July 1984), amended LR 18:859 (August 1992), LR 27:1551, 1552 (September 2001), LR 30:1287 (June 2004), LR 31:689 (March 2005), LR 33:487 (March 2007), LR 35:

Subpart 4. Drug and Alcohol Testing Chapter 61. General [Part 199—Subpart A] §6107. Stand-Down Waivers [49 CFR 199.7]

A. Each operator who seeks a waiver under 49 CFR §40.21 from the stand-down restriction must submit an application for waiver in duplicate to the Associate Administrator for Pipeline Safety, *Pipeline and Hazardous Materials Safety Administration*, U.S. Department of Transportation, 1200 New Jersey Avenue, SE, Washington, DC 20590-0001 [49 CFR 199.7(a)].

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 30:1293 (June 2004), amended LR 33:488 (March 2007), LR 35:

Subpart 4. Drug and Alcohol Testing Chapter 63. Drug Testing [Subpart B] §6319. Reporting of Anti-Drug Testing Results [49 CFR 199.119]

A. ...

B. Each report required under this Section shall be submitted to the Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, PHP-60, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001. [49 CFR 199.119(b)].

C. - F.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757, redesignated as R.S. 30:701-707 and R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 21:828 (August 1995), amended LR 30:1296 (June 2004), LR 33:488 (March 2007), LR 35:

Subpart 4. Drug and Alcohol Testing Chapter 65. Alcohol Misuse Prevention Program [Subpart C] §6529. Reporting of Alcohol Testing Results [49 CFR 199.229]

A. - B. ...

C. Each report, required under this Section, shall be submitted to the Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, Department of Transportation, PHP-60, 1200 New Jersey Avenue, SE., Washington,DC20590-0001. [49 CFR 199.229(c)]

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757, redesignated as R.S. 30:701-707 and R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 21:832 (August 1995), amended LR 30:1300 (June 2004), LR 35:

Family Impact Statement

In accordance with RS 49:972, the following statements are submitted after consideration of the impact of the proposed rule on family as defined therein.

1. The effect of these rules on the Stability of the Family. These rules will have no known effect on the stability of the family.

2. The Effect of these rules on the Authority and Rights of Parents Regarding the Education and Supervision of their children. These rules will have no known effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect of these rules on the Functioning of the Family. These rules will have no known effect on the functioning of the family.

4. The Effect of these rules on Family Earnings and Family Budget. These rules will have no known effect on family earnings and family budget.

5. The Effect on the Behavior and Personal Responsibility of Children. These rules will have no known effect on the behavior and personal responsibility of children.

6. The Effect of these Rules on the Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rules. These rules will have no known effect on the ability of the family or local government to perform the function as contained in the proposed rules.

In accordance with the laws of the State of Louisiana, and with reference to the provisions of Title 30 of the Louisiana Revised Statutes of 1950, a public hearing will be held in the La Belle Room located on the first floor of the LaSalle Building, 617 North 3rd Street, Baton Rouge, Louisiana, at 9:00 o'clock a.m. on October 29, 2009.

All interested parties will be afforded the opportunity to submit data, views, or arguments, orally or in writing at said public hearing in accordance with R.S. 49:953. Written comments will be accepted until 4:30 p.m., Thursday, November 5, 2009. If accommodations are required under the Americans with Disabilities Act, please contact the Pipeline Division at (225) 342-5505 within ten working days of the hearing date. Direct comments to JAMES H. WELSH, Commissioner of Conservation, P.O. Box 94275, Baton Rouge, LA 70804-9275, RE: Docket No. PL 09-072.

James H. Welsh
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Natural Gas Pipeline Safety

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There should be no additional costs or savings regarding the amendment of this rule. This action adopts federal amendments to pipeline safety regulations.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be no effect on revenue or costs as the Department was previously enforcing similar rules.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule affects natural gas pipelines operating in Louisiana. All of the requirements of this rule have already been implemented by federal laws. Any cost associated with compliance with the safety regulations should have already been absorbed by the regulated companies. Therefore, adoption of this rule should not affect cost.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no effect on competition or employment.

Gary P. Ross
Assistant Commissioner
0909#054

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections Board of Private Security Examiners

Administrative Penalties (LAC 46:LVII.903)

Under the authority of R.S. 37:3288.B, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana Board of Private Security Examiners hereby proposes to amend Section 903 under Chapter 9 to amend the penalty schedule to allow for penalties up to \$50 per violation, where previously the maximum allowed was \$25. The board found the deterrent effect of the penalties was not effective at such a low amount.

The proposed Rule would increase the maximum allowable administrative penalty the board can charge for violations of the rules governing private security companies, officers, and instructors.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LXI. Private Security Examiners
Chapter 9. Administrative Penalties
§903 Administrative Penalties
Pursuant to R.S. 37:3288.B

Penalty Fee Schedule	Not to Exceed
Licensee's failure to submit security officer application, fingerprint card, and/or necessary registration fees within prescribed time period. If the application, fingerprint card, and/or registration fees are not submitted within 14 days after deadline date, administrative fine accumulates at a daily rate, not to exceed \$500.	\$50
Licensee's failure to resubmit fingerprint card after two written requests by the board when a deadline date is given. If the fingerprint card is not resubmitted within 14 days after deadline date, administrative fine accumulates at a daily rate, not to exceed \$500.	\$50
Licensee's failure to notify the board in writing within prescribed time period of security officers in their employ who have been terminated. If termination is not submitted within 14 days after deadline date, administrative fine accumulates at a daily rate, not to exceed \$500.	\$50
Licensee or registrant's failure to submit information as requested by the board when a deadline date is given. If information is not submitted within 14 days after deadline date, administrative fine accumulates at a daily rate, not to exceed \$500.	\$50
Licensee's failure to submit company license renewal fee prior to expiration date.	\$50/day up to \$500
Licensee's failure to submit renewal application and renewal fee for a registrant in their employ prior to expiration date. If the renewal application and renewal fee are not submitted within 14 days after deadline date, administrative fine accumulates at a daily rate, not to exceed \$500.	\$50
Licensee's failure to have registrant in their employ trained within prescribed time period. If registrant is not trained within 14 days after deadline date, administrative fine accumulates at a daily rate, not to exceed \$500.	\$50
Licensee's failure to submit to the board a training verification form on a registrant in their employ within prescribed time period. If training verification is not submitted within 14 days after deadline date, administrative fine accumulates at a daily rate, not to exceed \$500.	\$50
Registrant's failure to carry on his person a temporary or permanent registration card while on duty.	\$50
Fingerprint cards repeatedly rejected by the Department of Public Safety as non-classifiable due to smudges, not being fully rolled, etc.	\$50
Registrant's performing security duties for any other person other than the licensee with whom he is registered.	\$50
Registrant's failure to sign registration card.	\$50
Registrant's failure to affix a photograph of registrant, taken within the last six months, to registration card.	\$50
Registrant's failure to timely surrender registration card when required to do so.	\$50
Registrant's possession or use of any registration card which has been improperly altered.	\$50
Registrant's defacing of a registration card.	\$50
Registrant's allowing improper use of a registration card.	\$50
Registrant carrying an unauthorized weapon while on duty.	not less than \$50 nor more than \$100
Licensee or registrant's submission of a check to the board that is returned from the bank deemed non-sufficient funds.	\$50
Licensee allowing registrant to carry an unauthorized weapon while on duty.	not less than \$50 nor more than \$100

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3288.B

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:757 (December 1987), amended LR 15:14 (January 1989), LR 18:196 (February 1992), LR 26:1077 (May 2000), LR 35:

Family Impact Statement

1. The Effect of This Rule on the Stability of the Family. This Rule will have no effect on the stability of the family.

2. The Effect of This Rule on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. This Rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect of This Rule on the Functioning of the Family. This Rule will have no effect on the functioning of the family.

4. The Effect of This Rule on Family Earnings and Family Budget. This Rule will have no effect on family earning and family budget.

5. The Effect of This Rule on the Behavior and Personal Responsibility of Children. This Rule will have no effect on the behavior and personal responsibility of children.

6. The Effect of This Rule on the Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rule. This Rule will have no effect 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 or requests for public hearing on this proposed rule change to Wayne Rogillio, Executive Director, Louisiana State Board of Private Security Examiners, 15703 Old Hammond Highway, Baton Rouge, LA 70816. Comments will be accepted through close of business October 10, 2009.

Wayne Rogillio
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Administrative Penalties

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no anticipated implementation costs or savings to state or local governmental units. The proposed rule increases the administrative penalties the board may impose for violations of any rule or law it administers.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated effect on revenue collections for local governmental units. The proposed rule change implements a \$25 increase in the administrative penalty fees that the board may impose. The \$25 increase in the administrative penalty fees is anticipated to generate \$195,000 per year.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Security guards and security companies regulated by the board will be subject to the increased fee if they violate any law or rule the board administers. The fee amount per violation was \$25 previously. It will now be \$50 per violation. Approximately 7,800 violations by security guards and companies occur yearly.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated impact on competition and employment as a result of the proposed rule changes.

Wayne Rogillio
Executive Director
0909#060

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Board of Private Security Examiners**

Company Licensure (LAC 46:LVII.201)

Under the authority of R.S. 37:3270 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana Board of Private Security Examiners hereby proposes to amend Section 201 under Chapter 2 to add a requirement that an applicant for licensure include a copy of the Social Security card of the qualifying agent and/or of each officer partner of shareholder of the applicant company. The administrative processing fee is being increased by \$10 to cover administrative costs or processing company initial and renewal applications.

The proposed Rule would add a requirement that an applicant for licensure include a copy of the Social Security card of the qualifying agent and/or of each officer partner or shareholder of the applicant company. Currently only the Social Security number is given, and sometime is illegible. A copy of the card would alleviate any confusion in the application process.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXI. Private Security Examiners

Chapter 2. Company Licensure

§201. Qualifications and Requirements for Company Licensure

A. - E.8. ...

9. copy of applicant's or qualifying agent's Social Security card.

F. - I.2. ...

3. \$110 annual licensing fee to cover administrative costs.

I.3.Note. - L.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:752 (December 1987), amended LR 15:847 (October 1989), LR 18:190 (February 1992), LR 23:588 (May 1997), LR 26:1068 (May 2000), LR 28:96 (January 2002), LR 28:2203 (October 2002), LR 31:1599 (July 2005), LR 35:

Family Impact Statement

1. The Effect of This Rule on the Stability of the Family. This Rule will have no effect on the stability of the family.

2. The Effect of This Rule on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. This Rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect of This Rule on the Functioning of the Family. This Rule will have no effect on the functioning of the family.

4. The Effect of This Rule on Family Earnings and Family Budget. This Rule will have no effect on family earning and family budget.

5. The Effect of This Rule on the Behavior and Personal Responsibility of Children. This Rule will have no effect on the behavior and personal responsibility of children.

6. The Effect of This Rule on the Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rule. This Rule will have no effect 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 or requests for public hearing on this proposed rule change to Wayne Rogillio, Executive Director, Louisiana State Board of Private Security Examiners, 15703 Old Hammond Highway, Baton Rouge, LA 70816. Comments will be accepted through close of business October 10, 2009.

Wayne Rogillio
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Company Licensure**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no anticipated implementation costs or savings to state or local governmental units. The proposed rule changes add a requirement that a company's qualifying agent and/or officers submit a copy of their social security card with the company's application for licensure. It also increases the administrative fee of the annual company licensing fee from \$100 to \$110.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated effect on revenue collections for local governmental units. The board's self-generated funds are expected to increase by \$400 in FY10 and \$730 in FY 11 and FY 12. The rule increases the administrative fee for company's licenses from \$100 to \$110 annually.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Companies currently pay a \$100 administrative fee when submitting new or renewal applications on an annual basis. This rule increases that administrative fee to \$110.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated impact on competition and employment as a result of the proposed rule.

Wayne Rogillio
Executive Director
0909#062

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Board of Private Security Examiners**

Security Officer Registration (LAC 46:LVII.301)

Under the authority of R.S. 37:3270 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana Board of Private Security Examiners hereby proposes to amend Section 301 under Chapter 3 to add a requirement that an applicant for registration who was previously exempt for paying processing fees because they worked less than 20 days at a time, will now be required to submit a registration fee and administrative processing fee with documentation that was previously required.

The proposed Rule would add a requirement that an applicant for registration who was previously exempt for paying processing fees because they worked less than 20 days at a time, will now be required to submit a registration fee and administrative processing fee with documentation that was previously required. The amount of the administrative fee for security officer applicant is also clearly stated at the end of the new rule.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXI. Private Security Examiners

Chapter 3. Security Officer Registration

§301 Qualifications and Requirements for Security Officer Registration

A. - D.3. ...

D.4. if applicant has worked less than 20 consecutive calendar days, documentation must nevertheless be submitted along with the required fees and a termination form is included showing the dates worked;

D.5. - P.2. ...

Q. An administrative fee of \$10 made payable to the board will be assessed on all initial company applications and renewal applications, and any other fees that may be assessed by the board under this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:753 (December 1987), amended LR 15:12 (January 1989), LR 15:848 (October 1989), LR 18:191 (February 1992), LR 23:588 (May 1997), LR 26:1072 (May 2000), LR 27:1241 (August 2001), LR 28:2204 (October 2002), LR 31:1599 (July 2005), LR 34:667 (April 2008).

Family Impact Statement

The Effect of This Rule on the Stability of the Family. This Rule will have no effect on the stability of the family.

The Effect of This Rule on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. This Rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

The Effect of This Rule on the Functioning of the Family. This Rule will have no effect on the functioning of the family.

The Effect of This Rule on Family Earnings and Family Budget. This Rule will have no effect on family earning and family budget.

The Effect of This Rule on the Behavior and Personal Responsibility of Children. This Rule will have no effect on the behavior and personal responsibility of children.

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 will have no effect 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 or requests for public hearing on this proposed rule change to Wayne Rogillio, Executive Director, Louisiana State Board of Private Security Examiners, 15703 Old Hammond Highway, Baton Rouge, LA 70816. Comments will be accepted through close of business October 10, 2009.

Wayne Rogillio
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Security Officer Registration

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no anticipated implementation costs or savings to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated effect on revenue collections for local governmental units. Self generated revenue to the LBPSE is estimated to increase by \$60,000 in FY 10, \$80,000 in FY 11 and \$80,000 in FY 12. The proposed rule adds a requirement that emergency assignment guard applications now include an application fee. The rule also requires a \$30 application fee and implements a \$10 administrative fee on all applications whether initial or renewal.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule changes would require security officers who work less than 20 consecutive days or on emergency assignments to submit documentation as well as a \$30 application fee and a \$10 administrative fee with all applications. The guards or the security companies would incur this cost.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated impact on competition and employment as a result of the proposed rule changes.

Wayne Rogillio
Executive Director
0909#061

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Office of State Police
Bureau of Criminal Identification and Information**

Right to Review Procedures (LAC 55:I.401)

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 15:588, that the Louisiana Bureau of Criminal Identification and Information proposes to add Chapter 4, Subchapter A in order to set forth procedures for an individual to receive a certified copy of his Louisiana state criminal history.

Title 55

PUBLIC SAFETY

Part I. State Police

Chapter 4. Right to Review

Subchapter A. Right to Review Procedures

§401. Right to Review Procedures

A. In order for an individual, his authorized representative, or his attorney to receive a certified copy of his Louisiana criminal history, the individual must:

1. complete the Rap Disclosure and Authorization Form;
2. pay a \$26 processing fee as authorized by R.S. 15:587.B. by money order, certified check or business check,

made payable to Department of Public Safety for a Louisiana state criminal history background check;

3. provide a current original 10 print fingerprint submission (not previously processed) on a FBI Applicant Fingerprint Card taken by a local law enforcement agency which bears the individual's name, race, sex, date of birth, Social Security number, place of birth, residence of applicant (address), and reason for fingerprint which reason should state: "Right to Review." Fingerprints may be obtained at State Police headquarters for a \$10 fee as authorized per R.S. 15:587.B.

4. Mail or deliver in person the Authorization Form, Rap Disclosure Form, fee and fingerprints to: Louisiana State Police, Bureau of Criminal Identification and Information, P.O. Box 66614, Mail Slip A-6, Baton Rouge, LA 70896. If the required forms, fee, and fingerprints are mailed in, a stamped, self addressed envelope is required to receive a reply.

B. A certified copy of an individual's Louisiana criminal history will be mailed to applicant if request is received in by mail or hand delivered to applicant if appearing on site in person.

AUTHORITY NOTE: Promulgated in accordance with LSA-R.S. 15:588.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Bureau of Criminal Identification and Information, LR 35:

Family Impact Statement

What is the effect of this Rule on the stability of the family? This Rule will have no effect on the stability of the family.

What is the effect of this Rule on the authority and rights of parents regarding the education and supervision of their children? This Rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

What is the effect of this Rule on the functioning of the family? This Rule will have no effect on the functioning of the family.

What is the effect of this Rule on family earnings and family budget? This Rule will have no effect on family earnings and family budget.

What is the effect of this Rule on the behavior and personal responsibility of children? This Rule will have no effect on the behavior and personal responsibility of children.

What is the effect of this Rule on the ability of the family or local government to perform the function as contained in the proposed rules? This Rule will have no effect on the ability of the family or local government to perform the function as contained in the proposed Rule.

Interested persons may submit written comments or requests for public hearing on this proposed rule change to Harrietta J. Bridges, Attorney, Louisiana Bureau of Criminal Identification and Information, 7979 Independence Boulevard, Suite 307, Baton Rouge, Louisiana 70806 or P.O. Box 66614, Baton Rouge, LA 70896. Comments will be accepted through close of business on October 15, 2009.

Jill Boudreaux
Undersecretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Right to Review Procedures

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rules are not anticipated to result in additional state or local government costs or savings. These rules provide procedures for individuals to follow to obtain a certified copy of their Louisiana criminal history record.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated effect on revenue collections of local governmental units. However, state revenue is expected to increase by approximately \$3,488. In FY 09, 218 individuals paid \$10 to review their criminal history record. It is assumed the same number of individuals (218) will pay \$26 to receive a certified copy of their Louisiana criminal history record (a net increase of \$16).

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Louisiana residents and any other persons who have been arrested in the state and have been booked for that arrest via the Louisiana Automated Fingerprint Identification System (LAAFIS) or by fingerprint cards will pay \$26 if they request a certified copy of their Louisiana criminal history record from the Louisiana Bureau of Criminal Identification and Information.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no effect on competition or employment by the proposed rule change.

Jill Bourdreaux
Undersecretary
0909#111

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
State Uniform Construction Code Council**

Uniform Construction Code
(LAC 55:VI.505, 701,703, 705, 707 and 905)

In accordance with the provisions of Act 12 of the 2005 First Extraordinary Session, R.S. 40:1730.22(C) and (D) and R.S. 40:1730.34 (B) relative to the authority of the Louisiana State Uniform Construction Code Council to promulgate and enforce rules, the Louisiana State Uniform Construction Council hereby proposes to amend Chapters 5, 7, and 9 to update various sections with more precise wording, align the rules with current law, provide for changes to certification requirements of the International Code Council, recognize procedural requirements of local jurisdictions, and delete provisions that are no longer applicable.

Title 55

PUBLIC SAFETY

Part VI. Uniform Construction Code

Chapter 5. Enforcement of Louisiana State Uniform Construction Code

§505. Commercial Plan Review

A. Until December 31, 2007, where a parish or municipality is not providing plan review, architects, engineers, owners, parishes or municipalities on commercial

projects may request International Building Code plan review by the Office of the State Fire Marshal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Uniform Construction Code Council, LR 33:1683 (August 2007), amended LR 35:

Chapter 7. Certificates of Registration

§701. General

A. On and after January 1, 2007, no person shall practice as a code enforcement officer in this state unless registered with the Louisiana State Uniform Construction Code Council (council). A person desiring to be registered as a parish or municipality building code enforcement officer or a third party provider shall apply to the council for a certificate of registration. The applicant shall apply on the application form prescribed the by the council. An applicant shall furnish satisfactory proof to the council of valid certification. A certificate of registration is valid for one year and expires on the last day of the month of issuance. Those possessing Certificates of Registration must renew their certificates in order to remain in good standing with the council.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:292 (February 2007), amended LR 35:

§703. Classifications and Required Certifications for Municipal or Parish Building Code Enforcement Officers

A. General

1. In order to obtain a certificate of registration from the council for a particular classification, an individual must meet the following qualifications.

B. Definitions

Building Code Enforcement Officer (BCEO)—a person employed by a public entity who is primarily responsible for the overall inspection or enforcement of applicable building code requirements within the jurisdiction of the employer.

Building Official—the BCEO employed and charged by a public entity with the administration and enforcement of the Louisiana State Uniform Construction Code (LSUCC).

Inspector—a BCEO, who under the authority of the Building Official, is charged with the inspection of structures for compliance with his or her specialty classification(s) of the LSUCC.

Plans Examiner or Reviewer—a BCEO, who under the authority of the Building Official, is charged with the inspection of construction documents for compliance with his or her specialty classification(s) of the LSUCC.

Third-Party Provider (TPP)—any individual, entity, or an individual employed by an entity, contracted to act in the capacity of a BCEO by an authority having jurisdiction, a licensed contractor, or a homeowner who is exempted from the contractor licensing law under R.S. 37:2170.

Wind Mitigation Surveyor—the wind mitigation surveyor classification of third party provider is limited to performing a survey to complete the Louisiana Hurricane Loss Mitigation Survey Form. The Survey Form, LAC 37 Part XIII, Section 12721. Appendix A, is to be utilized by consumers applying for justifying discounts for features that comply with building codes, or, for installed mitigation

improvements utilizing construction techniques demonstrated to reduce the amount of hurricane loss from a windstorm. This classification does not qualify applicant to perform building code inspections in compliance with the Louisiana State Uniform Construction Code Council (LSUCCC) or International Code Council (ICC) classifications for building inspectors.

C. BCEO Registration Classifications/Requirements

1. General Classifications

a. Building Official (BO)—requirements; possess a current ICC Certified Building Official certificate, a current ICC Master Code Professional certificate, or be a Louisiana Licensed Architect, or Louisiana Licensed Engineer and have two years experience as an architect, engineer, inspector, plans examiner, contractor or superintendent of construction or any combination of these. General classifications are not restricted and may enforce all classified specialties of the LSUCC.

2. Specialty Classifications

a. Commercial Inspectors

i. Commercial Building Inspector Requirements—possess a current ICC Commercial Building Inspector, ICC Building Inspector, ICC Commercial Combination Inspector, or ICC Combination Inspector certificate.

ii. Commercial Electrical Inspector Requirements—possess a current ICC Commercial Electrical Inspector, ICC Electrical Inspector, ICC Commercial Combination Inspector, or ICC Combination Inspector certificate.

iii. Commercial Mechanical Inspector Requirements—possess a current ICC Commercial Mechanical Inspector, ICC Mechanical Inspector, ICC Commercial Combination Inspector, or ICC Combination Inspector certificate.

iv. Commercial Plumbing Inspector Requirements—possess a current ICC Commercial Plumbing Inspector, ICC Plumbing Inspector, ICC Commercial Combination Inspector, ICC Louisiana Commercial Plumbing Inspector, or ICC Combination Inspector certificate.

v. Commercial Energy Inspector Requirements—shall be enforced by the Office of the State Fire Marshal.

b. Commercial Plans Examiners or Reviewers

i. Building Plans Examiner Requirements—possess a current ICC Commercial Building Plans Examiner, or ICC Combination Plans Examiner certificate.

ii. Electrical Plans Examiner Requirements—possess a current ICC Commercial Electrical Plans Examiner, or ICC Combination Plans Examiner certificate.

iii. Mechanical Plans Examiner Requirements—possess a current ICC Commercial Mechanical Plans Examiner, or ICC Combination Plans Examiner certificate.

iv. Plumbing Plans Examiner Requirements—possess a current ICC Commercial

Plumbing Plans Examiner, ICC Louisiana Plumbing Plan Examiner, or ICC Combination Plans Examiner certificate.

v. Commercial Energy Plans Examiner Requirements—shall be enforced by the Office of the State Fire Marshal.

c. Residential Inspectors

i. Residential Building Inspector Requirements—possess a current ICC Residential Building Inspector, ICC Building Inspector, ICC Residential Combination Inspector, or ICC Combination Inspector certificate.

ii. Residential Electrical Inspector Requirements—possess a current ICC Residential Electrical Inspector, ICC Electrical Inspector, ICC Residential Combination Inspector, or ICC Combination Inspector certificate.

iii. Residential Mechanical Inspector Requirements—possess a current ICC Residential Mechanical Inspector, ICC Mechanical Inspector, ICC Residential Combination Inspector, or ICC Combination Inspector certificate.

iv. Residential Plumbing Inspector Requirements—possess a current ICC Residential Plumbing Inspector, ICC Plumbing Inspector, ICC Residential Combination Inspector, ICC Louisiana Residential Plumbing inspector, or ICC Combination Inspector certificate.

v. Residential Energy Inspector Requirements—possess a current ICC Residential Energy Inspector/Plans Examiner certificate.

d. Residential Plans Examiners or Reviewers

i. Residential Plans Examiner – possess a current ICC Residential Plans Examiner certificate.

ii. Residential Energy Plans Examiner – possess a current ICC Residential Energy Inspector/Plans Examiner certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.34(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Uniform Construction Code Council, LR 33:292 (February 2007), amended LR 33:1683 (August 2007), LR 34:93 (January 2008), amended by the Department of Public Safety and Corrections, Office of Management and Finance, Uniform Construction Code Council, LR 35:490 (March 2009), amended LR 35:

§705. Third Party Providers

A. General

1. A third party provider shall register with the council. Third party providers shall meet the requirements of the general or specialty classification(s) whichever applicable and as contracted with the parish or municipality. Furthermore, any individual employed by a third party provider who is also performing work for the parish or municipality, shall also be registered with this Council.

B. Insurance. All third party providers shall carry at least \$500,000 in professional liability insurance. Proof of valid and current insurance coverage must be provided to the council upon registration and renewal of registration in the form of an insurance certificate listing the Louisiana State Uniform Construction Code Council as the certificate holder.

1. Exceptions

a. Wind mitigation surveyors shall carry at least \$300,000 in professional liability insurance.

C. Restrictions

1. Third party providers shall not provide plan review or inspections on projects of their own design and/or construction.

D. Code Enforcement Services for Non-Governmental Entities

1. Third party providers providing plan review services for non-governmental entities shall provide written copies of the plan review to the code enforcement officer of the municipality or parish prior to issuance of construction permits and in accordance with the administrative procedures of the authority having jurisdiction.

2. Where a third party provider provides services in a jurisdiction which has a building department, third party providers shall adhere to the permitting and inspection procedures of said jurisdiction in accordance with the administrative procedures of the authority having jurisdiction.

3. Third party providers providing inspection services for non-governmental entities shall provide written copies of the approved inspection reports to the code enforcement officer of the jurisdiction prior to the issuance of the certificate of occupancy in accordance with the administrative procedures of the authority having jurisdiction.

E. A wind mitigation surveyor classification of third party provider may specialize as a wind mitigation surveyor upon meeting the following qualifications:

1. possession of a home inspector license through the Louisiana State Board of Home Inspectors; and

2. possession of a certificate of completion for the 2006 IRC Hurricane Resistant Residential Construction Program, or other equivalent program approved by the LSUCCC.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:292 (February 2007), amended LR 33:2462 (November 2007), amended by the Department of Public Safety and Corrections, Office of Management and Finance, Uniform Construction Code Council, LR 35:491 (March 2009), amended by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 35:

§707. Continuing Education Requirements

A. Prior to annual renewal of the certificate of registration as required by this Chapter, all building code enforcement officers and third-party providers, except Louisiana licensed architects or engineers as allowed by R.S. 40:1730.24(B), shall be registered with the International Code Council and obtain the continuing education units required for that registry.

B. Building code enforcement officers holding provisional certificates of registration and prior to certification and registration with the International Code Council shall provide evidence of one continuing education unit relating to construction code enforcement for the preceding year.

C. Prior to annual renewal of the certificate of registration, Louisiana licensed architects and engineers exempted by R.S. 40:1730.24(B) shall be licensed in the state of Louisiana and obtain the continuing education units required for that licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D) and R.S. 40:1730.38

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:2666 (December 2007), amended LR 35:

Chapter 9. Temporary Exemption to Certification Requirement

§901. Employment after January 1, 2007

A. Upon employment by a parish, municipality, or other political subdivision, an individual must be granted a provisional certificate of registration without certification by a recognized code organization or testing agency, provided that such individual is under the supervision of a registered code enforcement officer who is certified by the International Code Council.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22© and (D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:293 (February 2007), amended LR 35:

§903. Employment prior to January 1, 2007

A. Certificates of registration may be issued without certification by a recognized code organization or testing agency to building code enforcement officers already employed in code enforcement on January 1, 2007, only for the position and locality held at the time of registration. This registration is valid for three years for building officials and six months for building inspectors and plans reviewers. Additionally, inspectors and plan reviews who were employed by an authority having jurisdiction before July 1, 2006, and remain employed by that authority having jurisdiction, an additional 30 month provisional certificate or registration may be granted provided the individual can demonstrate an annual minimum of three continuing education units for a core discipline as required in §703. Thereafter, anyone renewing this certificate of registration shall satisfy the certification requirement(s) as set forth in §703.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:293 (February 2007), amended LR 35:

§905. Third Party Providers

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety, State Uniform Construction Code Council, LR 33:1370 (July 2007), amended LR 34:93 (January 2008), repealed by the Department of Public Safety, State Uniform Construction Code Council, LR 35:

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 rules. 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 66614, Baton Rouge, LA 70896. Written comments will be accepted through October 15, 2009.

Jill Boudreaux
Undersecretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Uniform Construction Code

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes are not anticipated to result in additional state or local government costs or savings. These rule changes mainly update various sections with more precise wording, align the rules with current law, provide for changes to certification requirements of the International Code Council, recognize procedural requirements of local jurisdictions, and delete provisions that are no longer applicable.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is anticipated to be no impact on revenue collections as a result of this Rule.

II. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The adoption of these rule changes are not anticipated to have any impact on costs and/or benefits to the affected construction industry or to code enforcement officers.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes should not significantly affect competition or employment.

Jill Boudreaux
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0909#059

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Revenue
Policy Services Division**

**Individual Income Tax Tables
(LAC 61:I.1310)**

Under the authority of R.S. 47:295, and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to amend LAC 61:I.1310 to establish the individual income tax tables based on the new individual income tax brackets provided by Act 396 of the 2008 Regular Session of the Louisiana Legislature.

Act 396 amended R.S. 47:32(A), and provides for a reduction in tax rates and tax brackets. This statutory amendment became effective January 1, 2009.

Title 61

REVENUE AND TAXATION

**Part I. Taxes Collected and Administered by the
Secretary of Revenue**

Chapter 13 Income: Individual Income Tax Tables

§1310. Income Tax Tables

A. Residents. The tax due for resident individuals shall be determined using one of the following tables depending on your filing status:

If your Louisiana tax table income:		Single or Married Filing Separately Filing Status							
At Least	Less Than	And the total exemptions claimed is:							
		1	2	3	4	5	6	7	8
Your Louisiana tax is:									
0	4,500	0	0	0	0	0	0	0	0
4,500	4,750	3	0	0	0	0	0	0	0
4,750	5,000	8	0	0	0	0	0	0	0
5,000	5,250	13	0	0	0	0	0	0	0
5,250	5,500	18	0	0	0	0	0	0	0
5,500	5,750	23	3	0	0	0	0	0	0
5,750	6,000	28	8	0	0	0	0	0	0
6,000	6,250	33	13	0	0	0	0	0	0

Single or Married Filing Separately Filing Status									
If your Louisiana tax table income:		And the total exemptions claimed is:							
At Least	Less Than	1	2	3	4	5	6	7	8
Your Louisiana tax is:									
6,250	6,500	38	18	0	0	0	0	0	0
6,500	6,750	43	23	3	0	0	0	0	0
6,750	7,000	48	28	8	0	0	0	0	0
7,000	7,250	53	33	13	0	0	0	0	0
7,250	7,500	58	38	18	0	0	0	0	0
7,500	7,750	63	43	23	3	0	0	0	0
7,750	8,000	68	48	28	8	0	0	0	0
8,000	8,250	73	53	33	13	0	0	0	0
8,250	8,500	78	58	38	18	0	0	0	0
8,500	8,750	83	63	43	23	3	0	0	0
8,750	9,000	88	68	48	28	8	0	0	0
9,000	9,250	93	73	53	33	13	0	0	0
9,250	9,500	98	78	58	38	18	0	0	0
9,500	9,750	103	83	63	43	23	3	0	0
9,750	10,000	108	88	68	48	28	8	0	0
10,000	10,250	113	93	73	53	33	13	0	0
10,250	10,500	118	98	78	58	38	18	0	0
10,500	10,750	123	103	83	63	43	23	3	0
10,750	11,000	128	108	88	68	48	28	8	0
11,000	11,250	133	113	93	73	53	33	13	0
11,250	11,500	138	118	98	78	58	38	18	0
11,500	11,750	143	123	103	83	63	43	23	3
11,750	12,000	148	128	108	88	68	48	28	8
12,000	12,250	153	133	113	93	73	53	33	13
12,250	12,500	158	138	118	98	78	58	38	18
12,500	12,750	165	145	125	105	85	65	45	25
12,750	13,000	175	155	135	115	95	75	55	35
13,000	13,250	185	165	145	125	105	85	65	45
13,250	13,500	195	175	155	135	115	95	75	55
13,500	13,750	205	185	165	145	125	105	85	65
13,750	14,000	215	195	175	155	135	115	95	75
14,000	14,250	225	205	185	165	145	125	105	85
14,250	14,500	235	215	195	175	155	135	115	95
14,500	14,750	245	225	205	185	165	145	125	105
14,750	15,000	255	235	215	195	175	155	135	115
15,000	15,250	265	245	225	205	185	165	145	125
15,250	15,500	275	255	235	215	195	175	155	135
15,500	15,750	285	265	245	225	205	185	165	145
15,750	16,000	295	275	255	235	215	195	175	155
16,000	16,250	305	285	265	245	225	205	185	165
16,250	16,500	315	295	275	255	235	215	195	175
16,500	16,750	325	305	285	265	245	225	205	185
16,750	17,000	335	315	295	275	255	235	215	195
17,000	17,250	345	325	305	285	265	245	225	205
17,250	17,500	355	335	315	295	275	255	235	215
17,500	17,750	365	345	325	305	285	265	245	225

Single or Married Filing Separately Filing Status									
If your Louisiana tax table income:		And the total exemptions claimed is:							
At Least	Less Than	1	2	3	4	5	6	7	8
Your Louisiana tax is:									
17,750	18,000	375	355	335	315	295	275	255	235
18,000	18,250	385	365	345	325	305	285	265	245
18,250	18,500	395	375	355	335	315	295	275	255
18,500	18,750	405	385	365	345	325	305	285	265
18,750	19,000	415	395	375	355	335	315	295	275
19,000	19,250	425	405	385	365	345	325	305	285
19,250	19,500	435	415	395	375	355	335	315	295
19,500	19,750	445	425	405	385	365	345	325	305
19,750	20,000	455	435	415	395	375	355	335	315
20,000	20,250	465	445	425	405	385	365	345	325
20,250	20,500	475	455	435	415	395	375	355	335
20,500	20,750	485	465	445	425	405	385	365	345
20,750	21,000	495	475	455	435	415	395	375	355
21,000	21,250	505	485	465	445	425	405	385	365
21,250	21,500	515	495	475	455	435	415	395	375
21,500	21,750	525	505	485	465	445	425	405	385
21,750	22,000	535	515	495	475	455	435	415	395
22,000	22,250	545	525	505	485	465	445	425	405
22,250	22,500	555	535	515	495	475	455	435	415
22,500	22,750	565	545	525	505	485	465	445	425
22,750	23,000	575	555	535	515	495	475	455	435
23,000	23,250	585	565	545	525	505	485	465	445
23,250	23,500	595	575	555	535	515	495	475	455
23,500	23,750	605	585	565	545	525	505	485	465
23,750	24,000	615	595	575	555	535	515	495	475
24,000	24,250	625	605	585	565	545	525	505	485
24,250	24,500	635	615	595	575	555	535	515	495
24,500	24,750	645	625	605	585	565	545	525	505
24,750	25,000	655	635	615	595	575	555	535	515
25,000	25,250	665	645	625	605	585	565	545	525
25,250	25,500	675	655	635	615	595	575	555	535
25,500	25,750	685	665	645	625	605	585	565	545
25,750	26,000	695	675	655	635	615	595	575	555
26,000	26,250	705	685	665	645	625	605	585	565
26,250	26,500	715	695	675	655	635	615	595	575
26,500	26,750	725	705	685	665	645	625	605	585
26,750	27,000	735	715	695	675	655	635	615	595
27,000	27,250	745	725	705	685	665	645	625	605
27,250	27,500	755	735	715	695	675	655	635	615
27,500	27,750	765	745	725	705	685	665	645	625
27,750	28,000	775	755	735	715	695	675	655	635
28,000	28,250	785	765	745	725	705	685	665	645
28,250	28,500	795	775	755	735	715	695	675	655
28,500	28,750	805	785	765	745	725	705	685	665
28,750	29,000	815	795	775	755	735	715	695	675
29,000	29,250	825	805	785	765	745	725	705	685

Single or Married Filing Separately Filing Status									
If your Louisiana tax table income:		And the total exemptions claimed is:							
At Least	Less Than	1	2	3	4	5	6	7	8
Your Louisiana tax is:									
29,250	29,500	835	815	795	775	755	735	715	695
29,500	29,750	845	825	805	785	765	745	725	705
29,750	30,000	855	835	815	795	775	755	735	715
30,000	30,250	865	845	825	805	785	765	745	725
30,250	30,500	875	855	835	815	795	775	755	735
30,500	30,750	885	865	845	825	805	785	765	745
30,750	31,000	895	875	855	835	815	795	775	755
31,000	31,250	905	885	865	845	825	805	785	765
31,250	31,500	915	895	875	855	835	815	795	775
31,500	31,750	925	905	885	865	845	825	805	785
31,750	32,000	935	915	895	875	855	835	815	795
32,000	32,250	945	925	905	885	865	845	825	805
32,250	32,500	955	935	915	895	875	855	835	815
32,500	32,750	965	945	925	905	885	865	845	825
32,750	33,000	975	955	935	915	895	875	855	835
33,000	33,250	985	965	945	925	905	885	865	845
33,250	33,500	995	975	955	935	915	895	875	855
33,500	33,750	1,005	985	965	945	925	905	885	865
33,750	34,000	1,015	995	975	955	935	915	895	875
34,000	34,250	1,025	1,005	985	965	945	925	905	885
34,250	34,500	1,035	1,015	995	975	955	935	915	895
34,500	34,750	1,045	1,025	1,005	985	965	945	925	905
34,750	35,000	1,055	1,035	1,015	995	975	955	935	915
35,000	35,250	1,065	1,045	1,025	1,005	985	965	945	925
35,250	35,500	1,075	1,055	1,035	1,015	995	975	955	935
35,500	35,750	1,085	1,065	1,045	1,025	1,005	985	965	945
35,750	36,000	1,095	1,075	1,055	1,035	1,015	995	975	955
36,000	36,250	1,105	1,085	1,065	1,045	1,025	1,005	985	965
36,250	36,500	1,115	1,095	1,075	1,055	1,035	1,015	995	975
36,500	36,750	1,125	1,105	1,085	1,065	1,045	1,025	1,005	985
36,750	37,000	1,135	1,115	1,095	1,075	1,055	1,035	1,015	995
37,000	37,250	1,145	1,125	1,105	1,085	1,065	1,045	1,025	1,005
37,250	37,500	1,155	1,135	1,115	1,095	1,075	1,055	1,035	1,015
37,500	37,750	1,165	1,145	1,125	1,105	1,085	1,065	1,045	1,025
37,750	38,000	1,175	1,155	1,135	1,115	1,095	1,075	1,055	1,035
38,000	38,250	1,185	1,165	1,145	1,125	1,105	1,085	1,065	1,045
38,250	38,500	1,195	1,175	1,155	1,135	1,115	1,095	1,075	1,055
38,500	38,750	1,205	1,185	1,165	1,145	1,125	1,105	1,085	1,065
38,750	39,000	1,215	1,195	1,175	1,155	1,135	1,115	1,095	1,075
39,000	39,250	1,225	1,205	1,185	1,165	1,145	1,125	1,105	1,085
39,250	39,500	1,235	1,215	1,195	1,175	1,155	1,135	1,115	1,095
39,500	39,750	1,245	1,225	1,205	1,185	1,165	1,145	1,125	1,105
39,750	40,000	1,255	1,235	1,215	1,195	1,175	1,155	1,135	1,115
40,000	40,250	1,265	1,245	1,225	1,205	1,185	1,165	1,145	1,125
40,250	40,500	1,275	1,255	1,235	1,215	1,195	1,175	1,155	1,135
40,500	40,750	1,285	1,265	1,245	1,225	1,205	1,185	1,165	1,145

Single or Married Filing Separately Filing Status									
If your Louisiana tax table income:		And the total exemptions claimed is:							
At Least	Less Than	1	2	3	4	5	6	7	8
Your Louisiana tax is:									
40,750	41,000	1,295	1,275	1,255	1,235	1,215	1,195	1,175	1,155
41,000	41,250	1,305	1,285	1,265	1,245	1,225	1,205	1,185	1,165
41,250	41,500	1,315	1,295	1,275	1,255	1,235	1,215	1,195	1,175
41,500	41,750	1,325	1,305	1,285	1,265	1,245	1,225	1,205	1,185
41,750	42,000	1,335	1,315	1,295	1,275	1,255	1,235	1,215	1,195
42,000	42,250	1,345	1,325	1,305	1,285	1,265	1,245	1,225	1,205
42,250	42,500	1,355	1,335	1,315	1,295	1,275	1,255	1,235	1,215
42,500	42,750	1,365	1,345	1,325	1,305	1,285	1,265	1,245	1,225
42,750	43,000	1,375	1,355	1,335	1,315	1,295	1,275	1,255	1,235
43,000	43,250	1,385	1,365	1,345	1,325	1,305	1,285	1,265	1,245
43,250	43,500	1,395	1,375	1,355	1,335	1,315	1,295	1,275	1,255
43,500	43,750	1,405	1,385	1,365	1,345	1,325	1,305	1,285	1,265
43,750	44,000	1,415	1,395	1,375	1,355	1,335	1,315	1,295	1,275
44,000	44,250	1,425	1,405	1,385	1,365	1,345	1,325	1,305	1,285
44,250	44,500	1,435	1,415	1,395	1,375	1,355	1,335	1,315	1,295
44,500	44,750	1,445	1,425	1,405	1,385	1,365	1,345	1,325	1,305
44,750	45,000	1,455	1,435	1,415	1,395	1,375	1,355	1,335	1,315
45,000	45,250	1,465	1,445	1,425	1,405	1,385	1,365	1,345	1,325
45,250	45,500	1,475	1,455	1,435	1,415	1,395	1,375	1,355	1,335
45,500	45,750	1,485	1,465	1,445	1,425	1,405	1,385	1,365	1,345
45,750	46,000	1,495	1,475	1,455	1,435	1,415	1,395	1,375	1,355
46,000	46,250	1,505	1,485	1,465	1,445	1,425	1,405	1,385	1,365
46,250	46,500	1,515	1,495	1,475	1,455	1,435	1,415	1,395	1,375
46,500	46,750	1,525	1,505	1,485	1,465	1,445	1,425	1,405	1,385
46,750	47,000	1,535	1,515	1,495	1,475	1,455	1,435	1,415	1,395
47,000	47,250	1,545	1,525	1,505	1,485	1,465	1,445	1,425	1,405
47,250	47,500	1,555	1,535	1,515	1,495	1,475	1,455	1,435	1,415
47,500	47,750	1,565	1,545	1,525	1,505	1,485	1,465	1,445	1,425
47,750	48,000	1,575	1,555	1,535	1,515	1,495	1,475	1,455	1,435
48,000	48,250	1,585	1,565	1,545	1,525	1,505	1,485	1,465	1,445
48,250	48,500	1,595	1,575	1,555	1,535	1,515	1,495	1,475	1,455
48,500	48,750	1,605	1,585	1,565	1,545	1,525	1,505	1,485	1,465
48,750	49,000	1,615	1,595	1,575	1,555	1,535	1,515	1,495	1,475
49,000	49,250	1,625	1,605	1,585	1,565	1,545	1,525	1,505	1,485
49,250	49,500	1,635	1,615	1,595	1,575	1,555	1,535	1,515	1,495
49,500	49,750	1,645	1,625	1,605	1,585	1,565	1,545	1,525	1,505
49,750	50,000	1,655	1,635	1,615	1,595	1,575	1,555	1,535	1,515
50,000	50,250	1,668	1,648	1,628	1,608	1,588	1,568	1,548	1,528
50,250	50,500	1,683	1,663	1,643	1,623	1,603	1,583	1,563	1,543
50,500	50,750	1,698	1,678	1,658	1,638	1,618	1,598	1,578	1,558
50,750	51,000	1,713	1,693	1,673	1,653	1,633	1,613	1,593	1,573

Plus 6% of Tax Table Income in Excess of \$51,000

Married Filing Jointly or Qualifying Widow(er) Filing Status								
If your Louisiana tax table income:		And the total exemptions claimed is:						
At Least	Less Than	2	3	4	5	6	7	8
Your Louisianan tax is:								
0	9,000	0	0	0	0	0	0	0
9,000	9,250	3	0	0	0	0	0	0
9,250	9,500	8	0	0	0	0	0	0
9,500	9,750	13	0	0	0	0	0	0
9,750	10,000	18	0	0	0	0	0	0
10,000	10,250	23	3	0	0	0	0	0
10,250	10,500	28	8	0	0	0	0	0
10,500	10,750	33	13	0	0	0	0	0
10,750	11,000	38	18	0	0	0	0	0
11,000	11,250	43	23	3	0	0	0	0
11,250	11,500	48	28	8	0	0	0	0
11,500	11,750	53	33	13	0	0	0	0
11,750	12,000	58	38	18	0	0	0	0
12,000	12,250	63	43	23	3	0	0	0
12,250	12,500	68	48	28	8	0	0	0
12,500	12,750	73	53	33	13	0	0	0
12,750	13,000	78	58	38	18	0	0	0

Married Filing Jointly Or Qualifying Widow(er) Filing Status								
If your Louisiana tax table income:		And the total exemptions claimed is:						
At Least	Less Than	2	3	4	5	6	7	8
Your Louisianan tax is:								
13,000	13,250	83	63	43	23	3	0	0
13,250	13,500	88	68	48	28	8	0	0
13,500	13,750	93	73	53	33	13	0	0
13,750	14,000	98	78	58	38	18	0	0
14,000	14,250	103	83	63	43	23	3	0
14,250	14,500	108	88	68	48	28	8	0
14,500	14,750	113	93	73	53	33	13	0
14,750	15,000	118	98	78	58	38	18	0
15,000	15,250	123	103	83	63	43	23	3
15,250	15,500	128	108	88	68	48	28	8
15,500	15,750	133	113	93	73	53	33	13
15,750	16,000	138	118	98	78	58	38	18
16,000	16,250	143	123	103	83	63	43	23
16,250	16,500	148	128	108	88	68	48	28
16,500	16,750	153	133	113	93	73	53	33
16,750	17,000	158	138	118	98	78	58	38
17,000	17,250	163	143	123	103	83	63	43
17,250	17,500	168	148	128	108	88	68	48
17,500	17,750	173	153	133	113	93	73	53
17,750	18,000	178	158	138	118	98	78	58
18,000	18,250	183	163	143	123	103	83	63
18,250	18,500	188	168	148	128	108	88	68
18,500	18,750	193	173	153	133	113	93	73

Married Filing Jointly Or Qualifying Widow(er) Filing Status								
If your Louisiana tax table income:		And the total exemptions claimed is:						
At Least	Less Than	2	3	4	5	6	7	8
Your Louisianan tax is:								
18,750	19,000	198	178	158	138	118	98	78
19,000	19,250	203	183	163	143	123	103	83
19,250	19,500	208	188	168	148	128	108	88
19,500	19,750	213	193	173	153	133	113	93
19,750	20,000	218	198	178	158	138	118	98
20,000	20,250	223	203	183	163	143	123	103
20,250	20,500	228	208	188	168	148	128	108
20,500	20,750	233	213	193	173	153	133	113
20,750	21,000	238	218	198	178	158	138	118
21,000	21,250	243	223	203	183	163	143	123
21,250	21,500	248	228	208	188	168	148	128
21,500	21,750	253	233	213	193	173	153	133
21,750	22,000	258	238	218	198	178	158	138
22,000	22,250	263	243	223	203	183	163	143
22,250	22,500	268	248	228	208	188	168	148
22,500	22,750	273	253	233	213	193	173	153
22,750	23,000	278	258	238	218	198	178	158
23,000	23,250	283	263	243	223	203	183	163
23,250	23,500	288	268	248	228	208	188	168
23,500	23,750	293	273	253	233	213	193	173
23,750	24,000	298	278	258	238	218	198	178
24,000	24,250	303	283	263	243	223	203	183
24,250	24,500	308	288	268	248	228	208	188
24,500	24,750	313	293	273	253	233	213	193
24,750	25,000	318	298	278	258	238	218	198
25,000	25,250	325	305	285	265	245	225	205
25,250	25,500	335	315	295	275	255	235	215
25,500	25,750	345	325	305	285	265	245	225
25,750	26,000	355	335	315	295	275	255	235
26,000	26,250	365	345	325	305	285	265	245
26,250	26,500	375	355	335	315	295	275	255
26,500	26,750	385	365	345	325	305	285	265
26,750	27,000	395	375	355	335	315	295	275
27,000	27,250	405	385	365	345	325	305	285
27,250	27,500	415	395	375	355	335	315	295
27,500	27,750	425	405	385	365	345	325	305

Married Filing Jointly Or Qualifying Widow(er) Filing Status								
If your Louisiana tax table income:		And the total exemptions claimed is:						
At Least	Less Than	2	3	4	5	6	7	8
Your Louisianan tax is:								
27,750	28,000	435	415	395	375	355	335	315
28,000	28,250	445	425	405	385	365	345	325
28,250	28,500	455	435	415	395	375	355	335
28,500	28,750	465	445	425	405	385	365	345
28,750	29,000	475	455	435	415	395	375	355

Married Filing Jointly Or Qualifying Widow(er) Filing Status								
If your Louisiana tax table income:		And the total exemptions claimed is:						
At Least	Less Than	2	3	4	5	6	7	8
Your Louisianan tax is:								
29,000	29,250	485	465	445	425	405	385	365
29,250	29,500	495	475	455	435	415	395	375
29,500	29,750	505	485	465	445	425	405	385
29,750	30,000	515	495	475	455	435	415	395
30,000	30,250	525	505	485	465	445	425	405
30,250	30,500	535	515	495	475	455	435	415
30,500	30,750	545	525	505	485	465	445	425
30,750	31,000	555	535	515	495	475	455	435
31,000	31,250	565	545	525	505	485	465	445
31,250	31,500	575	555	535	515	495	475	455
31,500	31,750	585	565	545	525	505	485	465
31,750	32,000	595	575	555	535	515	495	475
32,000	32,250	605	585	565	545	525	505	485
32,250	32,500	615	595	575	555	535	515	495
32,500	32,750	625	605	585	565	545	525	505
32,750	33,000	635	615	595	575	555	535	515
33,000	33,250	645	625	605	585	565	545	525
33,250	33,500	655	635	615	595	575	555	535
33,500	33,750	665	645	625	605	585	565	545
33,750	34,000	675	655	635	615	595	575	555
34,000	34,250	685	665	645	625	605	585	565
34,250	34,500	695	675	655	635	615	595	575
34,500	34,750	705	685	665	645	625	605	585
34,750	35,000	715	695	675	655	635	615	595
35,000	35,250	725	705	685	665	645	625	605
35,250	35,500	735	715	695	675	655	635	615
35,500	35,750	745	725	705	685	665	645	625
35,750	36,000	755	735	715	695	675	655	635
36,000	36,250	765	745	725	705	685	665	645
36,250	36,500	775	755	735	715	695	675	655
36,500	36,750	785	765	745	725	705	685	665
36,750	37,000	795	775	755	735	715	695	675
37,000	37,250	805	785	765	745	725	705	685
37,250	37,500	815	795	775	755	735	715	695
37,500	37,750	825	805	785	765	745	725	705
37,750	38,000	835	815	795	775	755	735	715
38,000	38,250	845	825	805	785	765	745	725
38,250	38,500	855	835	815	795	775	755	735
38,500	38,750	865	845	825	805	785	765	745
38,750	39,000	875	855	835	815	795	775	755
39,000	39,250	885	865	845	825	805	785	765
39,250	39,500	895	875	855	835	815	795	775
39,500	39,750	905	885	865	845	825	805	785
39,750	40,000	915	895	875	855	835	815	795
40,000	40,250	925	905	885	865	845	825	805
40,250	40,500	935	915	895	875	855	835	815

Married Filing Jointly Or Qualifying Widow(er) Filing Status								
If your Louisiana tax table income:		And the total exemptions claimed is:						
At Least	Less Than	2	3	4	5	6	7	8
Your Louisianan tax is:								
40,500	40,750	945	925	905	885	865	845	825
40,750	41,000	955	935	915	895	875	855	835
41,000	41,250	965	945	925	905	885	865	845
41,250	41,500	975	955	935	915	895	875	855
41,500	41,750	985	965	945	925	905	885	865
41,750	42,000	995	975	955	935	915	895	875
42,000	42,250	1,005	985	965	945	925	905	885
42,250	42,500	1,015	995	975	955	935	915	895

Married Filing Jointly Or Qualifying Widow(er) Filing Status								
If your Louisiana tax table income:		And the total exemptions claimed is:						
At Least	Less Than	2	3	4	5	6	7	8
Your Louisianan tax is:								
42,500	42,750	1,025	1,005	985	965	945	925	905
42,750	43,000	1,035	1,015	995	975	955	935	915
43,000	43,250	1,045	1,025	1,005	985	965	945	925
43,250	43,500	1,055	1,035	1,015	995	975	955	935
43,500	43,750	1,065	1,045	1,025	1,005	985	965	945
43,750	44,000	1,075	1,055	1,035	1,015	995	975	955
44,000	44,250	1,085	1,065	1,045	1,025	1,005	985	965
44,250	44,500	1,095	1,075	1,055	1,035	1,015	995	975
44,500	44,750	1,105	1,085	1,065	1,045	1,025	1,005	985
44,750	45,000	1,115	1,095	1,075	1,055	1,035	1,015	995
45,000	45,250	1,125	1,105	1,085	1,065	1,045	1,025	1,005
45,250	45,500	1,135	1,115	1,095	1,075	1,055	1,035	1,015
45,500	45,750	1,145	1,125	1,105	1,085	1,065	1,045	1,025
45,750	46,000	1,155	1,135	1,115	1,095	1,075	1,055	1,035
46,000	46,250	1,165	1,145	1,125	1,105	1,085	1,065	1,045
46,250	46,500	1,175	1,155	1,135	1,115	1,095	1,075	1,055
46,500	46,750	1,185	1,165	1,145	1,125	1,105	1,085	1,065
46,750	47,000	1,195	1,175	1,155	1,135	1,115	1,095	1,075
47,000	47,250	1,205	1,185	1,165	1,145	1,125	1,105	1,085
47,250	47,500	1,215	1,195	1,175	1,155	1,135	1,115	1,095
47,500	47,750	1,225	1,205	1,185	1,165	1,145	1,125	1,105
47,750	48,000	1,235	1,215	1,195	1,175	1,155	1,135	1,115
48,000	48,250	1,245	1,225	1,205	1,185	1,165	1,145	1,125
48,250	48,500	1,255	1,235	1,215	1,195	1,175	1,155	1,135
48,500	48,750	1,265	1,245	1,225	1,205	1,185	1,165	1,145
48,750	49,000	1,275	1,255	1,235	1,215	1,195	1,175	1,155
49,000	49,250	1,285	1,265	1,245	1,225	1,205	1,185	1,165
49,250	49,500	1,295	1,275	1,255	1,235	1,215	1,195	1,175
49,500	49,750	1,305	1,285	1,265	1,245	1,225	1,205	1,185
49,750	50,000	1,315	1,295	1,275	1,255	1,235	1,215	1,195
50,000	50,250	1,325	1,305	1,285	1,265	1,245	1,225	1,205
50,250	50,500	1,335	1,315	1,295	1,275	1,255	1,235	1,215
50,500	50,750	1,345	1,325	1,305	1,285	1,265	1,245	1,225

Married Filing Jointly Or Qualifying Widow(er) Filing Status								
If your Louisiana tax table income:		And the total exemptions claimed is:						
At Least	Less Than	2	3	4	5	6	7	8
Your Louisianan tax is:								
50,750	51,000	1,355	1,335	1,315	1,295	1,275	1,255	1,235
51,000	51,250	1,365	1,345	1,325	1,305	1,285	1,265	1,245
51,250	51,500	1,375	1,355	1,335	1,315	1,295	1,275	1,255
51,500	51,750	1,385	1,365	1,345	1,325	1,305	1,285	1,265
51,750	52,000	1,395	1,375	1,355	1,335	1,315	1,295	1,275
52,000	52,250	1,405	1,385	1,365	1,345	1,325	1,305	1,285
52,250	52,500	1,415	1,395	1,375	1,355	1,335	1,315	1,295
52,500	52,750	1,425	1,405	1,385	1,365	1,345	1,325	1,305
52,750	53,000	1,435	1,415	1,395	1,375	1,355	1,335	1,315
53,000	53,250	1,445	1,425	1,405	1,385	1,365	1,345	1,325
53,250	53,500	1,455	1,435	1,415	1,395	1,375	1,355	1,335
53,500	53,750	1,465	1,445	1,425	1,405	1,385	1,365	1,345
53,750	54,000	1,475	1,455	1,435	1,415	1,395	1,375	1,355
54,000	54,250	1,485	1,465	1,445	1,425	1,405	1,385	1,365
54,250	54,500	1,495	1,475	1,455	1,435	1,415	1,395	1,375
54,500	54,750	1,505	1,485	1,465	1,445	1,425	1,405	1,385
54,750	55,000	1,515	1,495	1,475	1,455	1,435	1,415	1,395
55,000	55,250	1,525	1,505	1,485	1,465	1,445	1,425	1,405
55,250	55,500	1,535	1,515	1,495	1,475	1,455	1,435	1,415
55,500	55,750	1,545	1,525	1,505	1,485	1,465	1,445	1,425
55,750	56,000	1,555	1,535	1,515	1,495	1,475	1,455	1,435
56,000	56,250	1,565	1,545	1,525	1,505	1,485	1,465	1,445
56,250	56,500	1,575	1,555	1,535	1,515	1,495	1,475	1,455
56,500	56,750	1,585	1,565	1,545	1,525	1,505	1,485	1,465
56,750	57,000	1,595	1,575	1,555	1,535	1,515	1,495	1,475
57,000	57,250	1,605	1,585	1,565	1,545	1,525	1,505	1,485

Married Filing Jointly Or Qualifying Widow(er) Filing Status								
If your Louisiana tax table income:		And the total exemptions claimed is:						
At Least	Less Than	2	3	4	5	6	7	8
Your Louisianan tax is:								
57,250	57,500	1,615	1,595	1,575	1,555	1,535	1,515	1,495
57,500	57,750	1,625	1,605	1,585	1,565	1,545	1,525	1,505
57,750	58,000	1,635	1,615	1,595	1,575	1,555	1,535	1,515
58,000	58,250	1,645	1,625	1,605	1,585	1,565	1,545	1,525
58,250	58,500	1,655	1,635	1,615	1,595	1,575	1,555	1,535
58,500	58,750	1,665	1,645	1,625	1,605	1,585	1,565	1,545
58,750	59,000	1,675	1,655	1,635	1,615	1,595	1,575	1,555
59,000	59,250	1,685	1,665	1,645	1,625	1,605	1,585	1,565
59,250	59,500	1,695	1,675	1,655	1,635	1,615	1,595	1,575
59,500	59,750	1,705	1,685	1,665	1,645	1,625	1,605	1,585
59,750	60,000	1,715	1,695	1,675	1,655	1,635	1,615	1,595
60,000	60,250	1,725	1,705	1,685	1,665	1,645	1,625	1,605
60,250	60,500	1,735	1,715	1,695	1,675	1,655	1,635	1,615
60,500	60,750	1,745	1,725	1,705	1,685	1,665	1,645	1,625
60,750	61,000	1,755	1,735	1,715	1,695	1,675	1,655	1,635

Married Filing Jointly Or Qualifying Widow(er) Filing Status								
If your Louisiana tax table income:		And the total exemptions claimed is:						
At Least	Less Than	2	3	4	5	6	7	8
Your Louisianan tax is:								
61,000	61,250	1,765	1,745	1,725	1,705	1,685	1,665	1,645
61,250	61,500	1,775	1,755	1,735	1,715	1,695	1,675	1,655
61,500	61,750	1,785	1,765	1,745	1,725	1,705	1,685	1,665
61,750	62,000	1,795	1,775	1,755	1,735	1,715	1,695	1,675
62,000	62,250	1,805	1,785	1,765	1,745	1,725	1,705	1,685
62,250	62,500	1,815	1,795	1,775	1,755	1,735	1,715	1,695
62,500	62,750	1,825	1,805	1,785	1,765	1,745	1,725	1,705
62,750	63,000	1,835	1,815	1,795	1,775	1,755	1,735	1,715
63,000	63,250	1,845	1,825	1,805	1,785	1,765	1,745	1,725
63,250	63,500	1,855	1,835	1,815	1,795	1,775	1,755	1,735
63,500	63,750	1,865	1,845	1,825	1,805	1,785	1,765	1,745
63,750	64,000	1,875	1,855	1,835	1,815	1,795	1,775	1,755
64,000	64,250	1,885	1,865	1,845	1,825	1,805	1,785	1,765
64,250	64,500	1,895	1,875	1,855	1,835	1,815	1,795	1,775
64,500	64,750	1,905	1,885	1,865	1,845	1,825	1,805	1,785
64,750	65,000	1,915	1,895	1,875	1,855	1,835	1,815	1,795
65,000	65,250	1,925	1,905	1,885	1,865	1,845	1,825	1,805
65,250	65,500	1,935	1,915	1,895	1,875	1,855	1,835	1,815
65,500	65,750	1,945	1,925	1,905	1,885	1,865	1,845	1,825
65,750	66,000	1,955	1,935	1,915	1,895	1,875	1,855	1,835
66,000	66,250	1,965	1,945	1,925	1,905	1,885	1,865	1,845
66,250	66,500	1,975	1,955	1,935	1,915	1,895	1,875	1,855
66,500	66,750	1,985	1,965	1,945	1,925	1,905	1,885	1,865
66,750	67,000	1,995	1,975	1,955	1,935	1,915	1,895	1,875
67,000	67,250	2,005	1,985	1,965	1,945	1,925	1,905	1,885
67,250	67,500	2,015	1,995	1,975	1,955	1,935	1,915	1,895
67,500	67,750	2,025	2,005	1,985	1,965	1,945	1,925	1,905
67,750	68,000	2,035	2,015	1,995	1,975	1,955	1,935	1,915
68,000	68,250	2,045	2,025	2,005	1,985	1,965	1,945	1,925
68,250	68,500	2,055	2,035	2,015	1,995	1,975	1,955	1,935
68,500	68,750	2,065	2,045	2,025	2,005	1,985	1,965	1,945
68,750	69,000	2,075	2,055	2,035	2,015	1,995	1,975	1,955
69,000	69,250	2,085	2,065	2,045	2,025	2,005	1,985	1,965
69,250	69,500	2,095	2,075	2,055	2,035	2,015	1,995	1,975
69,500	69,750	2,105	2,085	2,065	2,045	2,025	2,005	1,985
69,750	70,000	2,115	2,095	2,075	2,055	2,035	2,015	1,995
70,000	70,250	2,125	2,105	2,085	2,065	2,045	2,025	2,005
70,250	70,500	2,135	2,115	2,095	2,075	2,055	2,035	2,015
70,500	70,750	2,145	2,125	2,105	2,085	2,065	2,045	2,025
70,750	71,000	2,155	2,135	2,115	2,095	2,075	2,055	2,035
71,000	71,250	2,165	2,145	2,125	2,105	2,085	2,065	2,045
71,250	71,500	2,175	2,155	2,135	2,115	2,095	2,075	2,055
71,500	71,750	2,185	2,165	2,145	2,125	2,105	2,085	2,065
71,750	72,000	2,195	2,175	2,155	2,135	2,115	2,095	2,075

Married Filing Jointly Or Qualifying Widow(er) Filing Status								
If your Louisiana tax table income:		And the total exemptions claimed is:						
At Least	Less Than	2	3	4	5	6	7	8
Your Louisianan tax is:								
72,000	72,250	2,205	2,185	2,165	2,145	2,125	2,105	2,085
72,250	72,500	2,215	2,195	2,175	2,155	2,135	2,115	2,095
72,500	72,750	2,225	2,205	2,185	2,165	2,145	2,125	2,105
72,750	73,000	2,235	2,215	2,195	2,175	2,155	2,135	2,115
73,000	73,250	2,245	2,225	2,205	2,185	2,165	2,145	2,125
73,250	73,500	2,255	2,235	2,215	2,195	2,175	2,155	2,135
73,500	73,750	2,265	2,245	2,225	2,205	2,185	2,165	2,145
73,750	74,000	2,275	2,255	2,235	2,215	2,195	2,175	2,155
74,000	74,250	2,285	2,265	2,245	2,225	2,205	2,185	2,165
74,250	74,500	2,295	2,275	2,255	2,235	2,215	2,195	2,175
74,500	74,750	2,305	2,285	2,265	2,245	2,225	2,205	2,185
74,750	75,000	2,315	2,295	2,275	2,255	2,235	2,215	2,195
75,000	75,250	2,325	2,305	2,285	2,265	2,245	2,225	2,205
75,250	75,500	2,335	2,315	2,295	2,275	2,255	2,235	2,215
75,500	75,750	2,345	2,325	2,305	2,285	2,265	2,245	2,225
75,750	76,000	2,355	2,335	2,315	2,295	2,275	2,255	2,235
76,000	76,250	2,365	2,345	2,325	2,305	2,285	2,265	2,245
76,250	76,500	2,375	2,355	2,335	2,315	2,295	2,275	2,255
76,500	76,750	2,385	2,365	2,345	2,325	2,305	2,285	2,265
76,750	77,000	2,395	2,375	2,355	2,335	2,315	2,295	2,275
77,000	77,250	2,405	2,385	2,365	2,345	2,325	2,305	2,285
77,250	77,500	2,415	2,395	2,375	2,355	2,335	2,315	2,295
77,500	77,750	2,425	2,405	2,385	2,365	2,345	2,325	2,305
77,750	78,000	2,435	2,415	2,395	2,375	2,355	2,335	2,315
78,000	78,250	2,445	2,425	2,405	2,385	2,365	2,345	2,325
78,250	78,500	2,455	2,435	2,415	2,395	2,375	2,355	2,335
78,500	78,750	2,465	2,445	2,425	2,405	2,385	2,365	2,345
78,750	79,000	2,475	2,455	2,435	2,415	2,395	2,375	2,355
79,000	79,250	2,485	2,465	2,445	2,425	2,405	2,385	2,365
79,250	79,500	2,495	2,475	2,455	2,435	2,415	2,395	2,375
79,500	79,750	2,505	2,485	2,465	2,445	2,425	2,405	2,385
79,750	80,000	2,515	2,495	2,475	2,455	2,435	2,415	2,395
80,000	80,250	2,525	2,505	2,485	2,465	2,445	2,425	2,405
80,250	80,500	2,535	2,515	2,495	2,475	2,455	2,435	2,415
80,500	80,750	2,545	2,525	2,505	2,485	2,465	2,445	2,425
80,750	81,000	2,555	2,535	2,515	2,495	2,475	2,455	2,435
81,000	81,250	2,565	2,545	2,525	2,505	2,485	2,465	2,445
81,250	81,500	2,575	2,555	2,535	2,515	2,495	2,475	2,455
81,500	81,750	2,585	2,565	2,545	2,525	2,505	2,485	2,465
81,750	82,000	2,595	2,575	2,555	2,535	2,515	2,495	2,475
82,000	82,250	2,605	2,585	2,565	2,545	2,525	2,505	2,485
82,250	82,500	2,615	2,595	2,575	2,555	2,535	2,515	2,495
82,500	82,750	2,625	2,605	2,585	2,565	2,545	2,525	2,505
82,750	83,000	2,635	2,615	2,595	2,575	2,555	2,535	2,515
83,000	83,250	2,645	2,625	2,605	2,585	2,565	2,545	2,525
83,250	83,500	2,655	2,635	2,615	2,595	2,575	2,555	2,535

Married Filing Jointly Or Qualifying Widow(er) Filing Status								
If your Louisiana tax table income:		And the total exemptions claimed is:						
At Least	Less Than	2	3	4	5	6	7	8
		Your Louisianan tax is:						
83,500	83,750	2,665	2,645	2,625	2,605	2,585	2,565	2,545
83,750	84,000	2,675	2,655	2,635	2,615	2,595	2,575	2,555
84,000	84,250	2,685	2,665	2,645	2,625	2,605	2,585	2,565
84,250	84,500	2,695	2,675	2,655	2,635	2,615	2,595	2,575
84,500	84,750	2,705	2,685	2,665	2,645	2,625	2,605	2,585
84,750	85,000	2,715	2,695	2,675	2,655	2,635	2,615	2,595
85,000	85,250	2,725	2,705	2,685	2,665	2,645	2,625	2,605
85,250	85,500	2,735	2,715	2,695	2,675	2,655	2,635	2,615
85,500	85,750	2,745	2,725	2,705	2,685	2,665	2,645	2,625
85,750	86,000	2,755	2,735	2,715	2,695	2,675	2,655	2,635
86,000	86,250	2,765	2,745	2,725	2,705	2,685	2,665	2,645
86,250	86,500	2,775	2,755	2,735	2,715	2,695	2,675	2,655
86,500	86,750	2,785	2,765	2,745	2,725	2,705	2,685	2,665

Married Filing Jointly Or Qualifying Widow(er) Filing Status								
If your Louisiana tax table income:		And the total exemptions claimed is:						
At Least	Less Than	2	3	4	5	6	7	8
		Your Louisianan tax is:						
86,750	87,000	2,795	2,775	2,755	2,735	2,715	2,695	2,675
87,000	87,250	2,805	2,785	2,765	2,745	2,725	2,705	2,685
87,250	87,500	2,815	2,795	2,775	2,755	2,735	2,715	2,695
87,500	87,750	2,825	2,805	2,785	2,765	2,745	2,725	2,705
87,750	88,000	2,835	2,815	2,795	2,775	2,755	2,735	2,715
88,000	88,250	2,845	2,825	2,805	2,785	2,765	2,745	2,725
88,250	88,500	2,855	2,835	2,815	2,795	2,775	2,755	2,735
88,500	88,750	2,865	2,845	2,825	2,805	2,785	2,765	2,745
88,750	89,000	2,875	2,855	2,835	2,815	2,795	2,775	2,755
89,000	89,250	2,885	2,865	2,845	2,825	2,805	2,785	2,765
89,250	89,500	2,895	2,875	2,855	2,835	2,815	2,795	2,775
89,500	89,750	2,905	2,885	2,865	2,845	2,825	2,805	2,785
89,750	90,000	2,915	2,895	2,875	2,855	2,835	2,815	2,795
90,000	90,250	2,925	2,905	2,885	2,865	2,845	2,825	2,805
90,250	90,500	2,935	2,915	2,895	2,875	2,855	2,835	2,815
90,500	90,750	2,945	2,925	2,905	2,885	2,865	2,845	2,825
90,750	91,000	2,955	2,935	2,915	2,895	2,875	2,855	2,835
91,000	91,250	2,965	2,945	2,925	2,905	2,885	2,865	2,845
91,250	91,500	2,975	2,955	2,935	2,915	2,895	2,875	2,855
91,500	91,750	2,985	2,965	2,945	2,925	2,905	2,885	2,865
91,750	92,000	2,995	2,975	2,955	2,935	2,915	2,895	2,875
92,000	92,250	3,005	2,985	2,965	2,945	2,925	2,905	2,885
92,250	92,500	3,015	2,995	2,975	2,955	2,935	2,915	2,895
92,500	92,750	3,025	3,005	2,985	2,965	2,945	2,925	2,905
92,750	93,000	3,035	3,015	2,995	2,975	2,955	2,935	2,915
93,000	93,250	3,045	3,025	3,005	2,985	2,965	2,945	2,925
93,250	93,500	3,055	3,035	3,015	2,995	2,975	2,955	2,935
93,500	93,750	3,065	3,045	3,025	3,005	2,985	2,965	2,945

Married Filing Jointly Or Qualifying Widow(er) Filing Status									
If your Louisiana tax table income:		And the total exemptions claimed is:							
At Least	Less Than	2	3	4	5	6	7	8	8
Your Louisiana tax is:									
93,750	94,000	3,075	3,055	3,035	3,015	2,995	2,975	2,955	
94,000	94,250	3,085	3,065	3,045	3,025	3,005	2,985	2,965	
94,250	94,500	3,095	3,075	3,055	3,035	3,015	2,995	2,975	
94,500	94,750	3,105	3,085	3,065	3,045	3,025	3,005	2,985	
94,750	95,000	3,115	3,095	3,075	3,055	3,035	3,015	2,995	
95,000	95,250	3,125	3,105	3,085	3,065	3,045	3,025	3,005	
95,250	95,500	3,135	3,115	3,095	3,075	3,055	3,035	3,015	
95,500	95,750	3,145	3,125	3,105	3,085	3,065	3,045	3,025	
95,750	96,000	3,155	3,135	3,115	3,095	3,075	3,055	3,035	
96,000	96,250	3,165	3,145	3,125	3,105	3,085	3,065	3,045	
96,250	96,500	3,175	3,155	3,135	3,115	3,095	3,075	3,055	
96,500	96,750	3,185	3,165	3,145	3,125	3,105	3,085	3,065	
96,750	97,000	3,195	3,175	3,155	3,135	3,115	3,095	3,075	
97,000	97,250	3,205	3,185	3,165	3,145	3,125	3,105	3,085	
97,250	97,500	3,215	3,195	3,175	3,155	3,135	3,115	3,095	
97,500	97,750	3,225	3,205	3,185	3,165	3,145	3,125	3,105	
97,750	98,000	3,235	3,215	3,195	3,175	3,155	3,135	3,115	
98,000	98,250	3,245	3,225	3,205	3,185	3,165	3,145	3,125	
98,250	98,500	3,255	3,235	3,215	3,195	3,175	3,155	3,135	
98,500	98,750	3,265	3,245	3,225	3,205	3,185	3,165	3,145	
98,750	99,000	3,275	3,255	3,235	3,215	3,195	3,175	3,155	
99,000	99,250	3,285	3,265	3,245	3,225	3,205	3,185	3,165	
99,250	99,500	3,295	3,275	3,255	3,235	3,215	3,195	3,175	
99,500	99,750	3,305	3,285	3,265	3,245	3,225	3,205	3,185	
99,750	100,000	3,315	3,295	3,275	3,255	3,235	3,215	3,195	
100,000	100,250	3,328	3,308	3,288	3,268	3,248	3,228	3,208	
100,250	100,500	3,343	3,323	3,303	3,283	3,263	3,243	3,223	
100,500	100,750	3,358	3,338	3,318	3,298	3,278	3,258	3,238	
100,750	101,000	3,373	3,353	3,333	3,313	3,293	3,273	3,253	

Plus 6% of Tax Table Income in Excess of \$101,000

Head Of Household Filing Status									
If your Louisiana tax table income:		And the total exemptions claimed is:							
At Least	Less Than	1	2	3	4	5	6	7	8
Your Louisiana tax is:									
0	9,000	0	0	0	0	0	0	0	0
9,000	9,250	3	0	0	0	0	0	0	0
9,250	9,500	8	0	0	0	0	0	0	0
9,500	9,750	13	0	0	0	0	0	0	0
9,750	10,000	18	0	0	0	0	0	0	0
10,000	10,250	23	3	0	0	0	0	0	0
10,250	10,500	28	8	0	0	0	0	0	0
10,500	10,750	33	13	0	0	0	0	0	0

Head Of Household Filing Status									
If your Louisiana tax table income:		And the total exemptions claimed is:							
At Least	Less Than	1	2	3	4	5	6	7	8
		Your Louisiana tax is:							
10,750	11,000	38	18	0	0	0	0	0	0
11,000	11,250	43	23	3	0	0	0	0	0
11,250	11,500	48	28	8	0	0	0	0	0
11,500	11,750	53	33	13	0	0	0	0	0
11,750	12,000	58	38	18	0	0	0	0	0
12,000	12,250	63	43	23	3	0	0	0	0
12,250	12,500	68	48	28	8	0	0	0	0
12,500	12,750	75	55	35	15	0	0	0	0
12,750	13,000	85	65	45	25	0	0	0	0
13,000	13,250	95	75	55	35	5	0	0	0
13,250	13,500	105	85	65	45	15	0	0	0
13,500	13,750	115	95	75	55	25	0	0	0
13,750	14,000	125	105	85	65	35	0	0	0
14,000	14,250	135	115	95	75	45	5	0	0
14,250	14,500	145	125	105	85	55	15	0	0
14,500	14,750	155	135	115	95	65	25	0	0
14,750	15,000	165	145	125	105	75	35	0	0
15,000	15,250	175	155	135	115	85	45	5	0
15,250	15,500	185	165	145	125	95	55	15	0
15,500	15,750	195	175	155	135	105	65	25	0
15,750	16,000	205	185	165	145	115	75	35	0
16,000	16,250	215	195	175	155	125	85	45	5
16,250	16,500	225	205	185	165	135	95	55	15
16,500	16,750	235	215	195	175	145	105	65	25
16,750	17,000	245	225	205	185	155	115	75	35
17,000	17,250	255	235	215	195	165	125	85	45
17,250	17,500	265	245	225	205	175	135	95	55
17,500	17,750	275	255	235	215	185	145	105	65
17,750	18,000	285	265	245	225	195	155	115	75
18,000	18,250	295	275	255	235	205	165	125	85
18,250	18,500	305	285	265	245	215	175	135	95
18,500	18,750	315	295	275	255	225	185	145	105
18,750	19,000	325	305	285	265	235	195	155	115
19,000	19,250	335	315	295	275	245	205	165	125
19,250	19,500	345	325	305	285	255	215	175	135
19,500	19,750	355	335	315	295	265	225	185	145
19,750	20,000	365	345	325	305	275	235	195	155
20,000	20,250	375	355	335	315	285	245	205	165
20,250	20,500	385	365	345	325	295	255	215	175
20,500	20,750	395	375	355	335	305	265	225	185
20,750	21,000	405	385	365	345	315	275	235	195
21,000	21,250	415	395	375	355	325	285	245	205
21,250	21,500	425	405	385	365	335	295	255	215
21,500	21,750	435	415	395	375	345	305	265	225
21,750	22,000	445	425	405	385	355	315	275	235
22,000	22,250	455	435	415	395	365	325	285	245

Head Of Household Filing Status									
If your Louisiana tax table income:		And the total exemptions claimed is:							
At Least	Less Than	1	2	3	4	5	6	7	8
		Your Louisiana tax is:							
22,250	22,500	465	445	425	405	375	335	295	255
22,500	22,750	475	455	435	415	385	345	305	265
22,750	23,000	485	465	445	425	395	355	315	275
23,000	23,250	495	475	455	435	405	365	325	285
23,250	23,500	505	485	465	445	415	375	335	295

Head Of Household Filing Status									
If your Louisiana tax table income:		And the total exemptions claimed is:							
At Least	Less Than	1	2	3	4	5	6	7	8
		Your Louisiana tax is:							
23,500	23,750	515	495	475	455	425	385	345	305
23,750	24,000	525	505	485	465	435	395	355	315
24,000	24,250	535	515	495	475	445	405	365	325
24,250	24,500	545	525	505	485	455	415	375	335
24,500	24,750	555	535	515	495	465	425	385	345
24,750	25,000	565	545	525	505	475	435	395	355
25,000	25,250	575	555	535	515	485	445	405	365
25,250	25,500	585	565	545	525	495	455	415	375
25,500	25,750	595	575	555	535	505	465	425	385
25,750	26,000	605	585	565	545	515	475	435	395
26,000	26,250	615	595	575	555	525	485	445	405
26,250	26,500	625	605	585	565	535	495	455	415
26,500	26,750	635	615	595	575	545	505	465	425
26,750	27,000	645	625	605	585	555	515	475	435
27,000	27,250	655	635	615	595	565	525	485	445
27,250	27,500	665	645	625	605	575	535	495	455
27,500	27,750	675	655	635	615	585	545	505	465
27,750	28,000	685	665	645	625	595	555	515	475
28,000	28,250	695	675	655	635	605	565	525	485
28,250	28,500	705	685	665	645	615	575	535	495
28,500	28,750	715	695	675	655	625	585	545	505
28,750	29,000	725	705	685	665	635	595	555	515
29,000	29,250	735	715	695	675	645	605	565	525
29,250	29,500	745	725	705	685	655	615	575	535
29,500	29,750	755	735	715	695	665	625	585	545
29,750	30,000	765	745	725	705	675	635	595	555
30,000	30,250	775	755	735	715	685	645	605	565
30,250	30,500	785	765	745	725	695	655	615	575
30,500	30,750	795	775	755	735	705	665	625	585
30,750	31,000	805	785	765	745	715	675	635	595
31,000	31,250	815	795	775	755	725	685	645	605
31,250	31,500	825	805	785	765	735	695	655	615
31,500	31,750	835	815	795	775	745	705	665	625
31,750	32,000	845	825	805	785	755	715	675	635
32,000	32,250	855	835	815	795	765	725	685	645
32,250	32,500	865	845	825	805	775	735	695	655

Head Of Household Filing Status									
If your Louisiana tax table income:		And the total exemptions claimed is:							
At Least	Less Than	1	2	3	4	5	6	7	8
		Your Louisiana tax is:							
32,500	32,750	875	855	835	815	785	745	705	665
32,750	33,000	885	865	845	825	795	755	715	675
33,000	33,250	895	875	855	835	805	765	725	685
33,250	33,500	905	885	865	845	815	775	735	695
33,500	33,750	915	895	875	855	825	785	745	705
33,750	34,000	925	905	885	865	835	795	755	715
34,000	34,250	935	915	895	875	845	805	765	725
34,250	34,500	945	925	905	885	855	815	775	735
34,500	34,750	955	935	915	895	865	825	785	745
34,750	35,000	965	945	925	905	875	835	795	755
35,000	35,250	975	955	935	915	885	845	805	765
35,250	35,500	985	965	945	925	895	855	815	775
35,500	35,750	995	975	955	935	905	865	825	785
35,750	36,000	1,005	985	965	945	915	875	835	795
36,000	36,250	1,015	995	975	955	925	885	845	805
36,250	36,500	1,025	1,005	985	965	935	895	855	815
36,500	36,750	1,035	1,015	995	975	945	905	865	825
36,750	37,000	1,045	1,025	1,005	985	955	915	875	835
37,000	37,250	1,055	1,035	1,015	995	965	925	885	845
37,250	37,500	1,065	1,045	1,025	1,005	975	935	895	855
37,500	37,750	1,075	1,055	1,035	1,015	985	945	905	865
37,750	38,000	1,085	1,065	1,045	1,025	995	955	915	875
38,000	38,250	1,095	1,075	1,055	1,035	1,005	965	925	885

Head Of Household Filing Status									
If your Louisiana tax table income:		And the total exemptions claimed is:							
At Least	Less Than	1	2	3	4	5	6	7	8
		Your Louisiana tax is:							
38,250	38,500	1,105	1,085	1,065	1,045	1,015	975	935	895
38,500	38,750	1,115	1,095	1,075	1,055	1,025	985	945	905
38,750	39,000	1,125	1,105	1,085	1,065	1,035	995	955	915
39,000	39,250	1,135	1,115	1,095	1,075	1,045	1,005	965	925
39,250	39,500	1,145	1,125	1,105	1,085	1,055	1,015	975	935
39,500	39,750	1,155	1,135	1,115	1,095	1,065	1,025	985	945
39,750	40,000	1,165	1,145	1,125	1,105	1,075	1,035	995	955
40,000	40,250	1,175	1,155	1,135	1,115	1,085	1,045	1,005	965
40,250	40,500	1,185	1,165	1,145	1,125	1,095	1,055	1,015	975
40,500	40,750	1,195	1,175	1,155	1,135	1,105	1,065	1,025	985
40,750	41,000	1,205	1,185	1,165	1,145	1,115	1,075	1,035	995
41,000	41,250	1,215	1,195	1,175	1,155	1,125	1,085	1,045	1,005
41,250	41,500	1,225	1,205	1,185	1,165	1,135	1,095	1,055	1,015
41,500	41,750	1,235	1,215	1,195	1,175	1,145	1,105	1,065	1,025
41,750	42,000	1,245	1,225	1,205	1,185	1,155	1,115	1,075	1,035
42,000	42,250	1,255	1,235	1,215	1,195	1,165	1,125	1,085	1,045
42,250	42,500	1,265	1,245	1,225	1,205	1,175	1,135	1,095	1,055
42,500	42,750	1,275	1,255	1,235	1,215	1,185	1,145	1,105	1,065

Head Of Household Filing Status									
If your Louisiana tax table income:		And the total exemptions claimed is:							
At Least	Less Than	1	2	3	4	5	6	7	8
Your Louisiana tax is:									
42,750	43,000	1,285	1,265	1,245	1,225	1,195	1,155	1,115	1,075
43,000	43,250	1,295	1,275	1,255	1,235	1,205	1,165	1,125	1,085
43,250	43,500	1,305	1,285	1,265	1,245	1,215	1,175	1,135	1,095
43,500	43,750	1,315	1,295	1,275	1,255	1,225	1,185	1,145	1,105
43,750	44,000	1,325	1,305	1,285	1,265	1,235	1,195	1,155	1,115
44,000	44,250	1,335	1,315	1,295	1,275	1,245	1,205	1,165	1,125
44,250	44,500	1,345	1,325	1,305	1,285	1,255	1,215	1,175	1,135
44,500	44,750	1,355	1,335	1,315	1,295	1,265	1,225	1,185	1,145
44,750	45,000	1,365	1,345	1,325	1,305	1,275	1,235	1,195	1,155
45,000	45,250	1,375	1,355	1,335	1,315	1,285	1,245	1,205	1,165
45,250	45,500	1,385	1,365	1,345	1,325	1,295	1,255	1,215	1,175
45,500	45,750	1,395	1,375	1,355	1,335	1,305	1,265	1,225	1,185
45,750	46,000	1,405	1,385	1,365	1,345	1,315	1,275	1,235	1,195
46,000	46,250	1,415	1,395	1,375	1,355	1,325	1,285	1,245	1,205
46,250	46,500	1,425	1,405	1,385	1,365	1,335	1,295	1,255	1,215
46,500	46,750	1,435	1,415	1,395	1,375	1,345	1,305	1,265	1,225
46,750	47,000	1,445	1,425	1,405	1,385	1,355	1,315	1,275	1,235
47,000	47,250	1,455	1,435	1,415	1,395	1,365	1,325	1,285	1,245
47,250	47,500	1,465	1,445	1,425	1,405	1,375	1,335	1,295	1,255
47,500	47,750	1,475	1,455	1,435	1,415	1,385	1,345	1,305	1,265
47,750	48,000	1,485	1,465	1,445	1,425	1,395	1,355	1,315	1,275
48,000	48,250	1,495	1,475	1,455	1,435	1,405	1,365	1,325	1,285
48,250	48,500	1,505	1,485	1,465	1,445	1,415	1,375	1,335	1,295
48,500	48,750	1,515	1,495	1,475	1,455	1,425	1,385	1,345	1,305
48,750	49,000	1,525	1,505	1,485	1,465	1,435	1,395	1,355	1,315
49,000	49,250	1,535	1,515	1,495	1,475	1,445	1,405	1,365	1,325
49,250	49,500	1,545	1,525	1,505	1,485	1,455	1,415	1,375	1,335
49,500	49,750	1,555	1,535	1,515	1,495	1,465	1,425	1,385	1,345
49,750	50,000	1,565	1,545	1,525	1,505	1,475	1,435	1,395	1,355
50,000	50,250	1,578	1,558	1,538	1,518	1,488	1,448	1,408	1,368
50,250	50,500	1,593	1,573	1,553	1,533	1,503	1,463	1,423	1,383
50,500	50,750	1,608	1,588	1,568	1,548	1,518	1,478	1,438	1,398
50,750	51,000	1,623	1,603	1,583	1,563	1,533	1,493	1,453	1,413

Plus 6% of Tax Table Income in Excess of \$51,000

B. Nonresidents and Part-Year Residents. Compute tax table income as defined in R.S. 47:293(10). Reduce the tax table income by the total amount of personal exemptions and deductions allowed for in R.S. 47:294, and increase the tax table income by the proportionate share of those personal

exemptions and deductions as provided by R.S. 47:293(10). The resulting amount is considered taxable income. The tax due for nonresidents and part-year residents shall be determined using one of the following tables depending on your filing status:

1. Married Individuals Filing Joint Returns and Qualified Surviving Spouses

<i>If taxable income is:</i>	<i>The tax is:</i>
Not over \$25,000	2% of taxable income excluding the proportionate share of personal exemptions and deductions allowed for in R.S. 47:294.
Over \$25,000 but not over \$100,000	\$500 plus 4% of the excess over \$25,000. This amount is to be reduced by 2% of the first \$25,000 of the proportionate share of personal exemptions and deductions and 4% of the proportionate share of personal exemptions and deductions over \$25,000.
Over \$100,000	\$3,500 plus 6% of the excess over \$100,000. This amount is to be reduced by 2% of the first \$25,000 of the proportionate share of personal exemptions and deductions and 4% of the proportionate share of personal exemptions and deductions over \$25,000 but not over \$100,000 and 6% of the proportionate share of personal exemptions and deductions over \$100,000.

2. Single Individuals and Married Individuals Filing Separate Returns

<i>If taxable income is:</i>	<i>The tax is:</i>
Not over \$12,500	2% of taxable income excluding the proportionate share of personal exemptions and deductions allowed for in R.S. 47:294.
Over \$12,500 but not over \$50,000	\$250 plus 4% of the excess over \$12,500. This amount is to be reduced by 2% of the first \$12,500 of the proportionate share of personal exemptions and deductions and 4% of the proportionate share of personal exemptions and deductions over \$12,500.
Over \$50,000	\$1,750 plus 6% of the excess over \$50,000. This amount is to be reduced by 2% of the first \$12,500 of the proportionate share of personal exemptions and deductions and 4% of the proportionate share of personal exemptions and deductions over \$12,500 but not over \$50,000 and 6% of the proportionate share of personal exemptions and deductions over \$50,000.

3. Head of Households

<i>If taxable income is:</i>	<i>The tax is:</i>
Not over \$12,500	2% of taxable income excluding the proportionate share of personal exemptions and deductions allowed for in R.S. 47:294.
Over \$12,500 but not over \$50,000	\$250 plus 4% of the excess over \$12,500. This amount is to be reduced by 2% of the first \$12,500 of the proportionate share of personal exemptions and deductions and 4% of the proportionate share of personal exemptions and deductions over \$12,500.
Over \$50,000	\$1,750 plus 6% of the excess over \$50,000. This amount is to be reduced by 2% of the first \$12,500 of the proportionate share of personal exemptions and deductions and 4% of the proportionate share of personal exemptions and deductions over \$12,500 but not over \$50,000 and 6% of the proportionate share of personal exemptions and deductions over \$50,000.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:295 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Revenue, Policy Services Division, LR 29:1502 (August 2003), amended LR 35:

Family Impact Statement

This proposed Rule, LAC 61:I.1310, which establishes the individual income tax tables based on the new individual income tax brackets provided by Act 396 of the 2008 Regular Session of the Louisiana Legislature, should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. The implementation of this proposed Rule will have no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budgets;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform this function.

Interested persons may submit written data, views, arguments or comments regarding this proposed rule to Leonore Heavey, Senior Policy Consultant, Policy Services Division, by mail to P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to 225-219-2759. All comments must be received no later than 4:30 p.m., Wednesday October 28, 2009. A public hearing will be held on Thursday October 29, 2009 at 1:30 p.m. in the River room on the seventh floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA 70802.

Cynthia Bridges
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Individual Income Tax Tables

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This proposed amendment to LAC 61:I.1310 establishes the individual income tax tables based on the new income tax rates and brackets provided for in Act 396 of the 2008 Regular Session. The Act imposes the individual income tax on joint returns as follows: 2% of the first \$25,000, 4% of income from \$25,000 to \$100,000, and 6% of income over \$100,000. For single filer returns the bracket thresholds are one-half those of joint returns.

Implementation of this proposed regulation as amended will result in additional costs to the state of less than \$100,000 associated with system reprogramming, testing, and form adjustment to incorporate the changes.

This additional cost will be absorbed within the current agency budget.

There will be no costs or savings to local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Effective January 1, 2009 Act 396 of 2008 expands the 4 percent income tax bracket. This will result in a decrease in state revenues. The income tax losses over the next several years are \$359 million for FY 09/10, \$251 million for FY 10/11, \$262 million for FY 11/12 and \$273 million for FY 12/13, according to the Legislative Fiscal Office.

There will be no impact on local revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed amendment establishes for resident, non-resident, and part-year resident individuals tax tables that these individuals will use to determine the tax due on their tax table income beginning with the 2009 tax year.

The effect on individuals from this proposed amendment is for a lesser amount of individual income tax to be assessed than was previously.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed amended rule should not affect competition or employment.

Cynthia Bridges
Secretary
0909#051

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Social Services
Office of Community Services**

Residential Licensing (LAC 67:V.Chapters 61-71)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Department of Social Services, Office of Community Services, intends to promulgate rules in the *Louisiana Administrative Code* (LAC) Title 67, Part V. Subpart 8. Residential Licensing, to comply with Acts 388 and 400 of the 2009 Regular Session of the Louisiana Legislature.

Act No. 400 of the 2009 Regular Legislative Session requires the transfer of functions related to the licensure of child care facilities, other than daycare centers, and child placing agencies, and related matters, from the Office of the Secretary to the Office of Community Services within the Department of Social Services.

LAC 67:I Chapters 11, 13, 15, 17, and 19 were moved to LAC 67:V in the newly adopted Subpart 8 by a Rule published in the August 2009 issue of the *Louisiana Register* and renumbered as follows.

Previous Placement	Current Placement
Title 67	Title 67
Part I. Subpart 2	Part V. Subpart 8
Chapter 11	Chapter 61
Chapter 13	Chapter 63
Chapter 15	Chapter 65
Chapter 17	Chapter 67
Chapter 19	Chapter 69

In this Notice of Intent LAC 67 Chapters 63, 65 and 67 (previous Chapters 13, 15 and 17) will remain intact without amendment. Chapter 61 and 69 (previous Chapters 11 and 19) are being repealed. Licensing regulations previously contained in these two chapters have been consolidated and rewritten. It is the intent of the Office of Community Services to promulgate those licensing regulations as Chapter 71. Child Residential Care in accordance with R.S. 46:1401 et seq.

Additionally, Act 388 mandates the disclosure of recordation on the state central registry for owners, operators, current or prospective employees, and volunteers

in child care facilities licensed by the department. This requirement is being incorporated into the new child residential licensing regulations of Chapter 71.

Title 67

SOCIAL SERVICES

Part V. Community Services

Subpart 8. Residential Licensing

Chapter 61. Emergency Shelter

§6101. General

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources Office of the Secretary Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2669 (December 2007), repromulgated by the Department of Social Services, Office of Community Service, LR 35:1543 (August 2009), repealed LR 35:

§6103. Organization and Administration

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2669 (December 2007), repromulgated by the Department of Social Services, Office of Community Service, LR 35: 1543 (August 2009), repealed LR 35:

§6105. Personnel

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2670 (December 2007), repromulgated by the Department of Social Services, Office of Community Service, LR 35: 1543 (August 2009), repealed LR 35:

§6107. Admission, Intake and Acceptance of Children

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2672 (December 2007), repromulgated by the Department of Social Services, Office of Community Service, LR 35: 1543 (August 2009), repealed LR 35:

§6109. Child Care, Development and Training

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2673 (December 2007), repromulgated by the Department of Social Services, Office

of Community Service, LR 35:1543 (August 2009), repealed LR 35:

§6111. Children's Rights

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2674 (December 2007), repromulgated by the Department of Social Services, Office of Community Service, LR 35: 1543 (August 2009), repealed LR 35:

§6113. Building, Grounds and Equipment

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2676 (December 2007), repromulgated by the Department of Social Services, Office of Community Service, LR 35: 1543 (August 2009), repealed LR 35:

§6115. Required Records and Reports

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

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§6117. Appendix I

Repealed.

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HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2678 (December 2007), repromulgated by the Department of Social Services, Office of Community Service, LR 35: 1543 (August 2009), repealed LR 35:

Chapter 63. Foster Care/Substitute Family Care

§6301. Definitions

NOTE: This Section has been moved from LAC 67:I.1301.

Client—a person placed in foster home by a placing agency.

Corporal Punishment—punishment inflicted in any manner upon the body.

Foster Home—a family home providing 24-hour care for clients unrelated to adult members of the household by blood, marriage, guardianship or adoption.

Foster Parent(s)—either a single person or a legally married couple approved to provide foster care.

Placing Agency—any organization legally authorized to place clients in foster home.

Related—includes individuals within the following degrees of relationship whether by blood, half-blood,

adoption, or marriage: parent, spouse, sibling, grandparent, uncle, aunt, niece, nephew, son, daughter, grandchild, and first cousin. This includes persons of preceding generations denoted by prefixes of "great" and also includes persons whose relationship is denoted by prefixes of "step".

Service Plan—a comprehensive, time-limited, goal-oriented, individualized plan for the care, treatment and education of a client in care of a foster home. The service plan is based on a current comprehensive evaluation of the client's needs.

Substitute Family Care (SFC)—an arrangement wherein both children and adults with specific handicapping conditions are placed in the private homes of persons not related, as defined above, to clients. (NOTE: Exceptions with regard to relatedness may be made subject to the approval of the appropriate program office). Program administration and specialized professional and support services are provided through agents of the program office of DHHR responsible for providing services to individuals with specified disabilities.

Single Person—a person who is unmarried, separated, divorced, or widowed.

Training—any activity outside the normal routine of the foster home which promotes the development of skills related to client care, increases the knowledge of the person involved in a related field or fosters the development of increased professionalism.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 35:

§6303. Qualifications

NOTE: This Section has been moved from LAC 67:I.1303.

A. Age

1. Foster parent(s) shall have a birth certificate or other document as evidence that they meet the following age requirements.

a. A foster parent shall be at least 21 years of age.

b. Persons receiving initial approval as foster parent(s) shall be less than 65 years of age.

2. Except with regard to the above age limitations, the age of foster parent(s) shall be considered only as it affects the ability of the foster parent(s) to care for the client(s).

B. Marital Status

1. Foster parent(s) shall be either a single person or a legally married couple.

C. Income

1. Foster parent(s) shall have sufficient income to meet their needs and ensure the security and stability of the household, independent of foster care maintenance payments.

D. Employment

1. A single foster parent or a foster parent couple who both work outside the home shall have a plan for caring for client(s) approved by the placing agency.

2. Foster parent(s) shall obtain approval from the placing agency for a business conducted in the home, demonstrating that the activities related to this business will not interfere with the care of the client(s).

a. A foster home shall not be used as a lodging for transient roomers or as a day care center for non-related children.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 35:

§6305. Personal Characteristics

NOTE: This Section has been moved from LAC 67:I.1305.

A. General

1. Foster parent(s) shall demonstrate emotional stability, good character, a responsible adult life style, freedom from excessive use of alcohol or use of illegal drugs and the ability to provide appropriate supervision, humane care, reasonable discipline and a home-like environment for the client(s).

a. Foster parent(s) shall demonstrate a capacity for setting realistic expectations for behavior and performance based on age, abilities and disabilities of the client(s).

b. Foster parent(s) shall demonstrate the emotional stability of a healthy adult as evidenced by a willingness to discuss and deal appropriately with their own feelings of anger, frustration, sorrow, conflict and affection and those of others.

B. Criminal Record Check

1. Foster parent(s) and all other members of the household 18 years of age or older shall sign a release for a criminal record check and shall be free of convictions, indictment or substantial evidence of involvement in any criminal activity involving violence against a person, serious sexual misconduct, gross irresponsibility or disregard for the safety of others or serious violations of accepted standards or ethical conduct.

a. Exceptions to the above requirement shall be made, at the discretion of the placing agency, when the criminal activity is not recent or is not sufficiently serious to warrant disqualification and poses no current or future threat to the health, safety, or well-being of the client(s).

C. References

1. Foster parent(s) shall provide the names, addresses and telephone numbers of five persons who may be contacted by the placing agency as personal references.

a. At least three of the required references shall be persons not related to the foster parent(s) by blood or marriage.

D. Informed Consent of Household

1. Foster parent(s) shall ensure that all members of the household are informed of and agree to the acceptance of the client(s) into the home.

a. Exceptions to the above requirement shall be made, at the discretion of the placing agency, when the household member involved is incapable of communication or informed decision-making and poses no threat to the health, safety or well-being of the client(s).

E. Health

1. Foster parent(s) shall, as required by the placing agency, provide information on the physical and mental health history of every member of the household.

2. Members of the household must be free of communicable diseases, specific illnesses or disabilities which would either endanger the health of the client(s) or interfere with the capability of the household to provide adequate care for the client(s).

3. Foster parent(s) shall, on request, provide a medical statement from a licensed physician verifying that household members are free of communicable diseases, specific

illnesses or disabilities which would either endanger the health of the client(s) or interfere with the capability of the household to provide adequate care for the client(s).

4. Handicapping conditions of foster parent(s) or household members are to be considered only as they affect the ability of the household to care for the client(s).

F. Physical Examination

1. Prior to initial approval of the foster home, a licensed physician shall examine the foster parent(s) and certify that they are free of tuberculosis and other communicable diseases, specific illnesses or disabilities which would either endanger the health of the client(s) or interfere with the capability of the foster parent(s) to care for the client(s).

a. Physical examinations shall be updated every three years. Tuberculosis scans are not required for follow-up examinations.

b. Foster parent(s) shall obtain a physical examination and provide a written report on the findings of this examination whenever required to do so by the placing agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 35:

§6307. Professional Responsibilities

NOTE: This Section has been moved from LAC 67:I.1307.

A. Training

1. Foster parent(s) shall complete an initial orientation and training program involving at least six hours of training activities prior to accepting the first foster client.

a. Exceptions to the above requirements may be granted when a client requires emergency placement. In such circumstances, the foster parents shall receive the initial six hours of training within 90 days of the placement of the initial client.

2. Foster parent(s) shall participate in at least 15 hours of approved training and consultation activities each year. These hours may be shared between both persons in a foster parent couple, but each person must receive at least five hours of training.

a. Exceptions to the above requirement may be granted at the discretion of the placing agency when foster parent(s) are considered sufficiently trained or experienced to provide high-quality foster care.

B. Records

1. Foster parent(s) are responsible for keeping records on the client(s) as required by the placing agency. Each client's record shall contain at least the following information:

a. client's name, age, religion and, if available, birth date;

b. names, addresses and telephone numbers of the client's caseworker and other representatives of the placing agency involved in monitoring the placement;

c. emergency telephone number(s) for obtaining consent for medical treatment;

d. date on which the client arrives and date the client leaves the home;

e. records on immunizations and medical treatment;

f. name, address and phone number of the client's physician;

g. a listing of any serious illnesses or hospitalization;

h. information regarding serious food or drug allergies and other chronic or handicapping conditions;

i. dates of family visits;

j. school reports or employment records;

k. names of relatives with whom contact may be maintained.

2. Foster parent(s) shall maintain records in a confidential manner which ensures that a client's record will not be read by persons not involved in the client's care and treatment. The client's record shall be given to the placing agency when the client leaves the foster home.

C. Capacity

1. Foster parent(s) shall not exceed the following maximum capacities of foster homes.

a. SFC foster parent(s) shall care for a maximum of four clients.

b. All other foster parent(s) shall have no more than eight dependents, including clients and their own children and shall care for a maximum of six clients.

c. Exceptions to the above maximum capacities may be granted at the discretion of the placing agency, when such exceptions will not have an adverse effect on the care of clients already in the home.

2. Foster parent(s) shall not care for more than two children who are under the age of two years, including their own children.

a. Exceptions to the above requirements may be granted at the discretion of the placing agency when such exception is considered to present no risk to the care of clients.

D. Relationship with the Placing Agency

1. Foster parent(s) shall cooperate with the placing agency staff in home surveys and in the ongoing monitoring of the foster home.

a. Foster parent(s) shall provide the placing agency any information reasonably related to compliance with these requirements and shall allow representatives of the placing agency access to any member of the household and into all rooms within the home.

2. Foster parent(s) shall notify the placing agency prior to allowing any person to take up residence in the foster home.

3. Foster parent(s) shall notify the placing agency immediately in any of the following circumstances:

a. a serious injury or illness involving medical treatment of the client;

b. the death of a client;

c. unauthorized absence of the client from the home;

d. removal of the client from the home by any person or agency other than the placing agency; or attempts at such removal;

e. any fire or other emergency requiring evacuation of the home;

f. any serious altercations involving clients;

g. any involvement of client(s) with authorities;

h. in no instance shall notification of any of the above circumstances be given later than 12 hours after the occurrence.

4. Foster parent(s) shall inform the placing agency at least four weeks prior to a planned move of the family home.

5. Foster parent(s) shall inform the placing agency as soon as possible in any of the following circumstances:

a. any serious illness or death in the household;

b. the departure of any member of the household;

c. any other circumstances or incident seriously affecting clients or client care.

E. Goal-Setting Conference

1. Foster parent(s) will participate in an annual goal-setting conference with the placing agency to evaluate the strengths and weaknesses of the foster home and of the supportive relationships of placing agency representatives with foster parent(s). This conference will result in a brief written plan, provided by the placing agency to all parties to improve services and relationships.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 35:

§6309. Client Care and Treatment

NOTE: This Section has been moved from LAC 67:I.1309.

A. The Care and Treatment Team

1. Foster parent(s) will work cooperatively with placing agency representatives as members of a treatment team responsible for planning, providing and discussing the total care and services provided to each client.

a. Foster parent(s) shall fully disclose all information related to a client's problems or progress to placing agency representatives.

2. Foster parent(s) shall treat any personal information about a client or the client's family in a confidential manner.

B. Support System

1. Foster parent(s) shall have an adequate support system for supervising and providing care for client(s) on an ongoing basis while allowing foster parent(s) opportunities for conducting personal business and for enjoying occasional breaks from the responsibility for caring for client(s).

a. Any person given the responsibility for the client(s) on a regular basis must be identified to and approved by the placing agency.

C. The Client's Family

1. When the client is minor when and adult client's family is available and accepting of contact with the client, foster parent(s) shall maintain a working relationship with the client's family in accordance with the client's service plan and in cooperation with placing agency staff. In such circumstances, the foster parent(s) will participate in planning for and providing visits by the client with his/her biological parents, friends, and other family members.

2. Foster parent(s) shall allow biological parents and other family members to communicate with the client by mail and by telephone in accordance with the client's service plan.

D. Client Care

1. Daily Routine

a. Foster parent(s) shall provide a flexible daily routine for the client(s). This routine shall be similar to the routine of other family home and shall be developed to be appropriate to each client's age and abilities.

i. Opportunities shall be provided for experiencing normal social life in the community, for recreation, for appropriate physical exercise and for intellectual, spiritual and emotional growth.

2. Household Tasks

a. Foster parent(s) shall only expect a client to perform household tasks which are within the client's abilities, are reasonable for the client's age and are similar to those expected of other household members.

b. Foster parent(s) shall as appropriate, teach the client(s) the tasks and skills required for independent life in the community.

3. Food and Nutrition

a. Foster parent(s) shall ensure that each client is provided with three nutritionally balanced meals a day and shall, in accordance with the client's service plan or on the advice of a licensed physician, provide for special dietary needs of a client.

i. The dietary laws of a client's religion shall be observed in the food provided to that client.

4. Clothing

a. Foster parent(s) shall ensure that each client is provided with adequate, well-fitting, clean clothing appropriate to the season and to the client's age, sex, activities and individual needs. Clothing shall be in good repair and shall be reasonably fashionable and in style.

i. A client's clothing shall be of a quality commensurate with that of other household members and shall meet community standards.

ii. A client's clothing shall be his/her own, not shared in common.

iii. A client's clothing shall go with the client at the time of discharge.

iv. Second-hand shoes shall not be provided.

5. Personal Belongings

a. Foster parent(s) shall ensure that each client is provided with clean towels, washcloths, his/her own toothbrush, his/her own comb or hair brush and other toiletry items suitable to the client's age and sex.

b. Foster parent(s) shall allow the client(s) to bring, possess and acquire personal belongings subject only to reasonable household rules and the client's service plan.

i. Personal belongings shall be sent with the client when he/she leaves the home.

6. Money

a. Foster parents shall ensure that the client(s) have the opportunity to have spending money in amounts appropriate to their age and abilities, either through a regular allowance, paid work, employment or money paid directly to the client from other sources.

i. A client's money from any source shall be his/her own and may be subject to restrictions only according to his/her service plan.

ii. Clients shall not be required to pay for any mandated foster home service, except according to their service plans.

iii. Clients shall not be required to pay for necessary toiletry items.

b. Foster parent(s) shall, as appropriate to the client's age and abilities make every effort to teach good habits of money management, budgeting and shopping.

7. Hygiene

a. Foster parent(s) shall, through careful daily monitoring, make every effort to teach a client good habits of personal hygiene and grooming appropriate to the client's sex, age and culture.

8. Heritage

a. Foster parent(s) shall recognize, encourage and support the religious beliefs, ethnic heritage and language of a client and his/her family.

b. Foster parent(s) shall allow a client freedom to express his/her feelings about his/her family, past, current status and future.

c. Foster parent(s) shall, whenever possible, arrange transportation for clients to attend religious services or ethnic events in the community.

9. Discipline and Control

a. Foster parent(s) shall provide loving and humane discipline and control for a client as appropriate to the client's age and understanding.

i. Methods of control shall stress praise and encouragement for good behavior, rather than punishments for bad behavior.

b. Foster parent(s) shall not allow the client(s) to be subjected to verbal abuse, derogatory remarks about themselves or their families or threats of removal from the foster home.

c. Foster parents shall not use the following punishments or permit their use by others on clients:

i. any cruel, severe, humiliating or unusual punishment;

ii. corporal punishment;

iii. denial of adequate nourishment, shelter, clothing or other basic services;

iv. denial of family contact when used as a punishment;

v. physically strenuous exercise or harsh work;

vi. isolation in a locked room or any closet or other enclosed space;

vii. isolation in an unlocked room for more than one hour.

d. Foster parent(s) shall not punish a client for bedwetting or any other action currently beyond the client's control.

e. Foster parent(s) shall not allow a client to be punished by other clients, by individuals not known to the client or by any person not authorized to care for the client.

10. Exploitation and Client Rights: Foster parent(s) shall ensure that clients are protected from exploitation in any form and are allowed to enjoy the normal rights, freedoms and responsibilities of community life subject only to reasonable household rules, age-appropriate restrictions and restrictions in accordance with the client's service plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 35:

§6311. Medical and Dental

NOTE: This Section has been moved from LAC 67:I.1311.

A. Foster parent(s) shall cooperate in planning the medical and dental care and other therapeutic services for the client.

B. Foster parent(s) shall be responsible for arranging transportation for clients to all necessary medical and dental appointments.

C. Foster parent(s) shall arrange or cooperate in arrangements for keeping immunizations current for the clients.

D. Foster parent(s) shall arrange or cooperate in arrangements for an annual physical examination of each client and medical appointments and follow-up appointments as needed.

E. Foster parent(s) shall arrange or cooperate in arrangements for regular dental appointments and follow-up appointments for the client(s). Foster parent(s) shall arrange for semi-annual dental checkups for clients three to six years of age and annual checkups for clients over six years of age.

F. Foster parent(s) shall immediately report to the placing agency any serious changes in the health of the client.

G. Foster parent(s) shall report to the placing agency any corrective or follow-up medical or dental care for the client needs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 35:

§6313. Medications

NOTE: This Section has been moved from LAC 67:I.1313.

A. Foster parents shall be responsible for ensuring that drugs ordered for the client are available, that such drugs and other medical supplies are safely stored and that the client receives the drugs ordered in accordance with prescription directions.

1. A client shall not be given a prescription drug not prescribed for that client.

2. Dosages of prescription medications shall be changed only by a doctor's order.

3. Foster parent(s) shall exercise good judgment in providing nonprescription medicines only when the client actually needs them and shall use non-prescription medications only in accordance with the directions on the label of the medicine.

4. Any frequent use of non-prescription medicine shall be reported to the placing agency.

5. Foster parent(s) shall make every effort to learn and look for potential negative side-effects of both prescription and non-prescription drugs and shall report any negative side-effect to a physician immediately.

6. At the request of the placing agency, foster parent(s) may be required to keep medication log for the client(s) detailing all medications given, the date and time, the name(s) of the client(s) and the signature of the person administering the medication.

B. When a client is placed on any drug prescribed to alter the client's mood or change the client's behavior, the foster parent(s) shall ensure that the placing agency is informed prior to giving the drug to the client.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 35:

§6315. Seizure Log

NOTE: This Section has been moved from LAC 67:I.1315.

A. At the request of the placing agency, foster parent(s) shall keep a log of seizure activity including:

1. the time of occurrence of the seizure;

2. a description of the seizure including duration, intensity and any unusual circumstances which may have precipitated the seizure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 35:

§6317. Recreation and Community Activities

NOTE: This Section has been moved from LAC 67:I.1317.

A. Foster parent(s) shall provide opportunities for physical exercise and recreational activities for the client(s) as appropriate to their ages and abilities.

B. Foster parent(s) shall encourage and provide opportunities for the client(s) to take part in community services and activities both with the foster family and, when possible, on their own.

1. Clients shall have opportunities for social interactions with persons of the opposite sex.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 35:

§6319. Education, Training and Employment

NOTE: This Section has been moved from LAC 67:I.1319.

A. Foster parent(s) shall cooperate in educational planning for the school-age client(s) and shall, when receiving a school-age client, ensure that immediate steps are taken to place the client in an appropriate, approved school program.

1. Clients shall be encouraged to become involved in appropriate extracurricular activities.

B. When a client is involved in a training program, sheltered employment program or employment in the community, foster parent(s) shall assist the client in meeting his/her commitments and responsibilities in accordance with the service plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 35:

§6321. Exterior Environment

NOTE: This Section has been moved from LAC 67:I.1321.

A. A foster home shall be reasonably safe, in good repair and comparable in appearance and maintenance to other family homes in the community.

B. The home and the exterior around the home shall be free from objects, materials and conditions which constitute a danger to the clients' served.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 35:

§6323. Play Area

NOTE: This Section has been moved from LAC 67:I.1323.

A. A foster home serving children shall have a safe outdoor play area which clients may use either on the property or within a reasonable distance of the property.

B. Any play equipment on the property shall be safe, well-constructed and suitable for the clients served.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 35:

§6325. Kitchen

NOTE: This Section has been moved from LAC 67:I.1325.

A. Foster parent(s) shall have the necessary equipment for the safe preparation, storage, serving and cleanup of meals.

B. Foster parent(s) shall maintain all cooking areas and cooking and refrigeration equipment in working and sanitary condition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 35:

§6327. Dining Area

NOTE: This Section has been moved from LAC 67:I.1327.

A. A foster home shall have a comfortable dining area with sufficient furniture to allow all members of the household to eat together.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 35:

§6329. Living Room

NOTE: This Section has been moved from LAC 67:I.1329.

A. A foster home shall have living and family room space comfortably furnished and accessible to the client(s) and sufficiently large to accommodate the various activities of the family.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 35:

§6331. Bedrooms

NOTE: This Section has been moved from LAC 67:I.1331.

A. Sleeping arrangements in a foster home shall be subject to the prior approval of the placing agency.

B. Foster parent(s) shall permit no more than four clients to a bedroom.

C. Foster parent(s) shall provide each client with his/her own bed and each infant with his/her own crib. The bed shall be no shorter than the client's height and no less than 30 inches wide. It shall have a clean, comfortable, non-toxic mattress.

D. Foster parent(s) shall provide bed linens and sufficient blankets and pillows for all clients.

E. Foster parent(s) shall not permit clients over the age of four years to share a bedroom with a person of the opposite sex.

1. Clients under the age of 18 years shall not share bedrooms with adults, except when a client's needs close supervision due to illness or except at the discretion of the placing agency.

F. Foster parent(s) shall provide a chest, dresser or other adequate storage space for a client's clothing and personal belongings in the client's bedroom. A designated space for hanging up clothes shall be provided near the client's sleeping area.

G. Foster parent(s) shall allow some scope in the decoration of sleeping areas for the personal tastes and expressions of the clients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 35:

§6333. Bathrooms

NOTE: This Section has been moved from LAC 67:I.1333.

A. A foster home shall have a minimum of one flush toilet, one wash basin with hot and cold running water, and one bath or shower with hot and cold water.

B. Foster parent(s) shall equip each bathroom with toilet paper, towels, soap, and other items required for personal hygiene.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 35:

§6335. General Safety

NOTE: This Section has been moved from LAC 67:I.1335.

A. A foster home shall be well heated and ventilated.

B. Foster parent(s) shall equip windows and doors with screens.

C. Foster parent(s) shall have access to a telephone within a reasonable distance of the home.

D. SFC foster parents shall have a telephone in the home.

E. Foster parent(s) shall ensure the safe storage of drugs, poisons, or other harmful materials.

F. Foster parent(s) shall store firearms and ammunition in areas not normally accessible to clients. More stringent requirements may be imposed, at the discretion of the placing agency, depending on the ages and capabilities of clients in the home.

1. Foster parent(s) shall not purchase firearms for clients, permit clients to use firearms without written authorization from the placing agency.

G. Foster parent(s) shall have household first aid supplies for treating minor cuts, burns and other minor injuries.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 35:

§6337. Fire Safety

NOTE: This Section has been moved from LAC 67:I.1337.

A. A foster home shall be free from fire hazards.

1. Foster parent(s) shall, at the request of the placing agency, submit their home to inspection by a fire safety expert.

B. A foster home shall be equipped with an operating smoke alarm on each floor used for sleeping.

C. Foster parent(s) shall ensure that each client knows how to evacuate from the home in the event of a fire and shall conduct periodic evaluation drills.

D. Foster parent(s) shall store combustible substances away from sources of heat.

E. A foster home in a mobile home shall have two doors which provide unrestricted exits to the outside.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 35:

§6339. Health and Sanitation

NOTE: This Section has been moved from LAC 67:I.1339.

A. Foster parent(s) shall keep the home clean and free of hazards to the health and physical well-being of the family.

B. The home shall have a continuous supply of drinking water approved by local health authorities. If the water is not from a city water supply, the foster parent(s) shall have the water tested and approved.

C. Milk served to the client(s) shall either be Grade A and pasteurized or from an approved source.

D. All plumbing in the foster home shall be in working order.

E. A foster home shall have an adequate supply of hot water for bathing and dish washing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 35:

§6341. Transportation

NOTE: This Section has been moved from LAC 67:I.1341.

A. A foster home shall have a safe means of transportation adequate to meet the needs of the household.

B. Foster parent(s) shall ensure that any vehicle used to transport client(s) is properly maintained, licensed and inspected as required by state law.

1. The driver of any vehicle used to transport client(s) by the foster home shall be properly licensed to operate that vehicle according to state law.

2. Any vehicle used to transport client(s) by the foster home shall be properly licensed to operate that vehicle according to state law.

3. Any vehicle which client(s) are permitted to drive by the foster home shall carry sufficient liability insurance covering client use of the vehicle.

4. Foster parent(s) shall not permit a client to operate a motor vehicle without a valid Louisiana license or learner's permit and the written authorization of the placing agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 35:

Chapter 65. Transitional Living

§6501. Purpose

NOTE: This Section has been moved from LAC 67:I.1501.

A. It is the intent of the legislature to provide for the care and to protect the health, safety, and well being of youths in the custody or formerly in the custody of the state of Louisiana, who are nearing the age of majority and who, by reason of age, are unlikely to be placed with foster families for adoption. The legislature recognizes that such youth are likely to remain in need of supervision and services, even after reaching the age of majority, to assist them in making the transition from child foster care to independent adulthood. It is the purpose of this policy to establish a system of licensed facilities to care for such persons up to the age of 22; to establish statewide minimum standards; to ensure the maintenance of those standards; and to regulate conditions in these facilities through a program of licensing and inspection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 35:

§6503. Authority

NOTE: This Section has been moved from LAC 67:I.1503.

A. Act 726 of the 2001 Regular Session directs the Department of Social Services, Bureau of Licensing to develop and publish minimum standards for licensing

transitional youth residences. The bureau shall review such standards and, if necessary, revise and amend them at least once every six years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 35:

§6505. Waivers

NOTE: This Section has been moved from LAC 67:I.1505.

A. The Secretary of the Department of Social Services may waive compliance with any standard if the intent of the standard is being met and if the health, safety, and well being of the persons in care are not affected.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 35:

§6507. Application for Licensure

NOTE: This Section has been moved from LAC 67:I.1507.

A. An application for a transitional youth residence license shall be made by the provider to:

Department of Social Services
Bureau of Licensing
P.O. Box 3078
Baton Rouge, LA 70821

B. There shall be an annual licensing fee of:

- i. \$200 for each transitional youth residence caring for 6 or fewer youths;
- ii. \$400 for each transitional youth residence caring for at least 7 but less than 11 youths; and
- iii. \$600 for each transitional youth residence caring for 12 or more youths.

C. The Department of Social Services, Bureau of Licensing has the power to deny, revoke, or refuse to renew a license for a transitional youth residence if the applicant has failed to comply with the provisions of this policy.

D.1. Upon the refusal of the Bureau of Licensing to grant or renew a license or upon the revocation of a license, the applicant or licensee shall have the right to appeal such action by submitting a written request within 10 days of the receipt of the notification of the refusal or revocation to:

Bureau of Appeals
P. O. Box 2944
Baton Rouge, LA 70821

2. The appeal hearing shall be held no later than 30 days after the request.

E. Whoever operates a transitional youth residence without a valid license or in violation of this policy after being notified of such violation and being given an opportunity to correct such violation, shall be fined not less than \$75 or more than \$250 for each day of such offence. The Department of Social Services may file suit in the district court for the parish in which the facility is located for injunctive relief.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 35:

§6509. Definitions

NOTE: This Section has been moved from LAC 67:I.1509.

Abuse—the infliction of physical or mental injury on an individual by other parties, including but not limited to such means as sexual abuse, exploitation, or extortion of funds or other things of value, to such an extent that his/her health, self-determination, or emotional well-being is endangered.

Administrator—the owner or the manager designated by the governing body as responsible for the management, administration, and supervision of the program.

DSS—the Department of Social Services.

Documentation—written evidence or proof, signed and dated.

Human Services Field—psychology, sociology, special education, rehabilitation counseling, juvenile justice, corrections, nursing, etc.

Shall or Must—indicates mandatory standards.

Transitional Youth Residence—any communal or supervised independent living arrangement existing for the primary purpose of providing care for at least 2, but less than 20, youths living in individualized apartment units, alone or jointly with other youths, under the supervision, custody or control, directly or indirectly, of the Office of Community Services.

Transitional Youth Residence Program—a program of services, including counseling, guidance, vocational or education training, and supervision for youths living in transitional youth residences.

Transitional Living—a program to provide care, supervision, vocation and education training, guidance and counseling for youth between the ages of 16 and 21 in the custody or formerly in the custody of the Office of Community Services, living in their own apartments (congregate or individual) to assist them in making the transition to adult living.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 35:

§6511. Inspections

NOTE: This Section has been moved from LAC 67:I.1511.

A. The Department of Social Services, Bureau of Licensing shall inspect at regular intervals not to exceed one year, or deemed as necessary by the bureau, and without prior notice, all transitional youth residence administrative offices subject to the provisions of this policy. The facility shall be open to inspection by authorized DSS personnel during working hours or at all times when youths are in care.

B. The bureau shall also investigate all complaints except those alleging abuse against a youth resident and those concerning the prevention and spread of communicable diseases. The bureau may take such action as is authorized in the law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 35:

§6513. General Requirements

NOTE: This Section has been moved from LAC 67:I.1513.

A. A provider shall allow designated representatives of DSS in the performance of their mandated duties to inspect all aspects of a provider's functioning which impact the youth and to interview any staff member or youth.

B. A provider shall make available to DSS any information that the provider is required to have under the present requirements and any information reasonably related to assessment of compliance with these requirements.

C. A provider will furnish adequate space for the representatives of DSS to work.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 35:

§6515. Governing Body

NOTE: This Section has been moved from LAC 67:I.1515.

A. A provider shall have an identifiable governing body with responsibility for and authority over the policies and activities of the program. The provider, whether it is a corporation, partnership or association, shall identify the names and addresses of its members and officers and shall, where applicable, have a charter, partnership agreement, constitution, and articles of association or by-laws.

B. A provider shall have documents identifying all members of the governing body; their addresses; their terms of membership; any officers of the governing body; and terms of office of any officers.

C. When the governing body of a provider is composed of more than one person, the governing body shall hold formal meetings at least twice a year.

D. When the governing body is composed of more than one person, a provider shall have written minutes of all formal meetings of the governing body and by-laws specifying frequency of meetings and quorum requirements.

E. A private provider shall have documentation of its authority to operate under state law.

F. The provider's governing body shall:

1. ensure the provider's compliance and conformity with the provider's charter;

2. ensure the provider's continual compliance and conformity with all relevant federal, state, local and municipal laws and regulations;

3. ensure that the provider is adequately funded and fiscally sound;

4. review and approve the provider's annual budget;

5. designate a person to act as director and delegate sufficient authority to this person to manage the facility;

6. formulate and annually review, in consultation with the director, written policies concerning the provider's philosophy, goals, current services, personnel practices, and fiscal management;

7. annually evaluate the director's performance;

8. have the authority to dismiss the director;

9. meet with designated representatives of DSS whenever required to do so;

10. inform designated representatives of DSS prior to initiating any substantial changes in the services provided; and

11. ensure that the director or a person authorized to act on behalf of the director shall be accessible to staff or designated representatives of DSS at all times.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 35:

§6517. Accounting

NOTE: This Section has been moved from LAC 67:I.1517.

A. A provider shall not permit public funds to be paid, or committed to be paid, to any person to whom any of the members of the governing body, administrative personnel, or members of the immediate families of members of the governing body or administrative personnel have any direct or indirect financial interest, or in which any of these persons serve as an officer or employee, unless the services or goods involved are provided at a competitive cost or

under terms favorable to the facility. The provider shall have a written disclosure of any financial transaction with the facility in which a member of the governing body, administrative personnel, or his/her immediate family is involved.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 35:

§6519. Administrative Files

NOTE: This Section has been moved from LAC 67:I.1519.

A. The provider shall maintain records that cover the basic administrative requirements of running a facility.

B. The administrative files shall include at least:

1. an organizational chart of the provider;
2. all leases, contracts and purchase-of-service agreements to which the provider is a party;
3. insurance policies issued in the name of the provider that include commercial comprehensive liability and coverage for any owned and non-owned vehicles utilized to transport clients;
4. annual budgets;
5. master list of all social service providers and other contractors used by the provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 35:

§6521. Program Description

NOTE: This Section has been moved from LAC 67:I.1521.

A. A provider shall have a written program description describing:

1. the overall philosophy and approach to supervised transitional living;
2. the long-term and short-term goals;
3. the types of youth best served;
4. the provider's approach to service planning;
5. ongoing programs available to the youth during placements; and
6. any living arrangements provided.

B. The provider must include a written description of direct services, support services, and services to be arranged to achieve the goals of the transitional living program.

1. Direct services shall include, but are not limited to, the following:

a. services related to education and vocational training e.g., career planning; preparation for the GED or higher education; job readiness; job search assistance; job placement; job follow-up activities; vocational training; tutoring and other remedial education;

b. programs and services in basic independent living skills e.g., money management; home management (housekeeping, etc.); consumer skills; identifying community resources; time management; communication skills; use of transportation; physical and mental health care; locating safe and stable housing; problem solving/decision making; sex education; menu planning and nutrition; cooking;

c. individual and/or group counseling as well as workshops and conferences to promote: self-esteem; self confidence; development of interpersonal and social skills; preparation for transition to independence and termination of services; after care.

2. Support services shall include, but not be limited to, the following:

- a. vocational assessment or training;
- b. GED classes;
- c. preparation for college entrance exams;
- d. driver's education, if appropriate;
- e. counseling.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 35:

§6523. Records

NOTE: This Section has been moved from LAC 67:I.1523.

A. A provider shall ensure that all entries in records are legible, signed by the person making the entry, and accompanied by the date on which the entry was made.

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

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 35:

§6525. Confidentiality and Security of File

NOTE: This Section has been moved from LAC 67:I.1525.

A. A provider shall have a written policy and procedure for the maintenance and security of records specifying who shall supervise the maintenance of records, who shall have custody of records, and to whom records may be released. Records shall be the property of the provider and he/she, as custodian, shall secure records against loss, tampering, or unauthorized use.

B. A provider shall maintain the confidentiality of all youths' case records. Employees of the provider shall not disclose or knowingly permit the disclosure of any information concerning the youth or his/her family directly or indirectly, to any unauthorized person.

C. When the youth is of majority age or emancipated, a provider shall obtain the youth's written informed permission prior to releasing any information from which the youth or his/her family might be identified.

D. When the youth is a minor, a provider shall obtain written informed consent from the legally responsible person prior to releasing any information from which the youth might be identified.

E. A provider shall, upon request, make available information in the case record to the youth, the legally responsible person, or legal counsel of the youth.

F. A provider may use material from case records for teaching or research purposes, development of the governing body's understanding and knowledge of the provider's services, or similar educational purposes, provided that names are deleted and other identifying information are disguised or deleted.

G. A provider shall not release a personnel file without the employee's permission except in accordance with state law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 35:

§6527. Staffing Requirements

NOTE: This Section has been moved from LAC 67:I.1527.

A. There shall be a director responsible for the day-to-day administration of the program who has at least a bachelor's degree in a human service field, one year of experience relative to the population being served, and is at least 21 years of age. Documentation of director's qualifications shall be on file.

B. There shall be a qualified professional who will have the responsibility for supervising the client's individual service plan. This person shall have at least a bachelor's degree in a human service field and one year of experience relative to the population served (one person can serve in the capacity as director and qualified professional).

C. A provider shall employ a sufficient number of qualified staff and delegate sufficient authority to such staff to carry out the responsibilities the provider undertakes and to adequately perform the following:

1. administrative functions;
2. fiscal functions;
3. clerical functions;
4. direct youth service functions;
5. supervisory functions;
6. record keeping and reporting functions;
7. social service functions;
8. ancillary service functions.

D. A provider shall ensure that all staff members are properly supervised, certified and/or licensed as legally required.

E. A provider shall ensure that there is staff immediately accessible to the youth 24 hours a day, 7 days a week.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 35:

§6529. Staff Plan and Practices

NOTE: This Section has been moved from LAC 67:I.1529.

A. A provider shall have a written plan for recruitment, screening, orientation, on-going training, development, supervision, and performance evaluations of staff members.

B. There shall be written job descriptions for each staff position.

C. The provider shall have a written employee grievance procedure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 35:

§6531. Personnel File

NOTE: This Section has been moved from LAC 67:I.1531.

A. A provider shall have a personnel file for each employee which shall contain:

1. the application for employment and/or résumé;
2. three reference letters from former employer(s) and personal references or phone notes on such references to assess applicant's qualifications;
3. criminal record clearance;
4. evidence of applicable professional credentials/certifications;
5. job description;
6. annual performance evaluations;
7. personnel actions, reports and notes relating to the individual's employment with the provider;
8. employee's starting and termination dates;

9. driver's license to operate a vehicle used to transport clients (if applicable).

B. The staff member shall have reasonable access to his/her file and shall be allowed to add any written statement he/she wishes to make to the file at any time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 35:

§6533. Orientation

NOTE: This Section has been moved from LAC 67:I.1533.

A. A provider's orientation program shall provide at least 16 hours of training for all direct service workers within one week of the date of employment to include the following topics:

1. philosophy, organization, program, practices and goals of the provider;
2. instructions in the specific responsibilities for the employee's job;
3. implementation of the transitional living plan;
4. emergency and safety procedures including medical emergencies;
5. detecting and reporting suspected abuse and neglect;
6. reporting critical incidents;
7. rights of youth;
8. crisis de-escalation and management of aggressive behavior;
9. assistance with self-administration of medications;
10. universal precautions;
11. methods of facilitating youth development training;
12. issues of adolescents and young adults.

B. A new employee shall sign a statement of understanding certifying that such training has occurred.

C. A new employee shall not be given sole responsibility for the implementation of the service plan until training is completed.

D. Each employee having direct care responsibilities shall have current first aid certification that shall be obtained within the first 30 days of employment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 35:

§6535. Training

NOTE: This Section has been moved from LAC 67:I.1535.

A. A provider shall ensure that each direct service worker participated in an annual review of all the orientation topics.

B. Current first aid certification shall be obtained for employees having direct care responsibilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 35:

§6537. Staff Communications

NOTE: This Section has been moved from LAC 67:I.1537.

A. A provider shall establish procedures to assure adequate communication among staff to provide continuity of services to the youth. Written documentation shall be maintained.

B. Any employee of a provider working directly with youth in care shall have access to information from the

youths' case records that is necessary for effective performance of the employee's assigned tasks.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 35:

§6539. External Professional Services

NOTE: This Section has been moved from LAC 67:1.1539.

A. A provider shall, as necessary, give assistance to youth in obtaining any required professional services not available from employees of the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 35:

§6541. Admission Policy

NOTE: This Section has been moved from LAC 67:1.1541.

A. A provider shall have a written description of an admission policy that shall include the following information:

1. written description of the admission criteria as provided to all placing agencies;
2. the age and sex of the youth to be served by the provider;
3. the needs, problems, situations or patterns best addressed by the provider;
4. pre-admission skills and other criteria for successful participation in and completion of the program; and
5. criteria for discharge as well as the termination of admission agreement.

B. A provider shall not refuse admission to any youth on the grounds of race, color, sex, religion, national origin, handicap, or any non-merit factor in accordance with all state and federal guidelines.

C. A provider shall not accept any youth whose needs cannot be adequately met by the provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 35:

§6543. Service Agreement

NOTE: This Section has been moved from LAC 67:1.1543.

A. The provider shall ensure that a written service agreement is completed prior to placement. A copy of the agreement, signed by the provider, the youth, if applicable the legally responsible party and all those involved in its formulation, shall be kept in the youth's record and a copy shall be available to DSS, the youth, and where appropriate, the legally responsible person.

B. The service agreement shall include:

1. a delineation of the respective roles and responsibilities of the provider and where applicable, the referring agency;
2. specification of all services to be provided including the plan for contact between the youth and provider staff;
3. facility rules that will govern continued participation in the transitional living program, and consequences of inappropriate behavior of youth while in care;
4. the provider's expectations concerning the youth and the youth's responsibility;
5. criteria for discharge;

6. specification of financial arrangements including any fees to be paid by the youth;

7. authorization to care for the youth;

8. authorization for medical care;

9. attendance and absences from the provider to also include curfew times; and

10. criteria for notifying the funding agency of any change of address of the youth and any significant change in the youth's life or program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 35:

§6545. Service Planning

NOTE: This Section has been moved from LAC 67:1.1545.

A. A provider shall make every effort to ensure that service and program planning for each youth is a comprehensive process involving appropriate provider staff; representatives of the referring agency; where appropriate, representatives of other significantly involved agencies; the youth; where appropriate, the legally responsible person; and any other person significantly involved in the youth's life on an ongoing basis.

1. The director, qualified professional, or a designated staff who meets the director qualifications, shall be responsible for the coordination and development of the transitional living plan.

2. A provider shall ensure the youth is in attendance during the development of his/her transitional living plan.

B. Following acceptance of a youth, a provider shall conduct an assessment of his/her transitional living skills and annually thereafter. The assessment shall include the following:

1. life safety skills including ability to access emergency services, basic safety practices and evacuation of the living unit;
2. physical and mental health care; (i.e., health maintenance, scheduling physician appointments);
3. recognizing when to contact a physician;
4. money management, budgeting, and consumer awareness (i.e., paying bills, shopping, food management, sources of income, credit);
5. self-administration of medication;
6. stated purpose and possible side effects of medications prescribed for the youth and other common prescription and non-prescription drugs and other drug use;
7. career planning/career interests;
8. use of transportation (i.e., ability to access public transportation, learning to drive, obtaining insurance);
9. social skills;
10. daily living skills (i.e., housekeeping, cooking, personal appearance, and grooming skills);
11. vocational/job skills/job seeking skills (i.e., employment experience, training);
12. identifying community resources;
13. education (i.e., current grade level; education goals/expectations/plans);
14. locating housing;
15. problem solving/decision making;
16. time management (punctuality and attendance);
17. communication skills;
18. parenting skills;
19. legal issues, knowledge of legal rights; and

20. use of recreation and leisure time.

C. On the basis of the transitional living skill assessment, a provider shall, within one month of placement, formulate a transitional living plan for the youth. The plan shall include:

1. the youth's long term goals;
2. time-limited, measurable objectives addressing training in skill areas identified as needs;
3. the type and frequency of supervision needed;
4. the identification of roles and responsibilities of all persons involved (youth, provider, and others) in the implementation of the plan;
5. the life skills and the criteria necessary for achieving a successful discharge; and
6. the preliminary plan for discharge and aftercare.

D. The plan shall be reviewed monthly and shall be revised whenever necessary. A written progress report shall be completed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 35:

§6547. Youth's Case Record

NOTE: This Section has been moved from LAC 67:I.1547.

A. A provider shall have a written record for each youth that shall include:

1. the name, sex, race, birth date and birthplace of the youth; address of youth's current place of employment, school or other service providers;
2. other identification data including court status and legal status, identifying who is authorized to give consent;
3. youth's history including, where applicable, family data, educational background, employment record, prior medical history and prior placement history;
4. the service agreement;
5. written authorization signed by the youth or, when appropriate the legally responsible person for emergency medical care;
6. written authorization signed by the youth or, when appropriate the person legally responsible for managing the youth's money;
7. assessment of the youth's independent living skills;
8. a copy of the youth's individual service plan and any modifications or updates of the service plan;
9. monthly progress reports;
10. the names, addresses and phone numbers of the youth's physician and dentist;
11. psychological and psychiatric evaluation, if applicable;
12. dates of admission and discharge;
13. signed acknowledgement of rights and grievance procedures; and
14. incident reports.

B. A provider shall maintain health records on a youth including:

1. a description of any serious or life threatening medical condition of the youth;
2. a description of any medical treatment or medication necessary for the treatment of any serious or life threatening medical condition together with the provider's provisions for ensuring the youth's access to such medication or treatment;
3. current medications; and

4. report of general medical examination by a physician within a year prior to admission and annual exams; and

5. dental exams.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 35:

§6549. Accounting for Youth's Money

NOTE: This Section has been moved from LAC 67:I.1549.

A. A provider shall have a written policy describing how they will manage the youth's money.

B. A provider shall only accept a youth's money when such management is mandated by the youth's service plan. The provider shall manage and account for money of youth who are minors.

C. Providers who manage youth's money shall maintain in the youth's file a complete record accounting for his/her money.

1. The provider shall maintain a current balance sheet containing all financial transactions to include the signature of staff and the youth for each transaction.

2. The money shall be kept in an individual account in the name of the youth.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 35:

§6551. Supervision and Support

NOTE: This Section has been moved from LAC 67:I.1551.

A. A provider shall have a written plan for providing support and supervision to youth in transitional living situations. This plan shall ensure:

1. regular contact between provider personnel and the youth daily and at least two face-to-face visits weekly in the youth's apartment. A youth may not be seen less than the above amount unless specified by his/her plan, which has been signed by the parent or legal guardian;

2. all contacts with the youth shall be documented; and

3. provisions for emergency access by youth to an appropriate provider staff member on a 24-hour basis.

B. A provider shall, through at least monthly visits by staff to the living situation, determine and document that:

1. there is no reasonable cause for believing that the youth's mode of life or living situation presents any unacceptable risks to the youth's health or safety;

2. the living situation is maintained in a clean and safe condition;

3. the youth is receiving any necessary medical care;

4. the current provider plan provides appropriate and sufficient services to the youth.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 35:

§6553. Rights and Grievance Procedures for Youth

NOTE: This Section has been moved from LAC 67:I.1553.

A. The provider shall have a written policy on youths' rights. A copy will be given to the youth to review and sign. The signature page will be maintained in the youth's record. The policy shall assure the youth:

1. are free from physical or psychological abuse or neglect, and from financial exploitation;

2. are able to consult freely and privately with his/her parent(s) or legal guardian(s);

3. are able to possess and use personal money and belongings;

4. are actively and meaningfully making decisions affecting his/her life;

5. are allowed to have privacy;

6. are allowed visits to and from his/her family and friends;

7. are not required to work without compensation;

8. are treated with dignity and respect;

9. are provided due process;

10. have access to records, including information about their finances;

11. participate in self-directed service planning which is developed and modified timely;

12. are provided adequate and appropriate assistance in meal planning;

13. shall not be deprived of any civil or legal rights, benefits, or privileges guaranteed by law or the Constitution of the United States;

14. shall not be denied admission to a program, segregated, or discriminated against on the basis of race, sex, handicap, creed, national background or ancestry, sexual orientation, political beliefs, or any other non-merit factor;

15. are provided access to professional and specialized services, as appropriate;

16. shall be free from mental, emotional, and physical abuse and neglect and assured that no chemical restraints will be used;

17. shall be allowed to participate in religious services in accordance with his/her faith, but shall not be forced to attend religious services;

18. shall be encouraged and assisted to exercise rights as a citizen; to voice grievances;

19. shall be free to consult with legal counsel of their choice;

20. are allowed to meet with representatives of the Bureau of Licensing as well as other state officials.

B. The provider shall have a written grievance policy and procedures for youth designed to allow them to make complaints without fear of retaliation. The youth shall be informed of the advocacy services available.

1. The provider shall make every effort to ensure that all youth are aware of and understand the grievance procedure.

2. The youth's records shall contain a record of any grievances and their resolutions.

C. The provider shall develop written procedures for a Youth Advisory Board consisting of youth representatives receiving services to provide feedback relative to program policies, practices, and services.

1. The Youth Advisory Committee shall be allowed to meet at least monthly.

2. The provider shall maintain documented minutes of the Youth Advisory Board and resolutions of problems addressed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 35:

§6555. Reporting of Critical Incidents and Abuse and Neglect

NOTE: This Section has been moved from LAC 67:11555.

A. A provider shall have a written policy and procedures for the reporting and documentation of unusual incidents and other situations or circumstances affecting the health, safety or well being of the youth (i.e., accident or injury to the youth, unexplained overnight absences, death, fights or physical confrontations, suspected incidents of abuse or neglect, etc.).

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

2. Copies of all critical incident reports shall be kept as a part of the youth's record.

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

1. training and maintaining staff awareness of abuse prevention, current definitions of abuse and neglect, reporting requirements and applicable laws;

2. ensuring that regulations for reporting critical incidents involving abuse and neglect are followed;

3. ensuring that the administrator completes an investigation report within 10 working days;

4. ensuring that the youth is protected from potential harassment during the investigation;

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

6. ensuring that the staff member involved does not work directly with the youth involved or any other youth in the program until the investigation is complete.

C. When and if an incident occurs, a detailed report of the incident shall be made. At a minimum, the incident report shall contain the following:

1. a brief description of the incident;

2. date and time the incident occurred;

3. where the incident occurred;

4. action taken as a result of the incident;

5. name and signature of the person who completed the report and the name(s) of person(s) who witnesses the incident; and

6. date and time and name of responsibility party notified.

D. In the event an incident results in the death of a youth, involves abuse or neglect of a youth, or entails any serious threat to the youth's health, safety or well being, the provider shall:

1. immediately report to the placing agency with a preliminary written report within 24 hours of the incident;

2. immediately notify the appropriate law enforcement authority in accordance with state law;

3. immediately notify the Bureau of Licensing and other appropriate authorities, according to state law, with written notification to the above agencies to follow within 24 hours of the suspected incident;

4. immediately notify to the family or representative of the youth, with written notification to follow within 24 hours;

5. provide follow-up written reports to all the above persons and agencies; and

6. document appropriate corrective action taken to prevent future incidents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 35:

§6557. Behavior Management

NOTE: This Section has been moved from LAC 67:I.1557.

A. A provider shall have a written description of any behavior management strategies to be utilized.

B. No strategy shall deny any of the youth's rights unless approved by the individual plan of care.

C. The youth's record shall document that he/she has acknowledged receiving a copy of the behavior management strategies at admission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 35:

§6559. Transportation

NOTE: This Section has been moved from LAC 67:I.1559.

A. A provider shall ensure that every vehicle used by provider staff to transport youth is properly maintained, inspected, licensed according to state laws, and insured.

B. Any youth who drives must be properly licensed to operate any vehicle which he/she drives and has the required insurance coverage. The youth's record must contain this documentation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 35:

§6561. Physical Environment

NOTE: This Section has been moved from LAC 67:I.1561.

A. A provider shall ensure and document in the youth's record that any living situation selected by the provider for the use of youth is:

1. accessible to and functional for the youth, taking into consideration any handicapping condition or other disability of the youth;

2. free from any hazard to health or safety;

3. properly equipped with useable facilities for sleeping, food storage and preparation, sanitation, bathing, personal hygiene and household cleaning;

4. in compliance with applicable health, safety, sanitation and zoning codes. The provider shall, on request, allow DSS to inspect any living situation;

5. each resident shall have his or her own bed; and

6. living situations shall be equipped with operable smoke detectors and fire extinguishers.

B. A provider shall ensure and document in the youth's record that any youth placed in a transitional living situation selected by the provider has:

1. 24-hour access to a telephone;

2. access to transportation; and

3. access to any services mandated by the youth's service program plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 35:

§6563. Capacity

NOTE: This Section has been moved from LAC 67:I.1563.

A. A provider shall ensure that no more than three youths are placed in an apartment utilized as a transitional living situation.

B. A provider who utilizes communal living arrangements (home situation) housing four or more must obtain fire and health approval.

C. A provider's arrangements for selecting youth and youth groups for a specific living situation shall make allowance for the needs of each youth for reasonable privacy and shall not conflict with the program plan of any resident of the living situation or with the overall philosophy of the provider.

D. No youth shall be placed together in a living situation except by mutual agreement between the youth. Signed agreements shall be maintained in each client's record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 35:

§6565. Emergency Procedures

NOTE: This Section has been moved from LAC 67:I.1565.

A. The provider shall ensure the development of an emergency evacuation policy and safety plan for each client that is specific for location of the living unit in the event of a fire, natural or national disaster. The youth's record shall document that the youth has acknowledged receiving a copy of this policy and plan at admission.

B. A provider shall document that all youth are trained in emergency procedures within one week of admission. Such training shall include:

1. instruction in evacuation from the living situation;

2. instruction in contacting police, fire and other emergency services; and

3. instruction in fire and accident prevention.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 35:

§6567. Food Service

NOTE: This Section has been moved from LAC 67:I.1567.

A. When meals are prepared in a central kitchen, the provider shall ensure that menus include the basic four food groups and each youth's nutritional needs are met. Menus shall be maintained on file for at least a month.

B. If youths develop and prepare their menus and meals, the provider shall give assistance to ensure nutritional standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 35:

§6569. Discharge

NOTE: This Section has been moved from LAC 67:I.1569.

A. A provider shall have a written discharge policy detailing the reasons a youth may be discharged.

B. A provider shall, whenever possible, notify the placing agency and the youth's parent(s), tutor or curator as soon as possible or within five working days prior to the planned discharge of a youth.

C. A provider shall compile a complete written discharge summary immediately upon discharge; such summary to be included in the youth's record. When the youth is discharged to another agency, this summary must accompany the youth. This summary shall include:

1. a summary of services provided during involvement in the program;
2. a summary of growth and accomplishments during involvement;
3. the assessed needs which remain to be met and alternate service possibilities that might meet those needs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 35:

Chapter 67. Maternity Home

§6701. Fee

NOTE: This Section has been moved from LAC 67:I.1701.

A. There is an annual licensure fee of \$50.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 35:

§6703. Definition

NOTE: This Section has been moved from LAC 67:I.1703.

A. A maternity home is defined as "any place in which any person, society, agency, corporation, or facility receives, treats or cares for within a period of six months, more than one illegitimately pregnant woman, either before, during or within two weeks after childbirth. The provisions of this definition shall not include the sixth degree of kindred computed according to civil law, or general or special hospitals in which maternity treatment and care is part of the medical services performed and the care of children only brief and incidental." This definition does not include foster family homes used by agencies in lieu of group care. These foster family homes would come under regulations governing child placing agencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 35:

§6705. Application

NOTE: This Section has been moved from LAC 67:I.1705.

A. The original application for a license is made on a form provided by the Division of Licensing and Certification. A license will be issued for a period of one year unless there is mutual agreement between the division and the maternity home that it be for a greater or lesser period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 35:

§6707. Licensing Procedures

NOTE: This Section has been moved from LAC 67:I.1707.

A. A social services consultant of the division's staff will prepare a comprehensive survey of the home's program, measuring performance in relation to requirements and offering recommendations and suggestions in indicated areas. This report will be made available to the facility for review of facts prior to submission to the director of the Division of Licensing and Certification for a decision on the license. A home has the right to appeal through the court if its license is denied or revoked.

B. The licensing report is held confidential by the division but must be released to persons or courts upon request.

C. A maternity home which is operated in conjunction with other programs subject to license, such as child caring and/or child placing programs, shall obtain a license for each of its programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 35:

§6709. Organization and Administration

NOTE: This Section has been moved from LAC 67:I.1709.

A. Purpose

1. There shall be a written statement specifying the purpose of the maternity home. This statement shall be one which has been adopted by the governing body. All functions of the maternity home shall be stated in its charter, or articles, when the home operates under one of these.

2. It shall be clear from the practices of the home that the purposes for which it was declared to be established are being met.

3. The governing body shall adopt a supplementary statement of any new function which is added to the program of the maternity home.

B. Governing Body

1. There shall be a responsible governing body which shall be of the following:

- a. a board of local citizens elected or appointed for that purpose;
- b. a religious, fraternal, charitable organization, or veteran's organization; or
- c. a public authority.

2. This governing body shall exercise sufficient authority so that it can reasonably be held responsible for the practices within the maternity home.

3. The governing body shall have the power to appoint or dismiss the executive director and shall carry responsibility for the direction of the program.

4. If the governing body is a national or regional organization and has a local advisory board or committee, minutes of the local group setting forth changes in policies and administrative decisions affecting the local operation shall be made available to the licensing authority.

C. Administrative Responsibilities

1. There shall be one person employed by the governing body to serve as superintendent or executive director. This person shall be responsible for the administration of the maternity home.

2. The agency executive director or superintendent shall be responsible for the direction and supervision of all personnel employed in the maternity home.

3. The duties, responsibilities, and authority of each staff member shall be clearly defined specifying:

- a. where responsibilities, and authority rest for each of his or her functions within the maternity home;
- b. that no responsibility or authority shall conflict with another.

4. The duties, responsibilities, and authority of each board committee working directly with staff shall be clearly defined.

5. The following personnel practices shall be observed:

a. the Division of Licensing and Certification shall be notified promptly when there is a change of executive director within the period covered by a license, this notification shall include a statement of the qualifications of the new employee;

b. only such staff members who are qualified for the duties assigned by virtue of ability, health, age, emotional stability, education, and experience shall be employed and retained in employment;

c. a written statement shall be given to the employee at the time of employment setting forth the duties that will be assigned to him, to whom he is directly responsible, and conditions of employment, including official responsibilities, salary, hours of work, sick leave, retirement benefits, vacations, and the notice he will be expected to give or receive in case of resignation or release;

d. no person shall be required to do work in contravention of the labor laws of the state of Louisiana or the United States;

e. the governing body of the maternity home shall be encouraged to participate in a retirement plan for the employees, such coverage may be the home's own retirement plan or Retirement Survivors' and Disability Insurance.

D. Resources

1. The maternity home shall prepare an annual budget adequate to finance the program. The budget shall be prepared for the maternity home's fiscal year and shall clearly indicate all sources of income as well as anticipated expenditures.

2. The maternity home partially dependent on board payments to carry out its functions shall have sufficient funds available to continue care until other plans can be made for residents should contributions cease.

3. The governing body shall not assign to the personnel of the maternity home the responsibility for fund raising.

4. Soliciting funds shall be the responsibility of the governing body or of a special officer appointed for this purpose.

E. Auditing of Accounts

1. Accounts of the maternity home shall be audited annually by an independent certified public accountant or by a public authority.

F. Personnel Plan

1. An executive director shall be employed whose qualifications include a basic year's training in an accredited school of social work, or three years of successful experience in a recognized social agency, or five years successful experience in closely allied fields such as nursing, education, or ministry.

2. A caseworker shall be employed who meets the following qualifications: completion of one basic year in an accredited school of social work and one year of experience in a family or children's agency. The experience may be waived if the facility employs a casework supervisor with the same qualifications as the supervisor in a child placing agency.

3. A case aide or aides may be employed with the following qualifications: a B.A. or B.S. degree in social work or a related field. This person shall be closely supervised by the casework supervisor.

4. A full-time resident staff person shall be employed when the superintendent does not live at the home. The resident staff person's qualifications shall include:

a. a high school education;

b. at least two years successful experience in allied fields such as practical nursing, household management, housemother experience;

c. an ability to accept and work with expectant mothers;

d. an ability to supervise assistant resident staff persons; and

e. be over the age of 21.

5. Assistant staff person, with the following qualifications, shall be employed when the population requires it:

a. a high school education;

b. an ability to accept and work with expectant mothers; and

c. be over the age of 21.

6. There shall be on call at all times an employee who is a graduate nurse or practical nurse.

a. The graduate nurse must have a current license to practice nursing in the state of Louisiana.

b. The practical nurse must have a current license to practice in the state of Louisiana.

7. Sufficient clerical staff shall be employed to keep correspondence, records, bookkeeping system, and files current and in good order. Expectant mothers receiving care in the maternity home shall not be used in this capacity. Clerical staff shall be selected in relation to ability to understand the confidentiality of the work and to respect the program.

8. Sufficient domestic staff shall be employed so that the major and heavy household duties are not assigned to the expectant mothers or become the duties of the resident staff person. Domestic staff shall be selected in relation to ability to understand the confidentiality of the work and to respect the program.

9. All employees living or working within an institution shall be required to obtain a written statement from a physician certifying that the employee is free from venereal disease, tuberculosis, and other infectious or contagious disease. This statement shall be obtained prior to employment, or immediately thereafter and annually during employment.

10. Resident staff shall be provided with quarters which insure reasonable privacy and rest during hours off duty. In addition, provision shall be made for personal belongings and bathing and toilet facilities separate from those used by expectant mothers.

11. Foster homes which are used in lieu of a congregate home shall meet the standards outlined for foster homes in "Minimum Requirements for License of Child Placing Agencies", published by the Division of Licensing and Certification.

G. Staff

1. There shall be on duty at all times one adult serving in the capacity of resident staff. In addition, an alternate person shall be on call. There shall be one adult on the staff designated as the assistant to the resident staff who will also serve as relief resident staff.

2. In small maternity homes, it may be necessary for one employee to serve in more than one capacity. When this practice is followed, the employee shall be well qualified by training and experience for the different duties assigned.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 35:

§6711. Ethical Practices

NOTE: This Section has been moved from LAC 67:I.1711.

A. The following code of professional ethics shall be observed:

1. respect for the confidential nature of information provided by expectant mother and other agencies. Divulging identifying information about the expectant mother or her baby to anyone other than professional social casework staff and judicial agencies is prohibited. Information may be provided to other social casework staff and judicial agencies only when necessary for planning for the mother or the baby's welfare. Information about the mother may be given to other professional persons such as physicians or attorneys with the mother's written permission. Honesty in all dealing with expectant mothers, with other organizations and the public, including the keeping of agreements made with each;

2. the fulfilling of any responsibility accepted by the maternity home from courts of law;

3. utilizing funds for the stated purposes of the maternity home;

4. honoring contracts and prompt payment of bills.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 35:

§6713. Social Services

NOTE: This Section has been moved from LAC 67:I.1713.

A. A social study shall be completed for every expectant mother accepted for care by the maternity home. The social study shall be completed by a caseworker on the maternity home's staff or by a caseworker of the referring agency. When she is accepted through correspondence or on an emergency basis, the expectant mother shall be interviewed by the maternity home caseworker within a week after arrival. An immediate interview however, is preferable.

B. Intake

1. The intake study shall include social information establishing that the expectant mother is in need of the services of the maternity home.

2. The following identifying information is essential: name, date of birth, nationality, religion, education, occupation, health history, physical appearance of mother, marital status, and home address.

3. The social worker shall discuss with the expectant mother the following:

a. the regulations of the maternity home and her responsibilities;

b. the services available to her through the maternity home and community;

c. agreement that while she is in the care of the maternity home she may plan either to keep or to release her baby. The narrative record shall clearly show that a full discussion was held with the expectant mother regarding alternatives. The expectant mother should understand that should she not surrender her child to the home, the home

will release the child only to the mother or to a licensed agency.

4. The agreement shall be in writing when a charge for care is made.

C. Continuing Casework

1. Following admission, the social worker shall counsel with the expectant mother as often as her individual needs require. The caseworker will begin to establish a relationship in order to gain an understanding of the expectant mother's total situation and the meaning of the pregnancy for the expectant mother.

2. Interviewing shall be focused on the expectant mother's individual problems and on plans for the baby. In general, the treatment plan will be focused on preparing the expectant mother for a return to useful community life and providing her with information regarding the resources available in her local community.

3. The decision to surrender or take her baby should be made by the mother before, or at the time of discharge. Should the expectant mother desire postponement of her decision regarding surrender, the consideration of allowing more time shall be made on an individual basis by the social worker. In any event, adequate discharge plans shall be made.

4. The social worker shall know at the time of discharge what plans the expectant mother has for living arrangements, employment, or school. It is the social worker's responsibility to assist the expectant mother directly or through referral to other agencies when she needs help in these areas.

D. Records

1. A narrative record shall be maintained which incorporates the information required in Subsections A and B of this Section. Copies of correspondence, agreements, and other forms shall be filed in this folder. The confidential nature of these records shall be respected, and these records are for the use of professional casework staff only. Social records shall be accessible only to the appropriate staff and shall be maintained in locked files.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 35:

§6715. Care in the Home

NOTE: This Section has been moved from LAC 67:I.1715.

A. Health Aspects

1. Responsibility for the health supervision of the maternity home shall be placed in a licensed physician or a group of licensed physicians appointed by the governing body. A physician shall approve written procedures governing the following:

a. medications and treatment that may be given without specific orders from a licensed physician or by a physician designated by him;

b. circumstances under which a physician shall be called;

c. action to be taken in case of emergency;

d. a special diet if required; and

e. household tasks that may be required. The physician shall review annually the health practices within the maternity home and certify in writing that they meet the licensing requirements.

2. Unless the maternity home requires, prior to admission, a statement from a physician that the expectant mother is free from communicable diseases, the maternity home shall have an isolation facility available. The expectant mother admitted without the statement from the physician shall be placed in isolation until she has had a complete physical examination to determine her freedom from communicable diseases.

3. The expectant mother shall be placed immediately under medical supervision. She shall have a physical examination within a week after admission to the home and at least monthly prior to confinement and before discharge. Should she leave the home before she is medically discharged, this fact shall be recorded on her medical record.

4. Nourishing food, attractively served, shall be provided. The diet shall be planned in consultation with a nurse, or if a special diet, the physician in charge. Necessary changes in diet prescribed in individual cases by the physician shall be followed.

5. A complete medical record shall be maintained on each expectant mother when she delivers at the maternity home. The case worker or nurse is responsible for maintaining a record for each expectant mother who delivers in public or private hospitals. This record shall contain dates of visits to the medical facility and a summary of medical consultation. Delivery information on the infant shall be recorded. These records shall be maintained in locked files.

6. When an infant is admitted for care into the home's nursery, all standards for child caring institutions apply.

E. Program

1. Regulations

a. The regulations of the maternity home shall not infringe on the expectant mother's privilege of writing and receiving uncensored mail and visits from her family.

b. The same food shall be served to the staff and expectant mothers when they dine together, except when special diets must be prepared for any of the expectant mothers.

c. A mother who wishes to give personal attention to her baby, such as bathing and feeding, shall be permitted to do so.

d. An expectant mother shall be allowed a choice of duties, insofar as possible.

2. Recreation

a. A recreational program shall be provided which will meet the individual needs of the expectant mothers. This program shall consist of a well-stocked library, magazines, newspapers, games, radio or television, piano, and record players. It is desirable to encourage arts and crafts with proper leadership. There shall be provision for outdoor activities. The yard should provide for privacy and be equipped with comfortable outdoor furniture. Expectant mothers interested in community activities should be encouraged to participate.

3. Education

a. Every effort shall be made to arrange continued education for girls under 16 and for older girls whose schooling has been interrupted. Vocational training when

appropriate should be encouraged. Household duties should have an educational value.

4. Religion

a. Expectant mothers shall have the privilege of attending the church of their choice. Religious services should be available in the maternity home to those expectant mothers wishing to attend. An expectant mother wishing consultation with her pastor shall be provided the opportunity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 35:

§6717. Plant and Equipment

NOTE: This Section has been moved from LAC 67:11717.

A. Maintenance

1. The building, grounds, and equipment shall be kept clean and in good repair.

B. Location. Local zoning ordinances should be followed.

C. Allocation of Space

1. The room assigned expectant mothers shall be clean, airy, and inviting. Each expectant mother shall have a separate bed, and there shall be at least 4 feet between beds. Each expectant mother shall have adequate closet and drawer space for personal possessions in the room assigned to her. There shall be toilet and bath facilities available in the ratio of one to six expectant mothers. Any maternity home established or rebuilt shall be designed for a maximum of not more than four girls to a room.

2. A recreation room for the exclusive use of the expectant mothers shall be provided.

3. A room insuring privacy where expectant mothers can visit with their families shall be provided.

4. An isolation room and bath for expectant mothers admitted prior to examination for communicable diseases shall be provided.

5. When facilities for delivery are provided in the maternity home, separate and properly equipped quarters approved by the home's physician shall be provided.

6. When the home has facilities for delivery, a recovery room shall be provided on the same floor as the delivery room unless an elevator is available.

7. Separate, private offices shall be provided for the casework staff when the offices are housed in the maternity home. Facilities for the use of a private telephone should be provided.

8. Living quarters separate from those occupied by the expectant mothers shall be provided for auxiliary staff (nursery attendants, domestic staff, and maintenance staff), if they are required to live in.

D. Safety Aspects

1. All requirements of the local state fire prevention and health authorities shall be met. An annual inspection by each of the authorities shall be requested by a designated authority of the maternity home and the report shall be submitted to the Division of Licensing and Certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

§6921. Emergency and Safety

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1426.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 24:2147 (November 1998), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2716 (December 2007), repromulgated by the Department of Social Services, Office of Community Service, LR 35: 1543 (August 2009), repealed LR 35:

§6923. Therapeutic Wilderness Program

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1426.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 24:2147 (November 1998), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2717 (December 2007), repromulgated by the Department of Social Services, Office of Community Service, LR 35: 1543 (August 2009), repealed LR 35:

§6925. Controlled Intensive Care Facility or Unit

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1426.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 25:2458 (December 1999), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2720 (December 2007), repromulgated by the Department of Social Services, Office of Community Service, LR 35: 1543 (August 2009), repealed LR 35:

§6927. Core Requirements

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 40:2180-2180.5.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2260 (December 2006), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2722 (December 2007), repromulgated by the Department of Social Services, Office of Community Service, LR 35: 1543 (August 2009), repealed LR 35:

§6929. Residential Home Module

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477, R.S.40:2151-2163, R.S.46:1401-1424, R. S.28:1-2, R.S.28:380-451.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2735 (December 2007), repromulgated by the Department of Social Services, Office of Community Service, LR 35: 1543 (August 2009), repealed LR 35:

§6931. Direct Services Management

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477, R.S.40:2151-2163, R. S.46:1401-1424, R. S.28:1-2, R. S.28:380-451.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2738 (December 2007), repromulgated by the Department of Social Services, Office of Community Service, LR 35: 1543 (August 2009), repealed LR 35:

§6933. Physical Environment

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 36:477, 40:2151-2163, R.S. 46:1401-1424, R.S. 28:1-2, R.S. 28:380-451.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2739 (December 2007), repromulgated by the Department of Social Services, Office of Community Service, LR 35: 1543 (August 2009), repealed LR 35:

§6935. Fee

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477, R.S. 40:2151-2163, R.S. 46:1401-1424, R.S. 28:1-2, R.S. 28:380-451.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2740 (December 2007), repromulgated by the Department of Social Services, Office of Community Service, LR 35: 1543 (August 2009), repealed LR 35:

§6951. Purpose

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477, R.S. 46:1410 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:1564 (September 2001), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2740 (December 2007), repromulgated by the Department of Social Services, Office of Community Service, LR 35: 1543 (August 2009), repealed LR 35:

§6953. Authority

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1410 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:1565 (September 2001), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2740 (December 2007), repromulgated by the Department of Social Services, Office of Community Service, LR 35: 1543 (August 2009), repealed LR 35:

§6955. Procedures

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1410 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:1565 (September 2001), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2740 (December 2007), repromulgated by the Department of Social Services, Office of Community Service, LR 35: 1543 (August 2009), repealed LR 35:

§6957. Definitions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1410 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:1567 (September 2001), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2742 (December 2007), repromulgated by the Department of Social Services, Office of Community Service, LR 35: 1543 (August 2009), repealed LR 35:

§6959. Administration and Organization

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1410 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:1567 (September 2001), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2743 (December 2007), repromulgated by the Department of Social Services, Office of Community Service, LR 35: 1543 (August 2009), repealed LR 35:

§6961. Human Resources

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1410 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:1570 (September 2001), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2745 (December 2007), repromulgated by the Department of Social Services, Office of Community Service, LR 35: 1543 (August 2009), repealed LR 35:

§6963. Quality of Life

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1410 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:1571 (September 2001), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2746 (December 2007), repromulgated by the Department of Social Services, Office of Community Service, LR 35: 1543 (August 2009), repealed LR 35:

§6965. Direct Service Management

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1410 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:1575 (September 2001), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2750 (December 2007), repromulgated by the Department of Social Services, Office of Community Service, LR 35: 1543 (August 2009), repealed LR 35:

§6967. Physical Environment

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1410 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:1577 (September 2001), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2753 (December 2007), repromulgated by the Department of Social Services, Office of Community Service, LR 35: 1543 (August 2009), repealed LR 35:

§6969. Emergency and Safety

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1410 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:1579 (September 2001), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2754 (December 2007), repromulgated by the Department of Social Services, Office of Community Service, LR 35: 1543 (August 2009), repealed LR 35:

Chapter 71. Child Residential Care

§7101. Purpose

A. It is the intent of the legislature to protect the health, safety, and well being of the children of the state who are in out-of-home care on a regular or consistent basis. Toward that end, it is the purpose of Chapter 14 of Title 46 of the Louisiana Revised Statutes of 1950 to establish statewide minimum standards for the safety and well being of children, to ensure maintenance of these standards, and to regulate conditions in these facilities through a program of licensing. It shall be the policy of the state to ensure protection of all individuals under care in child care facilities and to encourage and assist in the improvement of programs. It is the further intent of the legislature that the freedom of religion of all citizens shall be inviolate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 35:

§7103. Authority

A. Legislative Provisions

1. The State of Louisiana, Department of Social Services, is charged with the responsibility of developing and publishing standards for the licensing of child residential facilities (CRF).

a. The licensing authority of the Department of Social Services is established by R.S. 46:1401-1425 and R.S. 46:51 which mandate the licensing of all resident care facilities and resident placing agencies, including CRF). A CRF is defined as any place, facility or home operated by any institution, society, agency, corporation, person or persons or any other group to provide full-time care (24 hour residential care) for four or more children under the age of 18 years who are not related to the operators, and whose parents or guardians are not residents of the same facility, with or without transfer of custody. The age requirement may be exceeded as stipulated in R.S. 46:1403.1. which states that, "...notwithstanding any other provision of law to the contrary, including but not limited to R.S. 46:1403(A)(1), a person housed at a residential home may stay at such home for a period not to exceed six months beyond his eighteenth birthday to complete any educational course that he began at such facility, including but not limited to a general education development (GED) course, and any other program offered by the residential home".

B. Penalties

1. As stipulated in R.S. 46:1421, whoever operates any child care facility without a valid license shall be fined not less than \$75 nor more than \$250 for each day of such offense.

C. Waiver Request

1. The secretary of the department, in specific instances, may waive compliance with a standard, as long as the health, safety, and well-being of the staff and/or the health, safety, rights or well-being of residents is not imperiled. Standards shall be waived only when the secretary determines, upon clear and convincing evidence, that the economic impact is sufficient to make compliance impractical for the provider despite diligent efforts, and when alternative means have been adopted to insure that the intent of the regulation has been carried out.

2. Application for a waiver shall be made in writing and shall include:

a. a statement of the provisions for which a waiver is being requested; and

b. an explanation of the reasons why the provisions cannot be met and why a waiver is being requested.

3. The request for a waiver will be answered in writing and approvals will be maintained on file by the requesting provider and the department. The department shall document the reasons for granting the waiver. A waiver shall be granted for a period of one year or as specified by the secretary and will not be renewed if the basis for it no longer exists. If the provider has been granted a waiver by the department, the waiver will be identified on the survey report of any subsequent annual survey report.

D. Variance Request

1. The secretary of the department, in specific instances, may grant an exception to the standards temporarily for the purposes of allowing emergency admittance of specific residents as long as the health, safety, and well-being of the staff and/or the health, safety, rights, and well-being residents is not imperiled. This variance shall not be granted if it would result in a substantial change to the program.

2. A request for a variance shall be made in writing and shall include a statement of the provisions for which the variance is being requested.

3. The request for a variance will be answered in writing and specify the period of time for which the variance is being granted. A variance may be granted for a length of time not to exceed 90 days, and may be renewed one time, for good cause shown, for an additional 90 day period not to exceed 180 days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 35:

§7105. Definitions

A. As used in this Chapter:

Abuse—any one of the following acts which seriously endangers the physical, mental, or emotional health of the resident:

a. the infliction, attempted infliction, or, as a result of inadequate supervision, the allowance of the infliction or attempted infliction of physical or mental injury upon the resident by a parent or any other person;

b. the exploitation or overwork of a resident by a parent or any other person; and

c. the involvement of the resident in any sexual act with a parent or any other person, or the aiding or toleration by the parent or the caretaker of the resident's sexual involvement with any other person or of the resident's

involvement in pornographic displays or any other involvement of a resident in sexual activity constituting a crime under the laws of this state.

Affiliate—

a. with respect to a partnership, each partner thereof;

b. with respect to a corporation, each officer, director and stockholder thereof;

c. with respect to a natural person, that person and any individual related by blood, marriage, or adoption within the third degree of kinship to that person; any partnership, together with any or all its partners, in which that person is a partner; and any corporation in which that person an officer, director or stockholder, or holds, directly or indirectly, a controlling interest;

d. with respect to any of the above, any mandatory, agent, or representative or any other person, natural or juridical acting at the direction of or on behalf of the licensee or applicant; or

e. director of any such.

Associated Person—a provider's owner, officers, board members, volunteers, and/or any other such person who may be involved in some capacity with the work of the provider other than the provider's employees.

Behavior Support—the entire spectrum of activities from proactive and planned use of the environment, routines, and structure of the particular setting to less restrictive interventions such as positive reinforcement, verbal interventions, de-escalation techniques, and therapeutic activities that are conducive to each resident's development of positive behavior.

Behavior Support Plan—a written document that addresses the holistic needs of the resident and includes the resident's coping strategies, de-escalation preferences, and preferred intervention methods.

Child—a person under 18 years of age who, prior to juvenile proceedings, has not been judicially emancipated under Civil Code Article 385 or emancipated by marriage under Civil Code Articles 379 through 384.

Child Residential Facility (CRF)—any place, facility or home operated by any institution, society, agency, provider, corporation, person or persons or any other group to provide full-time care (24 hour residential care) for four or more individuals under the age of 18 years, who are not related to the operators, and whose parents or guardians are not residents of the same facility, with or without transfer of custody. This includes community homes, group homes, and residential homes. This does not include any program licensed under Titles XIX or XX of the Social Security Act by the Department of Health and Hospitals.

Complaint—an allegation that any person is violating any provisions of these standards or engaging in conduct, either by omission or commission, that negatively affects the health, safety, rights, or welfare of any child who is residing in a CRF.

Criminal Background Check—the requirement of state law and federal funding rule for checking criminal records for certain offenses prior to employing an individual who will have access to a resident in a Child Residential Facility.

Debriefing—a process by which information is gathered from all involved parties after the use of personal restraints or seclusion that includes an evaluation of the crisis,

documentation detailing the events leading up to the incident, and ways to avoid such incidents in the future.

Department—the Department of Social Services.

Direct Care Worker—a person counted in the resident/caregiver ratio, whose duties include the direct care, supervision, guidance, and protection of a resident. This does not include a contract service provider who provides a specific type of service to the operation for a limited number of hours per week or month or works with one particular child. This may include staff such as administrative staff that has the required background clearances and appropriate training that may serve temporarily as direct care staff.

Human Service Field—the field of employment similar or related to social services such as social work, psychology, sociology, special education, rehabilitation counseling, juvenile justice and/or corrections through which a person gains experience in providing services to the public and/or private clients that serves to meet the years of experience required for a job as specified on the job description for that position.

Disqualification Period—the prescriptive period during which the department shall not accept an application from a provider. Any unlicensed operation during the disqualification period shall interrupt running of prescription until the department has verified that the unlicensed operation has ceased.

Effective Date—of a revocation, denial, or non-renewal of a license shall be the last day for applying to appeal the action, if the action is not appealed.

Facility—any place, program, facility or agency operated or required by law to operate under a license, including facilities owned or operated by any governmental, profit, nonprofit, private, or church agency.

Injury of Unknown Origin—an injury where the source of the injury was not observed by any person or the source of the injury could not be explained by the resident and the injury is suspicious because of the extent of the injury or the location of the injury (e.g., the injury is located in an area not generally vulnerable to trauma).

Legal Guardianship—the duty and authority to make important decisions in matters having a permanent effect on the life and development of the resident and the responsibility for the child's general welfare until he reaches the age of majority, subject to any child rights possessed by the resident's parents. It shall include the rights and responsibilities of legal custody.

Legal Guardian—the caretaker in a legal guardianship relationship. This could be the parent or any child placing agency representative.

License—any license issued by the Department of Social Services to operate any child care facility or child-placing agency as defined in R.S. 46:1403; any license issued by the department to operate any adult residential care facility as defined in R.S. 40:2153; or any license issued by the department to operate any transitional youth residence as defined in La. R.S. 46:1453.

Neglect—the refusal or unreasonable failure of a parent or caretaker to supply the child with necessary food, clothing, shelter, care, treatment, or counseling for any injury, illness, or condition of the child, as a result of which

the child's physical, mental, or emotional health and safety is substantially threatened or impaired.

Personal Restraint—a type of emergency behavior intervention that uses the application of physical force without the use of any device to restrict the free movement of all or part of a child's body in order to control physical activity. Personal restraint includes escorting, which is when a caregiver uses physical force to move or direct a child who physically resists moving with the caregiver to another location.

Program Director—the person with authority and responsibility for the on-site, daily implementation and supervision of the overall facility's operation.

Provider—any facility, organization, agency, institution, program, or person licensed by the department to provide services to children.

Provider—all owners or operators of a facility, including the director of such facility. If the owner is a corporate entity the owners are the officers, directors, and shareholders of the facility.

Related or Relative—a natural or adopted child or grandchild of the caregiver or a child in the legal custody of the caregiver.

Seclusion—the placement of an individual against his or her will in a room where they are not allowed to voluntarily leave.

Service Plan—a written plan of action usually developed between the family, resident, social worker, and other service providers, that identifies needs, sets goals, and describes strategies and timelines for achieving goals.

Substantial Bodily Harm—physical injury serious enough that a prudent person would conclude that the injury required professional medical attention. It does not include minor bruising, the risk of minor bruising, or similar forms of minor bodily harm that will resolve healthily without professional medical attention.

Time-Out—a strategy used to teach individuals to calm themselves, during which a child is not given the opportunity to receive positive reinforcement and/or participate in the current routine or activity until he/she is less agitated.

Unlicensed Operation—operation of any child care facility or child-placing agency, adult residential care facility, or transitional youth residence, at any location, without a valid, current license issued by the department.

Variance—an exception granted temporarily for the purpose of emergency admittance of specific residents.

Volunteer—an individual who works at the facility and whose work is uncompensated. This may include students, interns, tutors, counselors, and other non-staff individuals who may or may not work directly with the residents. Persons who visit the facility solely for providing recreational activities for the facility are not considered as volunteers.

Waiver—an exemption granted by the secretary of the department, or designee, from compliance with a standard that will not place the resident or staff member at risk.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 35:

§7107. Licensing Requirements

A. General Provisions

1. New buildings shall be designed to appear physically harmonious with the neighborhood in which they are located considering such issues as scale, appearance, density and population. A CRF shall not occupy any portion of a building licensed by another agency.

2. Before beginning operation, it is mandatory to obtain a license from the department.

3. All new construction or renovation of a facility requires approval from agencies listed in §7107.B.1 and must comply with the Louisiana Uniform Construction Code.

4. In addition all facilities shall comply with the requirements of the Americans with Disabilities Act, 42 U.S.C. §12101 et seq. (ADA).

B. Initial Licensing Application Process

1. An initial application for licensing as a CRF provider shall be obtained from the department. A completed initial license application packet for an applicant shall be submitted to and approved by department prior to an applicant providing CRF services. The completed initial licensing packet shall include:

- a. application and non-refundable fee;
- b. Office of Fire Marshal approval for occupancy;
- c. Office of Public Health, Sanitarian Services approval;
- d. city fire department approval, if applicable;
- e. city or parish building permit office approval, if applicable;
- f. local zoning approval, if applicable;
- g. copy of proof of current general liability and property insurance for facility;
- h. copy of proof of insurance for vehicle(s);
- i. organizational chart or equivalent list of staff titles and supervisory chain of command;
- j. program director résumé and proof of educational requirement;
- k. service plan manager résumé and proof of educational requirement;
- l. list of consultant/contract staff to include name, contact info and responsibilities;
- m. copy of program plan;
- n. copy of table of contents of all policy and procedure manuals;
- o. copy of evacuation plan;
- p. copy of house rules and regulations;
- q. copy of grievance process;
- r. a floor sketch or drawing of the premises to be licensed; and
- s. any other documentation or information required by the department for licensure.

2. If the initial licensing packet is incomplete, the applicant will be notified of the missing information and will have 10 working days to submit the additional requested information. If the department does not receive the additional requested information within the 10 working days, the application will be closed. After an initial licensing application is closed, an applicant who is still interested in becoming a CRF shall submit a new initial licensing packet with a new initial licensing fee to start the initial licensing process. Once the department has determined the application

is complete, the applicant will be notified to contact the department to schedule an initial survey. If an applicant fails to contact the department and coordinate the initial survey within 45 days of the notification, the initial licensing application shall be closed. After an initial licensing application is closed, an applicant who is still interested in becoming a CRF shall submit a new initial licensing packet with a new initial licensing fee to re-start the initial licensing process.

C. Initial Licensing Survey

1. Prior to the initial license being issued to the CRF, an initial licensing survey shall be conducted on-site at the CRF to assure compliance with all licensing standards. The initial licensing survey shall be an announced survey. No resident shall be provided services by the CRF until the initial licensing survey has been performed and the department has issued an initial license.

2. In the event the initial licensing survey finds the CRF is compliant with all licensing laws and standards, and is compliant with all other required statutes, laws, ordinances, rules, regulations, and fees, the department may issue a full license to the provider. The license shall be valid until the expiration date shown on the license, unless the license is modified, extended, revoked, suspended, or terminated.

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

4. In the event the initial licensing survey finds that the CRF is noncompliant with any licensing laws or standards, statutes, laws, ordinances, or rules but the department, in its sole discretion, determines that the noncompliance does not present a threat to the health, safety, or welfare of the participants, the department may issue an initial license for a period not to exceed three months. The provider shall submit a corrective action plan to the department. The corrective action plan shall include a description of how the deficiency shall be corrected and the date by which corrections shall be completed. The department must approve the corrective action plan prior to issuing the initial license. If the department determines, prior to the expiration date of the initial license, that such noncompliance or deficiencies have been corrected, a license will be issued. If the department determines that such noncompliance or deficiencies have not been corrected, the license will expire and all operations shall cease. The provider shall be required to begin the initial licensing process again by submitting a new initial license application packet and fee.

5. When issued, the initial CRF license shall specify the licensed bed capacity.

6. The license, as defined herein, must be conspicuously displayed at the facility. The most recent annual survey and follow-up survey, if any must be made available for inspection to any person requesting them.

7. Once a CRF has been issued a license, the department shall conduct licensing and other surveys at intervals deemed necessary by the department to determine compliance with licensing standards, as well as, other

required statutes, laws, ordinances, rules, regulations, and fees. These surveys shall be unannounced.

8. The department shall remove any child or all children from any facility or agency when it is determined that one or more deficiencies exist within the facility that place the health and well being of the child or children in imminent danger. The child or children shall not be returned to the facility until such time as it is determined that the imminent danger has been removed.

9. Department staff shall be given access to all areas of the facility and all relevant files during any licensing or other survey. They shall be allowed to interview any provider staff or participant as necessary to conduct the survey.

10. If an applicant or member of his/her immediate family has had a previous license revoked, refused or denied, upon reapplication, the applicant shall provide written evidence that the reason for such revocation, refusal or denial no longer exists.

D. Fees

1. The applicable licensing fee shall be submitted with the initial license application and any change of ownership or location. All fees shall be paid by certified check, business check or money order only and are nonrefundable.

2. License fees are required prior to issuance or renewal of a license. Fee schedules (based on licensed capacity) are listed below:

4 to 6 Children	7 to 15 Children	16 or More Children
\$400	\$500	\$600

3. Other license fees include:

a. a replacement fee of \$25 for replacing a license when changes are requested, i.e., change in capacity, name change, age range, etc. No replacement charge will be incurred when the request coincides with the regular renewal of a license;

b. a processing fee of \$5 for issuing a duplicate license with no changes.

E. Renewal of License

1. The license shall be renewed on an annual basis.

2. The provider shall submit, at least 60 days prior to its license expiration date, a completed renewal application form and applicable fee. The following documentation must also be included:

- a. Office of Fire Marshal approval for occupancy;
- b. Office of Public Health, Sanitarian Services approval;
- c. city fire department approval, if applicable;
- d. copy of proof of current general liability and property insurance for facility; and
- e. copy of proof of insurance for vehicle(s).

3. Prior to renewing the CRF license, an on-site survey shall be conducted to assure compliance with all licensing laws and standards. If the CRF is found to be in compliance with the licensing laws and standards, and any other required statutes, laws, ordinances, or regulations, the license shall be renewed for a 12-month period.

4. In the event the annual licensing survey finds the CRF is non-compliant with any licensing laws or standards, or any other required statutes, ordinances or regulations but

the department, in its sole discretion, determines that the noncompliance does not present a threat to the health, safety, or welfare of the participants, the provider shall be required to submit a corrective action plan to the department for approval. The department shall specify the timeline for submitting the corrective action plan based on such non-compliance or deficiencies cited but no later than 10 days from the date of notification. The corrective action plan shall include a description of how the deficiency shall be corrected and the date by which correction(s) shall be completed. Failure to submit an approved corrective action plan timely shall be grounds for non-renewal.

5. If it is determined that such noncompliance or deficiencies have not been corrected prior to the expiration of the license, the department may issue an extension of the license not to exceed 60 days.

6. When it is determined by the department that such noncompliance or deficiencies have been corrected, a license will be issued for a period not to exceed 12 months.

7. If it is determined that all areas of noncompliance or deficiencies have not been corrected prior to the expiration date of the extension, the department shall revoke the license.

F. Notification of Changes

1. The department shall be notified by the provider prior to making changes which have an effect upon the license, to include but not limited to: change of ownership, program director, location, age range of residents served, usage of indoor and outdoor spaces.

2. When a provider changes location, it is considered a new operation and a new application and fee for licensure shall be submitted 30 days prior to the anticipated move. All items listed in Paragraph 7107.B.1 shall be in compliance for the new location. An onsite survey is required prior to change of location. In the event of a disaster, which requires a provider to evacuate, refer to §7121 Emergency Preparedness.

3. When a provider is initiating a change in ownership a written notice shall be submitted to the department. Within five working days of the change of ownership, the new owner shall submit a completed application, the applicable licensing fee and a copy of bill of sale or a lease agreement.

4. All new construction or renovation of a facility requires approval from agencies listed in §7107.B.1 and the department.

5. A license is not transferable to another person or location.

G. Denial, Revocation, or Non-Renewal of License

1. An application for a license may be denied, revoked or not renewed for any of the following reasons:

- a. cruelty or indifference to the welfare of the residents in care;
- b. violation of any provision of the standards, rules, regulations, or orders of the department;
- c. disapproval from any agency whose approval is required for licensing;
- d. nonpayment of licensing fee or failure to submit a licensing application;
- e. any validated instance of abuse, neglect, corporal punishment, physical punishment, or cruel, severe or unusual punishment, if the owner is responsible or if the

staff member who is responsible remains in the employment of the licensee;

f. the facility is closed with no plans for reopening and no means of verifying compliance with minimum standards for licensure; or

g. any act of fraud such as falsifying or altering documents required for licensure.

2. Even if a facility is otherwise in substantial compliance with these standards, an application for a license may be denied, revoked or not renewed for any of the following reasons:

a. the owner, director, officer, board of directors member, or any person designated to manage or supervise the provider or any staff providing care, supervision, or treatment to a resident of the facility has been convicted of or pled guilty or nolo contendere to any offense listed in LA R.S. 15:587.1. A copy of a criminal record check performed by the Louisiana State Police (LSP) or other law enforcement provider, or by the federal Bureau of Investigation (FBI), or a copy of court records in which a conviction or plea occurred, indicating the existence of such a plea or conviction shall create a rebuttals presumption that such a conviction or plea exists;

b. the provider, after being notified that an officer, director, board of directors member, manager, supervisor or any employee has been convicted of or pled nolo contendere to any offense referenced above, allows such officer, director, or employee to remain employed, or to fill an office of profit or trust with the provider. A copy of a criminal record check performed by the LSP or other law enforcement provider, or by the FBI, or a copy of court records in which a conviction or plea occurred, indicating the existence of such a plea or conviction shall create a reputable presumption that such a conviction or plea exists;

c. failure of the owner, director or any employee to report a known or suspected incident of abuse or neglect to child protection authorities;

d. revocation or non-renewal of a previous license issued by a state or federal provider;

e. a substantial history of non-compliance with licensing statutes or standards, including but not limited to failure to take prompt action to correct deficiencies, repeated citations for the same deficiencies, or revocation or denial of any previous license issued by the department;

f. failure to timely submit an application for renewal or to timely pay required fees; and/or

g. operating any unlicensed facility and/or program.

3. If a license is revoked, denied or refused, a license may also be denied or refused to any affiliate of the licensee or applicant. For the purpose of this section, "affiliate" means:

a. with respect to a partnership, each partner thereof;

b. with respect to a corporation, each officer, director and stockholder thereof; and

c. with respect to a natural person: anyone related within the third degree of kinship to that person; each partnership and each partner thereof which that person or any affiliate of that person is a partner; and each corporation in which that person or any affiliate of that person is an officer, director or stockholder.

4. In the event a license is revoked or renewal is denied, (other than for cessation of business or non-operational status), or voluntarily surrendered to avoid adverse action any owner, officer, member, manager, director or administrator of such licensee shall be prohibited from owning, managing, directing or operating another licensed facility for a period of not less than two years from the date of the final disposition of the revocation or denial action. The lapse of two years shall not automatically restore a person disqualified under this provision to eligibility for employment. The department, at its sole discretion, may determine that a longer period of disqualification is warranted under the facts of a particular case.

H. Disqualification of Facility and Provider

1. If a facility's license is revoked or not renewed due to failure to comply with state statutes and licensing rules, the department shall not accept a subsequent application from the provider for that facility or any new facility for a minimum period of 24 months after the effective date of revocation or non-renewal or a minimum period of 24 months after all appeal rights have been exhausted, whichever is later (the disqualification period). Any subsequent application for a license shall be reviewed by the secretary or her designee prior to a decision being made to grant a license. The department reserves the right to determine, at its sole discretion, whether to issue any subsequent license.

2. Any voluntary surrender of a license by a facility facing the possibility of adverse action against its license (revocation or non-renewal) shall be deemed to be a revocation for purposes of this rule, and shall trigger the same disqualification period as if the license had actually been revoked. In addition, if the applicant has had a substantial history of non-compliance, including but not limited to revocation of a previous license, operation without a license, or denial of one or more previous applications for licensure, the department may refuse to accept a subsequent application from that applicant for a minimum period of 24 months after the effective date of denial.

3. The disqualification period provided in this rule shall include any affiliate of the provider.

I. Appeal Process

1. If the department refuses to grant or renew a license, if a license is revoked, the procedure will be as follows.

a. The department shall notify the licensee, or applicant in writing of the denial or revocation and the reasons for that denial or revocation and the right of appeal.

b. The program director or owner may appeal this decision by submitting a written request with the reasons to the Secretary, Department of Social Services, Bureau of Appeals, P.O. Box 2994, Baton Rouge, LA 70821-9118. This written request shall be postmarked within 15 days of the receipt of the notification in §7107.H.1 above.

c. The Division of Administrative Law shall set a hearing to be held within 30 days after receipt of such a request except as provided in the Administrative Procedures Act.

d. An administrative law judge shall conduct the hearing. Within 90 days after the date the appeal is filed, the administrative law judge shall notify the appellant in writing

of the decision, either affirming or reversing the original decision. If the department's decision is upheld, the facility shall terminate operation immediately.

2. If the facility continues to operate without a license, the department may file suit in the district court in the parish in which the facility is located for injunctive relief.

J. Complaint Process

1. In accordance with RS 46:1418, the department shall investigate all complaints (except complaints concerning the prevention or spread of communicable diseases), including complaints alleging abuse or neglect, within prescribed time frames as determined by the department based on the allegation(s) of the complaint. All complaint investigation will be initiated within 30 days.

2. All complaint surveys shall be unannounced surveys.

3. A written report of any noncompliance or deficiencies will be given to the provider. The provider shall be required to submit a corrective action plan to the department for approval. The department shall specify the timeline for submitting the corrective action plan based on the areas of non-compliance cited but no later than 10 days from the date of receipt of the notification. The corrective action plan shall include a description of how the deficiency shall be corrected and the date by which corrections shall be completed. If it is determined that all areas of noncompliance or deficiencies have not been corrected, the department may revoke the license.

4. Except in cases alleging abuse or neglect, the complainant will be notified in writing of the results of the complaint investigation conducted by the office of community services (OCS) residential licensing.

5. If, because of the nature of the allegations, state law or department policy requires that the complaint be handled by another office, agency or board (including another office, agency, or board within the department), the complaint will be referred to the appropriate office, agency, or board without delay. Upon such referral, except in cases involving abuse or neglect, the complainant will be notified, in writing, of the referral.

6. The complaint procedure shall be posted conspicuously in the facility including the name, address, and telephone number of the required department units to be notified.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 35:

§7109. Administration and Organization

A. General Requirements

1. The provider shall allow representatives of the department in the performance of their mandated duties to inspect all aspects of a program's functioning that impact on residents and to interview any staff member or resident. The department representatives shall be admitted immediately and without delay, and shall be given free access to all areas of a facility, including its grounds. If any portion of a facility is set aside for private use by the facility's owner, department representatives shall be permitted to verify that no residents are present in that portion and that the private areas are inaccessible to residents. Any area to which residents have

or have had access is presumed to be part of the facility and not the private quarters of the owner/operator.

2. The provider shall make any information that the provider is required to have under the present standards, and any information reasonably related to determination of compliance with these standards available to the department. The resident's rights shall not be considered abridged by this standard.

3. The provider accepting any resident who resides in another state shall show proof of compliance with the terms of the Interstate Compact on Juveniles, the Interstate Compact on the Placement of Children and the Interstate Compact on Mental Health. Proof of compliance shall include clearance letters from the compact officers of each state involved.

B. Other Jurisdictional Approvals. The provider shall comply and show proof of compliance with all relevant standards, regulations and requirements established by federal, state, local and municipal regulatory bodies including initial and annual approval by the following:

1. Office of Public Health, Sanitarian Services;
2. Office of the State Fire Marshal;
3. city fire department, if applicable;
4. local governing authority or zoning approval, if applicable; and
5. Department of Education, if applicable.

C. Governing Body. The provider shall have an identifiable governing body with responsibility for and authority over the policies, procedures and activities of the provider.

1. The provider shall have documents identifying all members of the governing body, their addresses, the term of their membership (if applicable), officers of the governing body (if applicable) and the terms of office of all officers (if applicable).

2. When the governing body of a provider is composed of more than one person, the governing body shall hold formal meetings at least twice a year.

3. When the governing body is composed of more than one person, a provider shall have written minutes of all formal meetings of the governing body and bylaws specifying frequency of meetings and quorum requirements.

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

1. ensure the provider's compliance and conformity with the provider's charter;
2. ensure the provider's continual compliance and conformity with all relevant federal, state, local and municipal laws and standards;
3. ensure the provider is adequately funded and fiscally sound by reviewing and approving the provider's annual budget or cost report;
4. ensure the provider is housed, maintained, staffed and equipped appropriately considering the nature of the provider's program;
5. designate a person to act as program director and delegate sufficient authority to this person to manage the facility;
6. formulate and annually review, in consultation with the program director, written policies and procedures

concerning the provider's philosophy, goals, current services, personnel practices and fiscal management;

7. have the authority to dismiss the program director;
8. meet with designated representatives of the department whenever required to do so;
9. inform designated representatives of the department prior to initiating any substantial changes in the program, services or physical plant of the provider.

E. Authority to Operate

1. A private provider shall have documentation of its authority to operate under state law.
2. A privately owned provider shall have documentation identifying the names and addresses of owners.
3. A corporation, partnership or association shall identify the names and addresses of its members and officers and shall, where applicable, have a charter, partnership agreement, constitution, and articles of association or bylaws.

F. Accessibility of Program Director. The program director, or a person authorized to act on behalf of the program director, shall be accessible to provider staff or designated representatives of the department at all times (24 hours per day, 7 days per week).

G. Statement of Philosophy and Goals. The provider shall have a written statement describing its philosophy and describing both long-term and short-term goals.

H. Policies and Procedures. The provider shall have written policies and procedures approved by the owner or governing body that address, at a minimum, the following:

- a. abuse and neglect;
- b. admission and discharge;
- c. behavior support and intervention program;
- d. complaint process;
- e. confidentiality and retention of resident records;
- f. emergency and safety;
- g. grievance process;
- h. human resources;
- i. incidents;
- j. medication management;
- k. provider services;
- l. quality improvement;
- m. resident funds;
- n. rights; and
- o. recordkeeping.

I. House Rules and Regulations. The provider shall have a clearly written list of rules and regulations governing conduct for residents in care and shall document that these rules and regulations are made available to each staff member, resident and, where appropriate, the resident's legal guardian(s).

J. Representation at Hearings. When required by law, the provider shall have a representative present at all judicial, educational or administrative hearings that address the status of a resident in care of the provider. The provider shall ensure that the resident is given an opportunity to be present at such hearings, unless prohibited by the resident's legal guardian or by his/her service plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 35:

§7111. Provider Responsibilities

A. Human Resources

1. Policies and Procedures. The provider shall have written policies and procedures that include:

- a. a plan for recruitment, screening, orientation, ongoing training, development, supervision, and performance evaluation of staff members to include contract services and volunteers;
- b. written job descriptions for each staff position including volunteers;
- c. health screening of all staff in accordance with public health guidelines to include screening for tuberculosis (TB) and communicable diseases;
- d. an employee grievance process;
- e. abuse and neglect reporting procedures that require all employees to report any incidents of abuse or neglect whether that abuse or neglect is done by another staff member, a family member, a resident, or any other person; and
- f. preventing discrimination.

2. Personnel Requirements

a. The provider shall employ a sufficient number of qualified staff and delegate sufficient authority to such staff to perform the following functions:

- i. administrative;
- ii. fiscal;
- iii. clerical;
- iv. housekeeping, maintenance and food services;
- v. direct resident services;
- vi. record keeping and reporting;
- vii. social service; and
- viii. ancillary services.

b. The provider shall ensure that all staff members are properly certified or licensed as legally required and appropriately qualified for their position.

c. Personnel can work in more than one capacity as long as they meet all of the qualifications of the position and have met the trainings requirements.

d. The provider that utilizes volunteers on a regular basis shall be responsible for the actions of the volunteers. Volunteers shall be given a copy of their job description. Volunteers shall:

- i. have orientation and training in the philosophy of the facility and the needs of residents and methods of meeting those needs;
- ii. have a criminal background check as required in R.S. 15:587.1 and R.S. 46:51.2 and as outlined in LAC 67:V:7111 5.d;
- iii. have a completed state central registry disclosure form prepared by the department whether or not his/her name is currently recorded on the state central registry for a justified finding of abuse or neglect and he/she is the named perpetrator as required in R.S. 46.1414.1;
- iv. have three documented reference checks as required for regular paid staff.

3. Personnel Qualifications

a. Program Director—the program director shall meet one of the following qualifications:

- i. a bachelor's degree in a human service field plus three years experience relative to the population being served. One year of administrative experience in social

services may be substituted for two years of regular experience. A master's degree plus two years of social service experience may be substituted for the three years of experience. An alternative may be a bachelor of social work (BSW) degree or professional equivalent with three years experience working with residents, one year of which may be experience in administration; or

ii. a master's degree in health care administration or in a human service related field; or

iii. in lieu of a degree, six years of administrative experience in health or social services, or a combination of undergraduate education and experience for a total of six years.

b. Service Plan Manager—the service plan manager shall have a master's degree in a human service field plus a minimum of one year with the relevant population.

c. Direct Care Worker—the direct care worker shall be at least 19 years of age and have a high school diploma or equivalency and at least two years post-high school job experience.

4. Personnel Job Duties

a. The program director shall be responsible for:

i. implementing and complying with policies and procedures adopted by the governing body;

ii. adhering to all federal and state laws and standards pertaining to the operation of the agency;

iii. address areas of non-compliance identified by annual survey and complaint investigations;

iv. directing the program;

v. representing the facility in the community;

vi. delegating appropriate responsibilities to other staff including the responsibility of being in charge of the facility during their absence;

vii. recruiting qualified staff and employing, supervising, evaluating, training and terminating employment of staff;

viii. providing leadership and carrying supervisory authority in relation to all departments of the facility;

ix. providing consultation to the governing body in carrying out their responsibilities, interpreting to them the needs of residents, making needed policy revision recommendations and assisting them in periodic evaluation of the facility's services;

x. preparing the annual budget for the governing body's consideration, keeping the body informed of financial needs, and operating within the established budget;

xi. supervising the facility's management including building, maintenance and purchasing;

xii. participating with the governing body in interpreting the facility's need for financial support;

xiii. establishing effective communication between staff and residents and providing for their input into program planning and operating procedures;

xiv. reporting injuries, deaths and critical incidents involving residents to the appropriate authorities;

xv. supervising the performance of all persons involved in any service delivery/direct care to residents; and

xvi. completing an annual performance evaluation of all staff. For any person who interacts with residents, a provider's performance evaluation procedures shall address the quality and quantity of their work.

b. The service plan manager shall be responsible for:

i. supervision of the implementation of the resident's service plan;

ii. integration of the various aspects of the resident's program;

iii. recording of the resident's progress as measured by objective indicators and making appropriate changes/modifications;

iv. reviewing and approving quarterly service plan reviews for the successes and failures of the resident's program, including the resident's educational program, with recommendations for any modifications deemed necessary. Designated staff may prepare these reports, but the service plan manager shall also review the reports;

v. signing and dating all appropriate documents;

vi. ensuring that the resident receives a periodic review and review of the need for residential placement and ensuring the timely release, whenever appropriate, of the resident to a least restrictive setting; monitoring any extraordinary restriction of the resident's freedom including use of any form of restraint, any special restriction on a resident's communication with others and any behavior management plan;

vii. asserting and safeguarding the human and civil rights of residents and their families and fostering the human dignity and personal worth of each resident;

viii. serving as liaison between the resident, provider, family and community during the resident's admission to and residence in the facility, or while the resident is receiving services from the provider in order to:

(a). assist staff in understanding the needs of the resident and his/her family in relation to each other;

(b). assist staff in understanding social factors in the resident's day-to-day behavior, including staff/resident relationships;

(c). assist staff in preparing the resident for changes in his/her living situation;

(d). help the family to develop constructive and personally meaningful ways to support the resident's experience in the facility, through counseling concerned with problems associated with changes in family structure and functioning, and referral to specific services, as appropriate;

(e). help the family to participate in planning for the resident's return to home or other community placement;

(f). ensure that residents receive all necessary medical and dental care, if needed;

(g). ensure that all residents receive timely evaluations for specialized services and timely receipt of those specialized services identified.

c. The direct care worker shall be responsible for the daily care and supervision of the resident in the living group to which they are assigned which includes:

i. protecting residents' rights;

ii. handling separation anxiety and alleviating the stress of a resident in crisis;

iii. modeling appropriate behaviors and methods of addressing stressful situations;

iv. crisis management;

v. behavior intervention and teaching of appropriate alternatives;

- vi. training the resident in good habits of personal care, hygiene, eating and social skills;
- vii. protecting the resident from harm;
- viii. handling routine problems arising within the living group;
- ix. representing adult authority to the residents in the living group and exercising this authority in a mature, firm, compassionate manner;
- x. enabling the resident to meet his/her daily assignments;
- xi. participating in all staff conferences regarding the resident's progress in program evaluation of service plan goals and future planning;
- xii. participating in the planning of the facility's program and scheduling such program into the operation of the living group under his/ her supervision;
- xiii. maintaining prescribed logs of all important events that occur during his/her tour of duty regarding significant information about the performance and development of each resident in the group;
- xiv. reporting emergency medical or dental care needs to the administrative staff in a timely manner; and
- xv. reporting critical incidents to administrative staff in a timely manner.

5. Applicant Screening

- a. The provider's screening procedures shall address the prospective employee's qualifications as related to the appropriate job description.
- b. Prior to employment, each prospective employee shall complete an employment application. The application/résumé shall contain complete information about an applicant's education, employment history, and criminal background, including any arrests or convictions.
- c. Prior to employment, each prospective employee shall complete a state central registry disclosure form prepared by the department as required in RS 46:1414.1
- d. Prior to employment, a Criminal Background Check will be conducted in the manner required by RS 15:587.1 and 46:51.2.
 - i. The provider shall have a written policy and procedure for obtaining a criminal background check on persons as required in R.S. 15:587.1 and 46:51.2.
 - ii. No person, having any supervisory or other interaction with residents, shall be hired until such person has submitted his or her fingerprints to the Louisiana Bureau of Criminal Identification and Information and it has been determined that such person has not been convicted of or pled nolo contendere to a crime listed in R.S. 15:587.1(C). This shall include any employee or non-employee who performs paid or unpaid work with the provider to include independent contractors, consultants, students, volunteers, trainees, or any other associated person, as defined in these rules.
 - iii. Contractors hired to perform work which does not involve any contact with residents shall not be required to have a criminal background check if accompanied at all times by a staff person if residents are present in the facility.
 - iv. Any employee who is convicted of or has pled nolo contendere to any crime listed in R.S. 15:587.1(C) shall not continue employment after such conviction or nolo contendere plea.

6. Health Screening

- a. Upon offer of employment, all staff shall be required to obtain a statement of good health signed by a physician or physician's designee. A statement of good health dated within three months prior to offer of employment or within one month after date of employment is acceptable. A health statement is required every three years.
- b. All persons prior to or at time of employment shall be free of tuberculosis in a communicable state as evidenced by:
 - i. a negative Mantoux skin test for tuberculosis;
 - ii. a normal chest X-ray if the aforementioned skin test is positive; or
 - iii. a statement from a licensed physician certifying that the individual is non-infectious if the chest X-ray is other than normal.
- c. Any employee who has a positive Mantoux skin test for TB, in order to remain employed, shall complete an adequate course of therapy as prescribed by a licensed physician or shall present a signed statement from a licensed physician stating that therapy is not indicated.

7. Orientation

- a. The provider's orientation program shall include the following topics for all staff within 15 working days of the date of employment:
 - i. philosophy, organization, program, practices and goals of the provider;
 - ii. specific responsibilities of assigned job duties;
 - iii. administrative procedures;
 - iv. emergency and safety procedures including medical emergencies;
 - v. resident rights;
 - vi. detecting and reporting suspected abuse and neglect;
 - vii. infection control to include blood borne pathogens;
 - viii. confidentiality; and
 - ix. reporting incidents.
- b. The provider's orientation program shall provide a minimum of 24 hours of training in the following topics for all direct care staff within one week of the date of employment:
 - i. implementation of service plans to include a behavior plan, when clinically indicated;
 - ii. emergency and safety procedures including medical emergencies;
 - iii. detecting and reporting suspected abuse and neglect;
 - iv. resident rights;
 - v. reporting incidents;
 - vi. confidentiality;
 - vii. health practices;
 - viii. detecting signs of illness or dysfunction that warrant medical or nursing intervention;
 - ix. basic skills required to meet the dental and health needs and problems of the residents;
 - x. prohibited practices;
 - xi. behavior interventions to include crisis de-escalation and the management of aggressive behavior including acceptable and prohibited practices. No staff

member shall be left unsupervised with residents until he/she has completed all required training;

xii. use of time out, personal restraints, and seclusion that is to include a practice element in the chosen method performed by a certified trainer. No staff member shall be left unsupervised with residents until he/she has completed all required training;

xiii. safe self-administration and handling of all medications including psychotropic drugs, dosages and side effects;

xiv. infection control to include blood borne pathogens;

xv. working with people with disabilities, attending to the needs of such residents in care, including interaction with family members with disabilities; and

xvi. use of specialized services identified in provider services section.

c. All new direct care staff shall receive certification in CPR and First Aid within 45 days of employment. No staff member shall be left unsupervised with residents until he/she has completed all required training.

d. All staff shall sign a statement of understanding certifying that such training has occurred.

e. No staff member shall be left unsupervised with residents until he/she has completed all required training.

8. Annual Training

a. The provider shall ensure that all staff receives training on an annual basis in the following topics:

i. administrative procedures and programmatic goals;

ii. emergency and safety procedures including medical emergencies;

iii. resident rights;

iv. detecting and reporting suspected abuse and neglect;

v. infection control to include blood borne pathogens;

vi. confidentiality; and

vii. reporting incidents.

b. Direct care staff shall receive annual training to include but not be limited to the following topics:

i. implementation of service plans;

ii. detecting and reporting suspected abuse and neglect;

iii. resident rights;

iv. reporting incidents;

v. prohibited practices;

vi. health practices;

vii. emergency and safety procedures including medical emergencies;

viii. detecting signs of illness or dysfunction that warrant medical or nursing intervention;

ix. basic skills required to meet the dental and health needs and problems of the residents;

x. behavior interventions to include crisis de-escalation and the management of aggressive behavior including acceptable and prohibited responses;

xi. use of time out, personal restraints, and, seclusion which is to include a practice element in the chosen method performed by a certified trainer;

xii. safe self-administration and handling of all medication including psychotropic drugs, dosages and side effects;

xiii. infection control to include blood borne pathogens;

xiv. confidentiality;

xv. working with people with disabilities, attending to the needs of such residents in care, including interaction with family members with disabilities;

xvi. use of specialized services identified in Provider Services Section; and

xvii. educational rights to include IDEA and Section 504 Accommodations.

c. All direct care staff shall have documentation of current certification in CPR and First Aid.

d. All staff shall sign a statement of understanding certifying that such training has occurred.

e. The provider shall maintain sufficient information available to determine content of training. This information shall be available for review.

9. Staffing Requirements

a. The provider shall ensure that an adequate number of qualified direct care staff is present with the residents as necessary to ensure the health, safety and well being of residents. Staff coverage shall be maintained in consideration of the time of day, the size and nature of the provider, the ages and needs of the residents, and shall assure the continual safety, protection, direct care and supervision of residents. In addition to the required number of direct care staff, the provider shall employ a sufficient number of maintenance, housekeeping, administrative, support and management staff to ensure that direct care staff can provide direct care services.

i. The provider shall have at least one adult staff present for every six residents when residents are present and awake. Providers of individual services (therapists, tutors, etc.) shall not be included in this ratio while providing said individualized services to a specific resident or residents. Management or other administrative staff can be included in this ratio only if they are exclusively engaged in providing direct supervision of the children.

ii. The provider shall have at least one adult staff present and awake for every 12 residents when residents are present and asleep. In addition to required staff, at least one staff person shall be on call in case of emergency. Providers of individual services (therapists, tutors, etc.) shall not be included in this ratio while providing said individualized services to a specific resident or residents. Management or other administrative staff can be included in this ratio only if they are exclusively engaged in providing direct supervision of the children.

iii. When residents are at school, work or recreation outside the facility, the provider shall have a plan ensuring the availability and accessibility of direct care staff to handle emergencies or perform other necessary direct care functions.

iv. The provider utilizing live-in staff shall have sufficient relief staff to ensure adequate off duty time for live-in staff.

v. Six or more residents under two years of age shall have an additional direct care worker on duty when the

residents are present to provide a staff ratio of one staff per every six residents under age two.

B. Record Keeping

1. Administrative File

a. The provider shall have an administrative file that shall contain, at a minimum, the following:

- i. a written program plan describing the services and programs offered by the provider;
- ii. organizational chart of the provider;
- iii. all leases, contracts and purchase-of-service agreements to which the provider is a party;
- iv. insurance policies. Every provider shall maintain in force at all times a comprehensive general liability insurance policy. This policy shall be in addition to any professional liability policies maintained by the provider and shall extend coverage to any staff member who provides transportation for any resident in the course and scope of his/her employment;
- v. all written agreements with appropriately qualified professionals, or a state agency, for required professional services or resources not available from employees of the provider;
- vi. written documentation of all residents' exits and entrances from facility property not covered under summary of attendance and leave. Documentation must include, at a minimum, date, time and destination.

NOTE: The provider shall not contract with outside sources for any direct care staff, including one-on-one trainers or attendants.

2. Personnel File

a. The provider shall have a personnel file for each employee that shall contain, at a minimum, the following:

- i. the application for employment, including the resume of education, training, and experience, if applicable;
- ii. a criminal background check in accordance with state law;
- iii. evidence of applicable professional or paraprofessional credentials/certifications according to state law;
- iv. documentation of any state or federally required medical examinations or testing;
- v. documentation of employee's orientation and annual training received;
- vi. employee's hire and termination dates;
- vii. documentation of current driver's license for operating provider or private vehicles in transporting residents;
- viii. annual performance evaluations to include his/her interaction with residents, family, and other providers;
- ix. personnel action, other appropriate materials, reports and notes relating to the individual's employment with the facility;
- x. annual state central registry disclosure form prepared by the department whether or not his/her name is currently recorded on the state central registry for a justified finding of abuse or neglect and he/she is the named perpetrator.

b. Staff shall have reasonable access to his/her file and shall be allowed to add any written statement he/she wishes to make to the file at any time.

c. The personnel file of staff shall be retained for at least three years after termination of employment.

3. Accounting File

a. The provider shall establish a system of business management and staffing to assure maintenance of complete and accurate accounts, books and records.

b. The provider shall ensure that all entries in records are legible, signed by the person making the entry and accompanied by the date on which the entry was made.

c. All records shall be maintained in an accessible, standardized order and format, and shall be retained and disposed of according to state and federal law.

d. The provider shall have sufficient space, facilities and supplies for providing effective accounting record keeping services.

4. Resident Record

a. Active Record. The provider shall maintain a separate active record for each resident. The records shall be maintained in an accessible, standardized order and format. The records shall be current and complete and shall be maintained in the facility in which the resident resides and readily available to facility staff. The provider shall have sufficient space, facilities, and supplies for providing effective storage of records. The records shall be available for inspection by the department. Each record shall contain at least the following information:

- i. resident's name, date of birth, Social Security number, previous home address; sex, religion, and birthplace of the resident;
- ii. dates of admission and discharge;
- iii. other identification data including documentation of court status, legal status or legal custody and who is authorized to give consents;
- iv. proof of compliance with the Interstate Compact on Juveniles, the Interstate Compact on the Placement of Children and the Interstate Compact on Mental Health, when indicated. Proof of compliance shall include clearance letters from the compact officers of each state involved;
- v. name, address, and telephone number of the legal guardian(s), and parent(s), if appropriate;
- vi. name, address, and telephone number of a physician and dentist to be called in an emergency;
- vii. resident's authorization for routine and emergency medical care;
- viii. the pre-admission assessment and admission assessment. If the resident was admitted as an emergency admission, a copy of the emergency admission note shall be included as well;
- ix. resident's history including family data, educational background, employment record, prior medical history and prior placement history;
- x. a copy of the physical assessment report;
- xi. reports of assessments and of any special problems or precautions;
- xii. individual service plan, updates, and quarterly reviews;
- xiii. continuing record of any illness, injury, or medical or dental care when it impacts the resident's ability to function or impacts the services he or she needs;

- xiv. reports of any incidents of abuse, neglect, or incidents, including use of time out, personal restraints, or seclusion;
- xv. a summary of attendance and leaves from the provider;
- xvi. a summary of court visits;
- xvii. a summary of all visitors and contacts including dates, name, relationship, telephone number, address, the nature of such visits/contacts and feedback from the family;
- xviii. a record of all personal property and funds, which the resident has entrusted to the facility;
- xix. reports of any resident grievances and the conclusion or disposition of these reports;
- xx. written acknowledgment that the resident has received clear verbal explanation and copies of his/her rights, the house rules, written procedures for safekeeping of his/her valuable personal possessions, written statement explaining the his/her rights regarding personal funds, and the right to examine his/her record;
- xxi. all signed informed consents; and
- xxiii. a discharge summary.

b. Confidentiality and Retention of Resident Records

- i. The provider shall have written policies and procedures for the maintenance, security and retention of records. The provider shall specify who shall supervise the maintenance of records, who shall have custody of records, and to whom records may be released and disposition or destruction of closed service record materials. Records shall be the property of the provider, and the provider, as custodian, shall secure records against loss, tampering or unauthorized use or access.
- ii. The provider shall maintain the confidentiality of all residents' records to include all court related documents, as well as, educational and medical records. Every employee of the provider has the obligation to maintain the privacy of the resident and his/her family and shall not disclose or knowingly permit the disclosure of any information concerning the resident or his/her family, directly or indirectly, to other residents in the facility or any other unauthorized person.
- iii. When the resident is of majority age and not interdicted, a provider shall obtain the resident's written, informed permission prior to releasing any information from which the resident or his/her family might be identified, except for authorized state and federal agencies.
- iv. When the resident is a minor or is interdicted, the provider shall obtain written, informed consent from the legal guardian(s) prior to releasing any information from which the resident might be identified, except for accreditation teams and authorized state and federal agencies.
- v. The provider shall, upon written authorization from the resident or his/her legal guardian(s), make available information in the record to the resident, his/her counsel or the resident's legal guardian(s). If, in the professional judgment of the administration of the provider, it is felt that information contained in the record would be injurious to the health or welfare of the resident, the provider may deny access to the record. In any such case, the provider shall prepare written reasons for denial to the person requesting

the record and shall maintain detailed written reasons supporting the denial in the resident's file.

- vi. The provider may use material from the resident's records for teaching and research purposes, development of the governing body's understanding and knowledge of the provider's services, or similar educational purposes, provided names are deleted, other identifying information are disguised or deleted, and written authorization is obtained from the resident or his/her legal guardian(s).
- vii. All records shall be retained and disposed of in accordance with state and federal laws.
- viii. The facility must maintain the original records in an accessible manner for a period of five years following the death or discharge of a resident.
- ix. In the event of a change of ownership, the resident records shall remain with the facility.
- x. If the facility closes, the owner of the facility within the state of Louisiana shall store the resident records for five years.
- xi. The provider is responsible for training all staff at least annually in confidentiality of information and records.

5. Staff Communication. The provider shall establish procedures to assure adequate communication among staff to provide continuity of services to the resident. This system of communication shall include recording and sharing of daily information noting unusual circumstances, individual and group problems of residents, and other information requiring continued action by staff. Documentation shall be legible, signed and dated by staff.

C. Incidents

- 1. Critical Incidents. The provider shall have written policies and procedures for documenting, reporting, investigating and analyzing all critical incidents.
 - a. The provider shall report any of the following critical incidents to the Child Protection Unit located in the parish in which the facility is located. The Child Protection Unit shall be responsible for notifying the OCS Residential Licensing unit, when it is identified that a potential non-compliance of a licensing standard has occurred:
 - i. abuse;
 - ii. neglect;
 - iii. injuries of unknown origin; or
 - iv. death.
 - b. The provider shall report any of the following critical incidents to the OCS residential licensing unit:
 - i. attempted suicide;
 - ii. serious threat or injury to the resident's health, safety or well-being, i.e., elopement or unexplained absence of a resident;
 - iii. injury with substantial bodily harm while in seclusion or during use of personal restraint; or
 - iv. unplanned hospitalizations.
 - c. The program director or designee shall:
 - i. immediately verbally notify the legal guardian of the incident;
 - ii. immediately verbally notify the appropriate law enforcement authority in accordance with state law;
 - iii. submit the mandated critical incident report form within 24 hours of the incident to the appropriate unit as identified above based on the type of critical incident;

iv. submit a final written report of the incident, if indicated, to the appropriate unit identified above base on the type of critical incident as soon as possible but no later than five working days;

v. submit a final written report of the incident to the legal guardian as soon as possible but no later than five working days; and

vi. conduct an analysis of the incident and take appropriate corrective steps to prevent future incidents from occurring;

vii. maintain copies of any written reports or notifications in the resident's record.

2. Other Incidents. The provider shall have written policies and procedures for documenting, reporting, investigating and analyzing all documenting, reporting, investigating and analyzing all other accidents, incidents and other situations or circumstances affecting the health, safety or well-being of a resident or residents.

a. The provider shall initiate a detailed report of any other unplanned event or series of unplanned events, accidents, incidents and other situations or circumstances affecting the health, safety or well-being of a resident or residents excluding those identified in Subparagraph C.1.a above within 24 hours of the incident. At a minimum, the incident report shall contain the following:

- i. date and time the incident occurred;
- ii. a brief description of the incident;
- iii. where the incident occurred;
- iv. any resident or staff involved in the incident;
- v. immediate treatment provided, if any;
- vi. symptoms of pain and injury discussed with

the physician;

- vii. signature of the staff completing the report;
- viii. name and address of witnesses;
- ix. date and time the legal guardian was notified;
- x. any follow-up required;
- xi. preventive actions to be taken in the future; and
- xii. any documentation of supervisory and

administrative reviews.

b. A copy of all written reports shall be maintained in the resident's record.

D. Abuse and Neglect

1. The provider shall have a written policy and procedure for detecting and reporting suspected abuse or neglect that:

a. describes communication strategies used by the provider to maintain staff awareness of abuse prevention, current definitions of abuse and neglect, mandated reporting requirements to the child protection agency and applicable laws;

b. ensures the resident is protected from potential harassment during the investigation;

c. addresses when an examination by a medical professional is indicated;

d. ensures that any staff member who abuses or neglects a resident will be disciplined;

e. ensures the staff member involved in the incident does not work directly with the resident involved in the

program until an internal investigation is conducted by the facility or the child protection unit makes an initial report;

f. ensures the staff member that may have been involved in the incident is not involved in conducting the investigation;

g. ensures that confidentiality of the incident is protected.

2. Any case of suspected resident abuse or neglect shall be reported according to the guidelines outlined in Subparagraph C.1.a, Critical Incidents.

E. Grievance Process

1. The provider shall have a written policy and procedure, which establishes the right of every resident and the resident's legal guardian(s) to file grievances without fear of retaliation.

2. The written grievance procedure shall include, but not be limited to:

a. a formal process for the resident and the resident's legal guardian(s) to file grievances that shall include procedures for filing verbal, written or anonymous grievances;

b. a formal appeals process for grievances;

c. a formal appeals process for grievance in a timely manner not to exceed 10 days of the receipt of the grievance.

3. The provider shall document that the resident and the resident's legal guardian(s) are aware of and understand the grievance and complaint policy and procedure and have been provided a written copy.

4. The provider shall maintain a log documenting all verbal, written or anonymous grievances filed.

5. Documentation of any resident's or resident's legal guardian(s) grievance and the conclusion or disposition of these grievances shall be maintained in the resident's record. This documentation shall include any action taken by the provider in response to the grievance and any follow up action involving the resident.

F. Quality Improvement

1. The provider shall have a written policy and procedure for maintaining a quality improvement program to include:

a. systematic data collection and analysis of identified areas that require improvement;

b. objective measures of performance;

c. periodic review of resident records;

d. quarterly review of incidents and the use of personal restraints and seclusion to include documentation of the date, time and identification of residents and staff involved in each incident; and

e. implementation of plans of action to improve in identified areas.

2. Documentation related to the quality improvement program shall be maintained for at least two years.

G. Family Involvement. The provider shall have written strategies to foster ongoing positive communication and contact between children and their families, their friend and others significant in their lives.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 35:

§7113. Admission and Discharge

A. Admission

1. Policies and Procedures

a. The provider shall have written policies and procedures that shall include, at a minimum, the following information regarding an admission to the facility:

- i. the application process and the possible reasons for rejection of an application;
- ii. pre-admission screening assessment;
- iii. the age and sex of residents to be served;
- iv. the needs, problems, situations or patterns best addressed by the provider's program;
- v. criteria for admission;
- vi. authorization for care of the resident;
- vii. authorization to obtain medical care for the child;
- viii. criteria for discharge;
- ix. procedures for insuring that placement within the program are the least restrictive alternative, appropriate to meet the resident's needs.

b. No resident shall be admitted unless the provider has first complied with all applicable provisions of the Interstate Compact on Juveniles, the Interstate Compact on Placement of Children and the Interstate Compact on Mental Health. Proof of such prior compliance shall be obtained prior to admission and shall be kept in the resident's file.

c. When refusing admission to a resident, the provider shall notify the referring party of the reason for refusal of admission in writing. If his/her parent(s) or legal guardian(s) referred the resident, he/she shall be provided written reasons for the refusal. Copies of the written reasons for refusal of admission shall be kept in the provider's administrative file.

2. Pre-Admission Screening

a. The provider shall receive an assessment of the applicant prior to admission that identifies services that are necessary to meet the resident's needs and verifies that the resident cannot be maintained in a less restrictive environment within the community. This assessment shall be maintained in the resident's record. The initial screening shall assess the applicant's needs and appropriateness for admission and shall include the following:

i. Emergency/Unplanned Admission. The provider is required to obtain the following information in the event of an emergency admission:

- (a). current health status and any emergency medical needs, mental health and/or substance abuse issues;
- (b). allergies;
- (c). chronic illnesses or physical disabilities;
- (d). current medications and possible side effects;

(e). any medical illnesses or condition that would prohibit or limit the resident's activity or behavior plan; and
(f). proof of legal custody or placing agency agreement;

ii. Planned Admission. Information required within 3 business days:

- (a). allergies;
- (b). current medications and possible side effects;

- (c). other therapies or ongoing treatments;
- (d). current health status to include mental health and/or substance abuse issues;
- (e). any medical illnesses or condition that would prohibit or limit the resident's activity or behavior plan;
- (f). family information;
- (g). education information;
- (h). proof of legal custody or placing agency agreement; and
- (i). chronic illnesses or physical disabilities.

3. Admission Assessment

a. An admission assessment shall be completed within three business days of admission to determine the service needs and preferences of the resident. This assessment shall be maintained in the resident's record. Information gathered from this assessment shall be used to develop a service plan for the resident. Information gathered during the pre-screening assessment that is applicable can be used for the admission assessment and shall include the following:

- i. allergies;
- ii. current medications and possible side effects;
- iii. other therapies or ongoing treatments;
- iv. current health status;
- v. any medical illnesses or condition that would prohibit or limit the resident's activity or behavior plan; and
- vi. family history.

b. Within 30 days of admission, the provider shall evaluate the following information:

- i. mental health screening;
- ii. assessment of family functioning;
- iii. psychological, developmental, vocational or educational assessment, as appropriate (not over one year old); and
- iv. immunization record.

B. Service Plan

1. Within 15 days of admission, the provider, with input from the resident, his/her parents, if appropriate and legal guardian shall develop an interim service plan using information gathered from the pre-admission assessment and the admission assessment. This interim service plan shall include:

- a. the services required to meet the resident's needs;
- b. the scope, frequency, and duration of services;
- c. monitoring that will be provided; and
- d. who is responsible for providing the services, including contract or arranged services.

2. Within 30 days of admission, the provider shall ensure that a resident has an individual service plan developed that will be comprehensive, time limited, goal oriented and address the needs of the resident. The service plan shall include the following components:

- a. a statement of goals to be achieved for the resident and his/her family;
- b. plan for fostering positive family relationships for the resident, when appropriate;
- c. schedule of the daily activities including training/education for residents and recreation to be pursued by the program staff and the resident in attempting to achieve the stated goals;
- d. any specific behavior management plan;

e. any specialized services provided directly or arranged for will be stated in specific behavioral terms that permit the problems to be assessed, and methods for insuring their proper integration with the resident's ongoing program activities;

f. any specific independent living skills needed by the resident which will be provided or obtained by the facility staff;

g. overall goals and specific objectives that are time limited;

h. methods for evaluating the resident's progress;

i. use of community resources or programs providing service or training to that resident, and shall involve representatives of such services and programs in the service planning process whenever feasible and appropriate. Any community resource or program involved in a service plan shall be appropriately licensed or shall be a part of an approved school program;

j. any restriction to residents' "rights" deemed necessary to the resident's individual service plan. Any such restriction shall be expressly stated in the service plan, shall specifically identify the right infringed upon, and the extent and duration of the infringement, and shall specify the reasons such restriction is necessary to the service plan, and the reasons less restrictive methods cannot be employed;

k. goals and preliminary plans for discharge;

l. identification of each person responsible for implementing or coordinating implementation of the plan.

3. The service plan shall be developed by an interdisciplinary team including, but not limited to, the following:

a. service plan manager;

b. representatives of the direct care staff working with the resident on a daily basis;

c. the resident;

d. the resident's parent(s), if indicated;

e. the resident's legal guardian(s); and

f. any other person(s) significantly involved in the resident's care on an ongoing basis.

4. All team participants shall sign the completed service plan.

5. The service plan shall be monitored by the team on an ongoing basis to determine its continued appropriateness and to identify when a resident's condition or preferences have changed. A team meeting shall be held at least quarterly.

6. The provider shall ensure that all persons working directly with the resident are appropriately informed of the service plan and have access to information from the resident's records that is necessary for effective performance of the employee's assigned tasks.

7. The provider shall document that the resident, parent(s), where applicable, and the legal guardian have been invited to participate in the planning process. When they do not participate, the provider shall document the reasons for nonparticipation.

8. All service plans including quarterly reviews shall be maintained in the resident's record.

C. Discharge

1. The provider shall have a written policy and procedure for all discharges. The discharge procedure shall include at least the following:

a. projected date of discharge;

b. responsibilities of each party (provider, resident, family) with regard to the discharge and transition process;

c. transfer of any pertinent information regarding the resident's stay at the facility; and

d. follow-up services, if any and the responsible party.

2. Emergency discharges initiated by the provider shall take place only when the health and safety of a resident or other residents might be endangered by the resident's further stay at the facility. The provider shall have a written report detailing the circumstances leading to each unplanned discharge.

3. When a resident is discharged, the provider shall compile a complete written discharge summary within 30 days of discharge. The discharge summary is to be kept in the resident's record and shall include:

a. the name and home address of the resident, the resident's parent(s), where appropriate, and the legal guardian(s);

b. the name, address and telephone number of the provider;

c. the reason for discharge and, if due to resident's unsuitability for provider's program, actions taken to maintain placement;

d. a summary of services provided during care including medical, dental and health services;

e. a summary of the resident's progress and accomplishments during care;

f. the assessed needs that remain to be met and alternate service possibilities that might meet those needs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 35:

§7115. Resident Protection

A. Rights

1. Provider Responsibility

a. The provider shall have written policies and procedures that ensure each resident's rights are guaranteed and protected.

b. None of the resident's rights shall be infringed upon or restricted in any way unless such restriction is necessary to the resident's individual service plan. When individual rights restrictions are implemented, the provider shall clearly explain and document any restrictions or limitations on those rights, the reasons that make those restrictions medically necessary in the child's individual service plan and the extent and duration of those restrictions. The documentation shall be signed by provider staff, the child and the child's legal guardian(s) or parent(s), if indicated. No service plan shall restrict the access of a resident to legal counsel or restrict the access of state or local regulatory officials to a resident.

c. Children with disabilities have the rights guaranteed to them under the Americans with Disabilities Act (ADA), 42 U.S.C. §12101 et seq., and regulations promulgated pursuant to the ADA, 28 C.F.R. Parts 35 and 36 and 49 C.F.R. Part 37; §504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. §794, and regulations promulgated pursuant thereto, including 45 C.F.R. Part 84. These include the right to receive services in the most

integrated setting appropriate to the needs of the individual; to obtain reasonable modifications of practices, policies, and procedures where necessary (unless such modifications constitute a fundamental alteration of the provider's program or pose undue administrative burdens); to receive auxiliary aids and services to enable equally effective communication; to equivalent transportation services; and to physical access to a provider's facilities.

d. Each child shall be fully informed of these rights and of all rules and regulations governing residents' conduct and responsibilities, as evidenced by written acknowledgment, at the time of admission of the receipt of a copy of children's rights, and when changes occur.

e. Each child's record shall contain a copy of the written acknowledgment, which shall be signed and dated by the program director, or designee, and the child and/or his or her legal guardian.

2. Privacy

a. A child has the right to personal privacy and confidentiality. Any records and other information about the child shall be kept confidential and released only with the child's or legal guardian's expressed written consent or as required by law.

b. A child shall not be photographed or recorded without the express written consent of the child and the child's legal guardian(s). All photographs and recordings shall be used in a manner that respects the dignity and confidentiality of the child.

c. A child shall not participate in research projects without the express written consent of the child and the child's legal guardian(s).

d. A child shall not participate in activities related to fundraising and publicity without the express written consent of the child and the child's legal guardian(s).

3. Contact with Family and Collaterals

a. A child has the right to consult freely and have visits with his/her family (including but not limited to his or her mother, father, grandparents, brothers, and sisters), legal guardian(s) and friends subject only to reasonable rules. Special restrictions shall be imposed only to prevent serious harm to the child. The reasons for any special restrictions shall be recorded in the child's service plan and explained to the child and his or her family. The service plan manager shall review the special restrictions every 30 days and, if restrictions are renewed, the reasons for renewal shall be recorded in the child's service plan. No service plan shall restrict home visits without approval from the legal guardian.

b. A child has the right to telephone communication. The provider shall allow a child to receive and place telephone calls in privacy subject only to reasonable rules and to any specific restrictions in the child's service plan. The service plan manager shall formally approve any restriction on telephone communication in a child's service plan. The service plan manager shall review the special restrictions every 30 days and, if restrictions are renewed, the reasons for renewal shall be recorded in the child's service plan. The cost for long distance calls shall not exceed the usual and customary charges of the local phone company provider. There shall be no restrictions on communication between a child and the child's legal counsel.

c. A child has the right to send and receive mail. The provider shall allow children to receive mail unopened, uncensored and unread by staff unless contraindicated by the child's service plan. The service plan manager shall review this restriction every 30 days. No service plan shall restrict the right to write letters in privacy and to send mail unopened, uncensored and unread by any other person. Correspondence from a child's legal counsel shall not be opened, read or otherwise interfered with for any reason. Children shall have access to all materials necessary for writing and sending letters and, when necessary, shall receive assistance.

d. A child has the right to consult freely and privately with legal counsel, as well as, the right to employ legal counsel of his/her choosing.

e. A child has the right to communicate freely and privately with state and local regulatory officials.

4. Safeguards

a. A child has the right to file grievances without fear of reprisal as provided in the grievances section of these standards.

b. A child has the right to be free from mental, emotional, and physical abuse and neglect and be free from chemical or mechanical restraints. Any use of personal restraints shall be reported to the child's legal guardians(s).

c. A child has the right to live within the least restrictive environment possible in order to retain their individuality and personal freedom.

d. Children shall not be subjected to corporal punishment or cruel, severe, unusual, degrading or unnecessary punishment.

5. Civil Rights

a. A child's civil rights shall not be abridged or abrogated solely as a result of placement in the provider's program.

b. A child shall not be denied admission, segregated into programs or otherwise subjected to discrimination on the basis of race, color, religion, national origin, sexual orientation, physical limitations, political beliefs, or any other non-merit factor. Facilities must comply with the requirements of the Americans with Disabilities Act, 42 U.S.C. §12101 et seq. (ADA).

6. Participation in Program Development

a. A child has the right to refuse treatment.

b. A child has the right to be treated with dignity in the delivery of services.

c. A child has the right to receive preventive, routine and emergency health care according to individual need and that will promote his or her growth and development.

d. A child has the right to be involved, as appropriate to age, development and ability, in assessment and service planning.

e. A child has the right to consult with clergy and participate in religious services in accordance with his/her faith, but shall not be forced to attend religious services. The provider shall have a written policy of its religious orientation, particular religious practices that are observed and any religious restrictions on admission. This description shall be provided to the child and the child's legal guardian(s). When appropriate, the provider shall determine

the wishes of the legal guardian(s) with regard to religious observance and make every effort to ensure that these wishes are carried out. The provider shall, whenever possible, arrange transportation and encourage participation by those children who desire to participate in religious activities in the community.

B. Prohibited Practices

1. The provider shall have a written list of prohibited practices by staff members. Staff members shall not be allowed to engage in any of the prohibited practices. Staff shall not promote or condone these prohibited practices between residents. This list shall include the following:

- a. use of a chemical or mechanical restraint;
- b. corporal punishment such as slapping, spanking, paddling or belting;
- c. marching, standing or kneeling rigidly in one spot;
- d. any kind of physical discomfort except as required for medical, dental or first aid procedures necessary to preserve the resident's life or health;
- e. denial or deprivation of sleep or nutrition except under a physician's order;
- f. denial of access to bathroom facilities;
- g. verbal abuse, ridicule or humiliation, shaming or sarcasm;
- h. withholding of a meal, except under a physician's order;
- i. requiring a resident to remain silent for a long period of time;
- j. denial of shelter, warmth, clothing or bedding;
- k. assignment of harsh physical work;
- l. punishing a group of residents for actions committed by one or a selected few;
- m. withholding family visits;
- n. extensive withholding of emotional response;
- o. denial of school services and denial of therapeutic services;
- p. other impingements on the basic rights of children for care, protection, safety, and security.

2. The resident, where appropriate, and the resident's legal guardian(s) shall receive a list of the prohibited practices. There shall be documentation of acknowledgement of receipt of the list of prohibited practices by the resident and, where appropriate, the resident's legal guardian(s) in the resident's record.

3. A list of prohibited practices shall be posted in the facility.

C. Behavior Support and Intervention Program

1. The provider shall have a behavior support and intervention program that:

- a. describes the provider's behavior support philosophy;
- b. safeguards the rights of residents, families, and staff;
- c. governs allowed and prohibited practices; and
- d. designates oversight responsibilities.

2. The provider shall have written policies and procedures that include, but are not limited to:

- a. a behavior support and intervention model consistent with the provider's mission;
- b. proactive and preventive practices;

- c. development of behavior support plans for residents;
- d. prohibited behavior intervention practices;
- e. restrictive practices, if any, that are allowed and circumstances when they can be used;
- f. physical interventions to be used, if any;
- g. informed consent of legal guardians for use of behavior support and interventions; and
- h. oversight process.

3. The provider shall develop, with the participation of the resident and his/her legal guardian or family, an individualized behavior support plan for each resident receiving service. Information gathered from the pre-admission assessment and the admission assessment will be used to develop the plan. The plan shall include, at a minimum, the following:

- a. identification of the resident's triggers;
- b. the resident's preferred coping mechanisms;
- c. techniques for self-management;
- d. anger and anxiety management options for calming;
- e. a review of previously successful intervention strategies;
- f. a summary of unsuccessful behavior management strategies;
- g. identification of the resident's specific targeted behaviors;
- h. behavior intervention strategies to be used;
- i. the restrictive interventions to be used, if any;
- j. physical interventions to be used, if any; and
- k. specific goals and objectives that address target behaviors requiring physical intervention.

4. An informed consent shall be obtained from the legal guardian for the use of any restrictive intervention.

5. There shall be a system in place that monitors the effectiveness of behavior support and interventions implemented.

6. All persons implementing physical interventions shall be trained and certified in behavior management under a national accredited method.

7. Participation by the resident, family and the resident's legal guardian(s) in the development and review of the behavior support plan shall be documented in the resident's record.

8. There shall be documentation of written consent to the behavior support plan by the resident and the resident's legal guardian(s) in the resident's record.

D. Time-Out

1. The provider shall have a written policy and procedure that governs the use of time-out to include the following:

- a. any room used for time out shall be unlocked and the child shall, at all times, be free to leave if he or she chooses;
- b. time-out procedures shall be used only when less restrictive measures have been used without effect. There shall be written documentation of less restrictive measures used in the resident's record;
- c. emergency use of time-out shall be approved by the service plan manager or program director for a period not to exceed one hour;

d. time-out used in an individual behavior support plan shall be part of the overall service plan;

e. the plan shall state the reasons for using time-out and the terms and conditions under which time-out will be terminated or extended, specifying a maximum duration of the use of the procedure that shall under no circumstances exceed two hours;

f. staff shall make periodic checks but at least every 15 minutes while the resident is in time-out;

g. the resident shall be allowed to return to the daily milieu at any time he/she has regained control of his/her behavior and is ready to participate in the group activities;

h. a resident in time-out shall not be denied access to bathroom facilities, water or meals;

i. after each use of time out, the staff shall document the incident and place in the resident's record;

j. an administrative review of the incident by the program director or other facility management staff will be conducted to include an analysis of specific precipitating factors and strategies to prevent future occurrences.

E. Personal Restraints

1. The provider shall have a written policy and procedure that governs the use of personal restraints.

2. Use of personal restraint shall never be used as a form of punishment, a form of discipline, in lieu of adequate staffing, as a replacement of active treatment or for staff convenience.

3. Written documentation of any less restrictive measures attempted shall be documented in the resident's record.

4. A personal restraint shall be used only in an emergency when a resident's behavior escalates to a level where there is imminent risk of harm to the resident or others and other de-escalation techniques have been attempted without effect. The emergency use of personal restraints shall not exceed the following:

- a. 30 minutes for a resident under nine years old; or
- b. one hour for a resident nine years old or older.

5. The specific maximum duration of the use of personal restraints may be exceeded if a written continuation order before the end of the time period is obtained from a licensed psychiatrist, psychologist or physician with written clinical justification. The maximum time for use of personal restraints shall be 12 hours.

6. During any personal restraint, staff qualified in emergency behavior intervention must monitor the resident's breathing and other signs of physical distress and take appropriate action to ensure adequate respiration, circulation, and overall well-being. If available, staff that is not restraining the resident should monitor the resident. The resident must be released immediately when an emergency health situation occurs during the restraint. Staff must obtain treatment immediately.

7. The resident must be released as soon as the resident's behavior is no longer a danger to himself or others.

8. Restraints are only to be used by employees trained by a certified trainer under a program that is on a state-recognized list of nationally accredited programs. A single person restraint can only be initiated in a life-threatening crisis. Restraint by a peer is prohibited. Staff performing a personal restraint on a resident with specific medical

conditions must be trained on risks posed by such conditions.

9. As soon as possible after the use of a personal restraint, the provider shall provide and document debriefing. Separate debriefing meetings must be held with senior staff and the staff members(s) involved, the resident involved, witnesses to the event, and family members, if indicated.

10. After use of a personal restraint, the staff shall document the incident and place in the resident's record.

11. An administrative review of the incident by the program director or other facility management staff will be conducted to include an analysis of specific precipitating factors and strategies to prevent future occurrences.

12. All incidents of personal restraint use shall be reported in the quality improvement program. A summary report on the use of personal restraints will be prepared and submitted to OCS residential licensing on a quarterly basis.

13. The resident's legal guardian and the OCS child protection unit in the parish in which the facility is located shall be notified if injury or death occurs during restraint use as outlined in the "Critical Incident" section.

14. In the event a death occurs during the use of a personal restraint, the facility shall conduct a review of its personal restraint policies and practices and retrain all staff in the proper techniques and in methods of de-escalation and avoidance of personal restraint use.

15. The resident, where appropriate, and the resident's legal guardian(s) shall receive a list of the prohibited practices. There shall be documentation of acknowledgement of receipt of the list of prohibited practices by the resident and, where appropriate, the resident's legal guardian(s) in the resident's record.

16. A list of prohibited practices shall be posted in the facility.

F. Seclusion

1. The provider shall have a written policy and procedure that governs the use of seclusion.

2. Use of seclusion shall never be used as a form of punishment, a form of discipline, in lieu of adequate staffing, as a replacement of active treatment or for staff convenience.

3. A resident will be placed in a seclusion room only in an emergency, when there is imminent risk of harm to the resident or others and when less restrictive measures have been used without effect. Written documentation of the less restrictive measures attempted shall be documented in the resident's record. The emergency use of seclusion shall not exceed the following:

- a. 1 hour for a resident under nine years old; or
- b. 2 hours for a resident nine years old or older.

4. The specific maximum duration of the use of seclusion may be exceeded if a written continuation order before the end of the time period is obtained from a licensed psychiatrist, psychologist, or physician with written clinical justification. The maximum time for use of seclusion shall be 12 hours.

5. A staff member shall exercise direct physical observation of the resident at all times while in seclusion. During the seclusion, the staff must monitor the resident's physical well being for physical distress and take appropriate action, when indicated. The resident must be released

immediately when an emergency health situation occurs during the seclusion and staff must obtain treatment immediately. The staff member must assess the resident's psychological well-being to insure that the intervention is being completed in a safe and appropriate manner and that the facility's policies and procedures are being upheld.

6. Seclusion used as part of an individual behavior support plan shall state the reasons for using seclusion and the terms and conditions under which seclusion shall be terminated or extended.

7. A resident in seclusion shall not be denied access to bathroom facilities, water or meals.

8. As soon as possible after the use of seclusion, the provider shall provide and document debriefing. Separate debriefing meetings must be held with senior staff and the staff members(s) involved, the resident involved, witnesses to the event, and family members, if indicated.

9. After use of seclusion, the staff shall document the incident and place in the resident's record.

10. An administrative review of the incident by the program director or other facility management staff will be conducted to include an analysis of specific precipitating factors and strategies to prevent future occurrences.

11. All incidents of seclusion shall be trended in the quality improvement program. A summary report on the use of seclusion will be prepared and submitted to OCS residential licensing on a quarterly basis.

12. The resident's legal guardian and the OCS child protection unit in the parish in which the facility is located shall be notified if injury or death occurs while the resident is in seclusion.

13. In the event a death occurs during the use of seclusion, the facility shall conduct a review of its seclusion policies and practices and retrain all staff in the proper use of seclusion and in methods of de-escalation and avoidance of seclusion.

14. The resident, where appropriate, and the resident's legal guardian(s) shall receive a list of the prohibited practices. There shall be documentation of acknowledgement of receipt of the list of prohibited practices by the resident and, where appropriate, the resident's legal guardian(s) in the resident's record.

15. Seclusion Room

a. The resident shall be unable to voluntarily leave the room.

b. The room shall be large enough to allow easy access for staff to enter and exit and deep enough to ensure that the person being secluded cannot keep the door from closing by blocking it with the body or an object.

c. The ceiling of the seclusion room shall be unreachable and of solid construction.

d. If there are windows in the seclusion room, they should be locked with security locks and not allowed to open to the outside. Safety glass or plastic that cannot be broken shall be used for the panes. The view from the door observation window must not be obstructed.

e. The inside walls of the seclusion room shall be smooth and capable of withstanding high impact. Nothing can protrude or extend from the wall.

f. The door of the room shall be a security rated door, shall be able to withstand high impact and stress and

shall swing outward to prevent a person from blocking the door from opening and thus barricading himself in the room.

G. Prohibited Personal Restraint and Seclusion Practices

1. The provider shall have a written list of prohibited practices by staff members. This list shall include the following:

a. pain compliance, slight discomfort, trigger points, pressure points, or any pain inducing techniques;

b. hyperextension of any body part beyond normal limits;

c. joint or skin torsion;

d. pressure or weight on head, chest, lungs, sternum, diaphragm, back, or abdomen, causing chest compression;

e. straddling or sitting on any part of the body;

f. any maneuver that puts pressure, weight or leverage into or on the neck or throat, on any artery or on the back of the person's head or neck;

g. any position or maneuver that obstructs or restricts circulation of blood or obstructs an airway;

h. any type of choking, hand chokes, arm chokes or sleeper hold;

i. any type of head hold where the head is used as a lever to control movement of other body parts or any type of full or half nelson or head lock;

j. any technique that involves mouth, nose, eyes or any part of the face or covering the face or body; and

k. any maneuver that involves punching, hitting, poking, pinching or shoving.

2. The resident and, where appropriate, the resident's legal guardian(s) shall receive a list of the prohibited practices. There shall be documentation of acknowledgement of receipt of the list of prohibited practices by the resident and, where appropriate, the resident's legal guardian(s) in the resident's record.

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HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 35:

§7117. Provider Services

A. Education

1. The provider shall have written policies and procedures to ensure that each resident has access to the most appropriate educational services consistent with the resident's abilities and needs, taking into account his/her age and level of functioning.

2. The provider shall ensure that educational records from the resident's previous school are transferred to the resident's new educational placement timely.

3. A resident's service plan shall identify if the resident has any disabilities. Residents with disabilities shall be identified to the local education agency. If the resident is eligible for Individual with Disabilities Education Act (IDEA) services, the provider shall work with the legal guardian to ensure that he or she has a current educational evaluation, an appropriate Individualized Educational Plan (IEP), and surrogate parent to assist him or her in enforcing rights under the IDEA. If the resident is eligible for Section 504 accommodations, the provider shall work with the legal guardian.

4. If a resident is suspected of having a disability that would qualify him or her for special education services, the

provider shall work with the legal guardian to ensure that a request for a special education evaluation is made and that the local education agency responds appropriately.

5. The provider shall work with the legal guardian and, where applicable, surrogate parent, to identify any deficiencies or problems with a resident's IEP or individualized accommodations plan (IAP), and to ensure that the resident's IEP or IAP is being implemented by the local education agency.

6. All residents of school age shall be enrolled in and attending the least restrictive available option of either a school program approved by the Department of Education or an alternative educational program approved by the local school board within 3 school days of admission to the facility.

7. The provider shall ensure residents have access to vocational training, GED programs and other alternative educational programming, if appropriate.

8. The provider shall coordinate residents' participation in school-related extra curricular activities, including any related fees or costs for necessary equipment.

9. The provider shall notify the resident's legal guardian(s) and, where applicable, the resident's surrogate parent, verbally and in writing within 24 hours of any truancy, expulsion, suspension, or informal removal from school. Notification shall be documented in the resident's record.

B. Milieu (Daily Living) Services

1. Routines

a. The provider shall have a written schedule of daily routines for residents designed to provide for reasonable consistency and timeliness in daily activities, in the delivery of essential services to residents and in the provision of adequate periods of recreation, privacy, rest and sleep.

b. Written schedules of daily routines shall be posted and available to the residents.

c. Daily routines shall be determined in relation to the needs and convenience of the residents who live together.

d. Whenever appropriate, the residents shall participate in making decisions about schedules and routines.

e. The program for daily routines shall be reviewed periodically and revised as the needs of the residents or living group change.

2. Personal Possessions

a. The provider shall allow a resident to bring his/her personal possessions and display them, when appropriate.

b. Residents shall be allowed to acquire possessions of his/her own in accordance with the resident's service plan. The provider may, as necessary, limit or supervise the use of these items. Where restrictions are imposed, the resident shall be informed by staff of the reason of the restriction. The decision and reason shall be recorded in the resident's record.

c. Each resident shall have a secure place to store his/her personal property.

d. Possessions confiscated by staff will be documented to include:

- i. signature of the staff and resident;

- ii. date and time of confiscation; and

- iii. date and time when returned to resident.

e. The provider shall be responsible for all confiscated items, including replacement if the item is damaged, lost or stolen while in the provider's possession.

f. A log of any valuable personal possessions to include any assistive devices, i.e., hearing aide, glasses, etc., shall be maintained by the provider.

3. Clothing and Personal Appearance

a. The provider shall ensure that residents are provided with clean, well-fitting clothing appropriate to the season and to the resident's age, sex and individual needs. Whenever possible, the resident should be involved in selecting their clothing.

b. The provider shall have a written policy concerning any limitations regarding personal appearance. Any limitations should be related to maintaining the safety and well being of the residents receiving services.

c. Clothing and shoes shall be of proper size and adequate in amount to permit laundering, cleaning and repair.

- d. Clothing shall be maintained in good repair.

- e. Clothing shall belong to the individual resident and not be required to be shared.

- f. All clothing provided to a resident shall remain with the resident upon discharge.

- g. The provider shall ensure residents have access to adequate grooming services, including haircuts.

4. Independent Life Training

a. The provider shall have a program to ensure that residents receive training in independent living skills appropriate to their age and functioning level. Individualized independent life training goals shall be included in each resident's service plan.

b. This program shall include but not be limited to instruction in:

- i. health and dental care, hygiene and grooming;

- ii. family life;

- iii. sex education including family planning and venereal disease counseling;

- iv. laundry and maintenance of clothing;

- v. appropriate social skills;

- vi. housekeeping;

- vii. use of transportation;

- viii. budgeting and shopping;

- ix. money management;

- x. cooking and proper nutrition;

- xi. employment issues, including punctuality and attendance;

- xii. use of recreation and leisure time;

- xiii. education, college, and/or long-term planning/ life goals;

- xiv. accessing community services; and

- xv. parenting skills.

5. Money

a. The provider shall permit and encourage a resident, as age appropriate, to possess his/her own money. The provider can give the resident an allowance. Older residents should be given the opportunity to earn additional money by providing opportunities for paid work, unless otherwise indicated by the resident's service plan, and reviewed every 30 days by the service plan manager;

b. money earned, or received either as a gift or an allowance by a resident, shall be deemed to be that resident's personal property;

c. limitations may be placed on the amount of money a resident may possess or have unencumbered access to when such limitations are considered to be in the resident's best interests and are duly recorded in the resident's service plan. The reasons for any limitations should be fully explained to residents and their families;

d. the provider shall, as appropriate to the resident's age and abilities, provide training in budgeting, shopping and money management;

e. resident's monetary restitution for damages shall only occur when there is clear evidence of individual responsibility for the damages and the service team approves the restitution. The resident and his/her legal guardian(s) shall be notified in writing within 24 hours of any claim for restitution and shall be provided with specific details of the damages, how, when and where the damages occurred, and the amount of damages claimed. If the amount is unknown, an estimate of the damages shall be provided and an exact figure provided within 30 days. The resident and his/her legal guardian(s) shall be given a reasonable opportunity to respond to any claim for damages. If the provider receives reimbursement for damages either through insurance or other sources, the resident shall not be responsible for restitution;

f. the provider shall maintain a separate accounting of each resident's money; and

g. upon discharge, the provider shall provide the resident or legal guardian (s) any outstanding balance.

6. Work

a. The provider shall have a written policy regarding the involvement of residents in work including:

i. description of any unpaid tasks required of residents;

ii. description of any paid work assignments including the pay for such assignments that are at least minimum wage;

iii. description of the provider's approach to supervising work assignments;

iv. assurance that the conditions and compensation of such work are in compliance with applicable state and federal laws.

b. The provider shall demonstrate that any resident's work assignments are designed to provide a constructive experience and are not used as a means of performing vital provider functions at low cost. All work assignments shall be in accordance with the resident's service plan.

c. The provider shall assign, as unpaid work, age appropriate housekeeping tasks similar to those performed in a normal family home. Any other work assigned shall be compensated. The provider shall ensure that all such employment practices comply fully with state and federal laws and standards. No resident shall be employed in any industrial or hazardous occupation, or under any hazardous conditions.

d. When a resident engages in off-grounds work, the provider shall be responsible for ensuring the resident has access to transportation and other supports needed to perform the work successfully. The provider shall document that:

i. such work is voluntary and in accordance with the resident's service plan;

ii. the service plan manager approves such work;

iii. the conditions and compensation of such work are in compliance with the Fair Labor Standards Act and other applicable state and federal laws;

iv. such work does not conflict with the resident's program.

C. Food Service

1. The provider shall ensure that a staff person has oversight of the total food service of the facility. This person shall be familiar with nutrition and food service management and shall be responsible for implementation and/or delegation of:

a. purchasing food according to the approved dietary menu;

b. oversight of storing and handling of food;

c. oversight of food preparation;

d. oversight of food serving;

e. maintaining sanitary standards in compliance with state and local regulations;

f. orientation, training and supervision of food service personnel to include proper feeding techniques as age appropriate;

g. maintaining a current list of residents with special nutritional needs;

h. having an effective method of recording and transmitting diet orders and changes;

i. recording information in the resident's record relating to special nutritional needs; and

j. providing information on residents' diets to staff.

2. The provider shall have written policies and procedures that ensure that a resident is, on a daily basis, provided with food of such quality and in such quantity as to meet the recommended daily dietary allowances adjusted for age, gender and activity of the Food Nutrition Board of the National Research Council and doesn't deny any rights of the resident.

3. The provider shall maintain a master menu, including appropriate substitutions, which is written and approved annually, by a registered dietician.

a. The provider shall post the written menu at least one week in advance.

b. Menus shall provide for a sufficient variety of foods, vary from week to week and reflect all substitutions. Residents shall be allowed to provide input into these menus.

c. Written menus and records of foods purchased shall be maintained on record for 60 days.

4. The provider shall ensure that any modified diet for a resident shall be:

a. prescribed by the resident's physician, approved by the registered dietician and identified in the resident's service plan; and

b. planned, prepared, and served by persons who have received instruction on the modified diet.

5. Condiments available appropriate for the ordered diet will be available.

6. When meals are provided to staff, the provider shall ensure that staff members eat the same food served to residents in care, unless special dietary requirements dictate differences in diet.

7. Food provided to a resident shall be in accordance with his/her religious beliefs.

8. No resident shall be denied food or force-fed for any reason except as medically required pursuant to a physician's written order. A copy of the order shall be maintained in the resident's record.

9. There shall be no more than 14 hours between the last meal or snack and the first meal the following day.

10. The provider shall have written policies and procedures to ensure that all food shall be stored, prepared and served under sanitary conditions and in accordance with State Sanitary Code. The provider shall ensure that:

a. food served to the resident is in appropriate quantity; at appropriate temperatures; in a form consistent with the development level of the client; and with appropriate utensils;

b. food served to a resident not consumed is discarded;

c. food and drink purchased shall be of safe quality. Milk and milk products shall be grade A and pasteurized;

d. perishable foods shall be stored at the proper temperatures according to the local public health department to conserve nutritive values;

e. food preparation surfaces, utensils, and equipment shall be cleaned according to guidelines by the local public health department.

11. Hand washing facilities, including hot and cold water, soap, and paper towels, shall be provided adjacent to food service work areas.

12. Food shall be stored separate from cleaning supplies and equipment.

13. Food storage areas are free of rodents, roaches and/or other pests and the provider shall take precautions to insure such pests do not contaminate food.

14. Persons responsible for food preparation shall not prepare food if they have symptoms of acute illness or an open wound.

D. Health Related Services

1. Health Care

a. the provider shall have written policies and procedures for providing preventive, routine and emergency medical and dental care for residents and shall show evidence of access to the resources. They shall include, but are not limited to, the following:

i. ongoing appraisal of the general health of each resident;

ii. provision of health education, as appropriate;

iii. provision for keeping residents' immunizations current;

iv. approaches that ensure that any medical service administered will be explained to the resident in language suitable to his/her age and understanding;

v. an ongoing relationship with a licensed physician, dentist and pharmacist to advise the provider concerning medical and dental care;

vi. availability of a physician on a 24-hour, seven days a week basis;

vii. reporting of communicable diseases and infections in accordance with law;

viii. procedures for ensuring residents know how and to whom to voice complaints about any health issues or concerns.

2. Medical Care

a. The provider shall arrange a medical examination by a physician for the resident within a week of admission unless the resident has received such an examination within 30 days before admission and the results of this examination are available to the provider. If the resident is being transferred from another CRF and has had a physical examination within the last 12 months, a copy of this examination can be obtained to meet the requirement of the admission physical. The physical examination shall include:

i. an examination of the resident for any physical injury, physical disability and disease;

ii. vision, hearing and speech screening;

iii. a current assessment of the resident's general health.

b. The provider shall arrange an annual physical examination of all residents.

c. Whenever indicated, the resident shall be referred to an appropriate medical specialist for either further assessment or service, including gynecological services for female residents. The provider shall schedule such specialist care within 30 days of the initial exam. If the specialist's service needed is a result of a medical emergency, such care shall be obtained immediately.

d. The provider shall ensure that a resident receives timely, competent medical care when he/she is ill or injured. The provider shall notify the resident's legal guardian, verbally/in writing, within 24 hours of a resident's illness or injury that requires service from a physician or hospital. The notification shall include the nature of the injury or illness and any service required.

e. Records of all medical examinations, follow-ups and services together with copies of all notices to legal guardian(s) shall be kept in the resident's record.

3. Dental Care

a. The provider shall have written policies and procedures for providing comprehensive dental services to include:

i. provision for dental service;

ii. provision for emergency service on a 24-hour, seven days a week basis by a licensed dentist;

iii. a recall system specified by the dentist, but at least annually;

iv. dental cleanings annually;

v. training and prompting for residents to brush their teeth at least twice per day.

b. The provider shall arrange a dental exam for each resident within 90 days of admission unless the resident has received such an examination within six months prior to admission. The results of this examination shall be made available to the provider.

c. Records of all dental examinations, follow-ups and service shall be documented in the resident's record.

d. The provider shall notify the resident's legal guardian(s), verbally and/or in writing, within 24 hours when a resident requires or receives dental services of an emergency nature. The notification shall include the nature of the dental condition and any service required.

4. Immunizations

a. The provider shall have written policies and procedures regarding immunizations to ensure that:

i. within 30 days of admission, the provider shall obtain documentation of a resident's immunization history, ensuring the resident has received and will receive all appropriate immunizations and booster shots that are required by the Office of Public Health;

ii. the provider shall maintain a complete record of all immunizations received in the resident's record.

5. Medications

a. The provider shall have written policies and procedures that govern the safe administration and handling of all medication, to include the following:

i. a system for documentation and review of medication errors;

ii. self-administration of both prescription and nonprescription medications;

iii. handling medication taken by residents on pass.

b. The provider shall have a system in place to ensure that there is a sufficient supply of prescribed medication available for each resident at all times.

c. The provider shall ensure that medications are either self-administered or administered by persons with appropriate credentials, training and expertise according to state law.

d. There shall be written documentation requirements for the administration of all prescription and non-prescription medication, whether administered by staff, supervised by staff or self-administered. This documentation shall include:

i. resident's name, date, medication administered;

ii. person administering medication, if other than resident;

iii. refusal to take medication; and

iv. reason for refusal; if applicable.

e. The provider shall ensure that any medication given to a resident for therapeutic and medical purposes is in accordance with the written order of a physician.

i. There shall be no standing orders for prescription medications.

ii. There shall be standing orders, signed by the physician, for nonprescription medications with directions from the physician indicating when he/she is to be contacted. The physician shall update standing orders annually.

iii. Copies of all written orders shall be maintained in the resident's record.

iv. Medication shall not be used as a disciplinary measure, a convenience for staff or as a substitute for adequate, appropriate programming.

v. Medications shall be reviewed and renewed on at least an annual basis.

f. Residents shall be informed of any changes to their medications, prior to administration of any new or altered medications.

g. Residents, staff, and, where appropriate, residents' legal guardian(s) are educated on the potential benefits and negative side effects of the medication and are involved in decisions concerning the use of the medication.

h. The provider shall ensure that the prescribing physician is immediately informed of any side effects observed by staff, or any medication errors. Any such side effects or errors shall be promptly recorded in the resident's

record and the legal guardian(s) shall be notified verbally or in writing within 24 hours.

i. Discontinued and outdated medications and containers with worn, illegible or missing labels shall be properly disposed of according to state law.

j. Medications shall be stored under proper conditions of sanitation, temperature, light, moisture, ventilation, segregation and security.

i. External medications and internal medications shall be stored on separate shelves or in separate cabinets.

ii. All medication, including refrigerated medications, shall be kept under lock and key.

k. Psychotropic medications shall be reviewed and renewed at least every 90 days by a licensed physician.

6. Professional and Specialized Services

a. The provider shall ensure that residents receive specialized services to meet their needs to include but not limited to:

i. physical/occupational therapy;

ii. speech pathology and audiology;

iii. psychological and psychiatric services;

iv. social work services;

v. individual, group and family counseling;

vi. substance abuse counseling/drug or alcohol addiction treatment.

b. The provider shall ensure that all providers of professional and special services:

i. record all significant contacts with the resident;

ii. provide quarterly written summaries of the resident's response to the service, the resident's current status relative to the service and the resident's progress;

iii. participate, as appropriate, in the development, implementation and review of service plans and aftercare plans and in the interdisciplinary team responsible for developing such plans;

iv. provide services appropriately integrated into the overall program and provide training to direct service staff as needed to implement service plans;

v. provide resident assessments/evaluations as needed for service plan development and revision.

c. The provider shall ensure that any provider of professional or special services (internal or external to the facility) shall:

i. have adequately qualified and, where appropriate, currently licensed or certified staff according to state or federal law;

ii. have adequate space, facilities and privacy;

iii. have appropriate equipment, supplies and resources.

d. The providers shall ensure that residents are evaluated for specialized services in a timely manner when a need is identified.

E. Recreation

1. The provider shall have a written policy and procedure for a recreation program that offers indoor and outdoor activities in which participation can be encouraged and motivated on the basis of individual interests and needs of the residents and the composition of the living group.

2. The provider shall provide recreational services based on the individual needs, interests and functioning levels of the residents served. In planning recreational programs and activities, staff should assess the ages,

interests, abilities and developmental and other needs of the residents served to determine the range of activities that are safe and appropriate. Residents shall be allowed time to be alone and to engage in solitary activities that they enjoy. There should be opportunities for group activities to develop spontaneously, such as group singing, dancing, storytelling, listening to records, games, etc. Recreational activities should be planned throughout the week.

3. Recreational objectives shall be included in each resident's service plan. Residents should be involved in planning and selecting activities as part of the individual service plan.

4. There shall be evidence that staff participating in recreation activities with the residents are appropriately informed of the resident's needs, problems, and service plans; communicate routinely with other direct service staff concerning residents; and have a means of providing in-put.

5. The provider shall provide adequate recreation and yard spaces to meet the needs and abilities of its clients regardless of their disabilities. Recreation equipment and supplies shall be of sufficient quantity and variety to carry out the stated objectives of the provider's recreation plan. Recreational equipment should be selected in accordance with the number of clients, their ages and needs, and should allow for imaginative play, creativity, and development of leisure skills and physical fitness.

6. The provider shall utilize the recreational resources of the community whenever appropriate. The provider shall arrange the transportation and supervision required for maximum usage of community resources. Unless the restriction is part of the facility's master behavior program plan, access to such community resources shall not be denied or infringed except as may be required as part of the resident's service plan. Any such restrictions shall be specifically described in the service plan, together with the reasons such restrictions are necessary and the extent and duration of such restrictions.

F. Transportation

1. The provider shall have written policies and procedures to ensure that each resident is provided with transportation necessary to meet his/her needs as identified in the individualized service plan.

2. The provider shall have means of transporting residents in cases of emergency.

3. The provider shall ensure and document that any vehicle used in transporting residents, whether such vehicle is operated by a staff member or any other person acting on behalf of the provider, is inspected and licensed in accordance with state law and carries current liability insurance. All vehicles used for the transportation of residents shall be maintained in a safe condition and in conformity with all applicable motor vehicle laws. Preventative maintenance shall be performed on a monthly basis to ensure the vehicles are maintained in working order. The provider shall maintain documentation supporting adherence to vehicle maintenance schedules and other services as indicated.

4. Any staff member of the provider or other person acting on behalf of the provider, operating a vehicle for the purpose of transporting residents shall maintain a current driver's license. The staff member operating the vehicle shall

have the applicable type of driver's license to comply with the current motor vehicle laws.

5. The provider shall not allow the number of persons in any vehicle used to transport residents to exceed the number of available seats in the vehicle. The provider shall not transport residents in the back or the bed of a truck.

6. The provider shall conform to all applicable state motor vehicle laws regarding the transport of residents.

7. The provider shall ensure that residents being transported in the vehicle are properly supervised while in the vehicle and during the trip.

8. Vehicles used to transport residents shall not be identified in a manner that may embarrass or in any way produce notoriety for residents.

9. The provider shall ascertain the nature of any need or problem of a resident that might cause difficulties during transportation, such as seizures, a tendency toward motion sickness or a disability. The provider shall communicate such information to the operator of any vehicle transporting residents.

10. The following additional arrangements are required for a provider serving residents with physical limitations:

a. a ramp device to permit entry and exit of a resident from the vehicle shall be provided for all vehicles except automobiles normally used to transport physically handicapped residents. A mechanical lift may be utilized if a ramp is also available in case of emergency;

b. in all vehicles except automobiles, wheelchairs used in transit shall be securely fastened to the vehicle;

c. in all vehicles except automobiles, the arrangement of the wheelchairs shall provide an adequate aisle space and shall not impede access to the exit door of the vehicle.

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HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 35:

§7119. Physical Environment

A. Physical Appearance and Conditions

1. The provider shall maintain all areas of the facility accessible to residents in good repair and free from any reasonably foreseeable hazard to health or safety. All structures on the grounds of the facility shall be maintained in good repair.

2. The provider shall have an effective pest control program to prevent insect and rodent infestation.

3. The provider shall maintain the grounds of the facility in good condition.

a. Garbage and rubbish stored outside shall be secured in noncombustible, covered containers and shall be removed on at least a weekly basis.

b. Trash collection receptacles shall be separate from play area.

c. Fences shall be in good repair.

d. Areas determined to be unsafe, including steep grades; cliffs, open pits, swimming pools, high voltage boosters or high-speed roads (45 mph or higher) shall be fenced or have natural barriers to protect residents.

e. Playground equipment shall be so located, installed and maintained as to ensure the safety of residents.

4. Residents shall have access to safe, suitable outdoor recreational space and age appropriate equipment.

5. The provider shall have at least 75 square feet of accessible exterior space for each resident. The exterior space shall be adequate to accommodate one-half the licensed capacity of the facility.

B. Interior Space

1. The provider shall have policies and procedures to ensure that the facility maintains a safe, clean, orderly, and homelike environment.

2. All equipment, furnishings, and interior spaces shall be clean and maintained at all times. The provider shall have a program in place to monitor regular maintenance, preventative maintenance, cleaning and repair of all equipment and furnishings that is performed on a routine basis. Written documentation of the maintenance and cleaning program activities shall be maintained by administration to include cleaning schedules and reports of repairs.

3. The facility shall have sufficient living and program space available for residents to gather for reading, study, relaxation, structured group activities, and visitation. Space shall be available that allows for confidentiality for family visits, counseling, groups, and meetings. The living areas shall contain such items as television, stereo, age-appropriate books, magazines, and newspapers.

4. A facility shall have a minimum of 60 square feet of floor area per resident in living and dining areas accessible to residents and excluding halls, closets, bathrooms, bedrooms, staff or staff's family quarters, laundry areas, storage areas and office areas.

C. Dining Areas

1. The provider shall have dining areas that are permit residents, staff and guests to eat together and create a homelike environment.

2. Dining areas shall be clean, well lit, ventilated and equipped with dining tables and appropriate seating for the dining tables.

D. Bedrooms

1. Each resident shall have his/her own designated area for rest and sleep.

2. The provider shall ensure that each single occupancy bedroom space has a floor area of at least 80 square feet and that each multiple occupancy bedroom space has a floor area of at least 60 square feet for each occupant.

3. The provider shall not use a room with a ceiling height of less than 7 feet 6 inches as a bedroom space. In a room with varying ceiling height, only portions of the room with a ceiling height of at least 7 feet 6 inches are allowed in determining usable space.

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

5. Any provider that licenses beds subsequent to the effective date of these revised standards shall have bedroom space that does not permit more than two residents per designated bedroom space. All others shall not exceed four residents to occupy a designated space.

6. No resident over the age of 5 years shall occupy a bedroom with a member of the opposite sex.

7. The provider shall ensure that the age of residents sharing bedroom space is not greater than four years in difference unless contraindicated based on family dynamics.

8. Each resident shall have his/her own bed. A resident's bed shall be longer than the resident is tall, no less

than 30 inches wide and shall have a clean, comfortable, nontoxic fire retardant mattress.

9. The provider shall ensure that sheets, pillow, bedspread and blankets are provided for each resident:

a. enuretic residents shall have mattresses with moisture resistant covers; and

b. sheets and pillowcases shall be changed at least weekly, but shall be changed more frequently if necessary.

10. Each resident shall have a solidly constructed bed. Cots or other portable beds shall be used on an emergency basis only. The provider shall request a variance from the department if a cot or portable bed is to be in use for longer than one week.

11. The provider shall ensure that the uppermost mattress of any bunk bed in use shall be far enough from the ceiling to allow the occupant to sit up in bed.

12. Each resident shall have his/her own nightstand and dresser or other adequate storage space for private use.

13. There shall be a closet for hanging clothing in proximity to the bedroom occupied by the resident. For beds licensed after the effective date of these standards, there shall be a closet for hanging clothing within the bedroom or immediately adjacent to the bedroom. The closet shall not be within a bathroom.

14. The bedroom space for residents shall be decorated to allow for the personal tastes and expressions of the residents.

E. Bathrooms

1. The facility shall have an adequate supply of hot and cold water. The hot water source shall have a scald control mechanism in place.

2. The facility shall have toilets and baths or showers that allow for individual privacy. For beds licensed after the effective date of these standards, the following ratio shall be met. Whenever calculations include any fraction of a fixture, the next higher whole number of fixtures shall be installed.

Lavatories	1:6 beds
Toilets	1:6 beds
Showers or tubs	1:6 beds

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

4. Each bathroom shall be properly equipped with toilet paper, towels, and soap.

5. Tubs and showers shall have slip proof surfaces.

6. Bathrooms shall contain mirrors secured to the walls at convenient heights and other furnishings necessary to meet the residents' basic hygienic needs.

7. Each resident shall be provided personal hygiene items such as hairbrushes, toothbrushes, razors, etc.

8. Bathrooms shall be equipped to facilitate maximum self-help by residents. Bathrooms shall be large enough to permit staff assistance of residents, if necessary.

9. Toilets, washbasins and other plumbing or sanitary facilities in a facility shall be maintained in good operating condition and conform to the requirements of the state sanitary code.

F. Kitchens

1. Kitchens used for meal preparations shall be provided with the necessary equipment for the preparation, storage, serving and clean up of all meals for all of the

residents and staff regularly served. All equipment shall be maintained in proper working order.

2. The provider shall not use disposable dinnerware at meals except in an emergency situation unless the facility documents that such dinnerware is necessary to protect the health or safety of residents in care.

3. The provider shall ensure that all dishes, cups and glasses used by residents in care are free from chips; cracks or other defects and are in sufficient number to accommodate all the residents.

4. Animals, other than those used as service animals, shall not be permitted in food storage, preparation and dining areas.

G. Laundry Space. The provider shall have a laundry space complete with washer and dryer.

H. Staff Quarters. The provider utilizing live-in staff shall provide adequate, separate living space with a private bathroom for these staff.

I. Administrative and Counseling Space

1. The provider shall provide a space that is distinct from residents' living areas to serve as an administrative office for records, secretarial work and bookkeeping.

2. The provider shall have a designated space to allow private discussions and counseling sessions between individual residents and staff.

3. There shall be a covering on the window

J. Furnishings

1. The provider shall have comfortable customary furniture as appropriate for all living areas. Furniture for the use of residents shall be appropriately designed to suit the size and capabilities of these residents.

2. The provider shall replace or repair broken, run-down or defective furnishings and equipment promptly.

K. Doors and Windows

1. All windows that can be opened shall have insect screening. This screening shall be readily removable in emergencies and shall be in good repair.

2. All closets, bedrooms and bathrooms shall have doors that allow egress from both sides.

3. Each window shall have a covering to provide privacy unless otherwise stipulated in the service plan.

L. Storage

1. The provider shall ensure that there are sufficient and appropriate storage facilities.

2. The provider shall have securely locked storage space for all potentially harmful materials. Keys to such storage spaces shall only be available to authorized staff members.

M. Electrical Systems

1. The provider shall ensure that all electrical equipment, wiring, switches, sockets and outlets are maintained in good order and safe condition.

2. The provider shall ensure that any room, corridor or stairway within a facility shall be well lit.

3. The provider shall ensure that exterior areas are well lit when dark.

N. Heating, Ventilation and Air Conditioning (HVAC)

1. The facility shall provide safe HVAC systems sufficient to maintain comfortable temperatures with a minimum of 65 degrees and maximum 80 degrees fahrenheit in all indoor public and private areas in all seasons of the year;

2. All gas-heating units must bear the stamp of approval of the American Gas Association Testing Laboratories, Inc., or other nationally recognized testing agency for enclosed, vented heaters for the type of fuel used.

3. All gas heating units and water heaters must be vented adequately to carry the products of combustion to the outside atmosphere. Vents must be constructed and maintained to provide a continuous draft to the outside atmosphere in accordance with the recommended procedures of the American Gas Association Testing Laboratories, Inc.

4. All heating units must be provided with a sufficient supply of outside air so as to support combustion without depletion of the air in the occupied room. The provider shall not use open flame heating equipment.

5. The use of portable heaters by the facility and residents is strictly prohibited, unless in an emergency situation.

6. The provider shall take all reasonable precautions to ensure that heating elements, including exposed hot water pipes, are insulated and installed in a manner that ensures the safety of residents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 35:

§7121. Emergency Preparedness

A. Emergency Plan

1. The provider shall have a written overall plan of emergency procedures that shall provide for the following:

a. the evacuation of residents to safe or sheltered areas. Evacuation plans shall include procedures for addressing both planned and unplanned evacuations and to alternate locations within the city and long distance evacuations;

b. training of staff and, as appropriate, residents in preventing, reporting and responding to fires and other emergencies;

c. training of personnel in their emergency duties and the use of any fire fighting or other emergency equipment in their immediate work areas;

d. providing adequate staffing in the event of an emergency;

e. ensuring access to medication and other necessary supplies or equipment.

B. Drills

1. The provider shall conduct fire drills once per month, one drill per shift every 90 days, at varying times of the day.

2. The provider shall make every effort to ensure that staff and residents recognize the nature and importance of fire drills.

C. Notification of Emergencies. The provider shall immediately notify OCS residential licensing, other appropriate agencies and the resident's legal guardian of any fire, disaster or other emergency that may present a danger to residents or require their evacuation from the facility.

D. Access to Emergency Services

1. The provider shall have access to 24-hour telephone service.

2. The provider shall either post telephone numbers of emergency services, including the fire department, police department, medical services, poison control and ambulance

services or show evidence of an alternate means of immediate access to these services.

3. The provider shall ensure direct care staff can access emergency services at all times.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 35:

§7123. Safety Program

A. Policies and Procedures

1. The provider shall have policies and procedures for an on-going safety program that includes continuous inspection of the facility for possible hazards, continuous monitoring of safety equipment and investigation of all incidents.

B. General Safety Practices

1. The provider shall not possess or maintain or permit any other person to possess or maintain any firearm or chemical weapon in the living units of the facility.

2. The provider shall ensure that all poisonous, toxic and flammable materials are safely stored in appropriate containers labeled as to contents. Such materials shall be maintained only as necessary and shall be used in a manner that ensures the safety of residents, staff and visitors. All hazardous chemicals shall be stored in compliance with public health guidelines.

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

4. The provider shall prohibit the use of candles in the facility.

5. Power-driven equipment used by the provider shall be safe, and properly maintained. Such equipment shall be used by residents only under the direct supervision of a staff member and according to state law.

6. The provider shall allow residents to swim only in areas determined to be safe and under the supervision of a person certified/trained in American Red Cross Community Water Safety or equivalent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 35:

Family Impact Statement

Adoption of this Rule by the department will have no effect on the stability of the family, on the authority and rights of parents regarding the education and supervision of their children, on the functioning of the family, on family earnings and family budget, on the behavior and personal responsibility of children or on the ability of the family or a local government to perform the function as contained herein.

Small Business Impact Statement

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses.

Interested persons may submit written comments by the close of business October 30, 2009, to Kaaren Hebert, Assistant Secretary, P.O. Box 3318, Baton Rouge, LA 70821. She is the person responsible for responding to inquiries regarding this proposed Rule.

A public hearing on the proposed Rule will be held on October 27, 2009, at the Department of Social Services, Iberville Building, 627 North Fourth Street, Seminar Room 1-127, Baton Rouge, LA, beginning at 10 a.m. All interested persons will be afforded an opportunity to submit data, views, arguments, orally and in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least 7 working days in advance of the hearing. For assistance, call 225-342-4120 (Voice and TDD).

Kristy H. Nichols
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Residential Licensing

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The purpose of this rule is to repeal and repromulgate Louisiana Administrative Code, Title 67, Part V, Subpart 8, Residential Licensing to streamline and clarify the requirements for child residential facilities in an effort to increase compliance and ensure that the standards are applied consistently during the monitoring process and to comply with Acts 388 and 400 of the 2009 Regular Legislative Session. Act 388 mandates any owner, operator, current or prospective employee, or volunteer of a child care facility licensed by the Department of Social Services to report whether or not his name is currently recorded on the state central registry for a justified finding of abuse or neglect. Act 400 transfers the functions related to the licensure of childcare facilities, other than daycare centers, and child placing agencies from the Office of the Secretary to the Office of Community Services within the Department of Social Services.

The total cost to implement this rule in FY 2009-10 is \$56,700. This cost includes \$5,200 to print 1,000 copies of the revised regulations; \$40,000 to secure the services of two qualified trainers who will be responsible for producing a training manual, provider handbook, and providing statewide training sessions for 30 DSS employees, 10 Office of Juvenile Justice (OJJ) employees, and 95 residential care providers; \$8,000 for associated travel; and approximately \$3,500 for the cost for publishing rulemaking in the Louisiana Register. The agency intends to use Social Services Block Grant (SSBG) funds appropriated in the FY 2009-10 budget to cover these costs. These are one-time costs; therefore, no funding is needed for FY 2010-11 and 2011-12.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections of state and local governments. The agency will not receive additional Social Services Block Grant funds to implement this rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

As a result of this rule change, specific requirements that will affect new providers include having no more than two residents per bedroom space, having lavatories, toilets, and showers for every six residents, and providing a night stand and dresser for each resident. The agency cannot determine how much it will cost for these providers to meet these new mandates. Current providers will be grandfathered in under the present rule requirements; except for the provision for the night stand which may result in an indeterminable minimal cost to provide this additional storage.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

There is no impact anticipated on competition or employment.

Kaaren Hebert
Assistant Secretary
0909#049

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Social Services
Office of Family Support**

**LA 4 Public Pre-Kindergarten Program
(LAC 67:III.5585)**

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, proposes to amend the Louisiana Administrative Code, Title 67, Part III, Subpart 15, Chapter 55, Temporary Assistance for Needy Families (TANF) Initiatives, by adopting Section 5585, LA 4 Public Pre-Kindergarten Program.

The LA 4 Public Pre-Kindergarten Program Initiative will further the goals and intentions of the Temporary Assistance for Needy Families (TANF) Block Grant to Louisiana by providing high quality early childhood education to at risk 4-year-olds. This program has a long term goal of placing at risk four year olds in learning environments at the pre-school level that will foster an interest in learning, increase literacy levels and increase the likelihood of developing responsible behavior.

In order to provide early childhood education to at risk 4-year-olds, funding will be provided through this new initiative. This rule was effective July 1, 2009, by a Declaration of Emergency published in the July 2009 Louisiana Register.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

**Subpart 15. Temporary Assistance for Needy Families
(TANF) Initiatives**

Chapter 55 TANF Initiatives

§5585 LA 4 Public Pre-Kindergarten Program

A. Effective July 1, 2009, the Office of Family Support shall enter into a contract with the Department of Education for the LA 4 Public Pre-Kindergarten Program.

B. Services include providing high quality early childhood education to at risk 4-year-olds in participating public school districts as well as charter schools.

C. These services meet TANF goal 3, to prevent and reduce the incidence of out-of-wedlock pregnancies and TANF goal 4, to encourage the formation and maintenance of two-parent families by placing children in learning environments at the pre-school level to foster an interest in learning, increase literacy levels and increase the likelihood of developing responsible behavior.

D. Eligibility for services is limited to at risk families in which the child is one year younger than the eligible age for kindergarten and is eligible to receive free or reduced school

lunch meals pursuant to the Federal Child Nutrition Program as documented by a completed application for such meals, whether or not such meals are sought.

E. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; House Bill 1 of the 2009 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support LR 35:

Family Impact Statement

1. What effect will this Rule have on the stability of the family? Implementation of this Rule may have a positive impact on family stability as it will provide high quality early childhood education to at risk 4-year-olds to foster an interest in learning, increase literacy levels and increase the likelihood of developing responsible behavior.

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. Parents will have the right to allow their children to participate in an early childhood education program.

3. What effect will this have on the functioning of the family? The Rule may have a positive effect on the functioning of the family by providing a high quality early childhood education to 4-year-olds.

4. What effect will this have on family earnings and family budget? This Rule should have no effect on family earnings.

5. What effect will this have on the behavior and personal responsibility of children? These programs are designed to increase the likelihood of the children entering kindergarten with the skills necessary to be successful and to become contributing members of society by developing responsible behaviors and an interest in learning that will eventually lead to graduation.

6. Is the family or local government able to perform the function as contained in this proposed Rule? This Rule does not require any action on the part of the family or local government.

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

All interested persons may submit written comments through October 27, 2009, to Sammy Guillory, Deputy Assistant Secretary, Office of Family Support, Post Office Box 94065, Baton Rouge, LA, 70804-90656. He is the person responsible for responding to inquiries regarding this proposed Rule.

A public hearing on the proposed Rule will be held on October 27, 2009, beginning 9 a.m. at the Department of Social Services, Iberville Building, 627 North Fourth Street,

First Floor Room 1-129, Baton Rouge, Louisiana. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call Area Code 225-342-4120 (Voice and TDD).

Kristy H. Nichols
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: LA 4 Public Pre-Kindergarten Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This rule will allow the Department of Social Services (DSS) to adopt the LA 4 Public Pre-Kindergarten Program as a new Temporary Assistance for Needy Families (TANF) Initiative. The LA 4 Public Pre-Kindergarten Program is an existing program administered and funded by the Department of Education (DOE) but will now receive TANF funding from DSS to provide services to approximately 5,793 at risk four-year olds statewide.

DSS will enter into a contract with the Department of Education to provide services for the program. The program proposes to provide access to universal high quality, developmentally appropriate pre-kindergarten classes, before and after school enrichment activities, and summer programs to at risk four-year-old children who are eligible to enter public school kindergarten the following year. The total cost appropriated to DOE for the LA 4 Program in FY 09/10 is \$83 million of which \$28,050,000 is 100% TANF funding. The TANF funding replaced State General Fund in DOE and therefore does not represent an increase in expenditures to the program. The only other cost associated with this TANF initiative is \$1,000 (SGF) for the cost of publishing the rule. The total cost to the TANF program for the LA 4 initiative is \$28,051,000 in FY 09/10 and \$28,050,000 in FY 10-11 and FY 11-12. Funding in subsequent fiscal years is contingent on legislative appropriation.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of this rule will have no effect on state or local revenue collections because the agency will not receive additional federal funding to implement this TANF initiative.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule has no estimated costs or economic benefits to directly affected persons or non-governmental groups. This rule merely changes the source of funds for the program.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no impact on competition and employment.

Sammy Guillory
Deputy Assistant Secretary
0909#048

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Transportation and Development
Office of Highways/Engineering**

Design Guidelines for Political Subdivisions
(LAC 70:I.Chapter 13)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Transportation and Development intends to amend Chapter 13 of Title 70 entitled "Design Guidelines for Freeways, Arterial, Collector and Local Highways under the Jurisdiction of Political Subdivisions and Not in the State-Maintained System," in accordance with R.S. 48:35(C).

Title 70

TRANSPORTATION

Part I. Highway Construction

Chapter 13. Design Guidelines for Freeways, Arterial, Collector and Local Highways under the Jurisdiction of Political Subdivisions and Not in the State-Maintained System

§1301. Minimum Design Guidelines for Rural Arterial Roads

Item No.	Item	Rural		
		RA-1	RA-2	RA-3
1	Design Speed (mph)	50 ¹	60 ²	70
2	Number of Lanes (minimum) ³	2	2	4
3	Width of Travel Lanes (ft)	11-12 ⁴	12	12
4	Width of Shoulders (minimum)(ft)			
	(a) Two Lane	8 ⁵	8 ⁵	N/A
	(b) Divided facilities			
	(1) Inside ⁸	4	4	4 ⁶
	(2) Outside	8 ⁵	8 ⁵	8-10 ⁷
5	Shoulder Type	Aggregate (2' min paved)	Aggregate (2' min paved)	Aggregate ⁸ (2' min paved)
6	Parking Lane Width (ft)	N/A	N/A	N/A

Item No.	Item	Rural		
		RA-1	RA-2	RA-3
7	Width of Median on Divided Facilities (ft)			
	(a) Depressed	42-60	42-60	60
	(b) Raised	N/A	N/A	N/A
	(c) Two way left turn lane	N/A	N/A	N/A
8	Fore slope (vertical-horizonal)	1:6	1:6	1:6
9	Back slope (vertical-horizonal)	1:4	1:4	1:4
10	Pavement Cross-slope (%)	2.5	2.5	2.5
11	Minimum Stopping Sight Distance (ft)	425	570	730
12	Maximum Superelevation (%) ⁹	10	10	10
13	Minimum Radius (ft) ¹⁰ (with full superelevation)	700	1,100	1,700
14	Maximum Grade (%) ¹¹	4	3	3
15	Minimum Vertical Clearance (ft) ¹²	16	16	16
16	Minimum Clear Zone(ft)(from edge of through travel lane)	20	30 ¹³	34
17	Bridge Design Live Load ¹⁴	AASHTO	AASHTO	AASHTO
18	Width of Bridges (min) (face to face of bridge rail at gutter line) (ft)	Roadway width	Roadway width	Roadway width

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35(C).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:806 (April 2004) repromulgated LR 30:2332 (October 2004), amended LR 35:

§1303. Footnotes for Rural Arterial Design Guidelines

A. Footnote for Item 1, RA-1 Classification. The design speed may not be less than the current posted speed of the overall route.

B. Footnote for Item 1, RA-2 Classification. Consider using RA-3 criteria (except Item No. 2) for roadways that will be widened in the future.

C. Footnote for Item 2. Consider increasing to a 4-lane facility if design volume is greater than 6,000 vehicles per day and six lanes if design volume is greater than 25,000 vehicles per day. If more than two lanes are to be provided, outside shoulders should be paved.

D. Footnote for Item 3, RA-1 Classification. Twelve feet required when design ADT is 1,500 or greater.

E. Footnote for Items 4(a) and 4(b)(2), RA-1 and RA-2 Classifications. Six foot shoulders are allowed if design volume is between 400 to 2,000 vehicles per day. Four foot shoulders are allowed if design volume is less than 400 vehicles per day.

F. Footnote for Item 4(b)(1), RA-3 Classification. Eight to ten feet to be provided on six lane facilities.

G. Footnote for Item 4(b)(2), RA-3 Classification. Consider using 10 foot outside shoulders where trucks are

greater than 10 percent or if large agricultural vehicles use the roadway.

H. Footnote for Item 4(b)(1) and for Item 5, RA-3 Classification. For ADT 5,000 or greater, the full shoulder width shall be paved.

I. Footnote for Item 12. In Districts 04 and 05, where ice is more frequent, superelevation should not exceed 8 percent from the emax = 10 percent table.

J. Footnote for Item 13. It may be necessary to increase the radius of the curve and/or increase the shoulder width (maximum of 12 feet) to provide adequate stopping sight distance on structure.

K. Footnote for Item 14. Grades 1 percent higher are permissible in rolling terrain.

L. Footnote for Item 15. An additional 6 inches should be added for additional future surfacing.

M. Footnote for Item 16, RA-2 Classification. On multilane facilities, use 32 feet.

N. Footnote for Item 17. LRFD for bridge design.

O. General Note. DOTD pavement preservation minimum design guidelines or 3R minimum design guidelines (separate sheets) shall be applicable to those projects for which the primary purpose is to improve the riding surface.

AUTHORITY NOTE: Promulgated in accordance with R. S. 48:35(C).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:806 (April 2004), repromulgated LR 30:2332 (October 2004), amended LR 35:

§1305. Minimum Design Guidelines for Freeways

Item No.	Item	Urban		Rural
		F-1	F-2	F-3 ¹
1	Design Speed (mph)	50	60	70
2	Level of Service	C ³	C ³	B ²
3	Number of Lanes (minimum)	4	4	4
4	Width of Travel Lanes (ft)	12	12	12
5	Width of Shoulders (ft)			
	(a) Inside ⁴	6	6	6
	(b) Outside ⁵	10	10	10

Item No.	Item	Urban		Rural
		F-1	F-2	F-3 ¹
6	Shoulder Type	Paved	Paved	Paved
7	Width of Median (minimum) (ft)			
	a) Depressed	50	68 (min)–100 (des)	72 (min)–100 (des)
	b) Continuous barrier (4 lane) ⁶	15	15	15
	Continuous barrier (6 lane) ⁶	27	27	27
8	Fore Slope (vertical – horizontal)	1:4 to 1:6	1:6	1:6
9	Back Slope (vertical – horizontal)	1:4	1:4	1:4
10	Pavement Cross Slope (%)	2.5	2.5	2.5
11	Minimum Stopping Sight Distance (ft)	425	570	730
12	Maximum Superelevation (%) ⁷	10	10	10
13	Minimum Radius (ft) ⁸ (with 10% superelevation)	700	1,100	1,700
14	Maximum Grade (%) ⁹	4	3	3
15	Minimum Vertical Clearance (ft) ¹⁰	16	16	16
16	Width of Right-of-Way (ft)			
	(a) Depressed median	As Needed	As Needed	Varies ¹¹
	(b) Median barrier	As Needed	As Needed	As Needed
	(c) Minimum from edge of bridge structure ¹²	15–20	15–20	15–20
17	Bridge Design Live Load ¹³	AASHTO	AASHTO	AASHTO
18	Minimum Width of Bridges (face to face of bridge rail at gutter line) (ft)	Roadway Width	Roadway Width	Roadway Width
19	Minimum Clear Zone(from edge of through travel lane)(ft)			
	(a) 1:4 Fore slope	30	N/A	N/A
	(b) 1:6 Fore slope	22	32	34

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35(C).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:807 (April 2004), repromulgated LR 30:2333 (October 2004), amended LR 35:

§1307. Footnotes for Freeway Design Guidelines

A. Footnote for F-3 Classification. These guidelines may be used in urban areas.

B. Footnote for Item 2, F-3 Classification. Level of Service C can be used in urban areas.

C. Footnote for Item 2, F-1 and F-2 Classifications. Level of Service D can be used in heavily developed urban areas.

D. Footnote for Item 5(a). Four feet to be paved, 10 feet to be paved on 6 lane facilities, 12 feet to be paved on 6 lane facilities with truck DDHV greater than 250.

E. Footnote for Item 5(b). Twelve feet paved when truck DDHV is greater than 250.

F. Footnote for Item 7(b). For larger medians two barriers may be required. The maximum offset of 15 feet from barrier to edge of travel lane shall not be exceeded.

G. Footnote for Item 12. In Districts 04 and 05, where ice is more frequent, superelevation should not exceed 8 percent from the emax = 10% table.

H. Footnote for Item 13. It may be necessary to increase the radius of the curve and/or increase the shoulder width (maximum of 12 feet) to provide adequate stopping sight distance on structure.

I. Footnote for Item 14. Grades 1 percent higher may be used in urban areas.

J. Footnote for Item 15. An additional 6 inches should be added for additional future surfacing. Seventeen feet is required for trusses and pedestrian overpasses.

K. Footnote for Item 16(a), F-3 Classification. As needed for urban projects: 300 feet to 330 feet for rural projects depending on median width.

L. Footnote for Item 16(c). Twenty-five feet shall generally be provided in accordance with EDSM II.1.1.1.

M. Footnote for Item 17. LRFD for bridge design.

N. General Note. DOTD pavement preservation minimum design guidelines or 3R minimum design guidelines(separate sheets) shall be applicable to those projects for which the primary purpose is to improve the riding surface.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35(C).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:807 (April 2004), repromulgated LR 30:2333 (October 2004), amended LR 35:

§1309. Minimum Design Guidelines for Local Roads and Streets

Item No.	Item	Rural			Urban	
		RL-1	RL-2	RL-3	UL-1	UL-2
1	Design Speed (mph) ¹	30	40	50	20	30
2	Average Daily Traffic	0–250	250–400	Over 400	N/A	N/A
3	Typical Number of Lanes	2	2	2	2	2
4	Minimum Width of Travel Lanes (ft)	9	9	11–12 ²	10–11 ³	10–11 ³

Item No.	Item	Rural			Urban	
		RL-1	RL-2	RL-3	UL-1	UL-2
5	Minimum Width of Shoulders (ft) ⁴	2	2	5-8 ⁵	When used ⁶	When used ⁶
6	Shoulder Type	Aggregate	Aggregate	Aggregate	Paved	Paved
7	Minimum Width of Parking Lanes (where used) (ft)	N/A	N/A	N/A	7—Residential 8—Industrial	7—Residential 8—Industrial
8	Minimum Width of Sidewalk (where used) (ft)					
	(a) When offset from curb	N/A	N/A	N/A	4	4
	(b) When adjacent to curb	N/A	N/A	N/A	6	6
9	Fore Slope (vertical–horizontal)	1:3 ⁷	1:3 ⁷	1:4	1:3	1:3
10	Back Slope (vertical–horizontal)	1:2	1:2	1:3	1:2	1:2
11	Pavement Cross Slope (%)	2.5	2.5	2.5	2.5	2.5
12	Minimum Stopping Sight Distance (ft)	200	305	425	115	200
13	Maximum Superelevation (%)	10 ⁸	10 ⁸	10 ⁸	4	4
14	Minimum Radius (ft) ^{9,10}					
	(a) With normal crown (-2.5% cross slope)	7,585	11,625	16,700	100	325
	(b) With 2.5% superelevation	1,930	3,250	5,000	85	250
	(c) With full superelevation	250	450	700	80	235
15	Maximum Grade (%) ¹¹	7	7	6	10	9
16	Minimum Vertical Clearance (ft)	15	15	15	15	15
17	Minimum Clear Zone(ft)					
	(a) From edge of through travel lane	10 ⁷	10 ⁷	Varies ¹²	7—Shoulder facilities	10—Shoulder facilities
	(b) From back of curb (when curb is used)	N/A	N/A	N/A	1 (min)–6 (des)	1 (min)–6 (des)
18	Bridge Design Live Load ¹³	AASHTO	AASHTO	AASHTO	AASHTO	AASHTO
19	Minimum Width of Bridges (face to face of bridge rail at gutter line)	Traveled way plus 4'	Traveled way plus 4'	Traveled ¹⁴ way plus 6'	Traveled ^{15, 16} way plus 8'	Traveled ^{15, 16} way plus 8'
20	Bridge End Treatment	Yes	Yes	Yes	¹⁶	¹⁶

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35(C).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:808 (April 2004), repromulgated LR 30:2334 (October 2004), amended LR 35:

§1311. Footnotes for Local Road and Street Design Guidelines

A. Footnote for Item 1. The design speed may not be less than the current posted speed of the overall route.

B. Footnote for Item 4, RL-3 Classification. For ADT greater than 2,000, use 12-foot lane widths.

C. Footnote for Item 4, UL-1 and UL-2 Classifications. Lane widths in residential areas may be reduced to 9 feet if necessary. Twelve foot lane widths are preferred in industrial areas.

D. Footnote for Item 5. Where bicycle activity is prevalent, a paved 4-foot shoulder should be provided.

E. Footnote for Item 5, RL-3 Classification. For ADT less than 1,500, the minimum shoulder width may be reduced to 4 feet if necessary. For ADT 1,500 to 2,000, use 6-foot shoulders. For ADT over 2,000, use 8-foot shoulders.

F. Footnote for Item 5, UL-1 and UL-2 Classifications. Select the shoulder width that corresponds to the ADT shown in the rural local road guidelines.

G. Footnote for Items 9 and 17(a), RL-1 and RL-2 Classifications. The value shown should be provided on new roadways. A lesser value may be used on existing roads depending on soil stability, right-of-way constraints, the safety record of the road, and the size vehicles using the road. Guidance is available in the publication entitled

"AASHTO Standards for Geometric Design of Very Low Volume Local Roads (ADT < 400)".

H. Footnote for Item 13, RL-1, RL-2 and RL-3 Classifications. In Districts 04 and 05, where ice is more frequent, superelevation should not exceed 8 percent from the $e_{max} = 10\%$ table.

I. Footnote for Item 14. It may be necessary to increase the radius of the curve and/or increase the shoulder width (maximum of 12 feet) to provide adequate stopping sight distance on structure.

J. Footnote for Item 14. On roadways with an ADT < 400, a sharper radius may be used on fully superelevated roadways if necessary. For specific values refer to the publication entitled 'AASHTO guidelines for Geometric Design of Very Low Volume Local Roads (ADT < 400)'. Different radii apply at divisional islands.

K. Footnote for Item 15. Grades 2 percent higher may be used in rural rolling terrain.

L. Footnote for Item 17(a), RL-3 Classification. Varies from 14 feet to 28 feet. Refer to the Roadside Design Guide for the applicable value. For spot replacement projects refer to the applicable part of footnote G for Items 9 and 17(a).

M. Footnote for Item 18. LRFD for bridge design.

N. Footnote for Item 19, RL-3 Classification. For ADT greater than 2,000, use roadway width.

O. Footnote for Item 19, UL-1 and UL-2 Classifications. Refer to EDSM II.3.1.4 when sidewalks will be provided and for guardrail requirements.

P. Footnote for Items 19 and 20, UL-1 and UL-2 Classifications. When shoulders are provided, the minimum

bridge width shall be the larger of that shown or the roadway width.

Q. General Note. These guidelines shall not apply to:

1. dead end roads (open at one end only);
2. roads that are dependent on dead end roads for access.

R. Urban guidelines may be applied to any street for which curb is to be used and the posted speed is less than 50 mph, or any street for which a posted speed of 30 mph or less would be appropriate.

S. General Note. On spot replacement projects the existing geometry and superelevation may remain providing there are no safety problems.

T. General Note. The appropriate local governing body is authorized to make design exceptions for specific items listed in these guidelines, with proper engineering justification.

U. General Note. DOTD pavement preservation minimum design guidelines or 3R minimum design guidelines (separate sheets) shall be applicable to those projects for which the primary purpose is to improve the riding surface.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35(C).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:808 (April 2004), repromulgated LR 30:2334 (October 2004), amended LR 35:

§1313. Minimum Design Guidelines for Rural Collector Roads

Item No.	Item	Rural		
		RC-1	RC-2	RC-3
1	Average Daily Traffic ¹	Under 400	400–2000	Over 2000
2	Design Speed (mph)	40–60 ²	50–60 ²	60
3	Number of Lanes	2	2	2–4 ³
4	Width of Travel Lanes (ft)	11	11–12 ⁴	12
5	Width of Shoulders (ft)			
	(a) Inside on multilane Facilities	N/A	N/A	4
	(b) Outside	2 ⁵	4–5 ⁶	8
6	Shoulder Type	Paved	Aggregate (2' min paved)	Aggregate (2' min paved) ⁷
7	Width of Parking Lanes (ft)	N/A	N/A	N/A
8	Width of Median on multilane facilities (ft)			
	(a) Depressed	N/A	N/A	42–60
	(b) Raised	N/A	N/A	N/A
	(c) Two way left turn lane	N/A	N/A	N/A
9	Width of Sidewalk (minimum) (ft)			
	(a) When offset from curb	N/A	N/A	N/A
	(b) When adjacent to curb	N/A	N/A	N/A
10	Fore Slope (vertical–horizontal)	1:4	1:4	1:6
11	Back Slope (vertical–horizontal)	1:4 ⁸	1:4	1:4
12	Pavement Cross Slope (%)	2.5	2.5	2.5
13	Minimum Stopping Sight Distance (ft)	305(40mph) 425(50mph) 570(60mph)	425 (50 mph) 570 (60 mph)	570
14	Maximum Superelevation (%) ⁹	10	10	10
15	Minimum Radius (ft) ¹⁰ (with full superelevation)	450 ¹¹	700 ¹²	1,100
16	Maximum Grade (%)	7 (40 mph) 6 (50 mph) 5 (60 mph)	6 (50 mph) 5 (60 mph)	5
17	Minimum Vertical Clearance (ft) ¹³	15	15	15
18	Minimum Clear Zone (ft) (from edge of through travel lane)	10, 14, 24 ¹⁴	26 (50 mph) 32 (60 mph)	30
19	Bridge Design Live Load ¹⁵	AASHTO	AASHTO	AASHTO
20	Minimum Width of Bridges (face to face of bridge rail at gutter line) (ft)	30	Roadway width	Roadway width

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35(C).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:809 (April 2004), repromulgated LR 30:2335 (October 2004), amended LR 35:

§1315. Footnotes for Rural Collector Design Guidelines

A. Footnote for Item 1. Current traffic may be used to determine the appropriate classification.

B. Footnote for Item 2, RC-1 and RC-2 Classifications. The design speed may not be less than the current posted speed of the overall route.

C. Footnote for Item 3, RC-3 Classification. For rolling terrain, limited passing sight distance and high percentage of trucks, further analysis should be made to determine if additional lanes are required when ADT is above 7,000.

D. Footnote for Item 4, RC-2 Classification. For design speeds greater than 50 mph and ADT greater than 1,500 use 12-foot lanes.

E. Footnote for Item 5(b), RC-1 Classification. Where bicycle activity is observed, a 4-foot shoulder should be provided.

F. Footnote for Item 5(b), RC-2 Classification. For ADT greater than 1,500 use 6 foot shoulders.

G. Footnote for Item 6, RC-3 Classification. For ADT of 5,000 or greater, a minimum of 4 foot must be paved.

H. Footnote for Item 11, RC-1 Classification. 1:3 back slopes are allowed where right-of-way restrictions dictate.

I. Footnote for Item 14. In Districts 04 and 05, where ice is more frequent, superelevation should not exceed 8 percent from the emax = 10% table.

J. Footnote for Item 15. It may be necessary to increase the radius of the curve and/or increase the shoulder width (maximum of 12 feet) to provide adequate stopping sight distance on structure.

K. Footnote for Item 15, RC-1 Classification. Radius based on 40 mph. Radii for 50 mph and 60 mph are shown under the RC-2 and RC-3 classifications respectively.

L. Footnote for Item 15, RC-2 Classification. Radius based on 50 mph. The radius for 60 mph is shown under the RC-3 classification.

M. Footnote for Item 17. Where the roadway dips to pass under a structure, a higher vertical clearance may be necessary. An additional 6 inches should be added for additional future surfacing.

N. Footnote for Item 18, RC-1 Classification. The lower value is based on a 40 mph design speed, the middle value for 50 mph and the upper value for 60 mph.

O. Footnote for Item 19. LRFD for bridge design.

P. General Note. DOTD pavement preservation minimum design guidelines or 3R minimum design guidelines (separate sheets) shall be applicable to those projects for which the primary purpose is to improve the riding surface.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35(C).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:809 (April 2004), repromulgated LR 30:2335 (October 2004), amended LR 35:

§1317. Minimum Design Guidelines for Suburban Arterial Roads and Streets

Item No.	Item	Suburban ¹			
		SA-1	SA-2		
1	Design Speed (mph)	50	55		
2	Level of Service	C	C		
3	Number of Lanes	2 (min)-4 (typ)	2 (min)-4 (typ)		
4	Width of Travel Lanes(ft)	12	12		
5	Width of Shoulders (minimum) (ft) ²				
	(a) Inside on multilane facilities	4	4		
	(b) Outside	8	8		
6	Shoulder Type	Paved	Paved		
7	Parking Lane Width (ft)	N/A	N/A		
8	Width of Median on Multilane Facilities (ft)				
	(a) Depressed	30-42	42		
	(b) Raised	30	30		
	(c) Two way left turn lane	N/A	N/A		
9	Width of Sidewalk (minimum) (where used) (ft) ³				
	(a) When offset from curb	4	4		
	(b) When adjacent to curb	N/A	N/A		
10	Fore slope (vertical – horizontal)	1:4 to 1:6	1:6		
11	Back slope (vertical – horizontal)	1:3	1:4		
12	Pavement Cross-slope (%)	2.5	2.5		
13	Minimum Stopping Sight Distance (ft)	425	495		
14	Maximum Superelevation(%)	4	6		
15	Minimum Radius (ft) ^{4,5}				
	(a) With normal crown (-2.5% cross-slope)	16,700	19,700		
	(b) With 2.5% superelevation	3,500	5,250		
	(c) With full superelevation	1,000	1,100		
16	Maximum Grade (%)	4 ⁶	4		
17	Minimum Vertical Clearance (ft) ⁷	16	16		

Item No.	Item	Suburban ¹			
		SA-1	SA-2		
18	Minimum Clear Zone(ft)				
	(a) From edge of through travel lane			20 – 28 ⁸	24
	(b) Outside from back of curb (when curb is used)			10 (1:6) 18 (1:4)	14
	(c) Median from back of curb (when curb is used)			12	18
19	Bridge Design Live Load ⁹			AASHTO	AASHTO
20	Width of Bridges (minimum) (face to face of bridge rail at gutter line) ¹⁰				
	(a) Curbed facilities (without sidewalks)			Roadway width	Roadway width
	(b) Shoulder facilities			Roadway width	Roadway width
21	Guardrail Required at Bridge Ends			Yes	Yes

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35(C).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:810 (April 2004), repromulgated LR 30:2336 (October 2004), amended LR 35:

§1319. Footnotes for Suburban Arterial Design Guidelines

A. Footnote for SA-1 and SA-2 Classifications. These guidelines may be used only on a rural roadway section that adjoins a roadway section currently classified as urban. The classification selected should be based on the posted speed.

B. Footnote for Item 5. If curb is used, it shall be placed at the edge of shoulder on two lane facilities and 1 foot beyond the edge of the shoulders on multilane facilities. However, see EDSM II.2.1.7. Curb will not be placed in front of guardrail.

C. Footnote for Item 9. Sidewalks must be separated from the shoulder and should be placed as near the right of way line as possible. They should desirably be placed outside the minimum clear zone shown in item 18.

D. Footnote for Item 15. It may be necessary to increase the radius of the curve and/or increase the shoulder width (maximum of 12 feet) to provide adequate stopping sight distance on structure.

E. Footnote for Item 15. Different radii apply at divisional islands. See Footnote G for "Minimum Design Guidelines for Urban Arterial Roads and Streets."

F. Footnote for Item 16, SA-1 Classification. Grades 1 percent higher are permissible in rolling terrain.

G. Footnote for Item 17. An additional 6 inches should be added for additional future surfacing.

H. Footnote for Item 18(a), SA-1 Classification. Use the larger value when 1:4 fore slopes are used.

I. Footnote for Item 19. LRFD for bridge design.

J. Footnote for Item 20. For roadways with shoulders and curbs, consider widening each bridge 8 feet to allow for a future lane and 4 foot offsets to bridge rail.

K. General Note. DOTD pavement preservation minimum design guidelines or 3R minimum design guidelines (separate sheets) shall be applicable to those projects for which the primary purpose is to improve the riding surface.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35(C).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:811 (April 2004), repromulgated LR 30:2337 (October 2004), amended LR 35:

§1321. Minimum Design Guidelines for Urban and Suburban Collector Roads and Streets

Item No.	Item	Urban		Suburban ¹		
		UC-1	UC-2	SC-1	SC-2	SC-3
1	Average Daily Traffic	N/A	N/A	N/A	N/A	N/A
2	Design Speed (mph)	30–40	45	40	45	50
3	Number of Lanes (minimum)	2–4	2–4	2–4	2–4	2–4
4	Width of Travel Lanes (ft)	11–12	12 ²	11	11	11–12 ²
5	Width of Shoulders (ft)					
	(a) Inside on multilane facilities	N/A	N/A	N/A	N/A	4 ³
	(b) Outside	8 ^{2,4}	8 ^{2,4}	4–5 ⁴	4–5 ⁴	6, 8 ⁵
6	Shoulder Type	Paved	Paved	Paved	Paved	Paved
7	Width of Parking Lanes (where used) (ft)	7–10 ⁶	11	7–10 ⁶	11	N/A
8	Width of Median on multilane facilities (ft)					
	(a) Depressed	N/A	N/A	N/A	N/A	30
	(b) Raised	4 (min)–30 (des)	4 (min)–30 (des)	4 (min)–30 (des)	4 (min)–30 (des)	26
	(c) Two way left turn lane	11–14 typ. ⁷	11–14 typ. ⁷	11–14 typ. ⁷	11–14 typ. ⁷	N/A
9	Width of Sidewalk (minimum) (where used) (ft) ⁸					
	(a) When offset from curb	4	4	4	4	4
	(b) When adjacent to curb	6	6	6	6	N/A

Item No.	Item	Urban		Suburban ¹		
		UC-1	UC-2	SC-1	SC-2	SC-3
10	Fore Slope (vertical – horizontal)	1:3–1:4 ⁹	1:3–1:4 ⁹	1:4	1:4	1:4
11	Back Slope (vertical – horizontal)	1:3 ¹⁰	1:3	1:3	1:3	1:3
12	Pavement Cross Slope (%)	2.5	2.5	2.5	2.5	2.5
13	Minimum Stopping Sight Distance (ft)	200 (30mph) 305 (40mph)	360	305	360	425
14	Maximum Superelevation (%)	4	4	4	4	6
15	Minimum Radius (ft) ^{11, 12}					
	(a) With normal crown (-2.5% cross slope)	325(30mph) 700(40mph)	1,000	700	1,000	16,700
	(b) With 2.5% superelevation	250(30mph) 550(40mph)	750	550	750	4,400
	(c) With full superelevation	235(30mph) 500(40mph)	700	500	700	900
16	Maximum Grade (%)	9	8	7	6	6
17	Minimum Vertical Clearance (ft) ¹³	15	15	15	15	15
18	Minimum Clear Zone(ft)					
	(a) From edge of through travel lane	10	10	10	10	26 – 28 ¹⁴
	(b) Outside from back of curb when curb is used	1 (min)—6 (des)	6 (min)—8 (des)	1 (min)—6 (des)	6 (min)—8 (des)	17 – 19 ¹⁵
	(c) Median from back of curb when curb is used	1 (min)—6 (des)	1 (min)—8 (des)	1 (min) – 6 (des)	1 (min)—8(des)	13
19	Bridge Design Live Load ¹⁶	AASHTO	AASHTO	AASHTO	AASHTO	AASHTO
20	Minimum Width of Bridges (face to face of bridge rail at gutter line)					
	(a) Curbed facilities (without sidewalks)	Traveled ¹⁷ way plus 8'	Roadway width			
	(b) Shoulder facilities	Roadway width	Roadway width	Roadway width	Roadway width	Roadway width
21	Guardrail Required at Bridge Ends	¹⁷	¹⁷	¹⁷	¹⁷	Yes

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35(C).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:811 (April 2004), repromulgated LR 30:2337 (October 2004), amended LR 35:

§1323. Footnotes for Urban and Suburban Collector Design Guidelines

A. Footnote for SC-1, SC-2 and SC-3 Classifications. These guidelines may be used only on a rural roadway section that adjoins a roadway section currently classified as urban. The classification selected should be based on the posted speed.

B. Footnote for Item 4, UC-2 and SC-3 Classifications and for Item 5(b), UC-1 and UC-2 Classifications. For ADT less than 2,000 refer to Exhibit 6-5 on page 425 in the "2004 AASHTO Policy on Geometric Design of Highways and Streets."

C. Footnote for Item 5(a), SC-3 Classification. Applicable to depressed medians only.

D. Footnote for Item 5(b), UC-1, UC-2, SC-1 and SC-2 Classifications. Curb may be used instead of shoulder. Where bicycle activity is observed, a bike lane should be considered.

E. Footnote for Item 5(b), SC-3 Classification. If curb will not be used, shoulder widths may be reduced, see Footnote B (for Item 4). When curb is used on multilane facilities, it shall be placed at the edge of shoulder. When curb is used on 2-lane facilities, 8 foot shoulders will be required if a future center turn lane will be added. Curb will not be placed in front of guardrail.

F. Footnote for Item 7, UC-1 and SC-1 Classifications. Seven and 8-foot widths are limited to residential areas for 30 and 40 mph respectively.

G. Footnote for Item 8(c), UC-1, UC-2, SC-1 and SC-2 Classifications. Cannot be used on multilane roadways (with four or more through lanes) without Chief Engineer's approval.

H. Footnote for Item 9. If shoulders are used, sidewalks should be separated from shoulder.

I. Footnote for Item 10, UC-1 and UC-2 Classifications. Where shoulders are used, 1:4 minimum fore slopes are required through the limits of minimum clear zone.

J. Footnote for Item 11, UC-1 Classification. 1:2 back slopes are allowed where right of way restrictions dictate.

K. Footnote for Item 15. It may be necessary to increase the radius of the curve and/or increase the shoulder width (maximum of 12 feet) to provide adequate stopping sight distance on structure.

L. Footnote for Item 15. Different radii apply at divisional islands. See Footnote G for "Minimum Design Guidelines for Urban Arterial Roads and Streets."

M. Footnote for Item 17. Where the roadway dips to pass under a structure, a higher vertical clearance may be necessary. An additional 6 inches should be added for additional future surfacing.

N. Footnote for Item 18(a), SC-3 Classification. The higher value is applicable to roadways with an ADT greater than 6,000.

O. Footnote for Item 18(b), SC-3 Classification. These values apply to roadways with 8-foot shoulders. For outside shoulders less than 8 feet, further increase should be proportional to the reduced shoulder width.

P. Footnote for Item 19. LRFD for bridge design.

Q. Footnote for Items 20(a) and 21, UC-1, UC-2, SC-1 and SC-2 Classifications. Refer to EDSM II.3.1.4 when sidewalks will be provided and for guardrail requirements.

R. General Note. DOTD pavement preservation minimum design guidelines or 3R minimum design guidelines (separate sheets) shall be applicable to those projects for which the primary purpose is to improve the riding surface.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35(C).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:812 (April 2004), repromulgated LR 30:2338 (October 2004), amended LR 35:

§1325. Minimum Design Guidelines for Urban Arterial Roads and Streets

Item No.	Item	Urban				
		UA-1	UA-2	UA-3	UA-4	UA-5
1	Design Speed (mph)	40	45	50	55	60
2	Level of Service ¹	C	C	C	C	C
3	Number of Lanes	2 (min)– 4 (typ)	2 (min) – 4 (typ)	2 (min) – 4 (typ)	2 (min) – 4 (typ)	2 (min) – 4 (typ)
4	Width of Travel Lanes(ft)	11	11–12	12	12	12
5	Width of Shoulders (minimum) (ft) ²					
	(a) Inside on multilane facilities	N/A	N/A	4	4	4
	(b) Outside	8	8	8	8	8
6	Shoulder Type	Paved	Paved	Paved	Paved	Paved
7	Parking Lane Width (ft)	10–12	10–12	N/A	N/A	N/A
8	Width of Median on Multilane Facilities (ft)					
	(a) Depressed	N/A	N/A	30	34–42	42
	(b) Raised	6 ³ –30	6 ³ –30	30	30	30
	(c) Two way left turn lane	11–14 typ. ⁴	11 – 14 typ. ⁴	N/A	N/A	N/A
9	Width of Sidewalk (minimum) (where used) (ft) ⁵					
	(a) When offset from curb	4	4	4	4	4
	(b) When adjacent to curb	6	6	N/A	N/A	N/A
10	Fore slope (vertical – horizontal)	1:3 (min) 1:4 (des)	1:3 (min) 1:4 (des)	1:4	1:6	1:6
11	Back slope (vertical–horizontal)	1:3	1:3	1:3	1:4	1:4
12	Pavement Cross-slope (%) ⁶	2.5	2.5	2.5	2.5	2.5
13	Minimum Stopping Sight Distance (ft)	305	360	425	495	570
14	Maximum Superelevation (%)	4	4	4	6	6
15	Minimum Radius (ft) ^{6,7}					
	(a) With normal crown (-2.5% cross-slope)	700	1,000	16,700	19,700	22,880
	(b) With 2.5% superelevation	550	750	3,500	5,250	6,280
	(c) With full superelevation	500	700	1,000	1,100	1,400
16	Maximum Grade (%)	7	6	6	5	5
17	Minimum Vertical Clearance (ft) ⁸	16	16	16	16	16
18	Minimum Clear Zone (ft)					
	(a) From edge of through travel lane	18 ⁹	24 ⁹	28 ¹⁰	22	30
	(b) Outside from back of curb (when curb is used)	6(min)– 16 (des) ¹¹	6(min)–22 (des) ¹¹	19 ¹⁰	13	21
	(c) Median from back of curb ¹² (when curb is used)	4 (min)– 12 (des)	4 (min)– 18 (des)	8 (min)– 17 (des)	8 (min)– 17 (des)	8 (min)– 25 (des)
19	Bridge Design Live Load ¹³	AASHTO	AASHTO	AASHTO	AASHTO	AASHTO
20	Width of Bridges (minimum) (face to face of bridge rail at gutter line)					
	(a) Curbed facilities (without sidewalks)	Traveled ¹⁴ way plus 8'	Traveled ¹⁴ way plus 8'	Roadway width	Roadway width	Roadway width
	(b) Shoulder facilities	Roadway Width	Roadway Width	Roadway width	Roadway width	Roadway width
21	Guardrail Required at Bridge Ends	¹⁴	¹⁴	Yes	Yes	Yes

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35(C).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 35:

§1327. Footnotes for Urban Arterial Design Guidelines

A. Footnote for Item 2. Level of service D allowable in heavily developed urban areas.

B. Footnote for Item 5. Curb may be used in place of shoulders on UA-1 and UA-2 facilities. If used on UA-3,

UA-4 or UA-5 facilities, curb should be placed at the edge of shoulder. For design speeds greater than 45 mph, curb will not be placed in front of guardrail.

C. Footnote for Item 8(b), UA-1 and UA-2 Classifications. With Chief Engineer’s approval, curb offsets may be eliminated and the minimum median width can be reduced to 4 feet. On principal arterials, particularly at intersections, the upper limit should be considered.

D. Footnote for Item 8(c), UA-1 and UA-2 Classifications. Cannot be used on multilane roadways (with

four or more through lanes) without the Chief Engineer's approval.

E. Footnote for Item 9. Sidewalks must be separated from the shoulder and should be placed as near the right of way line as possible. On high speed facilities, they should preferably be placed outside the minimum clear zone shown in Item 18.

F. Footnote for Item 15. It may be necessary to increase the radius of the curve and/or increase the shoulder width (maximum of 12 feet) to provide adequate stopping sight distance on structure.

G. Footnote for Item 15. The following radii apply at divisional islands. The radius selected must match the design speed of the road. These radii also apply to the other guidelines where divisional islands are mentioned.

Design Speed	Radius (Rounded)	Degree of Curve
20	1,450'	4°
25	1,650'	3° 30'
30	1,950'	3°
35	2,300'	2° 30'
40	2,900'	2°
45	3,850'	1° 30'
50	5,750'	1°
55 and 60	11,500'	0° 30'

H. Footnote for Item 17. An additional 6 inches should be added for additional future surfacing.

I. Footnote for Item 18(a), UA-1 and UA-2 Classifications. Applies to facilities with shoulders. Refer to the Roadside Design Guide when 1:3 fore slopes are used or for slopes flatter than 1:4.

J. Footnote for Items 18(a) and 18(b), UA-3 Classification. The distance may be reduced by 6 feet if 1:6 slopes are used. For outside shoulders wider than 8 feet, further reduction should be proportional to the added shoulder width.

K. Footnote for Item 18(b), UA-1 and UA-2 Classifications. If outside shoulders and curb are used, refer to the Roadside Design Guide.

L. Footnote for Item 18(c). Where left turn lanes are provided or where the median is less than 6 feet in width, the minimum clearance will be 1.5 feet from back of curb. For median slopes steeper than 1:6, refer to the Roadside Design Guide for the desirable clear zone.

M. Footnote for Item 19. LRFD for bridge design.

N. Footnote for Items 20(a) and 21, UA-1 and UA-2 Classifications. Refer to EDSM II.3.1.4 when sidewalks will be provided and for guardrail requirements.

O. General Note. DOTD pavement preservation minimum design guidelines or 3R minimum design guidelines (separate sheets) shall be applicable to those projects for which the primary purpose is to improve the riding surface.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35(C).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering LR 35:

Family Impact Statement

The proposed adoption of this Rule should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically:

1. The implementation of this proposed Rule will have no known or foreseeable effect on the stability of the family.

2. The implementation of this proposed Rule will have no known or foreseeable effect on the authority and rights of parents regarding the education and supervision of their children.

3. The implementation of this proposed Rule will have no known or foreseeable effect on the functioning of the family.

4. The implementation of this proposed Rule will have no known or foreseeable effect on family earnings and family budget.

5. The implementation of this proposed Rule will have no known or foreseeable effect on the behavior and personal responsibility of children.

6. The implementation of this proposed Rule will have no known or foreseeable effect on the ability of the family or a local government to perform this function.

All interested persons so desiring shall submit oral or written data, views, comments or arguments no later than 30 days from the date of publication of this Notice of Intent. Such comments should be submitted to Sherryl J. Tucker, Senior Attorney, P.O. Box 94245, Baton Rouge, LA 70804, telephone (225) 237-1359.

William D. Ankner, Ph.D.
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Design Guidelines for Political Subdivisions

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There should be no significant fiscal impact to state or local governmental units to implement this rule change. A legislative mandate which prescribes guidelines for roadways under the jurisdiction of political subdivisions which are not in the state-maintained system is contained in R.S. 48:35(C). The original rules were promulgated in 2004. This proposed rule change reflects recent adjustments to the current roadway design guidelines by the American Association of State Highway and Transportation Officials (AASHTO). The change directly affects the guidelines to which local governmental units must build their roads and highways by making technical adjustments to the existing rules. In addition, the provisions of Act 219 of 2009 are also reflected by changing the word "standard" to "guideline," thereby allowing certain flexibility in application of the rules.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This rule change will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no cost or economic benefit to directly affected persons or non-governmental groups as a result of this rule change.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment as a result of this rule change.

William D. Ankner, Ph.D
Secretary
0909#047

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Transportation and Development
Professional Engineering and Land Surveying Board**

Supervising Professional, Professional Conduct and
Continuing Professional Development (CPD)
(LAC 46:LXI.2305, 2505 and 3117)

Under the authority of the Louisiana Professional Engineering and Land Surveying Licensure Law, R.S. 37:681 et seq., and in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Louisiana Professional Engineering and Land Surveying Board has initiated procedures to amend its rules contained in LAC 46:LXI.Chapters 1 through 33.

The amendments are primarily technical housekeeping revisions of existing board rules.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXI. Professional Engineers and Land Surveyors

Chapter 23. Firms

§2305. Supervising Professional

A.1. In the case of firms providing or offering to provide professional services in the state of Louisiana, all such professional services shall be executed under the responsible charge of one or more licensed professionals, and designated by the firm as supervising professionals. Such licensed professionals shall be active employees of the firm:

a. whose primary employment is with the firm on a full-time basis; or

b. whose secondary employment is with the firm, provided the firm is totally owned by one or more of the supervising professionals whose license is used to qualify the firm for licensure.

A.2. - C. ...

D. It is the intent of these rules to guarantee that all professional services provided by a licensed firm are performed under the responsible charge of or by a licensed professional. To this end, the board may also require a licensed firm to identify those licensed professionals who will be providing professional services. In addition, the board may require the individual licensees identified by the licensed firm as the supervising professionals to acknowledge this responsibility, and assume the responsibility of informing the board in the event of a

change of employment. No licensed professional shall be designated as a supervising professional by more than one firm, except in the case of secondary employment by a firm which is totally owned by one or more of the supervising professionals whose license is used to qualify the firm for licensure. A failure to comply with any of the provisions of this rule may subject both the licensed firm and the licensed professional to disciplinary action by the board.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:689.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:115 (May 1979), amended LR 8:191 (April 1982), LR 10:343 (April 1984), LR 11:362 (April 1985), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1036 (July 2001), LR 30:1719 (August 2004), LR 33:2789 (December 2007), LR 35:

**Chapter 25. Professional Conduct
§2505. Services**

A. - E. ...

F. Firms may offer and/or provide a combination of engineering and construction services in connection with a design-build project without obtaining a firm license from the board, provided that:

1. prior to the execution of the contract for the project, the firm obtains an authorization certificate from the board by filing, on a form approved by the board, a written disclosure on which it shall designate a professional engineer (professional of record) licensed in this state to be in responsible charge of all engineering services offered and/or provided by the firm for such project;

2. - 4.b....

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 7:648 (December 1981), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1037 (July 2001), LR 30:1721 (August 2004), LR 32:1620 (September 2006), LR 33:2789 (December 2007), LR 35:

**Chapter 31. Continuing Professional Development
(CPD)**

§3117. Audit and Review of Records

A. ...

B. Additionally, the board will conduct random audits in connection with biennial renewals of up to 30 percent of all board licensees. A license will not be renewed and will be deemed to have expired, unless the licensee provides proof of compliance with all CPD requirements and there are no discrepancies or deficiencies discovered.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:697.I.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2154 (November 1998), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1049 (July 2001), LR 30:1732 (August 2004), LR 35:

Family Impact Statement

In accordance with R.S. 49:953(A)(1)(a)(viii) and 972, the following Family Impact Statement is submitted with the Notice of Intent for publication in the *Louisiana Register*.

The proposed Rule has no known impact on family formation, stability or autonomy.

Interested parties are invited to submit written comments on the proposed Rule through October 10, 2009 at 4:30 p.m., to Donna D. Sentell, Executive Secretary, Louisiana Professional Engineering and Land Surveying Board, 9643 Brookline Avenue, Suite 121, Baton Rouge, LA 70809-1433.

Donna D. Sentell
Executive Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Supervising Professional, Professional Conduct and Continuing Professional Development (CPD)

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no costs or savings to state or local governmental units resulting from these rule changes.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units as a result of this proposed action.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule changes will have no impact on costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes will have no effect on competition and employment.

Donna D. Sentell
Executive Secretary
0909#012

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Nuisance Wildlife Control Operator Program (LAC 76:V.127)

The Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission do hereby advertise their intent to amend the rules for the Nuisance Wildlife Control Operator Program.

Title 76

WILDLIFE AND FISHERIES

Part V. Wild Quadrupeds and Wild Birds

Chapter 1. Wild Quadrupeds

§127. Nuisance Wildlife Control Operator Program

A. Purpose

1. The purpose of this Section is to establish guidelines for the permitting of Nuisance Wildlife Control

Operators (NWCO's) and the procedures to be used by the NWCO's in controlling nuisance wildlife.

2. NWCO's are defined as individuals who offer commercial services for the control of nuisance wildlife.

B. Permits

1. All NWCOs must have a valid NWCO permit issued by the Louisiana Department of Wildlife and Fisheries (LDWF) in their possession while engaged in nuisance wildlife control activities. NWCO permits are issued only to individuals and each individual engaged in NWCO activities must possess a NWCO permit issued in his/her name. This rule does not provide for or authorize any NWCO to name a subpermittee.

2. In addition to the NWCO permit, all NWCOs must possess a valid Louisiana trapping license and valid Louisiana basic hunting license (or equivalent) in their possession while engaged in nuisance wildlife control activities. Additionally, any NWCO servicing non-protected reptile and amphibian nuisance calls must possess a valid basic fishing license or equivalent.

3. NWCO permits will be issued on a calendar year basis (January 1-December 31) and must be renewed annually.

C. Permit Requirements

1. All applicants must be 18 years of age or older.

2. The applicant must achieve a minimum score of 80 percent on the LDWF NWCO examination. The examination shall consist of questions relating to wildlife biology and behavior, nuisance animal control methods and procedures, and nuisance wildlife control laws, rules and regulations. Any applicant who fails to pass the examination may take another examination no earlier than 30 days from the date of the prior examination. Applicants may not attempt to take the NWCO examination more than three times per calendar year.

3. Anyone who has been convicted of a Class II or greater wildlife violation in Louisiana, or the equivalent in another state within the past three years, or has been convicted of a felony in Louisiana or another state, shall not be eligible for a NWCO permit. Also, any person whose hunting or trapping license privileges have been revoked and is prohibited from hunting and trapping in Louisiana shall not be allowed to possess or operate under the authority of a NWCO permit.

4. All applicants must attend a LDWF sponsored NWCO training class prior to or within 6 months of receiving their permit. A class registration charge may be applied. Those NWCOs with valid permits at the time this rule becomes effective will have one year from the effective date of amended regulations to complete the training class requirement. All NWCOs are required to attend six hours of LDWF approved continuing education every three years after attending the NWCO training class. Failure to attend the training class or obtain the six hours of LDWF approved continuing education every three years will result in revocation of the NWCO permit.

D. Exemptions

1. Employees of the Louisiana Department of Wildlife and Fisheries, Louisiana Department of Agriculture and Forestry, Louisiana Department of Transportation and Development, U.S. Fish and Wildlife Service, and USDA/APHIS/Wildlife Services are exempt from all

NWCO permit requirements while they are on duty and carrying out official business of their respective agency. Also, city, parish, or local municipal government employees assigned to animal control duties are exempt from permit requirements while on duty and carrying out official business of their respective agency. It is recommended that exempted agencies adopt a policy requiring euthanasia of all skunks, raccoons, feral hogs, coyotes, and nutria. Animals that are not euthanized may not be released on LDWF owned or managed land such as wildlife management areas or refuges and may not be sold, bartered or exchanged.

E. Reporting and Renewal Requirements

1. All nuisance wildlife complaints that result in a site visit by a NWCO must be fully documented on Nuisance Wildlife Complaint Forms or in a format provided by LDWF.

2. Nuisance Wildlife Complaint Forms for the permit period must be submitted to the LDWF no later than 30 days following the expiration of the permit and NWCO permits will not be renewed until these forms are received. Reports will cover the period from December 1 of the prior license year to November 30 of the current license year. However, the 30 day grace period that follows expiration of the NWCO permit, applies to report filing only and does not authorize NWCOs to engage in nuisance wildlife control activities without a current NWCO permit.

3. Any NWCO who does not submit his/her report by the 30th day after the expiration date of the permit, or who submits a false or materially incomplete report shall be issued a citation for violation of Louisiana Wildlife and Fisheries Commission rules and regulations. If the citation does not result in a conviction, plea of guilty, or plea of no contest, the NWCO will be considered for reapplication upon receipt of the late Nuisance Wildlife Complaint Form(s).

4. Report forms must be current and shall be available for inspection at all times by Wildlife Enforcement Agents or any other authorized representatives of the Department. NWCOs must maintain copies of all Nuisance Wildlife Complaint Forms for three years.

F. Procedures and Guidelines

1. The NWCO permit authorizes the holder to capture, euthanize or relocate designated species of wildlife by safe and effective means at any time of the year and without limits provided the operator is acting on a valid, documented wildlife complaint.

2. The following procedures and guidelines for NWCO permittees shall be in effect to establish what species of wildlife may be taken under the authority of this permit, the legal methods that may be used to take nuisance wildlife under the authority of this permit, and the legal methods of disposing of nuisance wildlife.

a. Only wildlife damage or nuisance complaints affecting humans and/or their property are considered valid complaints. Complaints involving conflicts between two or more species of wildlife are not valid nuisance wildlife complaints.

b. NWCO permittees are only authorized to live trap and relocate, live trap and euthanize, or lethally trap the following species when such action is warranted by a valid nuisance wildlife complaint: armadillo, beaver, bobcat, coyote, feral hogs, fox, mink, muskrat, nutria, opossum,

otter, rabbit, raccoon, squirrel (including flying squirrel) and skunk. NWCO permittees are only authorized to live trap and relocate, live trap and euthanize, or lethally trap reptiles and amphibians that are not protected by federal law. Nuisance birds may be controlled as provided by existing law. Bats may be controlled by exclusion or by capture and relocation only. Bats shall not be controlled by any lethal methods. It is recommended all NWCOs working with bats complete the Bat Conservation International (BCI) professional excluders' course available on-line.

c. The NWCO permit does NOT authorize the capture and/or handling of white-tailed deer, bears, wild turkeys or alligators.

d. The sale, trade, barter, gifting or retention of any wildlife or part thereof taken under the authority of a NWCO permit is prohibited EXCEPT that furbearers taken during the open trapping season may be sold as provided by law.

e. NWCO permittees must follow all state and federal laws, rules and regulations that apply to the taking of wildlife, with the exception of season dates and bag limits, except as otherwise provided in this section.

f. All wildlife taken under a NWCO permit shall be taken and disposed of in a manner to ensure safe and effective handling and/or euthanasia. Acceptable carcass disposal options include deep burial (4 feet), incineration, and sanitary landfills. Disposal of carcasses must be in compliance with all local codes and ordinances. Euthanasia of a captured animal is to be performed under the guidelines adopted by the American Veterinary Medical Association (AVMA).

g. Traps or other capture devices set for live capture (including leg hold traps) shall be checked a minimum of once every 24 hours and all animals removed. Traps intended to result in immediate death must be checked a minimum of once every 48 hours. All traps and other capture devices shall be marked with permanent tags bearing the name, address and telephone number of the NWCO.

h. Only legal methods of take, as provided by existing law, shall be authorized under the NWCO permit. In addition to legal traps and snares, nets and capture by hand are authorized.

i. All traps and other capture devices shall be set in a manner that:

- i. will minimize the risk to non-target animals;
- ii. will minimize the risk to the public and to pets;

and

- iii. are out of the view of the general public.

j. The NWCO permit does not authorize the use of firearms, EXCEPT that nutria, beaver, coyotes, armadillos and feral hogs where legal, may be taken as provided by existing law. Firearms may also be used in accordance with the American Veterinary Medical Association (AVMA) guidelines on euthanasia. Discharge of any firearms shall be subject to all state, parish and municipal restrictions and ordinances.

k. When relocation is authorized, the NWCO may have the wildlife in possession for no more than 24 hours unless specifically authorized by the Department.

l. Wildlife that is relocated shall be released at least five miles outside of any city limit and must be released within the state of Louisiana.

m. Wildlife shall not be released on private land without written permission of the landowner or landowner designee.

n. Wildlife shall not be released on public land without first obtaining written permission from the governmental entity owning or administering the release property.

o. Captured wildlife that appears to be sick or injured shall not be relocated. NWCOS must contact the appropriate LDWF regional office for instructions regarding sick wildlife. Injured animals may be delivered to a licensed rehabilitator or euthanized in accordance with AVMA guidelines.

p. Raccoons, skunks, feral hogs, coyotes and nutria shall not be relocated and shall be euthanized, within 12 hours of capture, in accordance with the current AVMA guidelines on euthanasia.

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Constitution, Article IX, Section 7, R.S. 56:1, R.S. 56:5, R.S. 56:6 (10), and (15), and R.S. 56:112, et seq.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 30:2080 (September 2004), amended LR 35:

Family Impact Statement

In accordance with Act #1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent: This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

The Secretary of the Department of Wildlife is authorized to take any and all necessary steps on behalf of the Commission to promulgate and effectuate this notice of intent and the final Rule, including but not limited to, the filing of the fiscal and economic impact statements, the filing of the notice of intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Interested persons may submit comments relative to the proposed Rule to Carrie Salyers, Wildlife and Fisheries, Wildlife Division, Box 98000, Baton Rouge, LA 70898-9000, prior to Thursday, November 5, 2009.

Robert J. Samanie, III
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Nuisance Wildlife Control Operator Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

No increase or decrease in costs associated with implementing the proposed rule is anticipated. Implementation of the rule will be carried out by existing staff and funding level.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No effect on revenue collections of state and local governmental units is anticipated from the proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Current Nuisance Wildlife Control Operators and those who wish to obtain a permit in the future will be minimally affected. They will have to comply with the new regulation changes and education requirement, which may require a small class registration charge. The new reporting form provided by the department will help to simplify and provide consistent data to the department regarding Nuisance Wildlife Control Operator activities and their potential impacts on species populations.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will have no impact on competition and employment in the public and private sectors.

Wynette Kees
Deputy Undersecretary
0909#017

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Removal of Abandoned Crab Traps (LAC 76:VII.367)

The Wildlife and Fisheries Commission does hereby give notice of its intent to amend a Rule, LAC 76:VII.367, which provides for an abandoned crab trap removal program. Authority to establish these regulations is vested in the Commission by R.S. 56:332(N). Said Rule is attached and made a part of this Notice of Intent.

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and final Rule, including but not limited to, the filing of the fiscal and economic impact statement, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishery §367. Removal of Abandoned Crab Traps

A. The use of crab traps shall be prohibited from 6:00 a.m., February 27, 2010 through 6:00 a.m. March 8, 2010 within that portion of Lafourche Parish, Jefferson Parish, and Plaquemines Parish as described below.

1. From a point originating from the intersection of the Gulf Intracoastal Waterway and the northern shoreline of Hero Canal; thence due north to a point along the northern shoreline of the Gulf Intracoastal Waterway; thence southward and then westward along the northern shoreline of the Gulf Intracoastal Waterway to a point opposite the western shoreline of Bayou Perot; thence due south to the western shoreline of Bayou Perot; thence southward along the western shoreline of Bayou Perot to Little Lake; thence southward along the western shoreline of Little Lake to 29 degrees, 30 minutes, 00 seconds north latitude; thence eastward along 29 degrees, 30 minutes, 00 seconds north

latitude to the eastern shoreline of Wilkinson Canal; thence northward along the eastern shoreline of Wilkinson Canal to its termination; thence due north to the western shore of the Mississippi River; thence northwestward along the western shore of the Mississippi River to a point due east of the northern shoreline of Hero Canal; thence due west to the northern shoreline of Hero Canal; thence westward along the northern shoreline of Hero Canal and terminating at its intersection with the Gulf Intracoastal Waterway.

B. All crab traps remaining in the closed area during the specified period shall be considered abandoned. These trap removal regulations do not provide authorization for access to private property; authorization to access private property can only be provided by individual landowners. Crab traps may be removed only between one-half hour before sunrise to one-half hour after sunset. Anyone is authorized to remove these abandoned crab traps within the closed area. No person removing crab traps from the designated closed areas shall possess these traps outside of the closed area. The Wildlife and Fisheries Commission authorizes the Secretary of the Department of Wildlife and Fisheries to designate disposal sites.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:332(N).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission LR 30:101 (January 2004), amended LR 31:108 (January 2005), LR 32:266 (February 2006), LR 33:113 (January 2007), LR 34:97 (January 2008), LR 35:

Family Impact Statement

In accordance with Act No. 1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent. This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Interested persons may submit written comments relative to the proposed rule to Vincent Guillory, Marine Fisheries Biologist Manager, Marine Fisheries Division, Box 189, Bourg, LA 70343, prior to Thursday, November 5, 2009.

Robert J. Samanie, III
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Removal of Abandoned Crab Traps

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

No increase or decrease in costs or savings to state or local governmental units associated with implementing the proposed rule is anticipated.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule is expected to have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule would prohibit the use of crab traps in a portion of Lafourche, Jefferson and Plaquemines parishes from 6:00 a.m. on February 27, 2010 through 6:00 a.m. on March 8, 2010. Crab fishermen who utilize the area proposed for closure will incur lost fishing time during the designated period and be

subjected to additional costs from having to temporarily remove their traps. These impacted crab fishermen will have to either move their traps to adjacent open fishing areas or remove their traps for the duration of the closure.

Local seafood dealers, processors and consumers may experience a slight decrease in the availability of fresh crabs during the closure, which may result in a slightly higher price of fresh crabs in the short term. The crab resource, however, will not be lost or harmed in any way and will be available for harvest when the closed area is reopened.

Recreational saltwater anglers, commercial fishermen and individuals who operate vessels within the designated area may realize slight positive benefits from the removal of abandoned crab traps, since encounters with abandoned traps often result in lost fishing time and damage to the vessel's lower unit and/or fishing gear. The removal of abandoned crab traps will reduce the mortality of and injuries to crabs and by-catch which become trapped and die in these traps. Thus, the removal of abandoned crab traps should provide improved fishing and reduced fishing costs.

The overall impact of the proposed area closure is anticipated to be slight, since the duration of the closure is only for nine days during the lowest harvest time of the year, and adjacent waters will remain open for crab fishermen to continue to fish.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Effects on competition and employment are expected to be negligible, since waters adjacent to the closure area will remain open for crab harvest and fishermen who fish during this time period are expected to relocate their traps.

Wynette Kees
Deputy Undersecretary
0909#015

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Special Bait Dealer's Permit (LAC 76:VII.329)

The Wildlife and Fisheries Commission does hereby give notice of its intent to amend a Rule, LAC 76:VII.329, which provides for a special bait dealer's permit program. Authority to establish these regulations is vested in the commission by R.S. 56:497(C). Said Rule is attached and made a part of this Notice of Intent.

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and final Rule, including but not limited to, the filing of the Fiscal and Economic Impact Statement, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishery §329. Special Bait Dealer's Permit

A. Policy. The special bait dealer's permit is intended solely for the benefit of the recreational fishing public which desires to use live shrimp and live croaker as bait during the closed season between the spring and fall shrimp seasons. Its purpose is to allow the uninterrupted operation of those

commercial establishments which sell live bait shrimp and live croaker to the fishing public during the closed season beginning May first of each year until the opening of the spring inshore shrimp season and between the spring and fall shrimp season. The permit is not intended for the direct use of recreational fishermen, charter boats, commercial fishermen who sell dead shrimp or croaker, or for any other entity which may wish to catch shrimp or croaker for their own use during the closed season.

B. Application

1. Applications for the special bait dealer's permit will be accepted from January 1 through April 30 of each year. All applications should be mailed to the department via certified mail.

2. Applications will be accepted only from the owner of an existing business which sells or plans to sell live bait to recreational fishermen.

3. Applications must be notarized and made on forms provided by the department; all information requested must be provided before the application will be processed.

4. Applicants must show proof of having acquired all necessary licenses and permits before the permit will be issued. This includes, if relevant, boat registration, vessel license, gear license, commercial fishing licenses, and name of fisherman; wholesale/retail seafood dealers license, state sales tax number, and a copy of the applicant's and the fisherman's valid driver's license. A background check for wildlife violations of the applicant and the fisherman will be made. Any person convicted of any Class Two or greater wildlife or fisheries violation within the previous 3 years prior to the date of application shall not qualify to obtain a special bait dealer's permit or be onboard any vessel engaged in permitted activities.

5. Beginning in 2008, applicant must post a \$1,000 cash bond before the permit is issued. This bond will be forfeited if the permittee, his employee, or his contractor violates any provision of the rules and regulations concerning the special bait dealer's permit or if the permittee, his employee, or his contractor violates any commercial fishing law or regulation while operating under the permit. The fee for the special bait dealer's permit shall be \$110.

6. Before the permit is issued an agent of the department must inspect the facilities of the applicant and verify that the applicant is operating a commercial establishment which sells live shrimp or live croaker to the fishing public for use as bait, and that the applicant does have facilities to maintain live shrimp or croaker. Notice to the public must be posted that live bait shrimp or croaker are available for sale. The applicant must have onshore facilities, including tanks with a combined minimum capacity of 300 gallons, available to hold live shrimp or live croaker. These tanks must have provisions for aeration and/or circulation of the water in which live shrimp or croaker are held prior to sale. In determining total tank capacity of onshore facilities, the agent shall not count any tank with a capacity of less than 30 gallons.

7. Only the applicant, his designated employee, or his contractor may operate under the permit. At the time of application, the applicant will specify the vessel and who

will be working under the permit. Should the vessel or these persons change, the applicant shall submit an amended application listing the vessel or those persons and be in receipt of an approved amended permit before the new vessel or persons operate under the permit. The permit is not transferable to any other person or vessel. The entire original permit must be carried on the vessel while in operation.

8. No person shall transfer any shrimp or croaker taken under a permit from one vessel to another.

C. Operations

1. Only the vessel and captains listed in the permit shall be used with the permit. Live wells, aeration tanks, and other vessel facilities to maintain live shrimp or croaker must be carried on or built into this vessel; it must be used for both taking and transporting the live shrimp or croaker. The vessel must have a minimum of one compartment or tank with a minimum capacity of 30 gallons. No other vessel may be used under the permit. Signs which identify the vessel as working under the special bait dealer's permit shall be posted on the vessel. These signs shall be visible from either side of the vessel and from the air; the word "BAIT" and the permit number shall be placed on these signs in letters at least 12 inches high.

2. Permitted gear is limited to one trawl not to exceed 25 feet along the cork line 33 feet along the lead line or two skimmer nets having an individual net frame size not more than 12 and 1/2 feet measured horizontally or 12 feet measured vertically or 17 feet 4 inches measured diagonally. These are the only gears which can be used or carried aboard the permitted vessel while the vessel is operating under the permit; no other commercial fishing gear may be on the vessel when it is being used under permit.

3. No more than two gallons of dead shrimp or croaker or combination thereof may be aboard the vessel while it is operating under the permit. All dead shrimp or croaker or combination thereof in excess of two gallons must be immediately returned to the water. Shrimp or croaker dying in onshore holding facilities may be sold for bait use only, in lots not to exceed 16 ounces in weight.

4. Bait shrimp or croaker may be taken only from official sunrise to official sunset; no night fishing is allowed under this permit.

5. The entire original permit must be in the possession of the person operating the vessel while it is engaged in taking shrimp or croaker under the terms of the permit.

6. Each time the permit is used the permittee must notify the department by contacting the Communications Section on the designated toll free telephone number provided on the permit and recording the confirmation number received. Before the vessel departs the dock under the permit, the department must be advised of the time of departure and the sub-basin code corresponding to the department's trip ticket sub-basin map in which trawling or skimming will take place; immediately after the permitted vessel returns to the dock the department must be notified of the time of return by contacting the Communications Section on the designated toll free telephone number provided on the permit.

7. The permittee shall maintain an up-to-date record of the activities conducted under the permit on forms

provided by the department for that purpose. These records shall be kept onboard the vessel and made available for inspection by agents of the department upon request by said agents at any time and shall include the permittee's name and permit number, date, departure time, fishing location, gear used, confirmation number, return time, and number of live shrimp or live croaker harvested. All applicable record information shall be completed before fishing operations begin. In addition, any agent of the department shall be allowed to make an on site inspection of any facilities operating under the permit, at any time. Permittee shall submit to the department, not later than September 1 following the live bait season, this record of permit activities on forms provided by the department. Nothing herein this section shall exempt the permittee from trip ticket reporting requirements as provided for in R.S. 56:306.4.

D. Penalties

1. No person shall violate any provision of this section. Violations of any provision of this Section shall constitute a class 4 violation as defined in R.S. 56:34.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:326.3 and 56:497(C).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 3:210 (April 1977), amended LR 15:867 (October 1989), LR 19:215 (February 1993), LR 23:86 (January 1997), LR 33:864 (May 2007), LR 35:

Family Impact Statement

In accordance with Act No. 1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent. This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Interested persons may submit written comments relative to the proposed Rule to Martin Bourgeois, Marine Fisheries Biologist, Office of Fisheries, Marine Fisheries Division, Box 98000, Baton Rouge, LA 70898-9000, prior to Thursday, November 5, 2009.

Robert J. Samanie, III
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Special Dealer's Permit

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

No implementation costs or savings to state or local governmental units are anticipated. Implementation and enforcement of the proposed rule amendment will be carried out using existing staff.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule amendment is anticipated to increase state revenue collections by \$440.00. Revenue collection of local governmental units will not be effected.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule will directly affect recreational fishermen who use live bait and Special Bait Dealer Permit holders and their vessel captains. Special Bait Dealer Permit holders and their vessel captains would benefit by being allowed to harvest live shrimp and live croakers in state inshore waters beginning May 1st of each year to meet the demand of recreational saltwater anglers for live bait in advance of the opening of the spring inshore shrimp season. The establishment of a longer inshore harvest season may also lower fuel harvest costs by reducing the need to travel long distances to waters open to shrimping between May 1st of each year and the opening of the spring inshore shrimp season.

Bait dealers will be required to pay an additional \$10.00 for their Special Bait Dealer's Permit with the permit fee increasing from \$100 to \$110.

Recreational fishermen who use live bait shrimp and/or croaker will also benefit from the increased availability of live bait.

The magnitude of economic benefits to affected persons or non-governmental groups will vary from one entity to another and cannot be quantified at this time using existing data.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule amendment is anticipated to have little or no impact on competition and employment in the public or private sectors.

Wynette Kees
Deputy Undersecretary
0909#016

Robert E. Hosse
Staff Director
Legislative Fiscal Office

Potpourri

POTPOURRI

Department of Agriculture and Forestry Horticulture Commission

Landscape Architect Registration Exam

The next landscape architect registration examination will be given December 7-8, 2009, 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 4, 2009
Re-Take Candidates:	September 25, 2009
Reciprocity Candidates:	November 6, 2009

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 4, 2009. Questions may be directed to (225) 952-8100.

Mike Strain, DVM
Commissioner

0902#028

POTPOURRI

Department of Environmental Quality Office of the Secretary Legal Affairs Division

Solicitation of Comments on the Development of Antidegradation Implementation Procedures (0909Pot1)

The Department of Environmental Quality is requesting public comment regarding the development of Antidegradation Implementation Procedures, which may be incorporated into the Water Quality Management Plan. Federal regulations (40 CFR 131.12(a)(1)-(3)) require all states, tribes, and territories of the United States to have an antidegradation policy in their water quality standards consistent with the Federal policy and to identify the methods for implementing the policy. Louisiana's antidegradation policy and antidegradation implementation plan are contained in LAC 33:IX.1109.A and 1119. The antidegradation policy and implementation plan provide the statutory basis for the protection of state waters from activities that would cause degradation of the water quality and impairment of the existing and designated uses.

The implementation plan for the antidegradation policy (LAC 33:IX.1119) specifies that the procedures and methods for implementation are described in several documents of the Water Quality Management Plan, specifically the Water Quality Standards, the Integrated Report and the Continuing

Planning Process (CPP). LDEQ has developed a partial draft of specific procedures to support the antidegradation policy and implementation plan. The structure and components of this document are based on water programs specifically mentioned in LAC 33:IX.1119. Public participation is desired for the continued development of the antidegradation implementation procedures. The draft document is available for download from LDEQ's website:

<http://www.deq.louisiana.gov/portal/tabid/69/Default.aspx>.

All interested persons are encouraged to submit written comments. Comments are due no later than 4:30 p.m., October 23, 2009, and should be submitted to Kimberly Corts, Office of Environmental Assessment, Water Quality Assessment Division, Box 4314, Baton Rouge, LA 70821-4314.

Herman Robinson, CPM
Executive Counsel

0909#031

POTPOURRI

Office of the Governor Division of Administration Office of Information Technology

OIT Bulletins Published

Pursuant to LAC 4:XV.501 et seq., the Office of Information Technology (OIT) published the following Bulletins in the period 09/01/2009 to 09/30/2009:

Bulletin Number	Topic	Date
ITB 09-01	IT STD-016, Revised Standard, Desktop Configuration	09/03/2009
ITB 09-02	The following OIT Security Policies and Standards have been revised: IT POL 1-00, Enterprise Security IT POL 1-02, Infosec Committee IT POL 1-04, Data Sanitization IT POL 1-08, Authentication IT POL 1-10, Authorized Access IT POL 1-12, Simultaneous Connections IT POL 1-14, Antivirus IT POL 1-16, Disaster Recovery IT POL 1-18, Remote Access IT POL 1-20, Acceptable Use IT POL 1-22, Data in Transit IT POL 1-24, Smartphones IT STD 1-01, Passwords IT STD 1-03, Biometrics IT STD 1-05, Tokens IT STD 1-07, PKI IT STD 1-09, LDAP IT STD 1-11, WiFi IT STD 1-13, Encryption IT STD 1-15, Remote Access IT STD 1-17, Data Sanitization	09/09/2009

(Please note: OIT is redesigning the OIT web site and the numbering scheme associated with Policies and Standards.)

OIT Bulletins, Standards, Guidelines and Policies are posted on the OIT web site at: <http://oit.louisiana.gov>

To receive e-mail notifications when an OIT Bulletin is published, register at <http://oit.louisiana.gov>.

Ed Driesse
Chief Information Officer

0909#108

POTPOURRI

Department of Health and Hospitals Emergency Response Network Board

Interregional Transfer Protocol

On June 18, 2009, the Louisiana Emergency Response Network Board (La. R.S. 40:2842(1)) adopted and promulgated "Interregional Transfer Protocol" for the Louisiana Emergency Response Network (La. R.S. 40:2842(3)), as follows:

Interregional Transfer Protocol

The LERN Interregional Transfer Protocol only applies to those regions and (hospitals/EMS) that are participating in the LERN network.

The interregional transfer protocol will be tested over a 90 day period. At the end of the 90 days all interregional transfers will be reviewed for compliance with protocols, quality, patient safety and standards of care. This information will be shared with commissions of the regions participating as well as the LERN board and the "design the system group". Decisions regarding the Interregional Transfer Protocol will be made at the end of the 90 days trial period.

Interregional Transfer Protocol

1) All patients whose condition exceeds the regionally available resources provided by local area hospitals may be transferred from one region to another following LERN Interregional Transfer Protocol. Destination to the definitive care hospital in the receiving region will follow the LERN Standard Protocol (all laws regarding EMTALA apply).

2) Only regions operating with the LERN Standard Protocol will be involved in the LERN Interregional Transfer Protocol.

3) Patients being transferred via the LERN Interregional Transfer Protocol must:

a. be assessed at a local area hospital for treatment and stabilized by a physician and meet the entry criteria as determined by LERN Standard Protocol

b. treating physician will call LERN to request a transfer to another hospital

c. LCC (LERN Call Center) will determine the closest and most appropriate facility available following LERN Standard Protocol.

d. if there are no available resources in the region then the LCC will locate an appropriate facility outside the region, and a interregional transfer will be considered.

(All LERN interregional transfers will be reviewed by LERN Medical Directors and data will be collected for QI/PI)

Exceptions:

1. EMS requesting LERN for patients located on or close to borders between 2 regions will and can be directed to either region based on the patient needs and available resources.

2. Air-med at the scene that is able to mitigate the time of transfer of long distances will and can be directed to hospitals outside the region they originate from based on patients needs and available resources.

3. LERN Medical Directors will be involved in the decision making (real time) in all patients that fall into the exception category.

On August 20, 2009, the Louisiana Emergency Response Network Board (La. R.S. 40:2842(1)) adopted and promulgated the amended "Interregional Transfer Protocol" for the Louisiana Emergency Response Network (La. R.S. 40:2842(3)), as follows:

Interregional Transfer Protocol

The LERN Interregional Transfer Protocol only applies to those regions, hospitals and pre-hospital providers that are participating in the LERN network.

The interregional transfer protocol will be tested over a 90 day period, at the end of which all interregional transfers will be reviewed for compliance with protocols, quality, patient safety and standards of care. This information will be shared with regional commissions, LERN Board, and LERN Design the System Work Group. Decisions regarding the Interregional Transfer Protocol will be made at the end of the 90 day trial period.

Interregional Transfer Protocol

1. All patients whose conditions exceed the regionally available resources provided by local area hospitals may be transferred from one region to another following LERN Interregional Transfer Protocol. Destination to the definitive care hospital in the receiving region will follow the LERN Standard Protocol. All laws regarding EMTALA apply.

2. Only regions operating with the LERN Standard Protocol will be involved in the LERN Interregional Transfer Protocol.

3. Patients transferred via the LERN Interregional Transfer Protocol must:

a. Be assessed at a local area hospital for treatment, be stabilized by a physician, and meet the entry criteria as determined by LERN Standard Protocol; and

b. Have a treating physician call LERN to request a transfer to another hospital;

4. The LERN Call Center (LCC) will determine the closest and most appropriate facility available following LERN Standard Protocol.

5. If there are no available resources in the region, the LCC will locate an appropriate facility outside the region, and a interregional transfer will be considered.

6. All LERN interregional transfers will be reviewed by LERN medical directors and data will be collected for QI/PI.

7. Exceptions:

a. Pre-hospital providers requesting LERN for patients located on or close to borders between regions will and can be directed to either region based on the patient needs and available resources.

b. Air-med at the scene able to mitigate the time of transfer of long distances will and can be directed to hospitals outside the region they originate from, based on patient needs and available resources.

c. LERN medical directors will be involved in the decision making for all patients in the exception category.

Coletta Barrett, RN, MBA
Chair

0909#045

POTPOURRI

**Department of Health and Hospitals
Office of Public Health**

Notice of Public Hearing
Preventive Health and Health Services Block Grant

The Department of Health and Hospitals, Office of Public Health, will hold a public hearing to receive input from the public on the Louisiana Preventive Health and Health Services Block Grant as administered by the agency. The scheduled public hearing will take place on Wednesday, October 21, 2009 beginning at 10:00 a.m. at 628 N 4th Street (Bienville Building), 3rd Floor, Room 371, Baton Rouge, LA 70802. Copies of the grant may be obtained from Avis Richard-Griffin, Policy, Planning and Evaluation, Office of Public Health. Ms. Richard-Griffin can be contacted by email at avis.richard-griffin@la.gov or by telephone at (225) 342-9355 for additional information.

Alan Levine
Secretary

0909#104

POTPOURRI

**Department of Natural Resources
Office of Conservation**

Orphaned Oilfield Sites

Office of Conservation records indicate that the Oilfield Sites listed in the table below have met the requirements as set forth by Section 91 of Act 404, R.S. 30:80 et seq., and as such are being declared Orphaned Oilfield Sites.

Operator	Field	District	Well Name	Well Number	Serial Number
Ash Exploration, Inc.	Cankton, North	L	H C Miller Et Al	001	211421
Ash Exploration, Inc.	Cankton, North	L	H C Miller Et Al	002	212785
Bayou Gas Company Of Monroe, Inc.	Monroe	M	W M Caldwell	001	90799
Bayou Gas Company Of Monroe, Inc.	Monroe	M	Humble-Sinclair	001	105589

Operator	Field	District	Well Name	Well Number	Serial Number
Bayou Gas Company Of Monroe	Monroe	M	Pennzoil 4	002	170603
Bayou Gas Company Of Monroe	Monroe	M	Pennzoil 4	003	170604
Bayou Gas Company Of Monroe	Monroe	M	Pennzoil 4	007	170608
Bayou Gas Company Of Monroe	Monroe	M	Pennzoil 4	008	170609
Bayou Gas Company Of Monroe	Monroe	M	Pennzoil 4	009	170610
Bayou Gas Company Of Monroe	Monroe	M	Pennzoil 5	001	170612
Bayou Gas Company Of Monroe	Monroe	M	Pennzoil 5	002	170613
Bayou Gas Company Of Monroe	Monroe	M	Pennzoil 5	003	170614
Bayou Gas Company Of Monroe	Monroe	M	Pennzoil 5	004	170615
Bayou Gas Company Of Monroe	Monroe	M	Pennzoil 4	013	170668
Bayou Gas Company Of Monroe	Monroe	M	Pennzoil 5	006	170670
Bayou Gas Company Of Monroe	Monroe	M	Pennzoil 5	007	170671
Bayou Gas Company Of Monroe	Monroe	M	Pennzoil 5	008	170672
Bayou Gas Company Of Monroe	Monroe	M	Pennzoil 5	013	170763
Bayou Gas Company Of Monroe	Monroe	M	Pennzoil 5	014	170764
Bayou Gas Company Of Monroe	Monroe	M	Pennzoil 5	015	170765
Bayou Gas Company Of Monroe	Monroe	M	Williams	001	174570
Bayou Gas Company Of Monroe	Monroe	M	Williams	002	174571
Bayou Gas Company Of Monroe	Monroe	M	Williams	003	174572
Bayou Gas Company Of Monroe	Monroe	M	Williams	004	174573

Operator	Field	District	Well Name	Well Number	Serial Number
Bayou Gas Company Of Monroe	Monroe	M	Mcknight	010	174984
Bayou Gas Company Of Monroe	Monroe	M	Mcknight	011	174985
Bayou Gas Company Of Monroe	Monroe	M	Mcknight	012	174986
Bayou Gas Company Of Monroe	Monroe	M	Shaver A	001	175144
Bayou Gas Company Of Monroe	Monroe	M	Shaver A	002	175145
Bayou Gas Company Of Monroe	Monroe	M	Shaver A	003	175146
Bayou Gas Company Of Monroe	Monroe	M	Shaver A	004	175147
Bayou Gas Company Of Monroe	Monroe	M	Shaver A	005	175148
Bayou Gas Company Of Monroe	Monroe	M	Shaver A	006	175149
Bayou Gas Company Of Monroe	Monroe	M	Steele Williams	001	175150
Bayou Gas Company Of Monroe	Monroe	M	Steele Williams	002	175151
Bayou Gas Company Of Monroe	Monroe	M	Steele Williams	003	175152
Bayou Gas Company Of Monroe	Monroe	M	Steele Williams	004	175153
Bayou Gas Company Of Monroe	Monroe	M	Pennzoil 4	010	176963
Bayou Gas Company Of Monroe	Monroe	M	Pennzoil 5	005	176964
Bayou Gas Company Of Monroe	Monroe	M	Pennzoil 5	010	176965
Bayou Gas Company Of Monroe	Monroe	M	Pennzoil 4	001	177003
Bayou Gas Company Of Monroe	Monroe	M	Pennzoil 4	015	177301
Bayou Gas Company Of Monroe	Monroe	M	Pennzoil 4	012	178453
Bayou Gas Company Of Monroe	Monroe	M	Walter Caldwell	001	178549

Operator	Field	District	Well Name	Well Number	Serial Number
Bayou Gas Company Of Monroe	Monroe	M	Mcknight	009	178849
Barataria Production Svcs, Llc	Bayou Perot	L	E P Brady Et Al	002	30821
Barataria Production Svcs, Llc	Bayou Perot	L	E P Brady Et Al	003	31090
Barataria Production Svcs, Llc	Bayou Perot	L	E P Brady Et Al	006	32152
Barataria Production Svcs, Llc	Bayou Perot	L	E P Brady Et Al	010	33492
Excel Oil & Gas, Inc.	Shongaloo, North-Red Rock	S	Nsrr Buck R Su;Kilpatrick C	001	81134

James H. Welsh
Commissioner

0909#034

POTPOURRI
Department of Natural Resources
Office of the Secretary
Fishermen's Gear Compensation Fund

Loran Coordinates

In accordance with the provisions of R.S. 56:700.1 et seq., notice is given that 14 claims in the amount of \$59,611.14 were received for payment during the period August 1, 2009 - August 31, 2009.

There were 14 claims paid and 0 claims denied.

Latitude/Longitude Coordinates of reported underwater obstructions are:

2626.602	9115.588	St. Mary
2901.239	9026.565	Terrebonne
2907.869	9030.303	Terrebonne
2913.103	9000.205	Jefferson
2916.349	8958.213	Jefferson
2916.383	8956.265	Jefferson
2922.956	9027.857	Terrebonne
2940.313	9014.222	Jefferson
2941.218	8922.028	St. Bernard
2941.458	8928.159	St. Bernard
2941.977	8930.397	St. Bernard
3002.636	8948.317	St. Bernard
3003.398	9017.918	St. Charles
3003.404	9017.943	St. Charles

A list of claimants and amounts paid can be obtained from Gwendolyn Thomas, Administrator, Fishermen's Gear

Compensation Fund, P.O. Box 44277, Baton Rouge, LA 70804 or you can call (225) 342-0122.

Scott A. Angelle
Secretary

0909#033

POTPOURRI

Department of Public Safety and Corrections Oil Spill Coordinator's Office

Duck Lake Oil and Gas Field Crude Oil Discharge
Final Settlement Agreement

Action: Notice of availability of a Final Settlement Agreement (Final SA) for LOSCO NRDA case #LA2002_1204_1200 (Duck Lake 2002).

Agencies: Louisiana Oil Spill Coordinator's Office, Department of Public Safety and Corrections (LOS CO); Louisiana Department of Environmental Quality (LDEQ); and Louisiana Department of Wildlife and Fisheries (LDWF).

Summary: Notice is hereby given that a document entitled, "Final Settlement Agreement Duck Lake 2002" is final and will become available to the public on September 20, 2009. The Final SA was negotiated by the Trustees and Hilcorp to recover damages for injuries to natural resources and services resulting from the incident. The Final SA is a binding agreement in which Hilcorp agrees to: 1) pay the Trustees for their past assessment and future implementation costs, and any corrective action costs associated with the performance of the "Bayou Grand Coteau Coastal Forested Wetland Conversion Project" (referred to herein as the "Restoration Project"); 2) pay all costs associated with implementing the Restoration Project, which was selected in the Final Damage Assessment and Restoration Plan (Final DARP); and 3) fully implement the Restoration Project according to the Final Restoration Implementation and Monitoring Plan (Final RIMP). Execution of the Final SA by the Trustees and Hilcorp shall provide the basis for compensating the public for injuries to natural resources and services resulting from the incident.

Interested members of the public are invited to request a copy of the Final SA from Gina Muhs Saizan at the address provided below.

For Further Information: Contact Gina Muhs Saizan at (225) 219-5800 or by email at gina.saizan@la.gov. To view the Final SA via the internet, please visit www.losco.state.la.us and look under News Flash for Duck Lake 2002 Oil Spill.

Address: Request for copies of the Final SA should be sent to:

Gina Muhs Saizan
Louisiana Oil Spill Coordinator's Office
Department of Public Safety and Corrections
602 N. Fifth Street 7th Floor
P.O. Box 4312
Baton Rouge, LA 70821
gina.saizan@la.gov

Supplementary Information: The public was given an opportunity to review and comment on the Draft Settlement Agreement (Draft SA) document and Draft Restoration Implementation and Monitoring Plan (Draft RIMP) during the public comment period, which extended from December 20, 2008 through January 20, 2009. Public review of the Draft SA and Draft RIMP is consistent with all state laws and regulations that apply to the Natural Resource Damage Assessment (NRDA) process, including the Louisiana Oil Spill Prevention and Response Act (OSPRA), La. Rev. Stat. 30:2451 et seq.; and the regulations for NRDA under OSPRA, La. Admin. Code 43: Part XXIX, Chapter 1. The Trustees did not receive comments during the public comment period and have executed the Final SA.

Roland Guidry
Oil Spill Coordinator

0909#037

POTPOURRI

Department of Public Safety and Corrections Oil Spill Coordinator's Office

East Lake Palourde Crude Oil Discharges
Reported on June 11, 2002

Final Settlement Agreement

Action: Notice of availability of a Final Settlement Agreement (Final SA) for LOSCO NRDA case #LA2002_0611_1715 (Lake Palourde 2002).

Agencies: Louisiana Oil Spill Coordinator's Office, Department of Public Safety and Corrections (LOS CO); Louisiana Department of Environmental Quality (LDEQ); and Louisiana Department of Wildlife and Fisheries (LDWF).

Summary: Notice is hereby given that a document entitled, "Final Settlement Agreement Lake Palourde 2002" is final and will become available to the public on September 20, 2009. The Final SA was negotiated by the Trustees and Unocal to recover damages for injuries to natural resources and services resulting from the incident. The Final SA is a binding agreement in which Unocal agrees to: 1) pay the Trustees for their past assessment and future implementation costs, and any corrective action costs associated with the performance of the "Bayou Grand Coteau Coastal Forested Wetland Conversion Project" (referred to herein as the "Restoration Project"); 2) pay all costs associated with implementing the Restoration Project, which was selected in the Final Damage Assessment and Restoration Plan (Final DARP); and 3) fully implement the Restoration Project according to the Final Restoration Implementation and Monitoring Plan (Final RIMP). Execution of the Final SA by the Trustees and Unocal shall provide the basis for compensating the public for injuries to natural resources and services resulting from the incident.

Interested members of the public are invited to request a copy of the Final SA from Gina Muhs Saizan at the address provided below.

For Further Information: Contact Gina Muhs Saizan at (225) 219-5800 or by email at gina.saizan@la.gov. To view the Final SA via the internet, please visit www.losco.state.la.us and look under News Flash for Lake Palourde 2002 Oil Spill.

Address: Request for copies of the Final SA should be sent to:

Gina Muhs Saizan
Louisiana Oil Spill Coordinator's Office
Department of Public Safety and Corrections
602 N. Fifth Street 7th Floor
P.O. Box 4312
Baton Rouge, LA 70821
gina.saizan@la.gov

Supplementary Information: The public was given an opportunity to review and comment on the Draft Settlement Agreement (Draft SA) document and Draft Restoration Implementation and Monitoring Plan (Draft RIMP) during the public comment period, which extended from December 20, 2008 through January 20, 2009. Public review of the Draft SA and Draft RIMP is consistent with all state laws and regulations that apply to the Natural Resource Damage Assessment (NRDA) process, including the Louisiana Oil Spill Prevention and Response Act (OSPRA), La. Rev. Stat. 30:2451 et seq.; and the regulations for NRDA under OSPRA, La. Admin. Code 43: Part XXIX, Chapter 1. The Trustees did not receive comments during the public comment period and have executed the Final SA.

Roland Guidry
Oil Spill Coordinator

0909#038

POTPOURRI

**Department of Revenue
Policy Services Division**

Meeting of Act 442 Collaborative Working Group

The next meeting for the Collaborative Working Group will be held on Wednesday, September 30, 2009, at 9 a.m. in the Griffon Room on the first floor of the LaSalle Building, 617 N. Third Street, Baton Rouge, Louisiana.

Section 4 of Act 442 of the 2009 Regular Session of the Louisiana Legislature established a collaborative working group of state and local tax administrators and industry representatives for the purpose of assisting in developing policy regarding the determination of which items should be considered as moveable or immovable property for the purposes of state and local sales and use tax.

The group's mission is to study and develop specific proposals on the definition of tangible personal property under Chapters 2, 2-A, 2-B and 2-D of Title 47 of the Louisiana Revised Statutes of 1950. The group shall report its policy recommendations to the chairmen of the House Committee on Ways and Means and Senate Committee on Revenue and Fiscal Affairs no later than January 31, 2011.

The group shall cease to exist on June 30, 2011.

Further information concerning this meeting may be obtained from Ted James, Office of the Secretary, P.O. Box 66258, Baton Rouge, LA 70896, phone (225) 219-2707.

Cynthia Bridges
Secretary

0909#032

POTPOURRI

**Louisiana Workforce Commission
Office of Workers' Compensation Administration**

Average Weekly Wage Rate Pursuant to Act 583 of the Regular session of the 1975 Louisiana Legislature, this state's average weekly wage upon which the maximum workers' compensation weekly benefit amount will be based, effective September 1, 2009 has been determined by the Louisiana Workforce Commission to be \$768.83.

	Average Weekly Wage	Maximum Comp	Minimum Comp
Sept 1, 1985 - Aug 31, 1986	339.24	254.00	68.00
Sept 1, 1986 - Aug 31, 1987	347.65	261.00	70.00
Sept 1, 1987 - Aug 31, 1988	348.80	262.00	70.00
Sept 1, 1988 - Aug 31, 1989	356.40	267.00	71.00
Sept 1, 1989 - Aug 31, 1990	367.90	276.00	74.00
Sept 1, 1990 - Aug 31, 1991	376.02	282.00	75.00
Sept 1, 1991 - Aug 31, 1992	393.08	295.00	79.00
Sept 1, 1992 - Aug 31, 1993	409.30	307.00	82.00
Sept 1, 1993 - Aug 31, 1994	424.91	319.00	85.00
Sept 1, 1994 - Aug 31, 1995	430.21	323.00	86.00
Sept 1, 1995 - Aug 31, 1996	440.55	330.00	88.00
Sept 1, 1996 - Aug 31, 1997	454.67	341.00	91.00
Sept 1, 1997 - Aug 31, 1998	466.57	350.00	93.00
Sept 1, 1998 - Aug 31, 1999	489.95	367.00	98.00
Sept 1, 1999 - Aug 31, 2000	512.47	384.00	102.00
Sept 1, 2000 - Aug 31, 2001	517.93	388.00	104.00
Sept 1, 2001 - Aug 31, 2002	530.43	398.00	106.00
Sept 1, 2002 - Aug 31, 2003	554.31	416.00	111.00
Sept 1, 2003 - Aug 31, 2004	572.53	429.00	114.00
Sept 1, 2004 - Aug 31, 2005	584.40	438.00	117.00
Sept 1, 2005 - Aug 31, 2006	605.46	454.00	121.00
Sept 1, 2006 - Aug 31, 2007	637.19	478.00	127.00
Sept.1, 2007 - Aug 31, 2008	696.00	522.00	139.00
Sept. 1, 2008 - Aug. 31, 2009	728.10	546.00	146.00
Sept. 1, 2009 - Aug. 31, 2010	768.83	577.00	154.00

Actual wages are to be paid if the wages are less than the minimum.

Approved "Mileage Rate" as of July 1, 2009 is .52 per mile.

Chris Broadwater
Director

0909#018

POTPOURRI

**Louisiana Workforce Commission
Office of Workers' Compensation Administration**

Weekly Compensation Benefits Limits

Pursuant to R.S. 23:1202 and based on the statewide average weekly wage as determined by the Louisiana Workforce Commission the following limits shall apply to weekly compensation benefits for claimants injured during the period September 1, 2009 through August 31, 2010.

Average Weekly Wage	Maximum Compensation	Minimum Compensation	Mileage Reimbursement
\$768.83	\$577.00	\$154.00	.52 cents per mile*

*Effective July 1, 2009 the mileage reimbursement is .52 cents per mile pursuant to R.S. 23:1203(D).

Chris Broadwater
Director

0909#019

CUMULATIVE INDEX
(Volume 35, Number 9)

Pages	2009	Issue
1-183.....		January
184-384.....		February
385-609.....		March
610-836.....		April
837-1056.....		May
1057-1191.....		June
1192-1418.....		July
1419-1835.....		August
1836-2122.....		September
EO—Executive Order		
PPM—Policy and Procedure Memoranda		
ER—Emergency Rule		
R—Rule		
N—Notice of Intent		
CR—Committee Report		
GR—Governor's Report		
L—Legislation		

ADMINISTRATIVE CODE UPDATE

Cumulative

- January 2008—December 2008, 175
- January 2009—March 2009, 825

AGRICULTURE AND FORESTRY

Agricultural Finance Authority

- Louisiana Farm and Agribusiness Recovery and Loan Program, 1203ER

Agriculture and Environmental Services, Office of

- Annual quarantine listing for 2009, 836P
- Pesticides, 626R, 870R, 1059ER
- Daily Risk Position Report, 1321N
- Examinations, 626R, 870R
- Water and fish tissue sampling, 626R, 870R

Agro-Consumer Services, Office of

- Agriculture Commodities Commission**
- Grain and cotton indemnity Fund, 629R

Animal Health, Board of

- Chronic wasting disease, 1913N
- Equine infectious anemia testing, 406R
- Trichomoniasis, 613ER, 712N, 1026ER, 1465R

Crawfish Promotion and Research Board

- Crawfish promotion and research program, 406R

Commissioner, Office of

- Agritourism, 204R
- Family farm credit, 1914N
- Market bulletin subscriber fee, 632R

Horticulture Commission

- Landscape architect registration exam, 378P, 2108P
- Landscape horticulturist, 1227R
- Retail floristry examination, 378P, 1035P, 1228R, 1821P

Structural Pest Control Commission

- Administration, 205R
- Applications, 205R
- Definitions, 715N, 1467R, 1872R
- Examinations, 205R
- Fees, 715N, 1467R, 1872R
- Pesticide, 615ER
- Termite treatment, 715N, 1467R, 1872R

CIVIL SERVICE

Board of Ethics

- Financial disclosure, 718N
- Records, 407R, 505N
- Reports, 407R, 505N

Civil Service Commission

- Layoffs, 969N
- Merit increase suspension, 978P
- Performance planning and review, 977P

ECONOMIC DEVELOPMENT

Boxing and Wrestling Commission

- Boxing and wrestling standards, 53R

Business Development, Office of

- Economic development award program (EDAP), 9ER, 272N, 870R
- Economic development loan program (EDLOP), 9ER, 272N, 870R
- Entertainment industries development
 - Entertainment industry tax credit programs
 - Digital media, 95N
 - Motion picture infrastructure tax credit program, 1921N
 - Musical and theatrical production income tax credit program, 727N, 1401P
- Regional awards and matching grant awards program, 635R, 1917N
- Small and Emerging Business Development Program, 1423ER, 1919N
- Tax credits, research and development, 1918N
- Workforce development and training program, 21ER, 289N, 883R

Louisiana Economic Development Corporation

- Economic development award program (EDAP), 9ER, 272N
- Economic development loan program (EDLOP), 9ER, 272N
- Workforce development and training program, 21ER, 289N
- Workforce training award program, 54R

ECONOMIC DEVELOPMENT (Continued)

Secretary, Office of

Angel Investor Tax Credit, 1838ER
Governor's economic development rapid response program, 5ER, 285N, 887R
Regional awards and matching grant awards program, 635R, 1917N

EDUCATION

Elementary and Secondary Education, Board of

BESE organization, 979N, 1874R
Board tenure hearings, 732N, 1470R
Bulletin 102—Louisiana Physical Education Content Standards, 1634N
Bulletin 104—Louisiana Pre K-12 Educational Technology Standards, 98N, 891R
Bulletin 111—The Louisiana School, District, and State Accountability System, 638R, 1282N
Academic assistance waivers and LAA1 Results, 641R
Differentiated Accountability Pilot, 1656N
Graduation index, 733N
Pre-GED, 733N, 1467R
Bulletin 118—Statewide Assessment Standards and Practices, 57R
End-of-course tests, 214R
Erasure analysis, 443R
LEAP alternate assessment, 208R
Testing, 216R
Bulletin 120—Adult Education Data Quality and Procedures, 1286N
Bulletin 124—Supplemental Educational Services SES Provider responsibilities, 294N, 1097R
Bulletin 741—Louisiana Handbook for School Administrators
Adult education program, 1289N
Agriculture education, 1658N
Alternative school/programs, 1290N
Carnegie credit for middle school students, 443R, 1291N
Compulsory attendance, 295N, 1097R
Curriculum and instruction, 981N, 1875R
Criminal background checks, 735N, 1473R
Educational governing authorities, 737N, 1876R
General career education, 524N, 1229R, 1293N, 1660N
Guidelines for expulsions, 296N, 1098R
Health occupations, 1294N, 1661N
High school graduation requirements, 526N, 983N, 1230R, 1295N, 1662N, 1876R
Immunizations, 1298N
Local educational governing authorities, 982N, 1474R, 1876R
Mathematics, 1295N
Other reports, 297N, 1098R
Placement of students, 297N, 1098R
Science education, 740N, 1476R
Staff development, 738N, 1475R
Staff misconduct, 298N, 443R, 1099R

Student services, 738N, 1475R
Teacher requirements, 985N, 1298N, 1877R
Teacher bill of rights, 300N, 1100R
Technical education, 1229R, 1299N, 1660N
Technology education, 1229R, 1299N, 1658N
Trade and industrial education, 1300N, 1664N
Written policies and procedures, 301N, 1100R
Bulletin 746—Louisiana Standards for State Certification of School Personnel
Alternate teacher preparation, 741N, 1477R
Career and Technical Education, 1665N
Certification-only program, 747N, 1482R
Foreign language special certificate, 642R
Highly qualified policy for teachers, 643R
Introduction, 527N, 1231R
Math for professionals, 220R
Mild/moderate, 221R, 750N, 1484R
Nonpublic/charter schools, 1303
Orientation and mobility, 101N, 894R
Out-of-field authorization to teach, 753N, 1487R
Out-of-state certificate, 101N, 893R
Principals, 1302N
Practitioner licenses, 221R
PRAXIS I Scores, 644R
Professional level certificates, 222R
State as a provider, 222R
Teacher leader endorsement, 528N, 1231R
Turnaround specialist endorsement, 645R
Bulletin 996—Standards for Approval of Teacher and/or Educational Leader Preparation Programs, 1305N
Bulletin 1179—Driver Education, Traffic Safety, and Administrative Guide for Louisiana Schools, 754N, 1488R
Bulletin 1213—Minimum Standards for School Buses, 646R
Bulletin 1508—Pupil Appraisal Handbook, 102N, 894R
Bulletin 1530—Louisiana's IEP Handbook for Students with Exceptionalities, 1311N
Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act
Admission/release, 385ER, 529N, 1232R
Bulletin 1794—State Textbook Adoption Policy and Procedure Manual, 646R, 986N, 1878R
Comments, public, 1928N
Criminal background checks, 443R
Nonpublic Bulletin 741—Louisiana Handbook for Nonpublic School Administrators
Credit Recovery, 1392N
Immunization, 530N, 1232R, 1327N
Standing executive committees, 223R
Student Financial Assistance Commission
Student Financial Assistance, Office of
Cosmetology schools, 756N, 1489R
Loan forgiveness program, 224R
Louisiana GO grant, 1328N
Proprietary schools, 756N
Scholarship/Grant Programs, 227R, 386ER, 616ER, 987N, 1424ER, 1490R, 1929N
Definitions, 531N, 1233R
Go Grant, 132N, 647R, 1059ER

EDUCATION (Continued)

Initial and continuous enrollment, 185ER
LEAP notification, 532N, 1233R
Post-secondary institutions, 185ER

Tuition Trust Authority

Student Financial Assistance, Office of

Interest rates—2008, 758N, , 1491R
START Saving Program, 235R, 387ER, 1426ER
Deposits, 186ER, 532N, 1234R, 1931N

ENVIRONMENTAL QUALITY

Environmental Assessment, Office of

Louisiana Environmental Analytical Database
Management System (LEADMS), 1035P

Air Quality Division

Annual emissions inventory data submittals, 378P

Secretary, Office of the

Declaratory ruling no. DR-08-003, 379P

Legal Affairs Division

Abrasive blasting, 759N, 1234R
Advanced notice of rulemaking and solicitation of
comments
Organic solvents and solvent degreasers, 1821P
Antidegradation implementation procedures,
solicitation of comments on development, 2108
Asbestos penalties, 62R
Baton Rouge area ozone attainment demonstration
state implementation plan revision, 1825P
Baton Rouge area redesignation request and 1997 8-
hour ozone maintenance plan, 1826P
Biosolids, 311N, 926R, 1209ER
Concentrated animal feeding operations, 302N, 648R
Control technology guidelines, 1101R
Control techniques guidelines (CTG) state
implementation plan (SIP), 1826P
Criteria pollutant emissions inventory, 1038P
Dissolved oxygen criteria for Barataria and
Terrebonne Basins, 445R, 654R
Emergency engines and air curtain incinerators, 456R
Exemption of VOCs, 533N, 924R
General conditions for air permits, 658R
Incorporation by reference for 2008, 760N, 1106R
Interstitial monitoring, 988N, 1492R
Lead penalties, 62R
MACT Standards, 1932N
Mercury risk reduction, 449R
Miscellaneous corrections, 1146N, 1878R
Nitrogen oxide emissions, 1142N
Payment, Methods of, 1330N
Permit actions in hurricane impacted areas, 179P
Regulatory permits for oil and gas well testing, 456R
Release of natural gas from pipelines, 456R
Solid waste buffer zones, 309N, 925R
Sewage sludge, 311N, 926R, 1209ER
Toxic Air Pollutant Emission Control Program, 1035P
Transportation conformity, 133N, 461R
Underground storage tank system operators, training
requirements, 1933N
Water pollution control fee, 990N, 1493R
Water quality standard, triennial revision, 1406P

EXECUTIVE ORDERS

BJ 08-112 DOTD Disaster Relief Guidelines for Vehicles,
Trucks and Loads—Rescinds and Supersedes Order
No. BJ 2008-106, 1EO
BJ 08-113 Executive Branch—Ethical Standards—
Supersedes Executive Order No. BJ 08-01, 2EO
BJ 08-114 Executive Department—Expenditure Reduction,
3EO
BJ 09-01 Carry-Forward Bond Allocation 2008, 184EO
BJ 09-02 Louisiana Innovation Council, 102EO
BJ 09-03 DOTD Guidelines for Vehicles, Trucks and
Loads Which Haul Hay from Louisiana to Texas, 103EO
BJ 09-04 Governor's Military Advisory Board Amends
and Supersedes Executive Order No. BJ 08-26, 104EO
BJ 09-05 Commission on Streamlining Government,
837EO
BJ 09-06 Establishment of Unified Command Group and
Subcommittees—Amends Executive Order No. BJ 08-45,
1057EO
BJ 09-07 Solid Waste Disposal Facility Requirements
and Economic Development, 1057EO
BJ 09-08 Bond Allocation—Industrial Development
Board of the Parish of St. Mary, 1058EO
BJ 09-09 Establish the Office of Louisiana Youth for
Excellence (LYFE), 1419EO
BJ 09-10 Office of Community Programs Amend
Executive Order No. BJ 08-34, 1420 EO
BJ 09-11 Executive Department—Limited Hiring Freeze,
1420EO
BJ 09-12 Qualified School Construction Bond Program,
1422EO
BJ 09-13 Louisiana Shrimp Taskforce, 1836EO
BJ 09-14 Louisiana Complete Court Committee, 1837EO

FIREFIGHTERS RETIREMENT SYSTEM

Claims for survivor benefits, 334N, 949R

GOVERNOR

Administration, Division of

Motion picture infrastructure tax credit program, 1921N

Community Development, Office of

Community water enrichment fund, 135N, 951R

Facility Planning and Control, Office of

Uniform public work bid form, 335N, 1521R

Elderly Affairs, Office of

Membership requirements, 767N

Financial Institutions, Office of

Louisiana money transmitters, 534N, 1236R

Group Benefits, Office of

EPO, 66R

PPO, 66R

Information Technology, Office of

OIT Bulletins, 2108P

Racing Commission

Bleeder medication, 388ER

Claiming rule, 137N, 1150N

Corrupt and prohibited practices, 25ER

Entries, 26ER

Jockey fee schedule, 839ER, 1151N, 1839ER

Modern therapeutic measures, 463R

Permitted medication, 137N, 950R

Super Hi-Five, 1152N

GOVERNOR (Continued)

Regents, Board of

Consumer protection, 1335N, 1669N
Licensure, 1335N, 1669N
Registration, 1335N, 1669N

State Military Department

National Guard Death and
Disability Benefits, 1839ER

State Travel, Office of

General travel PPM, 1192PPM

Architectural Examiners, Board of

Examination, 64R
Licensure renewal, 1016N
Practical experience, 64R
Vacancies, 949R

Certified Public Accountants, Board of

Peer review, 235R
Practice monitoring programs, 235R

Crime Victims Reparations Board

Reparations eligibility, 65R

Coastal Protection and Restoration Authority, Office of

Fiscal year 2010 annual plan, 179P

Elderly Affairs, Office of

Membership requirements, 186ER
State plan on aging, 662

Home Inspectors, Board of

Licensure, 1519R
Testing, 1519R
Training, 1519R

Law Enforcement and Administration of Criminal Justice, Commission on

General subgrant guidelines, 617ER, 765N, 1234R
Peace officer training, 238R, 765N, 1235R, 1936N

Motor Vehicle Commission

Recreational Product Industry, 1525R

Pilotage Fee Commission

Officers of the commission, 463R

Public Defender Board

Trial court performance standards, 139N, 663R

River Port Pilot Commissioners, Board of

River port pilots, 1017N, 1761N, 1882R

Shorthand Reporters, Board of Examiners

Continuing education, 1881

State Military Department

Military forces of the state, 1674N

HEALTH AND HOSPITALS

Chiropractic Examiners, Board of

Professional conduct and due process procedures for
ethics violations, 953R

Dentistry, Board of

Continuing education requirements, 768N, 1237R
Provisions, general, 1937N
Requirements, licenses, permits, 67R

Emergency Response Network Board

Entry criteria, 1181P, 1407P
Interregional transfer protocol, 2109N
Region 4, 1181P
Region 7, 1183P

Examiners for Speech-Language Pathology and Audiology, Board of

Complaint investigation, 389ER

Licensed Professional Counselors, Board of

Licensure requirements, 200ER, 866ER
Marriage and family therapists, 1113R

Medical Examiners, Board of

Athletic trainer certification, 1153N, 1886R
Consultation or collaboration with medical
psychologists, 827P, 1528R
Laboratory, personnel, licensure, certification, fees,
1340N
Physician licensure and certification; 464R, 1022N,
1110R, 1531R
Podiatrists licensure and certification, 240R
Short-term training permit, 464R
Telemedicine, 1022N, 1531R
Waiver of qualifications, 536N, 1110R

Nursing, Board of

Registered nurses
Criminal history, 1156N, 1888R
Disciplinary proceedings, 151N, 340N, 1535R
Alternative, 151N, 339N, 1535R
License renewal, 153N, 342N, 1536R
Peripherally inserted central catheter, 152N, 341N

Optometry Examiners, Board of

Employment restrictions, 536N, 1111R
Continuing education, 536N, 1111R
Professional conduct, 536N, 1111R

Practical Nurse Examiners

Adjudication, 810N, 1246R, 1941N

Public Health, Office of

Beach report, 2008 annual, 1410P
Cold storage and Ice Plants, 1079ER
Expedited partner therapy, 249R
Infectious waste, 799N, 1238R
Marine and freshwater animal food products, 545N,
1239R
Medical waste, 799N, 1238R
Preventive health and health services block grant, public
hearing, 2110N
Refuse, 799N, 1238R
Safe Drinking Water Program, 483R, 547N, 802N,
1239R
Maternal and Child Block Grant, 1048P

Secretary, Office of the

Aging and Adult Services, Office of

Adult protective services, 1969N
Adult residential care, 1773
Estate recovery, 1165N, 1891R
Home/Community Based Services Waivers
Elderly and disabled adult, 29ER, 187ER,
396ER, 778N, 843ER, 1066ER, 1779N,
1847ER, 1893R
New Opportunity Waiver (NOW), 188ER
Medicaid Eligibility
Long-term care insurance, 1162N, 1899R
Personal care services, 32ER, 199ER, 401ER, 861ER,
1075ER, 1784N, 1858ER, 1901R

HEALTH AND HOSPITALS (Continued)

Citizens with Developmental Disabilities, Office of

Home/Community Based Services Waivers
Children's Choice, 26ER, 842ER, 1159N, 1430ER,
1431ER, 1846ER, 1891R
New Opportunities Waiver (NOW), 28ER, 844ER,
845ER, 1432ER, 1850ER, 1851ER, 1893R
Skilled nursing services rate increase, 482R
Supports Waiver, 846ER, 1433ER

Health Services Financing, Bureau of

Adult dentures, 839 ER
Reimbursement Rate Reduction, 1426ER, 1427ER
Adult residential care providers
Dementia training, 773N, 1540R
Ambulatory surgical center, 391ER, 775N, 1061ER,
1888R
Dental services rate increase, 34ER
Direct service worker registry, 392, 1062ER, 1766N
Disproportionate Share Hospital Payments
Length of stay assignment, 1341N
Non-Rural community hospitals, 1209ER
Pre-admission certification, 1341N, 1342N
Early and Periodic Screening, Diagnosis and
Treatment Program
Dental program reimbursement, 35ER, 618ER,
1156N, 1427ER, 1889R
EarlySteps reimbursement rate increase, 69R
Electronic reporting requirements, 245R
End stage renal disease facilities
Reimbursement rate reduction, 776N, 840ER,
1063ER, 1429ER, 1890R
Emergency preparedness, 245R
Estate recovery, 1165N, 1891R
Facility need review
Adult day health care providers, 1942N
Bed approval criteria, 37ER, 155N, 393ER,
1064ER
Exception criteria for bed approval, 1768N,
1844ER
Home and community-based service providers,
620ER, 1211ER
Exception criteria 1768N
Home and community-based waivers
Adults, elderly and disabled, 187ER, 396ER, 778N,
843ER, 1066ER, 1779N, 1847ER, 1893R
Adult residential care, 1773N
Children's choice, 841ER, 842ER, 1159N, 1430ER,
1431ER, 1846ER, 1891R
NOW, 188ER, 482R, 779N, 845ER, 1432ER,
1850ER, 1851ER, 1893R
Supports Waiver, 846ER, 1433ER
Home Health Program
Durable medical equipment, 189ER, 781N, 847ER,
848ER, 1433ER, 1434ER, 1853ER, 1894R
Hospice
Long term care payment, 190ER, 784N, 849ER,
1435ER, 1894R
Hospital services
Inpatient, 191ER, 1342N, 1854ER
Non-Rural/Non State, 852ER, 1896R
Reimbursement rate reduction, 1069ER, 1436ER,
1438ER, 1895R
Supplement payments, 1213ER

Hemophilia blood products, 38ER, 156N,
674R
Outlier payment reduction, 850ER, 1439ER
Reimbursement rate adjustment, 538N
Small rural, 192ER, 955R
Facility need review
Home and community-based providers, 853ER
Intermediate care facilities
Developmental disabilities, 193ER
Leave of absence days, 539N, 1897R
Reimbursement rate reduction, 539N, 1071ER,
1855ER, 1897R
Laboratory/radiology, 399ER, 786N, 1344N
Reimbursement rate reduction, 1072ER, 1440ER,
1897R
Medicaid Eligibility
Family Opportunity Act Medicaid Program, 69R
Home and community-based services, 1161N,
1898R
Long-term care insurance, 1162N, 1899R
Louisiana Health Insurance Premium Payment
Program, 541N, 1111R
Youth aging out of foster care, 194ER, 1073ER,
1782N
Medical Transportation Program
Emergency aircraft transportation rate increase, 70R
Emergency ambulance services, 855ER
Reimbursement rate reduction, 1442ER, 1443ER,
1856ER
Non-emergency ambulance services, 856ER
Reimbursement rate reduction, 1443ER, 1444ER
Non-emergency medical transportation, 857ER
Rotor winged ambulance rate increase, 70ER
Mental Health Rehabilitation Program, 195ER, 788N,
858ER, 1444ER, 1899R
Parent/family intervention services, 1944N
Minimum licensing standards
Emergency medical transportation services, 180P,
466R
Multi-systematic therapy, 38ER, 245R
Provider responsibilities and sanctions, 1945N
Reimbursement rate reduction, 1446ER
Nursing facilities
Leave of absence days, 196ER, 400ER, 1074ER
Reimbursement reduction, 542N, 1899R
Minimum licensing standards
Dementia training, 789N, 1541R
Emergency preparedness, 41ER, 248R, 858ER,
1446ER
Reimbursement methodology rate determination,
1217ER
Reimbursement rate reduction, 1217ER
Outpatient hospital services
Non-rural, non-state hospitals, 791N, 859ER,
1078ER, 1857ER
Reimbursement rate reduction, 1447ER, 1449ER,
1900R
Private hospitals, 197ER
Radiology utilization management, 1346N
Small rural hospitals, 42ER, 955R
State-owned hospitals, 198ER, 955R
Supplemental payments, 1218ER

Pediatric day health care facilities
Licensing standards, 1947N
Personal care services, 199ER, 401ER, 792N, 861ER,
1075ER, 1450ER, 1784N, 1858ER, 1901R
Pharmacy Program
Prescription limit reduction, 622ER, 1450ER,
1901R
Prior authorization for Tamiflu and Relenza,
861ER, 862ER
Pregnant women extended services
Dental services, 623ER, 1163N, 1451ER, 1902R
Professional Services Program
Anesthesia services, 403ER, 795N, 863ER,
1077ER
Reimbursement rate reduction, 1452ER, 1453ER,
1902R
Children's immunizations, 70R
Physician services
Inpatient, 1347N
Reimbursement rate reduction, 1454ER
Prosthetics and orthotics, 404ER, 797N, 864ER,
1078ER
Reimbursement rate reduction, 1455ER, 1456ER,
1903R
Provider accreditation, 71R
Refugee medical assistance, 544N, 1112R
Rural health clinics, 44ER, 957R
State children's health insurance, 72R
Targeted case management, 73R, 199ER, 797N,
864ER, 865ER, 1220ER
Reimbursement rate reduction, 1456ER, 1457ER,
1903R

Veterinary Medicine, Board of

Continuing education, 1026N
Examination dates, fall/winter, 1406P
Veterinary practice, 244R

Wholesale Drug Distributors, Board of

Wholesale drug distributors, 769N, 1537R

INSURANCE

Commissioner, Office of the

Regulation 28—Variable Contract Regulation, 1974N
Regulation 33—Medicare Supplemental Insurance
Minimum Standards, 555N, 1114R, 1247R
Regulation 81—Military Personnel
Automobile liability insurance premium discount,
1976N
Insurer tax credit program, 1976N
Regulation 82—Insure Louisiana Incentive Program,
1978N
Regulation 93—Named Storm and Hurricane
Deductibles, 675R
Regulation 97—Vehicle Tracking Systems, 344N, 957R
Regulation 98—Annual financial reporting, 1786N
Viatical settlements, 1796N

Health, Office of

HIPAA assessment rate, 1184P, 1410P

LOUISIANA STATE UNIVERSITY SYSTEM

Health Sciences Center

Tumor registry, 1984N

NATURAL RESOURCES

Conservation, Office of

E and P waste, 1049P
Fees 1798N
Ground water management, 249R, 1989N
Orphaned oilfield sites, 180P, 380P, 603P, 829P, 1185P,
1410P, 1827P, 2110P
Pipeline safety
Hazardous liquids, 1990N
Natural gas, 2000N
Pit closure and onsite disposal of E and P waste, 1800N

Secretary, Office of

Coastal use permit extension, 1352N
Certification of land conservation organizations, 73R
Dredged material, beneficial use, 1348N
Fishermen's Gear Compensation Fund
Loran coordinates, 180P, 380P, 603P, 829P, 1050P,
1184P, 1411P, 1827P, 2111P

Policy Services Division

Natural gas severance tax rate, 829P

PUBLIC SAFETY AND CORRECTIONS

Corrections Services

Americans with Disabilities Act, 1080ER, 1354N
Communication with the hearing impaired, 1083ER,
1356N
Drug-free workplace, 345N, 958R
Equal employment opportunity, 1087ER, 1360N
Offender records, 85R
Offender visitation, 811N, 1248R
Telephone policy, 87R
Searches of visitors, 487R
Sex offender assessment panels, 1860ER
Sex offender supervised release, 252R

Gaming Control Board

Accounting, 815N
Advertising, 815N, 1029N
Application, 82R, 490R
Compulsive gaming, 815N, 817N
Gaming, 82R, 83R, 1166N, 1364N
License, 82R, 84R, 490R
Permits, 84R
Retrieval, 84R
Storage, 84R
Video draw poker, 490R, 819N

Liquefied Petroleum Gas Commission

Insurance requirements, 1802N
Permit fee, 1367N

Management and Finance, Office of

Wind mitigation surveyor, 490R

Oil Spill Coordinator's Office

Duck Lake Oil and Gas Field Crude Oil Discharge Final Settlement Agreement, 2112N
 East Lake Palourde Crude Oil Discharges, 2112N

Private Security Examiners, Board of

Administrative penalties, 2014N
 Licensure, 2016N
 Security officer registration, 2017N

State Police, Office of

Criminal identification and information, bureau
 Right to review procedures, 2018N
 Towing recovery and storage, 1368N
 Transportation and Environmental Safety Section
 Explosives code, 491R
 User fees for State Police facility, 1136R

State Fire Marshal, Office of

Code Enforcement and Building Safety
 Emergency elevator access, 577N
 Industrialized buildings, 580N
 Fire sprinkler systems, 157N, 677R
 Fire hoses, 157N, 677R

Uniform Construction Code Council

International mechanical code, 1091ER, 1169N, 1904R
 Temporary exemption to certification requirement, 803N
 Uniform construction code, 2019N
 Wind mitigation surveyor, 490R

REVENUE**Alcohol and Tobacco Control, Office of**

Regulation V—Solicitors, 589N, 1136R
 Regulation IX—Prohibition of Certain Unfair Business Practices, 89R

Policy Services Division

Act 442 of 2009 meeting of collaborative working group, 1827P, 2113P
 Electronic filing, 820N, 1252R, 1371N
 Filing extensions following disasters, 590N
 Income tax tables, 2022N
 Income tax withholding tables, 1030N, 1373N
 Individual income tax filing extensions, 45ER, 169N, 181P, 1137R
 Interest waiver, 590N, 1137R
 New markets tax credit cap, 44ER
 Point of sale, 1175N
 Policy statements, 591N, 1138R
 Property used in interstate commerce, 1254R
 Residential licensing, 1543R
 Sales and use tax exemptions, 593N, 1255R
 Tax holiday, annual weekend sales, 1460ER
 Tax matters person, 255R

Secretary, Office of the

Act 442, organizational meeting announcement of, 1451N

Tax Delinquency Amnesty Act of 2009, Louisiana, 1458ER

Tax Commission

Ad valorem taxation, 491R

SOCIAL SERVICES**Community Services, Office of**

2009 Annual progress and services report, 1050P
 2009 Louisiana Emergency Shelter Grants Program
 Anticipated funds availability, 604P
 2010-2015 Child and family services plan, 1050P
 Chafee Foster Care Independence Program, 1176N
 Daycare services, 170N, 202ER, 404ER, 593N, 961R, 1095ER, 1256R
 Developmental and socialization activities program for foster children, 595N, 1256R
 Residential licensing, 1863ER, 2041N
 Kinship guardianship subsidy program, 1804N
 SSBG supplemental funds—intended use report, 380P, 830P
 Youth Adult Program, 1176N

Family Support, Office of

2008 Act requirements, 46ER
 Day care centers caring for sick children, 348N, 961R
 Electronic benefits, 171N, 689R
 Jobs for America's Graduates Louisiana Program, 202ER, 823N, 868ER, 1257R
 LA 4 public pre-kindergarten program, 2090N
 Passport denial, 270R
 Residential licensing, 1863ER, 1863N
 State plan, 270R
 TANF initiatives,
 Caseload reduction report, 181P
 LA 4 public pre-kindergarten program, 1221ER
 Legal access and visitation, 355N, 966R
 SES access and visitation, 47ER, 624ER

Secretary, Office of

Substance abuse testing, 353N, 966R

STATE DEPARTMENT**Elections Division**

Polling place accessibility, 596N, 1257R

SUPREME COURT**Judicial Council**

Notification of Judicial Council action on
 Act 26 of the 2009 regular session, 1828P
 Act 77 of the 2009 regular session, 1828P
 Act 88 of the 2009 regular session, 1828P
 Act 121 of the 2009 regular session, 1828P
 Act 267 of the 2009 regular session, 1828P
 Act 269 of the 2009 regular session, 1828P

TRANSPORTATION AND DEVELOPMENT

LOGO signing, 271R

Highways/Engineering, Office of

Design guidelines for political subdivisions, 2091N

Professional Engineering and Land Surveying Board

Conduct, professional, 2101N

Continuing professional development, 2101N

Committees, 1178N, 1908R

Examination, 1178N, 1908R

Licensure, 1178N, 1908R

Seal, 1178N, 1908R

Signature, 1178N, 1908R

Supervising professional, 2101N

Public Works, Office of

Statewide flood control maps, 1807N

TREASURY

Board of Trustees of the State Employees' Retirement System

Active member vacancies, 271R

DROP disbursements, 1814N

Public safety services secondary component, 1815N

Voluntary deductions from retiree benefits, 1816N

WILDLIFE AND FISHERIES

Wildlife and Fisheries Commission

Alligator, 690R

Bait dealer's permit, 2105N

Bird, 1463ER

Crab traps, removal of abandoned, 2104N

Charter landings report, 702R

Deer, 1031N, 1910R

Domesticated aquatic organisms, 357N, 1139R, 1303R

Fishing, 869ER, 869ER, 1034N

General and wildlife management area hunting, 358N, 1304R

Grouper, 1223ER

King mackerel, 47ER, 624ER, 1870ER

Kisatchie National Forest hunting season 1223ER

Invasive noxious aquatic plants, 372N, 1140R

Natural areas dedication and servitudes, 501R

Nuisance wildlife control operator program, 2102N

United States Coast Guard motorboats, 704R

Oyster seed ground vessel

Permit appeals board, 503R

Permit renewal and re-issuance, 503R

Oyster, 405ER, 1462ER

Red snapper, 48ER, 1096ER

Reef fish, 48ER

Resident game hunting season, 374N, 1278R

Kisatchie national forest, 1818N

Residential facility fishing permit, 1034N, 1912R

Sawfish, 50ER, 704R

Shark, 50ER, 704R

Coastal, 49ER, 203ER, 1225ER

Shrimp, 202ER, 625ER, 868ER, 1222ER, 1226ER, 1461ER

Spanish Lake, 173N, 968R

Tilefish, 1096ER

Turkey, 90R, 91R, 1394N

Bag limit, 90R, 1394N

Hunting regulations, general and WMA, 1391N

Waterfowl season, 1869ER

White Lake Wetlands Conservation Area Conservation Management Plan, 707R

Wild quadrupeds, 703R

Wildlife violator compactor, 1396N

WORKFORCE COMMISSION

Office of Workers' Compensation Administration

Compensation benefits limits, weekly, 2114P

Wage rate, average weekly, 2113P