CONTENTS **March 2009**

I. EMERGENCY RULES

Education

Board of Elementary and Secondary Education—Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act—Admission and Release (LAC 28:XLIIII.464) 385

Student Financial Assistance Commission, Office of Student Financial Assistance—Scholarship/Grant Programs (LAC 28:IV.301, 805, 1901, and 1903) 385

Tuition Trust Authority, Office of Student Financial Assistance—START Savings Program (LAC 28:VI.107 and 315) 387

Governor

Division Administration, Racing Commission—Bleeder Medication (LAC 35:I.1507 and 1509) 388

Health and Hospitals

Board of Examiners for Speech-Language Pathology and Audiology—Investigation of Complaints (LAC 46:LXXV.501) 389

Bureau of Health Services Financing—Ambulatory Surgical Centers—Reimbursement Rate Reduction (LAC 50:XI.Chapter 75) 391

Direct Service Worker Registry—Training Curriculum (LAC 48:I.9215) 392

End Stage Renal Disease Facilities—Reimbursement Rate Reduction (LAC 50:XI.6901 and 6903) 392

Facility Need Review—Exception Criteria for Bed Approval (LAC 48:I.12527, 12533 and 12541) 393

Home and Community-Based Services Waivers—Elderly and Disabled Adults (LAC 50:XXI.8101, 8105, 8107, 8301, 8303, and 8701) 396

Laboratory and Radiology—Reimbursement Rate Reduction (LAC 50:XIX.4329 and 4334-4337) 399

Nursing Facilities—Leave of Absence Days—Reimbursement Rate Adjustment (LAC 50:VII.1321) 400

Personal Care Services—Long Term (LAC 50:XV.12901, 12909, 12915) 401

Professional Services Program—Anesthesia Services—Reimbursement Rate Reduction (LAC 50:IX.15111) 403

Prosthetics and Orthotics—Reimbursement Rate Reduction (LAC 50:XVII.501) 404

Office Aging Adult Services—Home and Community-Based Services Waivers—Elderly and Disabled Adults (LAC 50:XXI.8101, 8105, 8107, 8301, 8303, and 8701) 396

Personal Care Services—Long Term (LAC 50:XV.12901, 12909, 12915) 401

Social Services

Office of Community Services—Daycare Services (LAC 67:V.2301) 404

Wildlife and Fisheries

Wildlife and Fisheries Commission—Early Oyster Season Closure—East of Mississippi River, Hackberry Bay and Little Lake 405

II. RULES

Agriculture and Forestry

Board of Animal Health—Equine Infectious Anemia Testing (LAC 7:XXI.507) 406

Crawfish Promotion and Research Board—Crawfish Promotion and Research Program (LAC 7:V.2501, 2503, and 2505) 406

Civil Service

Board of Ethics—Records and Reports (LAC 52:I.1318-1321) 407

Education

Board of Elementary and Secondary Education—Bulletin 118—Statewide Assessment Standards and Practices—Erasure Analysis (LAC 28:CXI.309) 443

Bulletin 741—Louisiana Handbook for School Administrators—Carnegie Credit for Middle School Students (LAC 28:CXV.2321) 443

Criminal Background Checks; Staff Misconduct (LAC 28:CXV.501 and 502) 443

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Environmental Quality
Office of the Secretary, Legal Affairs Division—Dissolved Oxygen Criteria for Barataria and Terrebonne Basins (LAC 33:IX.1105, 1113, and 1123)(WQ075) 445
Mercury Risk Reduction (LAC 33:I.2701, 2703, 2705, 2707, 2709, 2711, 2713, 2715, 2717, 2719, and 2721)(OS077) 449
Regulatory Permits for Oil and Gas Well Testing, Release of Natural Gas from Pipelines, Emergency Engines, and Air Curtain Incinerators (LAC 33:III.301, 303, 305, 307, 309, 311, 313, and 501)(AQ274) 456
Transportation Conformity (LAC 33:III.1432, 1434, 1435, and 1437)(AQ302ft) 461
Governor
Division of Administration, Racing Commission—Modern Therapeutic Measures (LAC 35:I.1721) 463
Shoes (LAC 35:V.6359) 463
Pilotage Fee Commission—Officers of the Commission 463
Health and Hospital
Board of Medical Examiners—Physician Licensure and Certification; Short-Term Training Permit (LAC 46:XLV.411) 464
Bureau of Health Services Financing—Home and Community-Based Services Waiver—New Opportunities Waiver—Skilled Nursing Services Rate Increase (LAC 50:XXI.14301) 482
Minimum Licensing Standards for Emergency Medical Transportation Services (LAC 48:I.Chapter 60) 466
Office for Citizens with Developmental Disabilities—Home and Community-Based Services Waiver New Opportunities Waiver—Skilled Nursing Services Rate Increase (LAC 50:XXI.14301) 482
Office of Public Health—Safe Drinking Water Program (LAC 51:XII.101, 313, 913, 1139, 1507, 1509, and Chapter 19) 483
Public Safety and Corrections
Corrections Services—Searches of Visitors (LAC 22:I.303) 487
Gaming Control Board—Application and License (LAC 42:XI.2405) 490
Office of Management and Finance, Uniform Construction Code Council—Wind Mitigation Surveyor (LAC 55:VI.703 and 705) 490
Office of State Police, Transportation and Environmental Safety Section—Explosives Code (LAC 55:I.1505 and 1543) 491
Revenue
Tax Commission—Ad Valorem Taxation (LAC 61:V.101, 303, 703, 705, 901, 907, 1103, 1301,1305, 1307, 1503, 2101, 2501, 2503, 3101, and 3501) 491
Wildlife and Fisheries
Wildlife and Fisheries Commission—Natural Areas Dedication and Servitudes (LAC 76:I.318) 501
Oyster Seed Ground Vessel—Permit Appeals Board (LAC 76:VII.529) 503
Oyster Seed Ground Vessel—Permit Renewal and Re-Issuance (LAC 76:VII.527) 503

III. NOTICES OF INTENT
Civil Service
Board of Ethics—Records and Reports (LAC 52:I.1318-1321) 505
Education
Board of Elementary and Secondary Education—Bulletin 741—Louisiana Handbook for School Administrators—General Career, Technical Education and Technology Education. (LAC 28:CXV.2377 and 2385) 524
Bulletin 741—Louisiana Handbook for School Administrators—High School Graduation Requirements (LAC 28:CXV.2319) 526
Bulletin 746—Louisiana Standards for State Certification of School Personnel—Introduction (LAC 28:CXXXI.741) 527
Bulletin 746—Louisiana Standards for State Certification of School Personnel—Teacher Leader Endorsement (LAC 28:CXXXI.711) 528
Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act—Admission and Release (LAC 28:XLIII.464) 529
Nonpublic Bulletin 741—Louisiana Handbook for Nonpublic School Administrators—Immunization (LAC 28:LXXIX.1101) 530
Student Financial Assistance Commission, Office of Student Financial Assistance—Scholarship/Grant Programs—Definitions (LAC 28:IV.2103) 531
Scholarship/Grant Programs—LEAP Notification (LAC 28:IV.1903) 532
Tuition Trust Authority, Office of Student Financial Assistance—START Saving Program—Deposits (LAC 28:VI.305) 532
Environmental Quality
Office of the Secretary, Legal Affairs Division—Exemption of VOCs (LAC 33:III.2117)(AQ304ft) 533
Governor
Office of Financial Institutions—Louisiana Money Transmitters (LAC 10:XV.1101-1103) 534

Health and Hospitals
Board of Medical Examiners—Licensure and Certification; Waiver of Qualifications (LAC 46:XLV.315) 536
Board of Optometry Examiners—Employment Restrictions; Continuing Education; Professional Conduct (LAC 46:LI.109, 301, and 501) 536
Bureau of Health Services Financing—Inpatient Hospital Services—Non-Rural, Non-State Hospitals Reimbursement Rate Adjustment (LAC 50:V.953, 955, and 959) 538
Intermediate Care Facilities for Persons with Developmental Disabilities—Leave of Absence Days Reimbursement Rate Reduction (LAC 50:VII.32913) 539
Medicaid Eligibility—Louisiana Health Insurance Premium Payment Program (LAC 50:III.2311) 541
Nursing Facilities—Leave of Absence Days—Reimbursement Reduction (LAC 50:VII.1321) 542
Refugee Medical Assistance (LAC 50:XXXI.Chapter 1) 544
Office of Public Health—Marine and Freshwater Animal Food Products (LAC 51:IX. 305, 321 and 331) 545
Safe Drinking Water Program (LAC 51:XII.101, 355, 1101, 1103, 1113, 1115, 1117, 1119, 1123, 1125, 1127, 1129, 1133, 1135, 1137, 1139, 1141, 1903, and 1911) 547
Insurance
Regulation 33—Medicare Supplemental Insurance Minimum Standards (LAC 37:XIII.Chapter 5) 555
Public Safety and Corrections
Office of the Fire Marshal, Code Enforcement and Building Safety— Emergency Elevator Access (LAC 55:V.Chapter 29) 577
Industrialized Buildings (LAC 55:V.Chapter 27) 580
Revenue
Office of Alcohol and Tobacco Control—Regulation V—Solicitors (LAC 55:VII.309) 589
Policy Services Division—Interest Waiver and Filing Extensions Following Disasters (LAC 61:III.2111 and 2116) 590
Policy Statements (LAC 61:III.101) 591
Sales and Use Tax Exemptions (LAC 61:I.4405) 593
Social Services
Office Community Services—Daycare Services (LAC 67:V.2301 and 2303) 593
Developmental and Socialization Activities Program for Foster Children (LAC 67:V.3507) 595
State
Elections Division— Polling Place Accessibility for the Elderly and Individuals with Disabilities (LAC 31:I.Chapter 1) 596

IV. POTPOURRI
Natural Resources
Office of Conservation—Orphaned Oilfield Sites 603
Office of the Secretary, Fishermen's Gear Compensation Fund—Loran Coordinates 603
Social Services
Office of Community Services—2009 Louisiana Emergency Shelter Grants Program—Anticipated Funds Availability 604

V. INDEX 606

Emergency Rules

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act—Admission and Release
(LAC 28:XLIIII.464)

The Board of Elementary and Secondary Education has exercised the emergency provision in accordance with R.S. 49:953(B), the Administrative Procedure Act, and R.S. 17.6 to adopt LAC 28:XLIII, *Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act* (R.S. 17:1941 et seq.), Subpart A. Regulations for Students with Disabilities, §464. Admission and Release. This Declaration of Emergency, effective February 19, 2009, will remain in effect for a period of 120 days.

Pursuant to R.S. 17:43, the state of Louisiana, through the State Board of Elementary and Secondary Education (BESE), operates three schools for students with disabilities (Board Special Schools). These three schools provide both a school program during the school day and a residential program. All students at these three facilities are students with disabilities, pursuant to the *Education of Children with Exceptionalities Act*, R.S. 17:1941 et seq. R.S. 17:1944(C)(1) grants the Louisiana Department of Education, with the approval of BESE, the authority to issue regulations with respect to the implementation R.S. 17:1941 et seq.

Current regulations do not provide an adequate structure for addressing the denial of admission or continued enrollment to students at these facilities when the facilities' setting is inappropriate for those students. Although current regulations do allow a board special school to release a student when the student's IEP (Individualized Education Plan) team determines that the facility is not appropriate for the student, this determination is often limited to the school setting. Some students, however, may function in the school setting but the residential component is not appropriate for the student. These students may have multiple disabilities, including visual impairment and/or deafness, in addition to other limiting conditions such as emotional disturbance, developmental disabilities, and medically fragile conditions. Some individual students become aggressive and violent. Some students with multiple disabilities pose a risk to themselves and others, especially when combined with a residential setting, lending support to the determination that the board special school setting is inappropriate for the student. These emergency regulations provide the structure necessary to address the appropriate placement for these students. Failure to implement these rules and regulations creates an imminent peril to the health, safety, and welfare of the students and staff at these facilities by requiring students to remain in an inappropriate program.

The authorization for emergency action in this matter is contained in R.S. 49:953(B), which provides for the issuance of emergency regulations, and R.S. 17:6(A)(10) and 17:1944(C)(1), which grant the Louisiana Department of Education, with the approval of BESE, the authority to issue regulations with respect this matter.

Title 28
EDUCATION
Part XLIII. Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act
Subpart A. Regulations for Students with Disabilities
§464. Admission and Release

A. - B.2.b.iii. …

c. when the student's IEP Team determines that the BSS is not appropriate for the student or when the BSS determines that the BSS residential setting is not appropriate for the student;

d. - e. …

3. A BSS may deny admission or continued enrollment to a student and release a student from a BSS if the BSS determines that the BSS program is inappropriate for the student's individual needs.

4. The BSS shall notify the appropriate LEA when a student who is still eligible for a free appropriate public education is released from BSS.

5. Students not admitted or denied continued admission under Paragraph 3 may apply for admission to the school in the future.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2067 (October 2008), amended LR 35:

Keith Guice
President

0903#003

DECLARATION OF EMERGENCY

Student Financial Assistance Commission
Office of Student Financial Assistance

Scholarship/Grant Programs
(LAC 28:IV.301, 805, 1901, and 1903)

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

This rulemaking will provide the regulatory framework necessary to implement Act 754 of the 2008 Regular Session to allow students who qualify for the TOPS Tech Award to use their award at an eligible cosmetology or proprietary school. The rulemaking provides definitions, requirements to maintain eligibility and billing procedures for the affected schools.

This Declaration of Emergency is effective March 4, 2009, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act. (SG09105E)

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.

* * *

Average Award Amount (TOPS-Tech)—is applicable to those students awarded the TOPS-Tech and TOPS Opportunity, Performance, and Honors Awards who attend LAICU colleges and universities and to those students awarded the TOPS-Tech Award who attend an eligible cosmetology or proprietary school and are enrolled in a vocational, technical education certificate or diploma program or non-academic undergraduate degree program, and is determined by dividing the total dollar value of awards, which are made to students enrolled in the same types of programs in the prior program year (non-academic program) at eligible public colleges and universities that do not offer academic degrees at the baccalaureate level, by the total number of students that received the awards. To ensure that the average award amount (TOPS Tech) is not reduced for students during program year (non-academic program) 2006-2007 because of the adverse affects of Hurricanes Katrina and Rita on student enrollment, the average award amount (TOPS Tech) for program year (non-academic program) 2006-2007 shall be the same as calculated for program year (non-academic program) 2005-2006.

* * *

Eligible Cosmetology or Proprietary School—a cosmetology or proprietary school that is included as an eligible college or university in this Section.

* * *

Full-Time Student—

a. - f. …

g. a student enrolled in an eligible cosmetology or proprietary school who is considered by the school to be enrolled full time on a billing date as provided in §1903.B.2.b.

* * *

Steady Academic Progress—the maintenance of a minimum cumulative grade point average of 2.00 on a 4.00 scale, except at eligible cosmetology or proprietary schools, where it is meeting the federal grant aid requirement for steady academic progress at that school.

* * *

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:

Chapter 8. TOPS-Tech Award
§805. Maintaining Eligibility

A. - A.6. …

7. maintain, by the end of the spring term, a cumulative college grade point average of at least 2.50 on a 4.00 maximum scale, provided that this requirement does not apply to a student who is enrolled in a cosmetology or proprietary school that is an eligible college or university and the student has met the federal grant aid steady academic progress requirement at that school; and

8. earn a total of at least 24 college credit hours as determined by totaling the earned hours reported by the institution for each semester or term in the program year (non-academic program). Unless granted an exception for cause by LASFAC, failure to earn the required number of hours will result in permanent cancellation of the recipient's eligibility. provided that this requirement does not apply to a student who is enrolled in a cosmetology or proprietary school that is an eligible college or university and the student has met the federal grant aid steady academic progress requirement at that school.

B. - D.3. …

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:1905 (October 1998) amended LR 25:1091 (June 1999), LR 26:68 (January 2000), LR 26:689 (April 2000), LR 26:1997, 2002 (September 2000), repromulgated LR 27:1856 (November 2001), amended LR 28:774 (April 2002), LR 28:2332 (November 2002), LR 29:880 (June 2003), LR 29:2373 (November 2003), LR 30:781 (April 2004), LR 30:1165 (June 2004), LR 30:2019 (September 2004), LR 31:3115 (December 2005), LR 33:438 (March 2007), LR 35:

Chapter 19. Eligibility and Responsibilities of Post-Secondary Institutions
§1901. Eligibility of Post-Secondary Institutions to Participate

A. - E. …

F. Eligible cosmetology proprietary schools may participate in TOPS, but only for the TOPS Tech Award.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1 and R.S. 17:3050.1-3050.4.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:645 (April 1998), amended LR 24:1914 (October 1998), LR 25:1459 (August 1999), LR 26:1998 (September 2000), repromulgated LR 27:1864 (November 2001), amended LR 28:448 (March 2002), LR 30:784 (April 2004), LR 31:3111, 3114 (December 2005), LR 35:

§1903. Responsibilities of Post-Secondary Institutions

A. - B.1. …

2. institutions will bill LASFAC based on their certification that the recipient of a TOPS Award or a GO-Youth ChalleNGe Program Grant is enrolled full-time, as defined in §301:

a. at eligible colleges and universities, except cosmetology and proprietary schools, at the end of the 14th class day or later for semester schools and the 9th class day or later for quarter and term schools, and for any qualifying summer sessions at the end of the last day to drop and receive a full refund for the full summer session. Institutions shall not bill for students who are enrolled less than full-time at the end of the 14th class day for semester schools or the 9th class day for quarter and term schools, and for any qualifying summer sessions at the end of the last day to drop and receive a full refund for the summer session, unless the student qualifies for payment for less than full-time enrollment as defined in §2103.C. Students failing to meet the full-time enrollment requirement are responsible for reimbursing the institution for any awards received. Refunds of awards to students who are not receiving federal Title IV aid, for less than full-time enrollment after the 14th or 9th class day, as applicable, shall be returned to the state. Refunds to students who are receiving federal Title IV aid shall be refunded to the state in accordance with the institution's federal Title IV aid refund procedures;

b. at eligible cosmetology or proprietary schools, on a billing date for students who were enrolled full time on that date. The billing dates are September 1, December 1, March 1 and June 1. Institutions shall not bill for students who are enrolled less than full-time on a billing date, unless the student qualifies for payment for less than full-time enrollment as provided in §2103.C. Students failing to meet the full-time enrollment requirement are responsible for reimbursing the institution for any awards received. Refunds of awards to students who are not receiving federal Title IV aid, for less than full-time enrollment shall be returned to the state. Refunds to students who are receiving federal Title IV aid shall be refunded to the state in accordance with the institution's federal Title IV aid refund procedures;

B.3. - 7.a. …

b. all other eligible colleges and universities, except eligible cosmetology or proprietary schools, may bill for an amount up to the *average award amount (TOPS-Tech)*, as defined in §301;

c. eligible cosmetology and proprietary schools may bill for an amount of up to one quarter of the annual *average award amount (TOPS-Tech)*, as defined in §301;

B.8. - D.5.a. …

b. verify the student is in good standing;

6. for TOPS-Tech Awards at cosmetology or proprietary schools:

a. verify the student has continued to make steady academic progress; and

b. verify the student is enrolled full time on the billing date.

E. - G. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, 17:3041.10-3041.15, 17:3041.21-3041.26 and R.S. 17:3048.1 and R.S. 17:3050.1–3050.4.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:645 (April 1998), amended LR 24:1914 (October 1998), LR 25:1459 (August 1999), LR 26:1998, 2002 (September 2000), repromulgated LR 27:1864 (November 2001), amended LR 28:448 (March 2002), LR 28:775 (April 2002), LR 28:1760 (August 2002), LR 28:2333 (November 2002), LR 30:784 (April 2004), LR 30:1166 (June 2004), LR 31:40 (January 2005), LR 31:3111, 3114 (December 2005), LR 33:1340 (July 2007), LR 35:

George Badge Eldredge
General Counsel

0903#023

DECLARATION OF EMERGENCY

Tuition Trust Authority
Office of Student Financial Assistance

START Savings Program
(LAC 28:VI.107 and 315)

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

The Emergency Rule implements a change in Section 529 of the IRS Code, which provides that expenses related to computer purchases and computer software are included in the definition of qualified higher education expenses for calendar years 2009 and 2010. The Emergency Rule also adds the interest rates for the 2008 calendar year.

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

This Declaration of Emergency is effective on March 4, 2009, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act. (ST09106E)

Title 28
EDUCATION
Part VI. Student Financial Assistance—Higher Education Savings
Chapter 1. General Provisions
Subchapter A. Tuition Trust Authority
§107. Applicable Definitions

A. Words and terms not otherwise defined in these rules shall have the meanings ascribed to such words and terms in

this Section. Where the masculine is used in these rules, it includes the feminine, and vice versa; where the singular is used, it includes the plural, and vice versa.

* * *

Qualified Higher Education Expenses—

a. tuition, fees, books, supplies, and equipment required for the enrollment or attendance of a designated beneficiary at an eligible educational institution; and

b. room and board; and

c. expenses for special needs services in the case of a special needs beneficiary, which are incurred in connection with such enrollment or attendance ; and

d. for the calendar years 2009 and 2010 only, expenses paid or incurred for the purchase of any computer technology or equipment or Internet access and related services, if such technology, equipment, or services are to be used by the beneficiary and the beneficiary's family during any of the years the beneficiary is enrolled at an eligible educational institution, but shall not include expenses for computer software designed for sports, games, or hobbies unless the software is predominately educational in nature.

* * *

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:712 (June 1997), amended LR 24:1268 (July 1998), LR 25:1794 (October 1999), LR 26:2260 (October 2000), LR 27:37 (January 2001), LR 27:1222 (August 2001), LR 27:1876 (November 2001), LR 28:450 (March 2002), LR 28:777 (April 2002), LR 28:2334 (November 2002), LR 29:556 (April 2003), LR 30:786 (April 2004), LR 30:1169 (June 2004), LR 30:2302 (October 2004), LR 31:639 (March 2005), LR 32:1433 (August 2006), LR 32:2240 (December 2006), LR 33:443 (March 2007), LR 34:1885 (September 2008), LR 35:

Chapter 3. Education Savings Account

§315. Miscellaneous Provisions

A. - B.18. …

19. For the year ending December 31, 2008, the Louisiana Education Tuition and Savings Fund earned an interest rate of 4.65 percent.

20. For the year ending December 31, 2008, the Savings Enhancement Fund earned an interest rate of 4.39 percent.

C. - S.2. …

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:718 (June 1997), amended LR 24:1274 (July 1998), LR 26:1263 (June 2000), repromulgated LR 26:2267 (October 2000), amended LR 27:1221 (August 2001), LR 27:1884 (November 2001), LR 28:1761 (August 2002), LR 28:2335 (November 2002), LR 29:2038 (October 2003), repromulgated LR 29:2374 (November 2003), amended LR 30:791 (April 2004), LR 30:1472 (July 2004), LR 31:2216 (September 2005), LR 32:1434 (August 2006), LR 32:2240 (December 2006), LR 33:2359 (November 2007), LR 34:1886 (September 2008), LR 35:

George Badge Eldredge
General Counsel

0903#022

DECLARATION OF EMERGENCY

Office of the Governor
Division of Administration
Racing Commission

Bleeder Medication (LAC 35:I.1507 and 1509)

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 April 1, 2009, and it shall remain in effect for 120 days or until this Rule takes effect through the normal promulgation process, whichever comes first.

The Louisiana Racing Commission finds it necessary to amend this Rule to further promote the health and well being of race horses, to guard the integrity of the sport, and to adjust to changes in nation-wide standards in the realm of equine veterinary practices, health, and medication.

Title 35
HORSE RACING
Part I. General Provisions

Chapter 15. Permitted Medication

§1507. Bleeder Medication

A. No bleeder medication may be administered to a horse in training for a race during any race meeting except upon compliance with the following.

1. Only a licensed veterinarian may prescribe, dispense and administer bleeder medication.

2. No horse entered to race may be administered bleeder medication within four hours of post-time of the race in which the horse is to run.

B. A horse shall be considered a known bleeder when:

1. it is observed bleeding by a commission veterinarian during and/or after a race or workout;

2. an endoscopic examination authorized by the commission veterinarian or state steward, conducted within one hour of a race or workout, reveals blood in the trachea and/or upper respiratory tract of the horse examined;

3. a statement from a commission or association veterinarian of any other racing jurisdiction, confirming that a specific horse is a known bleeder is received by the commission or stewards having jurisdiction of the race meeting where such horse may be eligible to race.

C. A horse may be removed from the bleeder list only upon the direction of a commission veterinarian, who shall certify in writing to the stewards the recommendation for removal.

D. The commission veterinarian at each race meeting shall maintain a current list of all horses, which have demonstrated external evidence of exercise induced pulmonary hemorrhage from one or both nostrils during or after a race or workout as observed by the commission veterinarian.

E. A bleeder, regardless of age, shall be placed on the bleeder list and be ineligible to run during the following periods of time:

1. first time, for 14 days;

2. second time, within a 365 day period, for 30 days;

3. third time, within 365 day period, for 180 days;

4. fourth time, within a 365 day period, lifetime suspension;

5. should a horse which is on the bleeder list race three times within 365 days without bleeding, it shall be considered a first-time bleeder when next it is observed bleeding by a commission veterinarian or an endoscopic examination, conducted within one hour of a race, reveals blood in the trachea and/or upper respiratory tract;

6. for the purposes of this rule the period of ineligibility begins on the first day bleeding was observed;

7. the voluntary administration of bleeder medication without evidence of an external bleeding incident does not subject a horse to the above periods of ineligibility.

F. The licensed veterinarian prescribing, dispensing, and administering bleeder medication must furnish a written report to the commission veterinarian at least one hour prior to post-time for the first race of the day on forms supplied by the commission. Furnishing of such written report timely shall be the responsibility of the prescribing, dispensing, and/or administering veterinarian. The following information shall be provided, under oath, on a form provided by the commission:

1. the name of the horse, racetrack name, the date and time the permitted bleeder medication was administered to the entered horse;

2. the dosage amount of bleeder medication administered to the entered horse; and

3. the printed name and signature of the licensed veterinarian who administered the bleeder medication.

G. Approved bleeder medication may be voluntarily administered intravenously to a horse, which is entered to compete in a race subject to compliance with the following conditions:

1. the trainer and/or attending veterinarian determine it is in a horse's best interests to race with bleeder medication, and they make written request upon the commission veterinarian, using the prescribed form, that the horse to be placed on the voluntary bleeder medication list;

2. the request is actually received by the commission veterinarian or his/her designee by the time of entry;

3. the horse race with bleeder medication and remain on the voluntary bleeder medication list unless and until the trainer and attending veterinarian make a joint, written request on a form provided by the commission to the commission veterinarian to remove the horse from the list;

4. once removed from the voluntary bleeder medication list, a horse may not be voluntarily placed back on the list for a period of 60 days unless the commission veterinarian determines on recommendation and concurrence of the attending veterinarian that it jeopardizes the welfare of the horse. Once a horse is voluntarily removed from the list twice within a 365-day period, the horse may not be voluntarily placed back on the list for bleeder medication for a period of 90 days.

H. In order to insure that the use of bleeder medication is reported accurately, the commission shall have the right to perform or have performed testing of blood or urine of any horse eligible to race at a meeting, whenever it is deemed necessary by it or its stewards. The veterinarian administering the approved bleeder medication shall surrender the syringe used to administer such medication for testing upon request of the commission veterinarian, a steward or either of their designated representatives.

I. Post race analysis of fursoemide must show detectable concentrations of the drug in serum, plasma or urine sample that is indicative of appropriate administration.

1. Specific gravity of post-race urine samples may be measured to ensure that samples are sufficiently concentrated for proper chemical analysis. Specific gravity shall not be below 1.010. If the specific gravity of the urine is below 1.010 or a urine sample is unavailable for testing, quanitation of furosemide shall be performed in serum or plasma.

2. Quantitation of furosemide in serum or plasma may not exceed 100 nanograms of furosemide per milliliter of serum or plasma.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:142.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 6:174 (May 1980), amended LR 9:547 (August 1983), amended by the Department of Economic Development, Racing Commission LR 15:7 (January 1989), LR 22:12 (January 1996), LR 23:950 (August 1997), amended by the Office of the Governor, Division of Administration, Racing Commission, LR 35:

§1509. Definitions

A. As used in this rule:

Bleeder Medication—drugs or medications which are permitted by the commission and are recognized by the veterinary profession for the treatment of exercise-induced hemorrhage.

Permitted Medication—Furosemide, by single intravenous injection not less than 150 mg and not exceed 500 mg:

a. approved adjunct, bleeder medications: Ethacrynic Acid, Bumetanide, Estrogen, Ergonovine, Amino Caproic Acid, Carbazochrome.

Veterinarian—a person who is licensed to practice veterinary medicine in Louisiana, and who is licensed by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:142.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 6:174 (May 1980), amended LR 9:548 (August 1983), amended by the Office of the Governor Division of Administration, Racing Commission, LR 35:

Charles A. Gardiner III
Executive Director

0903#021

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Board of Examiners for Speech-Language Pathology and Audiology

Investigation of Complaints (LAC 46:LXXV.501)

The Louisiana Board of Examiners for Speech-Language Pathology and Audiology has suspended Section C of §501 effective February 16, 2009, in accordance with the provisions of the Administrative Procedure Act. R.S. 49:953, and the Speech-Language Pathology and Audiology Practice Act R.S. 37:2652-2666. The Emergency Rule complies with

the requirement of imminent peril to the public health, safety or welfare in that the board received an anonymous complaint that contains serious allegations which rise to a level of serious consumer protection issues. The current Rule does not authorize the board to investigate anonymous complaints.

Effective February 16, 2009 and for a period of 120 days or until adoption of the final Rule, whichever occurs first, Section C of §501 Investigation of Complaints is suspended.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXXV. Speech Pathology and Audiology

Chapter 5. Procedural Rules

§501. Investigation of Complaints

A. The board is authorized to receive complaints against licensees, applicants, or other persons engaging in practices which violate or are alleged to violate the provisions of R.S. 37:2650 et seq.

B. Any complaint bearing on a licensee's professional competence, conviction of a crime, unauthorized practice, mental competence, neglect of practice, or violation of state law or ethical standards where applicable to the practice of speech-language pathology or audiology shall be submitted to the board.

C. Once a written complaint is received, the board shall initiate a review of the allegations contained therein. The board may dispose of the complaint informally through correspondence or conference with the licensee and/or the complainant, which may result in a consent order. If the licensee stipulates to the complaint and waives her/his right to a formal hearing, the board may impose appropriate sanctions without delay. If the board finds that a complaint cannot be resolved informally, the written complaint shall be forwarded to the board's designated investigator for investigation. The board shall at that time notify the licensee, by certified mail, return receipt requested, of the investigation.

D. The board's designated investigator shall have authority to investigate the nature of the complaint through conference, correspondence, and other investigative procedures, directed to those parties or witnesses involved. The board's designated investigator shall send the involved licensee notice by certified mail, return receipt requested, of the investigation containing a short summary of the complaint. All subsequent letters to the involved licensee, all letters to the complainant, or any other witness, shall be sent with a designation "personal and confidential" clearly marked on the outside of the envelope.

E. The designated investigator shall conclude the investigation as quickly as possible, without compromising thoroughness. Unless good cause is shown by the designated investigator satisfactory to the board, which may extend the time for the investigation, the investigation and recommendations to the board shall be delivered to the board within 60 days of the date that the designated investigator first received the assignment from the board.

F. Following an investigation, the designated investigator shall report to the board and make a recommendation for either dismissal of the complaint or proceeding to an informal hearing, consent order, or formal hearing. Recommendation for dismissal of the complaint or other proceedings shall be forwarded to the complainant and to the licensee.

G. The designated investigator may determine that the licensee's explanation satisfactorily answers the complaint and may recommend to the board that the matter be dismissed.

H. If the designated investigator's recommendation for an informal hearing is accepted by the board, the designated investigator shall notify the licensee of the time, date, and place of the informal hearing and of the issues to be discussed. The licensee shall appear on a voluntary basis. The licensee shall be advised that the hearing will be informal, no attorneys will be present, and no transcript of the hearing will be made. Any witnesses who testify will not be placed under oath, and no subpoenas will be issued. The licensee shall be informed that any statements made at the informal hearing will not be used or introduced at a formal hearing, unless all parties consent. If the licensee notifies the designated investigator that s/he does not wish an informal hearing, or if the licensee fails or refuses to attend an informal hearing, the informal hearing shall not be held. In that event, the board shall initiate a formal disciplinary hearing.

I. A complaint may be resolved by a consent order and agreement approved by the board and entered into by the licensee.

J. The designated investigator shall recommend to the board the initiation of a formal disciplinary hearing if the investigation discloses any of the following: the complaint is sufficiently serious to require a formal adjudication; the licensee fails to respond to the correspondence by the designated investigator concerning the complaint; the licensee's response to the designated investigator discloses that further action is necessary; an informal hearing is held but does not resolve all of the issues; or the licensee refuses to comply with the recommended remedial action.

K. The designated investigator shall submit any recommended action to the board in brief, concise language, without any reference to the particulars of the investigation, to any findings of fact or any conclusions of law arrived at during the investigative process.

L. The board shall have the authority to delegate to the designated investigator any alleged violations of the Speech-Language Pathology and Audiology Act, R.S. 37:2650 et seq., and any alleged violations of any and all rules and regulations adopted by the board pursuant thereto, prior to board action on those alleged violations. If requested by the board, the designated investigator shall submit to the board the complete investigation file. Final authority for appropriate action rests solely with the board.

M. At no time shall the designated investigator investigate any case as authorized by the board where the investigator has any personal or economic interest in the outcome of the investigation, or is personally related to or maintains a close friendship with the complainant, the licensee, or any of the witnesses involved. In such event, the designated investigator shall immediately notify the board, who shall appoint a substitute investigator for disposition of that particular case.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language

Pathology and Audiology, LR 17:373 (April 1991), amended LR 22:356 (May 1996), LR 30:2320 (October 2004), LR 35:

Interested persons may submit written comments or inquiries to Mrs. Emily Efferson, Administrator, Louisiana Board of Examiners for Speech-Language Pathology and Audiology, 18550 Highland Road, Suite B, Baton Rouge, LA 70809.

Emily Efferson
Administrator

0903#002

DECLARATION OF EMERGENCY

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 adopts 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 and as directed by Act 19 of the 2008 Regular Session of the Louisiana Legislature which states: "The secretary shall, subject to the review and approval of the Joint Legislative Committee on the Budget, implement reductions in the Medicaid program as necessary to control expenditures to the level appropriated in this Schedule. Notwithstanding any law to the contrary, the secretary is hereby directed to utilize various cost-containment measures to accomplish these reductions, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations and other measures as allowed by federal law." This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Human Resources, Office of Family Support adopted provisions to allow for Medicaid reimbursement of services provided by ambulatory surgical centers (*Louisiana Register*, Volume 3, Number 4). The April 20, 1977 Rule was amended to revise the reimbursement methodology. Reimbursement for these surgical procedures was set at a flat fee per service if the procedure code is included in one of the four Medicaid established payment groups. Reimbursement for those surgical procedures not included in the Medicaid outpatient surgery list was not changed from the established methodology (*Louisiana Register*, Volume 11, Number 12).

As a result of a budgetary shortfall, the bureau has determined that it is necessary to amend the provisions governing the reimbursement methodology for ambulatory surgical centers to reduce the reimbursement rates paid for ambulatory surgical services. This action is necessary to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately $49,654 for state fiscal year 2008-2009.

Effective February 26, 2009, the Department of Health and Hospitals, Bureau of Health Services Financing repeals the April 20, 1977 Rule and amends the provisions governing the reimbursement methodology for ambulatory surgical centers.

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:

§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 on the Medicaid fee schedule, the reimbursement is the highest flat fee indicated for the ambulatory surgery payment groups.

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:

Implementation of the provisions of this Rule is contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid 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 Emergency Rule. A

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

Alan Levine
Secretary

0903#004

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing

Direct Service Worker Registry—Training Curriculum
(LAC 48:I.9215)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 48:I.9215 as authorized by R.S. 40:2179-2179.1. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

In compliance with the directives of Act 306 of the 2005 Regular Session of the Louisiana Legislature, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions governing the establishment and maintenance of the Direct Service Worker (DSW) registry and defined the qualifications and requirements for direct service workers (*Louisiana Register*, Volume 32, Number 11). The November 20, 2006 Rule was amended to further clarify the provisions governing the DSW registry (*Louisiana Register*, Volume 33, Number 1). The department now proposes to amend the provisions of the January 20, 2007 Rule governing the training curriculum for direct service workers to require that licensed providers and other state approved training entities that wish to conduct training for direct service workers, and do not have an approved training curriculum, must use the department-approved training curriculum.

This action is being taken to promote the health and well-being of Louisiana citizens by assuring that direct service workers receive standardized training. It is estimated that implementation of this Emergency Rule will have no programmatic costs for state fiscal year 2008-2009.

Effective March 1, 2009, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the training curriculum for direct service workers.

Title 48
PUBLIC HEALTH—GENERAL
Part I. General Administration
Subpart 3. Health Standards
Chapter 92. Direct Service Worker Registry
Subchapter B. Training and Competency Requirements
§9215. Training Curriculum

A. - B.3. ...

C. Curriculum Approval. Effective March 1, 2009, licensed providers and other state-approved training entities that wish to offer training for direct service workers, and do not have a training curriculum approved by the department, must use the training curriculum developed by Health Standards. Training curriculums approved by Health Standards prior to March 1, 2009 may continue to be used.

1. To obtain approval to use the Health Standards training curriculum, an entity (provider or school) must submit the following documentation to the Health Standards Section:

a. the name of the training coordinator and his/her qualifications; and

b. a list of any other instructors.

c. Repealed.

2. If a school is applying for approval, it must identify the place(s) used for classroom instruction and clinical experience.

3. If a provider or school that has an approved curriculum ceases to provide training and/or competency evaluations, it must notify the department within 10 days. Prior to resuming the training program and/or competency evaluations, the provider or school must reapply to the department for approval to resume the program.

4. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2179-2179.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2060 (November 2006), amended LR 33:96 (January 2007), amended 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

0903#006

DECLARATION OF EMERGENCY

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, Office of the Secretary, Bureau of Health Services Financing amends LAC 50:XI.6901 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 of the 2008 Regular Session of the Louisiana Legislature which states: "The secretary shall, subject to the review and approval of the Joint Legislative Committee on the Budget, implement reductions in the Medicaid program as necessary to control expenditures to the level appropriated in this Schedule. Notwithstanding any law to the contrary, the secretary is hereby directed to utilize various cost-containment measures to accomplish these reductions, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations and other measures as allowed by federal law." This Emergency Rule is

promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:950 et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repromulgated all of the Rules governing Medicaid reimbursement for co-insurance and deductibles for Medicare Part B claims for hemodialysis services (*Louisiana Register*, Volume 30, Number 5). As a result of a budgetary shortfall, the bureau has determined that it is necessary to amend the provisions of the May 20, 2004 Rule to reduce the reimbursement rates paid for services provided by end stage renal disease (ERSD) facilities.

This action is necessary to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately $291,761 for state fiscal year 2008-2009.

Effective February 26, 2009, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for services provided by end stage renal disease facilities to reduce the reimbursement rates.

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 ERSD 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:

§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 ERSD 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:

Implementation of the provisions of this Rule is contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid 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 Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Alan Levine
Secretary

0903#007

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing

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

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 48:I.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 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 now proposes to amend the January 20, 2009 Emergency Rule to repromulgate these provisions in the appropriate place in the *Louisiana Administrative Code*.

This action is being taken to promote the health and well-being of Louisiana citizens by assuring the availability of nursing facility 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 March 20, 2009, the Department of Health and Hospitals, Bureau of Health Services Financing repromulgates the provisions of the January 20, 2008

Emergency Rule governing facility need review for Medicaid certified nursing facilities.

Title 48
PUBLIC HEALTH—GENERAL
Part I. General Administration
Subpart 5. Health Planning

Chapter 125. Facility Need Review

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.

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 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 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 intends to resume operation as a nursing home 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 resumes operating as a nursing home in the same service area within two years 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 continues to submit required documentation and information to the department.

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

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

2. a nursing facility which fails to resume operations as a nursing facility in the same service area within two years 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. Upon refusal of the department to grant a FNR approval, only the applicant shall have the right to request an administrative appeal.

1. A written request for such an appeal must be submitted by registered mail to the Secretary of the Department of Health and Hospitals within 30 days after the notification of disapproval is received by the applicant.

2. A fee of $500 shall accompany a request for an appeal.

B. Hearings shall be conducted by a hearing officer designated by the governor, provided that no person who has taken part in any prior consideration of, or action upon, the application may conduct such hearings.

1. However, a hearing officer who presided over a hearing and remanded the matter to the department may hear a subsequent appeal of the same application if the department again disapproves the application.

C. The hearing shall be conducted within 30 days after receipt of the written request for the hearing.

1. Requests by the department or the applicant for extensions of time within which to conduct a hearing may be granted at the discretion of the hearing officer, provided that if the hearing is not concluded within 180 days from the date of receipt by the applicant of notification of disapproval, the decision of the department will be considered upheld.

2. The hearing shall be open to the public.

D. The hearing officer shall have the power to:

1. administer oaths and affirmations;

2. regulate the course of the hearings;

3. set the time and place for continued hearings;

4. fix the time for filing briefs and other documents; and

5. direct the parties to appear and confer to consider the simplification of the issues.

E. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. Evidence which possesses probative value

commonly accepted by reasonably prudent men in the conduct of their affairs may be admitted and given probative effect. The rules of privilege recognized by law shall be given effect. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing can be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form.

F. All evidence, including records and documents in the possession of DHH of which it desires to avail itself, shall be offered and made part of the records. All such documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference.

1. In the case of incorporation by reference, the materials so incorporated shall be available for examination by the parties before being received in evidence. Notice may be taken of judicially cognizable facts.

2. In addition, notice may be taken of generally recognized technical or scientific facts within DHH's specialized knowledge. Parties shall be notified either before or during the hearing or by reference in preliminary reports or otherwise of the material notices, including any staff memoranda or data. They shall be afforded an opportunity to contest the material so noticed.

G. The hearing officer shall have the power to sign and issue subpoenas, or to direct the department to do so, in order to require attendance and the testimony by witnesses and to require the productions of books, papers and other documentary evidence.

1. The applicant is required to notify the hearing officer in writing at least 10 days in advance of the hearing of those witnesses whom he wishes to be subpoenaed.

2. No subpoena shall be issued until the party (other than the department) who wishes to subpoena a witness first deposits with the hearing officer a sum of money sufficient to pay all fees and expenses to which a witness in a civil case is entitled pursuant to R.S. 13:3661 and R.S. 13:3671.

3. DHH may request issuance of subpoenas without depositing said sum of money. The witness fee may be waived if the person is an employee of DHH.

4. When any person summoned under this Section neglects or refuses to obey such summons, or to produce books, papers, records, or other data, or to give testimony as required, DHH may apply to the judge of the district court for the district within which the person so summoned resides or is found, for an attachment against him as for a contempt.

a. It shall be the duty of the judge to hear the application and, if satisfactory proof is made, to issue an attachment directed to some proper officer for the arrest of such person.

b. Upon such person being brought before him, the judge shall proceed with the hearing of the case.

c. Upon such hearing, the judge may issue such order as he shall deem proper, not inconsistent with the law for the punishment of contempt, to enforce obedience to the requirements of the summons and to punish such person for this default or disobedience.

H. The department or any party to the proceedings may take the deposition of witnesses, within or without the state, in the same manner as provided by law for the taking of depositions in civil actions in courts of record. Depositions so taken shall be admissible in the review proceeding at issue. The admission of such depositions may be objected to at the time of hearing and may be received in evidence or excluded from the evidence by the hearing officer in accordance with the rules of evidence provided in this Section.

I. The applicant, the department, any other agency which reviewed the application, and other interested parties (including members of the public and representatives of health services consumers) shall be permitted to give testimony and present arguments at the hearing without formally intervening. Such testimony and arguments shall be presented after the testimony of the applicant and DHH has been presented, or at the discretion of the hearing officer, at any other convenient time. When such testimony is presented, all parties may cross-examine the witness.

J. A record of the hearing proceeding shall be maintained. Copies of such record together with copies of all documents received in evidence shall be available to the parties, provided that any party who requests copies of such material may be required to bear the costs thereof.

K. The hearing officer shall notify all parties, in writing or on the record, of the day on which the hearing will conclude and of any changes thereto; provided that a hearing must be concluded in accordance with the time requirements specified in this Section.

1. As soon as practicable, but not more than 45 days after the conclusion of a hearing, the hearing officer shall send his written decision and the reasons for the decision to the applicant, the department, and any interested parties who participated in the hearing.

2. Such decisions shall be publicized by the department through local newspapers and public information channels.

3. After rendering his decision, the hearing officer shall transmit the record of the hearing to the department.

L. An applicant who fails to have the disapproval reversed shall forfeit his filing fee.

M. Judicial review of the decision of the hearing officer shall be in accordance with the provisions of R.S. 49:964 provided, however, that only an applicant aggrieved by the decision of the hearing officer shall have the right to judicial review.

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

0903#065

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, 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 now proposes to amend the February 1, 2009 Emergency Rule to further clarify the provisions governing the development of the waiver recipient's annual services budget. This action is being taken to avoid federal sanctions for noncompliance with waiver cost-effectiveness requirements.

Effective March 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 February 1, 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 who, without the availability of EDA Waiver services, would require institutional placement to prevent further abuse and neglect;

1.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;

c. intravenous (IV) feeding; or

d. suctioning.

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. septicemia;

f. burn treatment;

g. radiation treatment;

h. IV medications;

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

i. dehydration;

ii. pneumonia diagnosis;

iii. vomiting; or

iv. unintended weight loss.

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

a. aphasia:

i. aphasia is the inability to express thoughts by means of speech; a consequence of certain brain disorders;

b. dehydration;

c. any stasis ulcer:

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

d. end-stage/terminal illness;

e. chemotherapy;

f. blood transfusion;

g. skin problem;

h. cerebral palsy diagnosis;

i. urinary tract infection;

j. hemiplegia diagnosis:

i. hemiplegia is total or partial inability to move, experienced on one side of the body, caused by brain disease or injury;

k. internal bleeding;

l. dialysis treatment;

m. diagnosis of pneumonia;

n. one or more of the seven criteria in Special Care (with low ADL need); or

o. one or more of the three criteria in Extensive Services (with low ADL need).

5. Impaired Cognition. Individuals in this category have a low to medium need for assistance with ADLs and an 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 the paid direct service worker of 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 service 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. average cost of services per day 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 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 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 Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Alan Levine
Secretary

0903#066

DECLARATION OF EMERGENCY

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 amends 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 and as directed by Act 19 of the 2008 Regular Session of the Louisiana Legislature which states: "The secretary shall, subject to the review and approval of the Joint Legislative Committee on the Budget, implement reductions in the Medicaid program as necessary to control expenditures to the level appropriated in this Schedule. Notwithstanding any law to the contrary, the secretary is hereby directed to utilize various cost-containment measures to accomplish these reductions, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations and other measures as allowed by federal law." This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:950 et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repromulgated all of the Rules governing reimbursement for laboratory and X-ray services in a codified format for inclusion in the *Louisiana Administrative Code* (*Louisiana Register,* Volume 28, Number 5*)*. As a result of a budgetary shortfall, the bureau has determined that it is necessary to amend the provisions of the May 20, 2002 Rule to reduce the reimbursement rates paid for laboratory and X-ray services, hereafter referred to as radiology services.

This action is necessary to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medicaid Program for laboratory and radiology services by approximately $1,090,570 for state fiscal year 2008-2009.

Effective February 26, 2009, the Department of Health and Hospitals, Bureau of Health Services Financing amends the reimbursement methodology for laboratory and radiology services.

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 pay 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. 46:153, R.S. 49:1008(A), P.L. 98-369, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1025 (May 2002), amended LR 35:

§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.

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. 46:153, R.S. 49:1008(A), P.L. 98-369, and Title XIX of the Social Security Act.

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

§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:

§4337. Radiation Therapy Centers

A. Effective for dates of service on or after February 26, 2009, the reimbursement rates for laboratory and 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:

Implementation of the provisions of this Rule is contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid 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 Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Alan Levine
Secretary

0903#008

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing

Nursing Facilities—Leave of Absence Days
Reimbursement Rate Adjustment
(LAC 50:VII.1321)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt LAC 50:VII.1321 in the Medical Assistance Program as authorized by R.S. 36:254. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgated a Rule that amended the provisions governing reimbursement to nursing facilities for hospital leave of absence days (*Louisiana Register*, Volume 27, Number 1). Effective for dates of service on or after July 1, 2008, the reimbursement paid to nursing facilities was increased in accordance with the reimbursement methodology established in the August 20, 2002 Rule (*Louisiana Register*, Volume 28, Number 8). As a result of a budgetary shortfall, the bureau promulgated an Emergency Rule to reduce the reimbursement paid to nursing facilities for leave of absence days (*Louisiana Register*, Volume 35, Number 3). The bureau now proposes to amend the February 20, 2009 Emergency Rule to adjust the reimbursement for hospital leave of absence days.

This action is being taken to align the reimbursement methodology for hospital and home leave of absence days for nursing facilities with occupancy equal to or greater than 90 percent. It is estimated that implementation of this Emergency rule will increase expenditures in the Medicaid Program by approximately $102,344 for state fiscal year 2008-2009.

Effective March 1, 2009, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for nursing facility leave of absence days.

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.

E. Effective for dates of service on or after March 1, 2009, the reimbursement for hospital leave of absence days shall be 90 percent of the applicable per diem rate, which includes the nursing facility provider fee.

F. 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:

Implementation of the provisions of this Rule is contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid 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 Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Alan Levine
Secretary

0903#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, 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 now proposes to amend the February 1, 2009 Emergency Rule to incorporate provisions governing an allocation of weekly service hours in the LT-PCS Program. This action is being taken to avoid a future budget deficit due to the escalating costs associated with LT-PCS. In addition, it is anticipated that this action will promote the health and well-being of recipients through the accurate identification and evaluation of the supports needed to safely maintain these individuals in their homes and communities.

Effective March 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 February 1, 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;

c. intravenous (IV) feeding; or

d. suctioning.

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. septicemia;

f. burn treatment;

g. radiation treatment;

h. IV medications;

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

i. dehydration;

ii. pneumonia diagnosis;

iii. vomiting; or

iv. unintended weight loss.

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

a. aphasia;

i. aphasia is the inability to express thoughts by means of speech; a consequence of certain brain disorders;

b. dehydration;

c. any stasis ulcer;

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

d. end-stage/terminal illness;

e. chemotherapy;

f. blood transfusion;

g. skin problem;

h. cerebral palsy diagnosis;

i. urinary tract infection;

j. 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;

k. internal bleeding;

l. dialysis treatment;

m. diagnosis of pneumonia;

n. one or more of the seven criteria in Special Care (with low ADL need); or

o. one or more of the three criteria in Extensive Services (with low ADL need).

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.12.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.

AUTHORITY NOTE: Promulgated in 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 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 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 Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Alan Levine
Secretary

0903#067

DECLARATION OF EMERGENCY

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 adopts 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 and as directed by Act 19 of the 2008 Regular Session of the Louisiana Legislature which states: "The secretary shall, subject to the review and approval of the Joint Legislative Committee on the Budget, implement reductions in the Medicaid program as necessary to control expenditures to the level appropriated in this Schedule. Notwithstanding any law to the contrary, the secretary is hereby directed to utilize various cost-containment measures to accomplish these reductions, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations and other measures as allowed by 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 promulgated a Rule amending the provisions governing the billing and reimbursement methodology for anesthesia services (*Louisiana Register*, Volume 30, Number 5). As a result of a budgetary shortfall, the bureau has determined that it is necessary to amend the provisions governing the reimbursement methodology for anesthesia services to reduce the reimbursement rates paid to certified registered nurse anesthetists (CRNA's) for services rendered to Medicaid recipients.

This action is necessary to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Professional Services Program by approximately $92,694 for state fiscal year 2008-2009.

Effective February 26, 2009, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for anesthesia services to reduce the reimbursement rates paid to certified registered nurse anesthetists and to further clarify these provisions.

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:

Implementation of the provisions of this Rule is contingent upon the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid 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 Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Alan Levine
Secretary

0903#009

DECLARATION OF EMERGENCY

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 adopts 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 and as directed by Act 19 of the 2008 Regular Session of the Louisiana Legislature which states: "The secretary shall, subject to the review and approval of the Joint Legislative Committee on the Budget, implement reductions in the Medicaid program as necessary to control expenditures to the level appropriated in this schedule. Notwithstanding any law to the contrary, the secretary is hereby directed to utilize various cost-containment measures to accomplish these reductions, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations and other measures as allowed by federal law." This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amended the provisions governing the reimbursement for prosthetic and orthotic devices to repeal the reimbursement methodology for specific items and to increase the reimbursement rate (*Louisiana Register*, Volume 34, Number 5).

As a result of a budgetary shortfall, the bureau has determined that it is necessary to amend the provisions governing the reimbursement methodology for prosthetic and orthotic devices to reduce the reimbursement rate. This action is necessary to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this Emergency Rule will reduce program expenditures in the Medicaid Program by approximately $39,501 for state fiscal year 2008-2009.

Effective March 7, 2009, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for prosthetic and orthotic devices.

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:

Implementation of the provisions of this Rule is contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid 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 Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Alan Levine
Secretary

0903#035

DECLARATION OF EMERGENCY

Department of Social Services
Office of Community Services

Daycare Services (LAC 67:V.2301)

The Department of Social Services (DSS), Office of Community Services (OCS), has exercised the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), to amend LAC 67:V., Subpart 4, Chapter 23, Daycare, Section 2301, to become effective March 10, 2009. This Emergency Rule shall remain in effect for a period of 120 days or until the publication of the final Rule, whichever occurs first. This action is necessary to extend the original Emergency Rule of November 10, 2008 which will expire before the final Rule takes effect. The final Rule will be published in May 2009.

Emergency action is necessary in this matter in order to comply with Louisiana Administrative Code changes previously made by the Office of Family Support (OFS), as that agency provides the OCS with the majority of the funds utilized to support the agency's Daycare Services Program. The OCS also bases agreements with day care providers on the agreements already established by the OFS Child Care Assistance Program. Thus, a provider disqualified by OFS would also be disqualified for providing services to a client of OCS. The Rule established by OFS became effective November 1, 2008.

Title 67
SOCIAL SERVICES
Part V. Community Services
Subpart 4. Family Services
Chapter 23. Daycare
§2301. Daycare Services

A. - C. ...

D. Daycare providers that have been disqualified from receiving payment or terminated from participation in the OFS Child Care Assistance Program shall be disqualified from receiving payment for or providing services to any client of the OCS until the provider qualification status is

resolved with the OFS and the provider is no longer disqualified or terminated.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 11:689 (July 1985), amended LR 18:868 (August 1992), LR 25:2443 (December 1999), LR 31:101 (January 2005), LR 33:1685 (August 2007), LR 35:

Kristy H. Nichols
Secretary

0903#058

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Early Oyster Season Closure—East of Mississippi River, Hackberry Bay and Little Lake

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B) and R.S. 49:967(D), and under the authority of R.S. 56:433(B)1 which provides that the Wildlife and Fisheries Commission may designate what parts or portions of the natural reefs may be fished for oysters and it may suspend the fishing of oysters altogether from natural reefs not leased by it when such reefs are threatened as determined by the Department, and a Resolution adopted by the Wildlife and Fisheries Commission on August 7, 2008 which authorized the Secretary of the Department of Wildlife and Fisheries to take emergency action if oyster resources and/or reefs are being adversely impacted, the Secretary hereby declares that the 2008/2009 oyster season in the primary public oyster grounds east of the Mississippi River, Hackberry Bay, and Little Lake shall close as of one-half hour after sunset on Saturday, March 14, 2009.

Heavy harvest pressure throughout the season has significantly reduced an already small oyster stock size and continued commercial harvest may threaten the long-term sustainability of the remaining oyster resource. Protection of these remaining oyster reef resources from injury is in the best interest of the public oyster areas.

Robert J. Barham
Secretary

0903#001

Rules

RULE

Department of Agriculture and Forestry
Board of Animal Health

Equine Infectious Anemia Testing (LAC 7:XXI.507)

In accordance with the Administrative Procedures Act, R.S. 49:950 et seq., and R.S. 3:2093 the Department of Agriculture and Forestry, Board of Animal Health has amended a regulation regarding the testing of equines for EIA at public livestock auction markets to eliminate the provisions for a set official EIA testing fee, to eliminate the exemption of sellers of equine that sell for less than $50 from paying for an official EIA test performed at a livestock auction market, and to eliminate the taking of blood samples by Board of Animal Health personnel.

The fee for EIA testing that is to be paid to the testing veterinarian was established in 1994 and does not reflect the fees currently charged by veterinarians. Further, this fee is a matter that should be negotiated between the owners of an equine and the veterinarian and not set by regulation. The cost of providing this service free of charge to sellers of equine that sell for less than $50 has become prohibitive and may lead to deficit spending by the board. More and more equine are selling for less than that amount because of the prohibition on selling horses and equine for slaughter. Blood samples will no longer be taken by board personnel to ensure that the taking of samples will be done by an accredited veterinarian. No preamble regarding this action is available.

Title 7
AGRICULTURE AND ANIMALS
Part XXI. Diseases of Animals
Chapter 5. Equine
§507. Equine Infectious Anemia and Louisiana Livestock Auction Market Requirements

A. - B.3. …

4.a. All equine offered for sale at Louisiana livestock auction markets must be accompanied by an official record of a negative official test for EIA conducted by an approved laboratory within 12 months of the date of the sale, except as provided in this Subsection.

i. An equine offered for sale at a Louisiana public livestock auction market shall be tested for EIA at the auction market prior to sale if the equine has not been tested or is not accompanied by a current negative official EIA test record. The auction market shall collect a $5 identification fee from the purchaser of each such equine before the equine leaves the auction market and then remit the fee to the Department of Agriculture and Forestry. The blood sample for the EIA test shall be drawn by an accredited veterinarian and submitted for an official EIA test in accordance with these regulations. The veterinarian's fee for this service shall be collected from the seller by the auction market and paid directly to the veterinarian. An equine without a current negative official EIA test record that is sold at an auction market may be moved to the buyer's premises under a Board of Animal Health quarantine after the blood sample is taken and the veterinarian and identification fees are paid. The equine shall remain under quarantine until the official test results show that the animal is an EIA negative equine.

B.4.b - F.7. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Animal Health Services, Livestock Sanitary Board, LR 11:243 (March 1985), amended LR 11:615 (June 1985), amended by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 14:223 (April 1988), LR 14:697 (October 1988) LR 20:406 (April 1994), LR 20:1257 (November 1994), amended by the Department of Agriculture and Forestry, Board of Animal Health, LR 35:406 (March 2009).

Mike Strain, DVM
Commissioner

0903#038

RULE

Department of Agriculture and Forestry
Crawfish Promotion and Research Board

Crawfish Promotion and Research Program
(LAC 7:V.2501, 2503, and 2505)

In accordance with the Administrative Procedures Act, R.S. 49:950 et seq., and R.S. 3:556.5 the Crawfish Promotion and Research Board, has adopted regulations providing for the Crawfish Promotion and Research Program and the administration of the affairs of the board, the disbursement and withdrawal of funds and the awarding of grants and contracts for crawfish marketing and research. Under R.S. 3:556.5 the board is authorized to adopt rules and regulations for the administration of the Crawfish Promotion and Research Program and is required to adopt regulations prior to the awarding of grants and contracts for marketing and research. This Rule is enabled by R.S. 3:556.5. No preamble regarding these proposed regulations is available.

Title 7
AGRICULTURE AND ANIMALS
Part V. Advertising, Marketing and Processing
Chapter 25. Louisiana Crawfish Promotion and Research Program
§2501. Administration of the Crawfish Promotion and Research Board

A. The officers of the board shall be the chairman, vice-chairman, and secretary treasurer.

B. The officers shall be elected at the board's regular meeting in the first quarter of each year.

C. In the absence of the chairman at any meeting of the board, the vice-chairman shall preside.

D. Members shall not receive a per diem for attending a meeting, but shall receive a mileage allowance equal to the mileage rate for state employees.

E. Meeting of the board shall normally be held at the place of its domicile, but may be held at other locations within the state as determined by the chairman or the board.

F. An affirmative vote of a majority of the members present and constituting a quorum shall be required for the adoption of any motion or resolution involving the disbursement or withdrawal of funds or the granting of any contract or grant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:556.5.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Crawfish Promotion and Research Board, LR 35:406 (March 2009).

§2503. Disbursement and Withdrawal of Funds

A. Disposition of Funds. The proceeds of assessments delivered by the department to the board shall be deposited in a special account which shall be designated as the Louisiana Crawfish Promotion and Research Board account.

B. Funds that are in the account shall be authorized by the board to be used only for the purposes stated in R.S. 3:556.12.

C. Withdrawals from the Louisiana Crawfish Promotion and Research Board account shall be made by check, signed by any two of the following officers, the chairman, the vice-chairman, or the secretary-treasurer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:556.5.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Crawfish Promotion and Research Board, LR 35:407 (March 2009).

§2505. Contracts and Grants

A. The award of contracts and grants shall be made by the board in accordance with state law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:556.5.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Crawfish Promotion and Research Board, LR 35:407 (March 2009).

Mike Strain, DVM
Commissioner

0903#039

RULE
Department of Civil Service
Board of Ethics

Records and Reports (LAC 52:I.1318-1321)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., that the Department of Civil Service, Louisiana Board of Ethics, has initiated rulemaking procedures to make amendments to the Rules for the Board of Ethics to bring the rules into compliance with current statutory provisions and HB 1 of the 2008 1st Special Legislative Session and SB 718 of the 2008 Regular Legislative Session.

Title 52
ETHICS
Part I. Board of Ethics
Chapter 13. Records and Reports
§1318. Statements Filed Pursuant to Section 1124 of the Code of Governmental Ethics

PERSONAL FINANCIAL DISCLOSURE
"TIER 1"
LSA-R.S. 42:1124

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1. Due annually by May 15th.
2. Candidates must file the statement within 10 days of filing a notice of candidacy for one of the above offices.

This form applies only to:

(1) Statewide elected officials (and candidates)
(2) Secretaries in executive branch agencies
- Department of Economic Development
- Department of Culture, Recreation, and Tourism
- Department of Environmental Quality
- Department of Health and Hospitals
- Department of Labor
- Department of Natural Resources
- Department of Public Safety and Corrections
- Department of Revenue
- Department of Social Services
- Department of Transportation and Development
- Department of Wildlife and Fisheries
- Department of Veterans Affairs

(3) Executive secretary of the Public Service Commission
(4) Director of state civil service
(5) The Superintendent of Education
(6) The Commissioner of Higher Education
(7) The president of each public post-secondary education system
(8) The Commissioner of the Division of Administration
(8) Senior staff in the governor's office: the chief of staff, the policy director, the deputy chief of staff, the executive counsel, and the legislative director

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INSTRUCTIONS

Use as many pages of each section of the form as are required. Machine copies of the form's pages may be used. Complete all sections (if not applicable, so indicate). Please type or print. Use blue or black ink.

NOTE: Where amounts are required herein, indicate such amounts by using one of the following categories, categories, unless otherwise indicated on the schedule:

I	**Less than $5,000**
II	**$5,000 to $24,999**
III	**$25,000 to $49,999**
IV	**$50,000 to $99,999**
V	**$100,000 to $199,999**
VI	**$200,000 or more**

Instructions (continued):

For the purposes of this form, the following definitions apply:

- **"Business"** means any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, business, organization, self-employed individual, holding company, trust, or any other legal entity or person.
- **"Income"** for a business means gross income less (i) costs of goods sold, and (ii) operating expenses.
- **"Income"** for an individual means taxable income and shall not include any income received pursuant to a life insurance policy.
- **LSA-R.S. 18:1505.2(L)(3)(a)** refers to (i) any person who holds a license or permit as a distributor of gaming devices, who holds a license or permit as a manufacturer of gaming devices, who holds a license or permit as a device service entity, and any person who owns a truck stop or a licensed pari-mutuel or off-track wagering facility which is a licensed device establishment, all pursuant to the Video Draw Poker Devices Control Law; (ii) any person who holds a license to conduct gaming activities on a riverboat, who holds a license or permit as a distributor or supplier of gaming devices or gaming equipment including slot machines, or who holds a license or permit as a manufacturer of gaming devices or gaming equipment including slot machines issued pursuant to the Louisiana Riverboat Economic Development and Gaming Control Act, and any person who owns a riverboat upon which gaming activities are licensed to be conducted, and (iii) any person who holds a license or entered into a contract for the conduct of casino gaming operations, who holds a license or permit as a distributor of gaming devices or gaming equipment including slot machines, or who holds a license or permit as a manufacturer of gaming devices or gaming equipment including slot machines issued pursuant to the Louisiana Economic Development and Gaming Corporation Act, and any person who owns a casino where such gaming operations are licensed.

PERSONAL FINANCIAL DISCLOSURE
"TIER 1"
LSA-R.S. 42:1124

☐ ORIGINAL REPORT ☐ AMENDED REPORT

This Report Covers Calendar Year_____

Office Held or Position Sought_____
Date of Election_____ Date of Qualifying_____

Full Name of Filer:_____

Full Name of Spouse:_____

Residence Address: _____
Street Apt. #
_____
City State Zip Code

Spouse's Occupation:_____

Principal Business Address of Spouse:

_____
Street Suite #
_____
City State Zip Code

☐ (A) I certify that I have filed my federal income tax return for the previous year.
☐ (B) I certify that I have filed my state income tax return for the previous year.
Or
☐ (A) I certify that I have filed for an extension of my federal income tax return for the previous year.
☐ (B) I certify that I have filed for an extension of my state income tax return for the previous year.

CERTIFICATION OF ACCURACY

I do hereby certify, after having been first duly sworn, that the information contained in this personal financial disclosure form is true and correct to the best of my knowledge, information and belief.

_____
Signature of Filer

Sworn to and subscribed before me this _____ day of _____, 20___.

_____
Notary Public
Printed Name:_____ ID#_____
Commission Expires_____

Page 1 of ____

SCHEDULE A
EMPLOYMENT INFORMATION

Please disclose the name of the employer, job title, a brief description of the job description for each full-time or part-time employment position held by the individual or spouse.

☐ Filer ☐ Spouse ☐ Full-time ☐ Part-time

Employer Name_____ Job Title_____

Job Description _____
_____

☐ Filer ☐ Spouse ☐ Full-time ☐ Part-time

Employer Name_____ Job Title_____

Job Description _____
_____

☐ Filer ☐ Spouse ☐ Full-time ☐ Part-time

Employer Name_____ Job Title_____

Job Description _____
_____

☐ Filer ☐ Spouse ☐ Full-time ☐ Part-time

Employer Name_____ Job Title_____

Job Description _____
_____

☐ Filer ☐ Spouse ☐ Full-time ☐ Part-time

Employer Name_____ Job Title_____

Job Description _____
_____

☐ Filer ☐ Spouse ☐ Full-time ☐ Part-time

Employer Name_____ Job Title_____

Job Description _____
_____

Page 1 of ____

SCHEDULE B
POSITIONS - BUSINESS

The name, address, brief description, nature of association, and the amount of interest in each business in which you or your spouse is a director, officer, owner, partner, member, or trustee, AND in which you or your spouse, either individually or collectively, owns an interest which exceeds ten percent of that business.
Note: For this page ONLY, the "amount of interest" must be reported as a percentage figure.

☐ Filer ☐ Spouse ☐ Both Amount of Interest_____%

Name of Business_____

Address _____
Street Suite #
_____
City State Zip Code

Business Description_____
_____

Nature of Association_____

☐ Filer ☐ Spouse ☐ Both Amount of Interest_____%

Name of Business_____

Address _____
Street Suite #
_____
City State Zip Code

Business Description_____
_____

Nature of Association_____

☐ Filer ☐ Spouse ☐ Both Amount of Interest_____%

Name of Business_____

Address _____
Street Suite #
_____
City State Zip Code

Business Description_____
_____

Nature of Association_____

Page 1 of ____

SCHEDULE C
POSITIONS - NONPROFIT

The name, address, brief description of, and nature of association with a nonprofit organization in which you or your spouse is a director or officer.

☐ Filer ☐ Spouse

Name of Organization_____ Nature of Association_____

Address
_____
Street Suite #
_____
City State Zip Code

Organization
Description_____
_____

☐ Filer ☐ Spouse

Name of Organization_____ Nature of Association_____

Address
_____
Street Suite #
_____
City State Zip Code

Organization
Description_____
_____

☐ Filer ☐ Spouse

Name of Organization_____ Nature of Association_____

Address
_____
Street Suite #
_____
City State Zip Code

Organization
Description_____
_____

Page 1 of ____

SCHEDULE D
INCOME FROM THE STATE, POLITICAL SUBDIVISIONS, AND/OR GAMING INTERESTS

The name, address, type, and amount of each source of income received by you or your spouse, or by any business in which you or your spouse, either individually or collectively, owns an interest which exceeds ten percent of that business, which is received from any of the following:

- the state or any political subdivision as defined in Article VI of the Constitution of Louisiana;
- services performed for or in connection with a gaming interest as defined in R.S. 18:1505.2L(3)(a).

Note: For this page ONLY, the "amount of income" must be reported as an exact dollar figure.

☐ Filer ☐ Spouse ☐ Business Amount of Income $

Name of Business, if applicable_____

Name of Source of Income_____

Type of Income: ☐ State ☐ Political Subdivision ☐ Gaming Interest

Address _____
Street Suite #
_____
City State Zip Code

☐ Filer ☐ Spouse ☐ Business Amount of Income $

Name of Business, if applicable_____

Name of Source of Income_____

Type of Income: ☐ State ☐ Political Subdivision ☐ Gaming Interest

Address _____
Street Suite #
_____
City State Zip Code

☐ Filer ☐ Spouse ☐ Business Amount of Income $

Name of Business, if applicable_____

Name of Source of Income_____

Type of Income: ☐ State ☐ Political Subdivision ☐ Gaming Interest

Address _____
Street Suite #
_____
City State Zip Code

Page 1 of ____

SCHEDULE E
INCOME

The name, address, type, nature of services rendered, and amount of each source of income in excess of $1,000 received by you or your spouse.

NOTE: If the income is derived from professional or consulting services and the disclosure of the name or address of the source of income is prohibited by law or by professional code, such income should be disclosed on Schedule F.

DO NOT include income derived from child support and alimony payments contained in a court order OR from disability payments from any source. **DO NOT INCLUDE INFORMATION WITH RESPECT TO INCOME DISCLOSED ON SCHEDULE D.**

☐ Filer ☐ Spouse Amount of Income_____

Name of Source of Income_____ Type:_____

Address _____
Street Suite #
_____
City State Zip Code
Nature of Services_____
_____

☐ Filer ☐ Spouse Amount of Income_____

Name of Source of Income_____ Type:_____

Address _____
Street Suite #
_____
City State Zip Code
Nature of Services_____
_____

☐ Filer ☐ Spouse Amount of Income_____

Name of Source of Income_____ Type:_____

Address _____
Street Suite #
_____
City State Zip Code
Nature of Services_____
_____

☐ Filer ☐ Spouse Amount of Income_____

Name of Source of Income_____ Type:_____

Address _____
Street Suite #
_____
City State Zip Code
Nature of Services_____
_____

Page 1 of ____

SCHEDULE F
INCOME FROM CERTAIN PROFESSIONAL OR CONSULTING SERVICES

☐Check if no income was received from professional or consulting services for which the disclosure of the name or address of the source of income is prohibited by law or by professional code.

For income derived from professional or consulting services, including mental health, medical health, or legal services, when the disclosure of the name or address of the source of income is prohibited by law or by professional code, report the number of clients and amount of income for the applicable industry types below.

Industry Type	# of Clients	Amount	Individual or Spouse
D-1 UTILITIES			
Electric			
Gas			
Telephone			
Water			
Cable television companies			
D-2 TRANSPORTATION			
Intrastate companies			
Pipeline companies			
Oil and gas exploration			
Oil and gas production			
Oil and gas retailers			
D-3 FINANCE AND INSURANCE			
Banks			
Savings and loan associations			
Loan and/or finance companies			
Manufacturing firms			
Mining companies			
Life insurance companies			
Casualty insurance companies			
Other insurance companies			
D-4 RETAIL COMPANIES			
Beer companies			
Wine companies			
Liquor companies			
Beverage distributors			
Industry Type	# of Clients	Amount	Individual, Spouse or Both
D-5 ASSOCIATIONS			
Trade			
Professional			
D-6 OTHER (SPECIFY)			

Page 1 of ____

SCHEDULE G
IMMOVABLE PROPERTY

A brief description, fair market value or use value (in value ranges by category) as determined by the assessor for purposes of ad valorem taxes, and the address (if no address, then provide the location by state and parish or county), of each parcel of immovable property in which you or your spouse, either individually or collectively, has an interest provided that the fair market value or use value as determined by the assessor exceeds $2,000.

☐ Filer ☐ Spouse ☐ Both Value_____

Address _____
Street Suite #
_____
City State Zip Code
Property Description_____
_____
_____

☐ Filer ☐ Spouse ☐ Both Value_____

Address _____
Street Suite #
_____
City State Zip Code
Property Description_____
_____
_____

☐ Filer ☐ Spouse ☐ Both Value_____

Address _____
Street Suite #
_____
City State Zip Code

Property Description_____
_____
_____

☐ Filer ☐ Spouse ☐ Both Value_____

Address _____
Street Suite #
_____
City State Zip Code
Property Description_____
_____
_____

Page 1 of ____

SCHEDULE H
INVESTMENT HOLDINGS

The name, a brief description, and amount (in value ranges by category) of each investment security having a value exceeding $1,000 held by you or your spouse, excluding variable annuities, variable life insurance, variable universal life insurance, whole life insurance, any other life insurance product, mutual funds, education investment accounts, retirement investment accounts, government bonds, and cash or cash equivalent investments. (NOTE: Exclude any information concerning any property held and administered for any person other than you or your spouse under a trust, tutorship, curatorship, or other custodial instrument.)

Individual, Spouse, or Both	Name of Security	Description	Amount
☐ Filer ☐ Spouse ☐ Both			
☐ Filer ☐ Spouse ☐ Both			
☐ Filer ☐ Spouse ☐ Both			
☐ Filer ☐ Spouse ☐ Both			
☐ Filer ☐ Spouse ☐ Both			
☐ Filer ☐ Spouse ☐ Both			
☐ Filer ☐ Spouse ☐ Both			
☐ Filer ☐ Spouse ☐ Both			
☐ Filer ☐ Spouse ☐ Both			
☐ Filer ☐ Spouse ☐ Both			

Page 1 of ____

SCHEDULE I
TRANSACTIONS

A brief description, amount (in value ranges by category), and date of any purchase or sale, in excess of $1,000, of any immovable property AND of any personally owned tax credit certificates, stocks, bonds, or commodities futures, including any option to acquire or dispose of any immovable property or of any personally owned tax credit certificates, stocks, bonds, or commodities futures. (NOTE: Exclude variable annuities, variable life insurance, variable universal life insurance.)

Individual, Spouse, or Both	Transaction Date	Description of Transaction	Amount (categories)
☐ Filer ☐ Spouse ☐ Both			
☐ Filer ☐ Spouse ☐ Both			
☐ Filer ☐ Spouse ☐ Both			
☐ Filer ☐ Spouse ☐ Both			
☐ Filer ☐ Spouse ☐ Both			
☐ Filer ☐ Spouse ☐ Both			
☐ Filer ☐ Spouse ☐ Both			
☐ Filer ☐ Spouse ☐ Both			
☐ Filer ☐ Spouse ☐ Both			
☐ Filer ☐ Spouse ☐ Both			

Page 1 of ____

SCHEDULE J
LIABILITIES

The name and address of each creditor, and name of each guarantor, if any, to whom you or your spouse owes any liability which exceeds $10,000.

NOTE: Exclude the following:

_ any loan secured by movable property, if such loan does not exceed the purchase price of the movable property which secures it;

_ any liability, secured or unsecured, which is guaranteed by you or your spouse for a business in which you or your spouse owns any interest, provided that the liability is in the name of the business and, if the liability is a loan, that you or your spouse does not use proceeds from the loan for personal use unrelated to business;

_ any loan from an immediate family member, unless such family member is a registered lobbyist, or his principal or employer is a registered lobbyist, or he employs or is a principal of a registered lobbyist, or unless such family member has a contract with the state.

☐ Filer ☐ Spouse Nature of Liability_____

Name of Creditor_____ Amount_____

Address _____
Street Suite #

_____
City State Zip Code

Name of Guarantor (if any)_____

☐ Filer ☐ Spouse Nature of Liability_____

Name of Creditor_____ Amount_____

Address _____
Street Suite #

_____
City State Zip Code

Name of Guarantor (if any)_____

☐ Filer ☐ Spouse Nature of Liability_____

Name of Creditor_____ Amount_____

Address _____
Street Suite #

_____
City State Zip Code

Name of Guarantor (if any)_____

Page 1 of ____

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 35:408 (March 2009).

§1319. Statements Filed Pursuant to Section 1124.2 of the Code of Governmental Ethics

PERSONAL FINANCIAL DISCLOSURE
"TIER 2"
LSA-R.S. 42:1124.2

This form applies only to:
(1) Legislators (and candidates)
(2) Elected officials representing a voting district with a population over 5,000
(3) Candidates seeking office in a voting district with a population over 5,000
(4) BESE members (and candidates)
(5) Board of Ethics members
(6) Ethics Adjudicatory Board members
(7) Ethics Board Administrator

1. Due annually by May 15th. If the filer files for an extension of his federal income tax and notice has been filed with the Board of Ethics by May 15th that such an extension has been made, then the financial statement must be filed within 30 days after the filer files his federal income taxes.
2. Candidates must file the statement within 10 days of filing a notice of candidacy for one of the above offices.

INSTRUCTIONS:

Use as many pages of each section of the form as are required. Machine copies of the form's pages may be used. Complete all sections (if not applicable, so indicate). Please type or print. Use blue or black ink.

NOTE: Where amounts are required herein, indicate such amounts by using one of the following categories, unless otherwise indicated on the schedule:

I	**Less than $5,000**
II	**$5,000 to $24,999**
III	**$25,000 to $100,000**
IV	**more than $100,000**

For the purposes of this form, the following definitions apply:

- "**Business**" means any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, business, organization, self-employed individual, holding company, trust, or any other legal entity or person.
- "**Income**" for a business means gross income less (i) costs of goods sold, and (ii) operating expenses.
- "**Income**" for an individual means taxable income and shall not include any income received pursuant to a life insurance policy.
- "**Public office**" means any state, parish, municipal, ward, district, or other office or position that is filled by election of the voters, except the president or vice president of the United States, presidential elector, delegate to the political party convention, US Senator, US congressman, or political party office.
- **LSA-R.S. 18:1505.2(L)(3)(a)** refers to (i) any person who holds a license or permit as a distributor of gaming devices, who holds a license or permit as a manufacturer of gaming devices, who holds a license or permit as a device service entity, and any person who owns a truck stop or a licensed pari-mutuel or off-track wagering facility which is a licensed device establishment, all pursuant to the Video Draw Poker Devices Control Law; (ii) any person who holds a license to conduct gaming activities on a riverboat, who holds a license or permit as a distributor or supplier of gaming devices or gaming equipment including slot machines, or who holds a license or permit as a manufacturer of gaming devices or gaming equipment including slot machines issued pursuant to the Louisiana Riverboat Economic Development and Gaming Control Act, and any person who owns a riverboat upon which gaming activities are licensed to be conducted, and (iii) any person who holds a license or entered into a contract for the conduct of casino gaming operations, who holds a license or permit as a distributor of gaming devices or gaming equipment including slot machines, or who holds a license or permit as a manufacturer of gaming devices or gaming equipment including slot machines issued pursuant to the Louisiana Economic Development and Gaming Corporation Act, and any person who owns a casino where such gaming operations are licensed.
- "**Consumer credit transaction**" means a consumer loan or a consumer credit sale but does not include a motor vehicle credit transaction made pursuant to R.S. 6:969.1 et seq. R.S. 9:3516(13).

PERSONAL FINANCIAL DISCLOSURE
"TIER 2"
LSA-R.S. 42:1124.2

☐ ORIGINAL REPORT ☐ AMENDED REPORT

This Report Covers Calendar Year_____

Office Held or Position Sought_____
Date of Election_____ Date of Qualifying_____

Full Name of Filer:_____

Full Name of Spouse:_____

Mailing Address: _____
Street Apt. #
_____
City State Zip Code

Spouse's Occupation:_____

Spouse's Principal Business Address, if any:
_____
Street Suite #
_____
City State Zip Code

☐ (A) I certify that I have filed my federal income tax return for the previous year.
☐ (B) I certify that I have filed my state income tax return for the previous year.
or
☐ (A) I certify that I have filed for an extension of my federal income tax return for the previous year.
☐ (B) I certify that I have filed for an extension of my state income tax return for the previous year.

CERTIFICATION OF ACCURACY

I do hereby certify, after having been first duly sworn, that the information contained in this personal financial disclosure form is true and correct to the best of my knowledge, information and belief.

_____
Signature of Filer

Sworn to and subscribed before me this _____ day of _____, 20___.

_____
Notary Public
Printed Name:_____
ID#_____ Commission Expires_____

Page 1 of ____

SCHEDULE A
EMPLOYMENT INFORMATION

Please disclose the name of the employer, job title, a brief description of the job description for each full-time or part-time employment position held by the individual or spouse.

☐ Filer ☐ Spouse ☐ Full-time ☐ Part-time

Employer Name_____ Job Title_____

Employer Address _____
Street Suite #
_____
City State Zip Code

Job Description _____
_____

☐ Filer ☐ Spouse ☐ Full-time ☐ Part-time

Employer Name_____ Job Title_____

Employer Address _____
Street Suite #
_____
City State Zip Code

Job Description _____
_____

☐ Filer ☐ Spouse ☐ Full-time ☐ Part-time

Employer Name_____ Job Title_____

Employer Address _____
Street Suite #
_____
City State Zip Code

Job Description _____
_____

☐ Filer ☐ Spouse ☐ Full-time ☐ Part-time

Employer Name_____ Job Title_____

Employer Address _____
Street Suite #
_____
City State Zip Code

Job Description _____
_____

Page 1 of ____

SCHEDULE B
POSITIONS - BUSINESS

The name, address, brief description, nature of association, and the amount of interest in each business in which you or your spouse is a director, officer, owner, partner, member, or trustee, AND in which you or your spouse, either individually or collectively, owns an interest which exceeds ten percent of that business.

Note: For this page ONLY, the "amount of interest" must be reported as a percentage figure.

☐ Filer ☐ Spouse ☐ Both Amount of Interest_____%

Name of Business_____

Address _____
Street Suite #

_____
City State Zip Code

Business Description_____
_____

Nature of Association_____

☐ Filer ☐ Spouse ☐ Both Amount of Interest_____%

Name of Business_____

Address _____
Street Suite #

_____
City State Zip Code

Business Description_____
_____

Nature of Association_____

☐ Filer ☐ Spouse ☐ Both Amount of Interest_____%

Name of Business_____

Address _____
Street Suite #

_____
City State Zip Code

Business Description_____
_____

Nature of Association_____

Page 1 of ____

SCHEDULE C
POSITIONS - NONPROFIT

The name, address, brief description of, and nature of association with a nonprofit organization in which you or your spouse is a director or officer.

☐ Filer ☐ Spouse

Name of Organization_____ Nature of Association_____

Address _____
Street Suite #

_____
City State Zip Code

Organization Description_____
_____

☐ Filer ☐ Spouse

Name of Organization_____ Nature of Association_____

Address _____
Street Suite #

_____
City State Zip Code

Organization Description_____
_____

☐ Filer ☐ Spouse

Name of Organization_____Nature of Association_____

Address _____
Street Suite #

_____
City State Zip Code

Organization Description_____
_____

Page 1 of ____

SCHEDULE D
INCOME FROM THE STATE, POLITICAL SUBDIVISIONS, AND/OR GAMING INTERESTS

The name, address, type, and amount of each source of income received by you or your spouse, or by any business in which you or your spouse, either individually or collectively, owns an interest which exceeds ten percent of that business, which is received from any of the following:

- the state or any political subdivision as defined in Article VI of the Constitution of Louisiana;
- services performed for or in connection with a gaming interest as defined in R.S. 18:1505.2L(3)(a).

Note: For this page ONLY, the "amount of income" must be reported as an exact dollar figure.

☐ Filer ☐ Spouse ☐ Business Amount of Income $

Name of Business, if applicable_____

Name of Source of Income_____

Type of Income: ☐ State ☐ Political Subdivision ☐ Gaming Interest

Address _____
Street Suite #

_____
City State Zip Code

☐ Filer ☐ Spouse ☐ Business Amount of Income $

Name of Business, if applicable_____

Name of Source of Income_____

Type of Income: ☐ State ☐ Political Subdivision ☐ Gaming Interest

Address _____
Street Suite #

_____
City State Zip Code

☐ Filer ☐ Spouse ☐ Business Amount of Income $

Name of Business, if applicable_____

Name of Source of Income_____

Type of Income: ☐ State ☐ Political Subdivision ☐ Gaming Interest

Address _____
Street Suite #

_____
City State Zip Code

Page 1 of ____

SCHEDULE E
INCOME RECEIVED FROM EMPLOYMENT

Please disclose the name and address of the employer that provides income, job title, a brief description of the job description for each full-time or part-time employment position held by the individual or spouse. **DO NOT INCLUDE INFORMATION WITH RESPECT TO INCOME DISCLOSED ON SCHEDULE D.**

☐ Filer ☐ Spouse Amount of Income_____

☐ Full-time ☐ Part-time

Employer Name_____

Employer Address _____
Street Suite #
_____
City State Zip Code

Nature of services rendered pursuant to the employment _____
_____

☐ Filer ☐ Spouse Amount of Income_____

☐ Full-time ☐ Part-time

Employer Name_____

Employer Address _____
Street Suite #
_____
City State Zip Code

Job Description _____
_____

☐ Filer ☐ Spouse Amount of Income_____

☐ Full-time ☐ Part-time

Employer Name_____

Employer Address _____
Street Suite #
_____
City State Zip Code

Job Description _____
_____

Page 1 of ____

SCHEDULE F
INCOME FROM BUSINESS INTERESTS

The name and address of all businesses which provide income to you or your spouse, including a brief description of the nature of services rendered for each business or the reason such income was received, and the aggregate amount (in value ranges by category) of such income, excluding income reported in another section of this report. **DO NOT INCLUDE INFORMATION WITH RESPECT TO INCOME DISCLOSED ON SCHEDULES D AND/OR E.**

Aggregate Amount of Income received from the business interests listed on Schedule F_____

☐ Filer
☐ Spouse

Name of Business_____

Address _____
Street Suite #
_____
City State Zip Code

Description of services rendered for the business or a reason the income was received:
_____
_____
_____

☐ Filer
☐ Spouse

Name of Business_____

Address _____
Street Suite #
_____
City State Zip Code

Description of services rendered for the business or a reason the income was received:
_____
_____
_____

☐ Filer
☐ Spouse

Name of Business_____

Address _____
Street Suite #
_____
City State Zip Code

Description of services rendered for the business or a reason the income was received:
_____
_____
_____

Page 1 of ____

SCHEDULE G
OTHER INCOME

A description of any other type of income, exceeding $1,000 received by the individual or spouse, including a brief description of the nature of the services rendered or the reason such income was received, and the amount of income (in value ranges by category), excluding income reported in another section of this report.
Note: Do NOT include income derived from child support and alimony payments contained in a court order OR from disability payments from any source. **DO NOT INCLUDE INFORMATION WITH RESPECT TO INCOME DISCLOSED ON SCHEDULES D, E and/or F.**

☐ Filer Amount of Income_____
☐ Spouse

Description of Income_____
_____
_____

Description of service rendered or the reason the income was received:
_____
_____
_____

☐ Filer Amount of Income_____
☐ Spouse

Description of Income_____
_____
_____

Description of service rendered or the reason the income was received:
_____
_____
_____

☐ Filer Amount of Income_____
☐ Spouse

Description of Income_____
_____
_____

Description of service rendered or the reason the income was received:
_____
_____
_____

Page 1 of ____

SCHEDULE H
IMMOVABLE PROPERTY

A brief description, fair market value or use value (in value ranges by category) as determined by the assessor for purposes of ad valorem taxes, and the location of the property by state and parish or county of each parcel of immovable property in which you or your spouse, either individually or collectively, has an interest provided that the fair market value or use value as determined by the assessor exceeds $2,000.

☐ Filer ☐ Spouse ☐ Both Value_____

Location of property:
State _____

Parish/County_____

Property Description_____
_____
_____

☐ Filer ☐ Spouse ☐ Both Value_____

Location of property:
State _____

Parish/County_____

Property Description_____
_____
_____

☐ Filer ☐ Spouse ☐ Both Value_____

Location of property:
State _____

Parish/County_____

Property Description_____
_____
_____

☐ Filer ☐ Spouse ☐ Both Value_____

Location of property:
State _____

Parish/County_____

Property Description_____
_____
_____

Page 1 of ____

SCHEDULE I
INVESTMENT HOLDINGS

The name and a brief description of each investment security having a value exceeding $5,000 held by you or your spouse, excluding variable annuities, variable life insurance, variable universal life insurance, whole life insurance, any other life insurance product, mutual funds, education investment accounts, retirement investment accounts, government bonds, and cash or cash equivalent investments. (NOTE: Exclude any information concerning any property held and administered for any person other than you or your spouse under a trust, tutorship, curatorship, or other custodial instrument.)

Individual, Spouse, or Both	Name of Security	Description
☐ Filer ☐ Spouse ☐ Both		
☐ Filer ☐ Spouse ☐ Both		
☐ Filer ☐ Spouse ☐ Both		
☐ Filer ☐ Spouse ☐ Both		
☐ Filer ☐ Spouse ☐ Both		
☐ Filer ☐ Spouse ☐ Both		
☐ Filer ☐ Spouse ☐ Both		
☐ Filer ☐ Spouse ☐ Both		
☐ Filer ☐ Spouse ☐ Both		
☐ Filer ☐ Spouse ☐ Both		

SCHEDULE J
TRANSACTIONS

A brief description, amount (in value ranges by category), and date of any purchase or sale, in excess of $5,000, of any immovable property AND of any personally owned tax credit certificates, stocks, bonds, or commodities futures, including any option to acquire or dispose of any immovable property or of any personally owned tax credit certificates, stocks, bonds, or commodities futures. (NOTE: Exclude variable annuities, variable life insurance, variable universal life insurance, whole life insurance, any other life insurance product, mutual funds, education investment accounts, retirement investment accounts, government bonds, cash or cash equivalent investments.)

Individual, Spouse, or Both	Transaction Date	Description of Transaction	Amount
☐ Filer ☐ Spouse ☐ Both			
☐ Filer ☐ Spouse ☐ Both			
☐ Filer ☐ Spouse ☐ Both			
☐ Filer ☐ Spouse ☐ Both			
☐ Filer ☐ Spouse ☐ Both			
☐ Filer ☐ Spouse ☐ Both			
☐ Filer ☐ Spouse ☐ Both			
☐ Filer ☐ Spouse ☐ Both			
☐ Filer ☐ Spouse ☐ Both			
☐ Filer ☐ Spouse ☐ Both			

Page 1 of ____

SCHEDULE K
LIABILITIES

The name and address of each creditor, and name of each guarantor, if any, to whom you or your spouse owes any liability which exceeds $10,000 on the last day of the reporting period.
NOTE: Exclude the following:

_ any loan secured by movable property, if such loan does not exceed the purchase price of the movable property which secures it;
_ any liability, secured or unsecured, which is guaranteed by you or your spouse for a business in which you or your spouse owns any interest, provided that the liability is in the name of the business and, if the liability is a loan, that you or your spouse does not use proceeds from the loan for personal use unrelated to business;
_ any loan by a licensed financial institution which loans money in the ordinary course of business;
_ any liability resulting from a consumer credit transaction as defined in R.S. 9:3516(13); and,
_ any loan from an immediate family member, unless such family member is a registered lobbyist, or his principal or employer is a registered lobbyist, or he employs or is a principal of a registered lobbyist, or unless such family member has a contract with the state.

☐ Filer ☐ Spouse

Name of Creditor_____

Address _____
Street Suite #
_____
City State Zip Code

Name of Guarantor (if any)_____

☐ Filer ☐ Spouse

Name of Creditor_____

Address _____
Street Suite #
_____
City State Zip Code

Name of Guarantor (if any)_____

☐ Filer ☐ Spouse

Name of Creditor_____

Address _____
Street Suite #
_____
City State Zip Code

Name of Guarantor (if any)_____

Page 1 of ____

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 35:421 (March 2009).

§1320. Statements Filed Pursuant to Section 11242.1 of the Code of Governmental Ethics

PERSONAL FINANCIAL DISCLOSURE
"TIER 2.1"
LSA-R.S. 42:1124.2.1

This form applies only to:

(1) Each member and designee of a board or commission (see definition below) with the authority to expend, disburse, or invest $10,000 in a fiscal year.

(2) Civil Service Commission members

(3) Stadium and Exposition District commissioners

DUE ANNUALLY BY MAY 15TH

INSTRUCTIONS

Use as many pages of each section of the form as are required. Machine copies of the form's pages may be used. Complete all sections (if not applicable, so indicate). Please type or print. Use blue or black ink.

For the purposes of this form, the following definitions apply:

- **"Board or commission"** shall mean:
  - Each board, commission, and like entity created by law or executive order that is made a part of the executive branch, or that is placed in an executive branch department or in the office of the governor or lieutenant governor by law or executive order, or that exercises any authority or performs any function of state government.
  - Each board, commission, and like entity created by the constitution, by law, by a political subdivision, or jointly by two or more political subdivisions as a governing authority of a political subdivision of the state or local government.
- "**Board or commission**" shall **NOT** mean:
  - The governing authority of a parish
  - Any board or commission that governs a political subdivision created by a single parish governing authority of a parish with a population of 200,000 or less, or any subdistrict of such a political subdivision.
  - The governing authority of a municipality
  - Any board or commission that governs a political subdivision created by a single municipal governing authority of a municipality with a population of 25,000 or less, or any subdistrict of such a political subdivision.
  - A board of directors of a private nonprofit corporation that is not created by law.
- **"Business"** means any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, business, organization, self-employed individual, holding company, trust, or any other legal entity or person.
- **"Income"** for a business means gross income less (i) costs of goods sold, and (ii) operating expenses.
- "**Income**" for an individual means taxable income and shall not include any income received pursuant to a life insurance policy.
- **"Public office"** means any state, parish, municipal, ward, district, or other office or position that is filled by election of the voters, except the president or vice president of the United States, presidential elector, delegate to the political party convention, US Senator, US congressman, or political party office.
- **LSA-R.S. 18:1505.2(L)(3)(a)** refers to (i) any person who holds a license or permit as a distributor of gaming devices, who holds a license or permit as a manufacturer of gaming devices, who holds a license or permit as a device service entity, and any person who owns a truck stop or a licensed pari-mutuel or off-track wagering facility which is a licensed device establishment, all pursuant to the Video Draw Poker Devices Control Law; (ii) any person who holds a license to conduct gaming activities on a riverboat, who holds a license or permit as a distributor or supplier of gaming devices or gaming equipment including slot machines, or who holds a license or permit as a manufacturer of gaming devices or gaming equipment including slot machines issued pursuant to the Louisiana Riverboat Economic Development and Gaming Control Act, and any person who owns a riverboat upon which gaming activities are licensed to be conducted, and (iii) any person who holds a license or entered into a contract for the conduct of casino gaming operations, who holds a license or permit as a distributor of gaming devices or gaming equipment including slot machines, or who holds a license or permit as a manufacturer of gaming devices or gaming equipment including slot machines issued pursuant to the Louisiana Economic Development and Gaming Corporation Act, and any person who owns a casino where such gaming operations are licensed.

PERSONAL FINANCIAL DISCLOSURE
"TIER 2.1"
LSA-R.S. 42:1124.2.1

☐ ORIGINAL REPORT ☐ AMENDED REPORT

This Report Covers Calendar Year_____

Name of Board or Commission_____

Full Name of Filer:_____

Full Name of Spouse:_____

Mailing Address: _____
Street Apt. #
_____
City State Zip Code

Spouse's Occupation:_____

Spouse's Principal Business Address, if any:

_____
Street Suite #
_____
City State Zip Code

☐ (A) I certify that I have filed my federal income tax return for the previous year.
☐ (B) I certify that I have filed my state income tax return for the previous year.
or
☐ (A) I certify that I have filed for an extension of my federal income tax return for the previous year.
☐ (B) I certify that I have filed for an extension of my state income tax return for the previous year.

CERTIFICATION OF ACCURACY

I do hereby certify that the information contained in this personal financial disclosure form is true and correct to the best of my knowledge and belief.

_____
Signature of Filer

Page 1 of ____

SCHEDULE A
EMPLOYMENT INFORMATION

Please disclose the name of the employer, job title, a brief description of the job description for each full-time or part-time employment position held by the individual or spouse.

☐ Filer ☐ Spouse ☐ Full-time ☐ Part-time

Employer Name_____ Job Title_____

Job Description _____
_____

☐ Filer ☐ Spouse ☐ Full-time ☐ Part-time

Employer Name_____ Job Title_____

Job Description _____
_____

☐ Filer ☐ Spouse ☐ Full-time ☐ Part-time

Employer Name_____ Job Title_____

Job Description _____
_____

☐ Filer ☐ Spouse ☐ Full-time ☐ Part-time

Employer Name_____ Job Title_____

Job Description _____
_____

☐ Filer ☐ Spouse ☐ Full-time ☐ Part-time

Employer Name_____ Job Title_____

Job Description _____
_____

☐ Filer ☐ Spouse ☐ Full-time ☐ Part-time

Employer Name_____ Job Title_____

Job Description _____
_____

Page 1 of ____

SCHEDULE B
INCOME FROM THE STATE, POLITICAL SUBDIVISIONS, AND/OR GAMING INTERESTS

The name, address, type, and amount of each source of income received by you or your spouse, or by any business in which you or your spouse, either individually or collectively, owns an interest which exceeds ten percent of that business, which is received from any of the following:

- the state or any political subdivision as defined in Article VI of the Constitution of Louisiana;
- services performed for or in connection with a gaming interest as defined in R.S. 18:1505.2L(3)(a).

☐ Filer ☐ Spouse ☐ Business Amount of Income $

Name of Business, if applicable_____

Name of Source of Income_____

Type of Income: ☐ State ☐ Political Subdivision ☐ Gaming Interest

Address

_____
Street Suite #

_____
City State Zip Code

☐ Filer ☐ Spouse ☐ Business Amount of Income $

Name of Business, if applicable_____

Name of Source of Income_____

Type of Income: ☐ State ☐ Political Subdivision ☐ Gaming Interest

Address

_____
Street Suite #

_____
City State Zip Code

☐ Filer ☐ Spouse ☐ Business Amount of Income $

Name of Business, if applicable_____

Name of Source of Income_____

Type of Income: ☐ State ☐ Political Subdivision ☐ Gaming Interest

Address

_____
Street Suite #

_____
City State Zip Code

Page 1 of ____

SCHEDULE C
POSITIONS - BUSINESS

The name, address, brief description, nature of association, and the amount of interest in each business in which you or your spouse is a director, officer, owner, partner, member, or trustee, AND in which you or your spouse, either individually or collectively, owns an interest which exceeds ten percent of that business.

☐ Filer ☐ Spouse Amount of Interest $_____

Name of Business_____

Address _____
Street Suite #

_____
City State Zip Code

Business Description_____
_____

Nature of Association_____

☐ Filer ☐ Spouse Amount of Interest $_____

Name of Business_____

Address _____
Street Suite #

_____
City State Zip Code

Business Description_____
_____

Nature of Association_____

☐ Filer ☐ Spouse Amount of Interest $_____

Name of Business_____

Address _____
Street Suite #

_____
City State Zip Code

Business Description_____
_____

Nature of Association_____

Page 1 of ____

SCHEDULE D
POSITIONS - NONPROFIT

The name, address, brief description of, and nature of association with a nonprofit organization in which you or your spouse is a director or officer.

☐ Filer ☐ Spouse

Name of Organization_____

Nature of Association_____

Address _____
Street Suite #

_____
City State Zip Code

Organization Description_____
_____

☐ Filer ☐ Spouse

Name of Organization_____

Nature of Association_____

Address _____
Street Suite #

_____
City State Zip Code

Organization Description_____
_____

☐ Filer ☐ Spouse

Name of Organization_____

Nature of Association_____

Address _____
Street Suite #

_____
City State Zip Code

Organization Description_____
_____

Page 1 of ____

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 35:434 (March 2009).

§1321. Statements Filed Pursuant to Section 1124.3 of the Code of Governmental Ethics

PERSONAL FINANCIAL DISCLOSURE
"TIER 3"
LSA-R.S. 42:1124.3

This form applies to:

(1) Elected officials representing a voting district with a population of fewer than 5,000; and
(2) Candidates seeking office in a voting district with a population of fewer than 5,000.

1. Due annually by May 15th.
2. Candidates must file the statement within 10 days of filing a notice of candidacy for one of the above offices.

INSTRUCTIONS

Use as many pages of each section of the form as are required. Machine copies of the form's pages may be used. Complete all sections (if not applicable, so indicate). Please type or print. Use blue or black ink.

For the purposes of this form, the following definitions apply:

- **"Business"** means any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, business, organization, self-employed individual, holding company, trust, or any other legal entity or person.
- **"Income"** for a business means gross income less (i) costs of goods sold, and (ii) operating expenses.
- "**Income**" for an individual means taxable income and shall not include any income received pursuant to a life insurance policy.
- **"Public office"** means any state, parish, municipal, ward, district, or other office or position that is filled by election of the voters, except the president or vice president of the United States, presidential elector, delegate to the political party convention, US Senator, US congressman, or political party office.
- **LSA-R.S. 18:1505.2(L)(3)(a)** refers to (i) any person who holds a license or permit as a distributor of gaming devices, who holds a license or permit as a manufacturer of gaming devices, who holds a license or permit as a device service entity, and any person who owns a truck stop or a licensed pari-mutuel or off-track wagering facility which is a licensed device establishment, all pursuant to the Video Draw Poker Devices Control Law; (ii) any person who holds a license to conduct gaming activities on a riverboat, who holds a license or permit as a distributor or supplier of gaming devices or gaming equipment including slot machines, or who holds a license or permit as a manufacturer of gaming devices or gaming equipment including slot machines issued pursuant to the Louisiana Riverboat Economic Development and Gaming Control Act, and any person who owns a riverboat upon which gaming activities are licensed to be conducted, and (iii) any person who holds a license or entered into a contract for the conduct of casino gaming operations, who holds a license or permit as a distributor of gaming devices or gaming equipment including slot machines, or who holds a license or permit as a manufacturer of gaming devices or gaming equipment including slot machines issued pursuant to the Louisiana Economic Development and Gaming Corporation Act, and any person who owns a casino where such gaming operations are licensed.

PERSONAL FINANCIAL DISCLOSURE
"TIER 3"
LSA-R.S. 42:1124.3

☐ ORIGINAL REPORT ☐ AMENDED REPORT

This Report Covers Calendar Year_____

Office Held or Position Sought_____
Date of Election_____ Date of Qualifying_____

Full Name of Filer:_____

Address: _____
Street Apt. #
_____
City State Zip Code

☐ (A) I certify that I have filed my federal income tax return for the previous year.
☐ (B) I certify that I have filed my state income tax return for the previous year.
or
☐ (A) I certify that I have filed for an extension of my federal income tax return for the previous year.
☐ (B) I certify that I have filed for an extension of my state income tax return for the previous year.

CERTIFICATION OF ACCURACY

I do hereby certify that the information contained in this personal financial disclosure form is true and correct to the best of my knowledge and belief.

_____
Signature of Filer

Page 1 of ____

SCHEDULE A
INCOME FROM THE STATE, POLITICAL SUBDIVISIONS, AND/OR GAMING INTERESTS

The name, address, type, and amount of each source of income received by you or your spouse, or by any business in which you or your spouse, either individually or collectively, owns an interest which exceeds ten percent of that business, which is received from any of the following:

- the state or any political subdivision as defined in Article VI of the Constitution of Louisiana;
- services performed for or in connection with a gaming interest as defined in R.S. 18:1505.2L(3)(a).

☐ Filer ☐ Spouse ☐ Business Amount of Income $

Name of Business, if applicable_____

Name of Source of Income_____

Type of Income: ☐ State ☐ Political Subdivision ☐ Gaming Interest

Address _____
Street Suite #
_____
City State Zip Code

☐ Filer ☐ Spouse ☐ Business Amount of Income $

Name of Business, if applicable_____

Name of Source of Income_____

Type of Income: ☐ State ☐ Political Subdivision ☐ Gaming Interest

Address _____
Street Suite #
_____
City State Zip Code

☐ Filer ☐ Spouse ☐ Business Amount of Income $

Name of Business, if applicable_____

Name of Source of Income_____

Type of Income: ☐ State ☐ Political Subdivision ☐ Gaming Interest

Address _____
Street Suite #
_____
City State Zip Code

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 35:440 (March 2009).

Kathleen M. Allen
Deputy General Counsel

0903#077

RULE

Board of Elementary and Secondary Education

Bulletin 118—Statewide Assessment Standards and Practices—Erasure Analysis
(LAC 28:CXI.309)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 118—Statewide Assessment Standards and Practices*: §309. Erasure Analysis. The document will provide new and updated statewide test information and provide easy access to that information. It was necessary to revise the bulletin at this time to incorporate the new policy language regarding erasure analysis.

Title 28
EDUCATION
Part CXI. Bulletin 118—Statewide Assessment Standards and Practices
Chapter 3. Test Security
§309. Erasure Analysis

A. - A.3.b. ...

4. Once districts, schools, and individual students have been identified, the state superintendent of education sends letters to district superintendents stating that students in those districts have been identified as having excessive wrong-to-right erasures. Copies of the district/school and student erasure analysis reports are enclosed with the letters. Copies of the correspondence are provided to the Deputy Superintendent of Education, the Assistant Superintendent of the Office of Student and School Performance, the Director of the Division of Assessments and Accountability, and the district test coordinator.

5. - 6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1530 (July 2005), amended LR 32:234 (February 2006), LR 33:257 (February 2007), LR 35:443 (March 2009).

Amy B. Westbrook, Ph.D.
Executive Director

0903041

RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Carnegie Credit for Middle School Students (LAC 28:CXV.2321)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended *Bulletin 741—Louisiana Handbook for School Administrators*: §2321. Carnegie Credit for Middle School Students. The revision requires seventh graders who plan to take a Carnegie credit course in high school to take a seventh grade course in that content area that covers the Grade Level Expectations for both seventh and eighth grade. The students are also required to take a test on the eighth grade GLEs. The district should use the student's performance on that test along with other possible criteria in determining if the student can take a high school course in the eighth grade.

Title 28
EDUCATION
Part CXV. Bulletin 741—Louisiana Handbook for School Administrators
Chapter 23. Curriculum and Instruction
§2321. Carnegie Credit for Middle School Students

A. …

B. Students who intend to take a GLE-based course for Carnegie credit in middle school should successfully complete a seventh grade course in that content area that addresses both the seventh and eighth GLEs. Upon completion of the course, the LEA shall administer a test based on the eighth grade GLEs. The purpose of the test is to determine student readiness for the Carnegie credit course. Upon request, the DOE will provide a test, if available, to the LEA for its use. The LEA shall publish in its Pupil Progression Plan the criteria for placement of students in the Carnegie credit course, one of which shall be the student's performance on the eighth grade GLE test. Other suggested criteria include the student's performance in the seventh grade course, standardized test scores, and teacher recommendation.

C. - F.1. …

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1293 (June 2005), amended LR 33:430 (March 2007), LR 33:2601 (December 2007), LR 34:609 (April 2008), LR 34:2031 (October 2008), amended LR 35:443 (March 2009).

Amy B. Westbrook, Ph.D.
Executive Director

0903#040

RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Criminal Background Checks; Staff Misconduct (LAC 28:CXV.501 and 502)

Editor's Note: Section 501, formerly "Criminal Background Checks and Staff Misconduct," is being reorganized into two Sections: §501 will be titled "Criminal Background Checks," and §502 will be titled "Staff Misconduct." This material is being published only to show the reorganization of the text, permitted under R.S. 49:984(A), and does not constitute a rulemaking action.

Title 28
EDUCATION
Part CXV. Bulletin 741—Louisiana Handbook for School Administrators
§501. Criminal Background Checks

A. Each public LEA shall request in writing that the Louisiana Bureau of Criminal Identification and Information supply information to ascertain whether an applicant for employment as a teacher, substitute teacher, bus driver, substitute bus driver, janitor, or any other school employee

who might reasonably be expected to be placed in a position of supervisory or disciplinary authority over school children, has been convicted of, or pled *nolo contendere* to, any one or more of the crimes enumerated in R.S. 15:5871.1.

1. The request must be on a form prepared by the bureau and signed by a responsible officer or official of the LEA making the request.

2. It must include a statement signed by the person about whom the request is made which gives his or her permission for such information to be released and must include the person's fingerprints in a form acceptable to the bureau.

3. A person who has submitted his or her fingerprints to the bureau may be temporarily hired pending the report from the bureau as to any convictions of, or pleas of *nolo contendere* to, by the person to a crime listed in R.S. 15:5871.

B. No person who has been convicted of or has pled *nolo contendere* to a crime listed in R.S. 15:5871.1 shall be hired by a public elementary or secondary school as a teacher, substitute teacher, bus driver, substitute bus driver, janitor, or as any school employee who might reasonably be expected to be placed in a position of supervisory or disciplinary authority over school children unless approved in writing by a district judge of the parish and the parish district attorney.

1. This statement of approval shall be kept on file at all times by the school and shall be produced upon request to any law enforcement officer.

2. Not later than 30 days after its being placed on file by the school, the school principal shall submit a copy of the statement of approval to the State Superintendent of Education.

C. The LEA shall dismiss any permanent teacher or any other school employee having supervisory or disciplinary authority over school children, if such teacher or other employee is convicted of, or pled *nolo contendere* to, any crime listed in R.S. 15:L587.1(c) except R.S. 14:74.

D. An LEA may reemploy a teacher or other school employee who has been convicted of, or pled *nolo contendere* to, a crime listed in R.S. 15:L587.1(c), except R.S. 14:74, only upon written approval of the district judge of the parish and the district attorney or upon written documentation from the court in which the conviction occurred stating that the conviction has been reversed, set aside, or vacated.

1. Any such statement of approval of the judge and the district attorney and any such written documentation from the court shall be kept on file at all times by the school and shall be produced upon request to any law enforcement officer.

2. Not later than 30 days after its being placed on file by the school, the school principal shall submit a copy of any such statement of approval or written documentation from the court to the state superintendent of education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:15; R.S. 17:587.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1265 (June 2005), amended LR 33:431 (March 2007), LR 34:607 (April 2008), repromulgated LR 35:443 (March 2009).

§502. Staff Misconduct

A. Each LEA, prior to hiring any employee, shall request that the applicant for employment sign a statement providing for the disclosure of information by the applicant's current or previous employer, if such employer is an LEA, relative to all instances of sexual misconduct with students committed by the applicant, if any, and releasing the current or previous employer, if such employer is a city, parish, or other local public school board, and any school employee acting on behalf of such employer from any liability for providing such information.

1. Prior to hiring any applicant, each LEA must request, in writing, that the applicant's current or previous employer, if such employer is an LEA, provide the above-described information, if such information exists, and make available to the hiring school board copies of any documents as contained in the applicant's personnel file maintained by such employer relative to such instances of sexual misconduct, if any. Such request for information must include a copy of the aforementioned statement signed by the applicant.

2. If such information exists, it must be provided and copies of all documents as contained in the applicant's personnel file relating to all instances of sexual misconduct, if any, must be made available to the requesting school board no later than 20 business days from the receipt of the request.

3. Any LEA or any school employee who discloses such information in good faith shall be immune from civil liability for having disclosed such information.

4. An applicant who does not sign the disclosure and release statement cannot be hired. An applicant can be hired on a conditional basis pending the hiring board's review of any information obtained.

5. Any information obtained can only be used by the hiring board for the purpose of evaluating an applicant's qualifications for employment for the position for which he or she has applied. Such information is not subject to the Public Records Act and is not to be disclosed to any person, other than the applicant, who is not directly involved in the process of evaluating the applicant's qualifications for employment. Unauthorized disclosure is a misdemeanor offense with exposure to a fine of up to $500 or imprisonment for up to six months, or both.

6. Adult sexual misconduct in schools, for the purposes of disclosing information to LEAs as required by R.S. 17:81.9, includes sexually inappropriate behavior by the adult that is directed at a student, including but not limited to sexually-related conversations, jokes, or questions directed at students. More specifically, sexual misconduct is:

a. any conduct that would amount to sexual harassment under Title IX of the (U.S.) Education Amendments of 1972, as amended;

b. any conduct that would amount to a sexual offense affecting a minor under state criminal codes;

c. any sexual relationship by a school employee with a student, regardless of the student's age; with a former student under 18; with a former student (regardless of age) who suffers from a disability that would prevent consent in a relationship. All students enrolled in the school and in any

organization in which the school employee holds a position of trust and responsibility are included;

d. any activity directed toward establishing a sexual relationship such as sending intimate letters; engaging in sexualized dialogue in person, via the Internet, in writing or by phone; making suggestive comments; dating a student.

B. Sexual conduct (including sexual intercourse and any lewd or lascivious behavior) between an educator (including any administrator, coach, instructor, paraprofessional, student aide, teacher, or teacher aide) and a student, who is under the age of 19 and who is a student at the school where the educator is assigned, employed, or working at the time of the offense, is prohibited.

1. Consent of the student or lack of knowledge of the student's age is not a defense.

2. Notwithstanding any claim of privileged communication, any educator having cause to believe that prohibited sexual contact between an educator and a student has occurred or is occurring shall immediately report such conduct to a local or state law enforcement agency.

3. No cause of action shall exist against any person who in good faith makes a report, cooperates in any investigation arising as a result of such report, or participates in judicial proceedings arising out of such report, and such person shall have immunity from civil or criminal liability that otherwise might be incurred or imposed.

4. No immunity shall extend to any person who makes a report known to be false or with reckless disregard for the truth of the report, but in any action to establish damages against a defendant who made a false report, the plaintiff shall bear the burden of proving that the defendant who filed the false report knew that the report was false or that the report was filed with reckless disregard for the truth of the report.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:15; R.S. 17:587.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1265 (June 2005), amended LR 33:431 (March 2007), LR 34:607 (April 2008), repromulgated LR 35:444 (March 2009).

Amy B. Westbrook, Ph.D
Executive Director

0903#042

RULE

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Dissolved Oxygen Criteria for Barataria and Terrebonne Basins (LAC 33:IX.1105, 1113, and 1123)(WQ075)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Water Quality regulations, LAC 33:IX.1105, 1113, and 1123 (Log #WQ075).

The dissolved oxygen criteria have been revised for 60 water quality management subsegments in the Barataria and Terrebonne Basins, and Table 3 of LAC 33:IX.1123 has been revised accordingly. This rule also includes minor clarifications to the narrative dissolved oxygen standard in LAC 33:IX.1113. The criteria are based on the results presented in the department's Use Attainability Analysis of Barataria and Terrebonne Basins for Revision of Dissolved Oxygen Water Quality Criteria, which was technically approved by EPA Region 6 on May 5, 2008. Nationally-recommended dissolved oxygen (DO) criteria of 5 mg/L for freshwater and marine and 4 mg/L for estuarine waters are the current criteria in Louisiana, except where site-specific revisions have been made. For many Louisiana water bodies, natural, physical conditions (such as lack of slope and re-aeration potential) prevent attainment of the current nationally-based DO criteria. The Barataria and Terrebonne Basins in southeast Louisiana constitute one such area where levels of dissolved oxygen in ambient surface waters are naturally low.

Because incorrect criteria can result in erroneous use impairment decisions that impact a multitude of the state's water quality programs (e.g., total maximum daily load determinations, wastewater permitting, implementation of best management practices to reduce non-point source pollutant loads), it is critical to establish appropriate and protective DO criteria that are supportive of fish and wildlife propagation in these regions. Therefore, a Use Attainability Analysis (UAA) was conducted to support the development of ecoregion-based dissolved oxygen criteria for the Barataria and Terrebonne Basins.

According to the regulations, a UAA is defined as a structured scientific assessment of the factors affecting the attainment of a use which may include physical, chemical, biological, and economic factors (see 40 CFR 131.3(g) and LAC 33:IX.1105). The UAA process is described in 40 CFR 131.10 and LAC 33:IX.1109.B.3. It entails the methodical collection of data that is then scientifically analyzed and summarized and used to revise or establish uses and criteria. The results presented in the Barataria and Terrebonne UAA indicate the currently adopted dissolved oxygen criteria are inappropriate for some water bodies in the Barataria and Terrebonne Basins. The biological data collected supports that in these ecoregions diverse fish species are abundant in reference areas with naturally occurring, seasonal periods of low dissolved oxygen, and therefore, the fish and wildlife propagation use is supported. The basis and rationale for this rule are to revise the dissolved oxygen criteria for the Barataria and Terrebonne Basins, based on the Use Attainability Analysis. This rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33
ENVIRONMENTAL QUALITY
Part IX. Water Quality
Subpart 1. Water Pollution Control
Chapter 11. Surface Water Quality Standards
§1105. Definitions

* * *

Ecoregion—a relatively homogeneous area of similar ecological characteristics such as climate, land surface form, soils, potential natural vegetation, land use, hydrology, and other ecologically relevant variables.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 10:745 (October 1984), amended LR 15:738 (September 1989), LR 17:264 (March 1991), LR 20:883 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2401 (December 1999), LR 26:2545 (November 2000), LR 29:557 (April 2003), LR 30:1473 (July 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 33:456 (March 2007), LR 33:827 (May 2007), LR 35:445 (March 2009).

§1113. Criteria

A. - C.2. …

3. Dissolved Oxygen. The statewide dissolved oxygen (DO) values represent minimum criteria for the types of water specified. (That is, a level below the criterion, as opposed to above the criterion, may indicate potential impairment.) These DO criteria are designed to protect indigenous wildlife and aquatic life species associated with the aquatic environment and shall apply except in those water bodies that have ecoregional-specific or site-specific criteria, or where exempted or excluded elsewhere in these standards. DO criteria for specific state water bodies are contained in LAC 33:IX.1123. Naturally occurring variations below the criterion specified may occur for short periods (for a few hours each day). These variations reflect such natural phenomena as the reduction in photosynthetic activity and oxygen production by plants during hours of darkness. However, no waste discharge or human activity shall lower the DO concentration below the specified minimum.

a. Fresh Water. For fresh water, the DO criterion is 5 mg/L. *Fresh warmwater biota* is defined in LAC 33:IX.1105.

b. Estuarine Waters. For estuarine waters, the DO criterion is 4 mg/L.

c. Coastal Marine Waters (Including Nearshore Gulf of Mexico). For coastal marine waters, the DO criterion is 5 mg/L.

C.4. - Table 1.A.Footnote f. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 10:745 (October 1984), amended LR 15:738 (September 1989), LR 17:264 (March 1991), LR 17:967 (October 1991), repromulgated LR 17:1083 (November 1991), amended LR 20:883 (August 1994), LR 24:688 (April 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2402 (December 1999), LR 26:2547 (November 2000), LR 27:289 (March 2001), LR 30:1474 (July 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 33:457 (March 2007), LR 33:829 (May 2007), LR 35:446 (March 2009).

§1123. Numerical Criteria and Designated Uses

A. - E. …

Table 3. Numerical Criteria and Designated Uses

A-Primary Contact Recreation; B-Secondary Contact Recreation; C-Fish And Wildlife Propagation; L-Limited Aquatic Life and Wildlife Use; D-Drinking Water Supply; E-Oyster Propagation; F-Agriculture; G-Outstanding Natural Resource Waters

Code	Stream Description	Designated Uses	Numerical Criteria						
			CL	SO_4	DO	pH	BAC	°C	TDS
Atchafalaya River Basin (01)									
* * * [See Prior Text in 010101 – 010901]									
Barataria Basin (02)									
020101	Bayou Verret, Bayou Chevreuil, Bayou Citamon, and Grand Bayou	A B C F	65	50	2.3 Mar.-Nov.; 5.0 Dec.-Feb.	6.0-8.5	1	32	430
020102	Bayou Boeuf, Halpin Canal, and Theriot Canal	A B C F	500	150	2.3 Mar.-Nov.; 5.0 Dec.-Feb.	6.0-8.5	1	32	1,000
020103	Lake Boeuf	A B C	500	150	3.3 April-Sept.; 5.0 Oct.-Mar.	6.0-8.5	1	32	1,000
020201	Bayou Des Allemands–From Lac Des Allemands to old US-90 (Scenic)	A B C G	600	100	2.3 Mar.-Nov.; 5.0 Dec.-Feb.	6.0-8.5	1	32	1,320
020202	Lac Des Allemands	A B C	600	100	3.3 April-Sept.; 5.0 Oct.-Mar.	6.0-8.5	1	32	1,320
020301	Bayou Des Allemands–From US-90 to Lake Salvador (Scenic)	A B C G	600	100	2.3 Mar.-Nov.; 5.0 Dec.-Feb.	6.0-8.5	1	32	1,320
020302	Bayou Gauche	A B C	600	100	2.3 Mar.-Nov.; 5.0 Dec.-Feb.	6.0-8.5	1	32	1,320
020303	Lake Cataouatche and Tributaries	A B C	500	150	3.3 April-Sept.; 5.0 Oct.-Mar.	6.0-8.5	1	32	1,000
020303-001	Luling Wetland–Forested wetland located 1.8 miles south of US-90 at Luling, east of the Luling wastewater treatment pond, bordered by Cousin Canal to the west and Louisiana Cypress Lumber Canal to the south	B C	[23]	[23]	[23]	[23]	2	[23]	[23]

Table 3. Numerical Criteria and Designated Uses									
A-Primary Contact Recreation; B-Secondary Contact Recreation; C-Fish And Wildlife Propagation; L-Limited Aquatic Life and Wildlife Use; D-Drinking Water Supply; E-Oyster Propagation; F-Agriculture; G-Outstanding Natural Resource Waters									
Code	Stream Description	Designated Uses	Numerical Criteria						
			CL	SO_4	DO	pH	BAC	°C	TDS
Barataria Basin (02)									
020304	Lake Salvador	A B C	600	100	3.3 April-Sept.; 5.0 Oct.-Mar.	6.0-8.5	1	32	1,320
020401	Bayou Lafourche–From Donaldsonville to ICWW at Larose	A B C D	70	55	2.3 Mar.-Nov.; 5.0 Dec.-Feb.	6.0-8.5	1	32	500
020402	Bayou Lafourche–From ICWW at Larose to Yankee Canal (Estuarine)	A B C	N/A	N/A	3.8 April-Aug.; 5.0 Sept.-Mar.	6.5-9.0	1	32	N/A
020403	Bayou Lafourche–From Yankee Canal and saltwater barrier to Gulf of Mexico (Estuarine)	A B C E	N/A	N/A	3.8 April-Aug.; 5.0 Sept.-Mar.	6.5-9.0	4	32	N/A
020501	Sauls, Avondale, and Main Canals	A B C	65	50	5.0	6.0-8.5	1	32	430
020601	Intracoastal Waterway–From Bayou Villars to Mississippi River (Estuarine)	A B C	N/A	N/A	4.0	6.5-9.0	1	35	N/A
020701	Bayou Segnette–From headwaters to Bayou Villars	A B C	600	100	2.3 Mar.-Nov.; 5.0 Dec.-Feb.	6.0-8.5	1	32	1,320
020801	Intracoastal Waterway–From Larose to Bayou Villars and Bayou Barataria (Estuarine)	A B C	N/A	N/A	3.8 June-Aug.; 4.0 Sept.-May	6.5-9.0	1	35	N/A
020802	Bayou Barataria and Barataria Waterway–From ICWW to Bayou Rigolettes (Estuarine)	A B C	N/A	N/A	3.8 June-Aug.; 4.0 Sept.-May	6.5-9.0	1	35	N/A
020901	Bayou Rigolettes and Bayou Perot to Little Lake (Estuarine)	A B C E	N/A	N/A	3.8 April-Aug.; 5.0 Sept.-Mar.	6.5-9.0	4	35	N/A
020902	Little Lake (Estuarine)	A B C E	N/A	N/A	4.0	6.5-9.0	4	35	N/A
020903	Barataria Waterway (Estuarine)	A B C	N/A	N/A	3.8 June-Aug.; 4.0 Sept.-May	6.5-9.0	1	35	N/A
020904	Wilkinson Canal and Wilkinson Bayou (Estuarine)	A B C E	N/A	N/A	3.8 April-Aug.; 5.0 Sept.-Mar.	6.5-9.0	4	35	N/A
020905	Bayou Moreau (Estuarine)	A B C E	N/A	N/A	3.8 June-Aug.; 4.0 Sept.-May	6.5-9.0	4	35	N/A
020906	Bay Rambo (Estuarine)	A B C E	N/A	N/A	4.0	6.5-9.0	4	35	N/A
020907	Bay Sansbois, Lake Judge Perez, and Bay De La Cheniere (Estuarine)	A B C E	N/A	N/A	4.0	6.5-9.0	4	35	N/A
021001	Lake Washington, Bastian Bay, Adams Bay, Scofield Bay, Coquette Bay, Tambour Bay, Spanish Pass, and Bay Jacques (Estuarine)	A B C E	N/A	N/A	4.0	6.5-8.5	4	35	N/A
021101	Barataria Bay; includes Caminada Bay, Hackberry Bay, Bay Batiste, and Bay Long (Estuarine)	A B C E	N/A	N/A	4.0	6.5-9.0	4	35	N/A
021102	Barataria Basin Coastal Bays and Gulf Waters to the State 3-mile limit	A B C E	N/A	N/A	5.0	6.5-9.0	4	32	N/A
Calcasieu River Basin (03)									
* * *									
[See Prior Text in 030101 – 110701]									
Terrebonne Basin (12)									
120102	Bayou Poydras–From headwaters to Bayou Choctaw	A B C	250	75	2.3 Mar.-Nov.; 5.0 Dec.-Feb.	6.0-8.5	1	32	500
120103	Bayou Choctaw–From Bayou Poydras to Bayou Grosse Tete	A B C	250	75	2.3 Mar.-Nov.; 5.0 Dec.-Feb.	6.0-8.5	1	32	500
120104	Bayou Grosse Tete–From headwaters to ICWW near Wilbert Canal	A B C	25	25	2.3 Mar.-Nov.; 5.0 Dec.-Feb.	6.0-8.5	1	32	200
120105	Chamberlin Canal–From Chamberlin to Bayou Choctaw	A B C	250	75	5.0	6.0-8.5	1	32	500
120106	Bayou Plaquemine–From Plaquemine Lock to ICWW	A B C	250	75	2.3 Mar.-Nov.; 5.0 Dec.-Feb.	6.0-8.5	1	32	500
120107	Upper Grand River and Lower Flat River–From headwaters to ICWW	A B C	250	75	2.3 Mar.-Nov.; 5.0 Dec.-Feb.	6.0-8.5	1	32	500
120108	False River	A B C	25	25	3.3 April-Sept.; 5.0 Oct.-Mar.	6.0-8.5	1	32	200
120109	Intracoastal Waterway–From Port Allen Locks to Bayou Sorrel Locks	A B C D	60	40	2.3 Mar.-Nov.; 5.0 Dec.-Feb.	6.0-8.5	1	32	300
120110	Bayou Cholpe–From headwaters to Bayou Choctaw	A B C	25	25	2.3 Mar.-Nov.; 5.0 Dec.-Feb.	6.0-8.5	1	32	200
120111	Bayou Maringouin–From headwaters to East Atchafalaya Basin Levee	A B C	25	25	2.3 Mar.-Nov.; 5.0 Dec.-Feb.	6.0-8.5	1	32	200

Table 3. Numerical Criteria and Designated Uses									
A-Primary Contact Recreation; B-Secondary Contact Recreation; C-Fish And Wildlife Propagation; L-Limited Aquatic Life and Wildlife Use; D-Drinking Water Supply; E-Oyster Propagation; F-Agriculture; G-Outstanding Natural Resource Waters									
		Designated	Numerical Criteria						
Code	Stream Description	Uses	CL	SO_4	DO	pH	BAC	°C	TDS
120201	Lower Grand River and Belle River–From Bayou Sorrel Lock to Lake Palourde; includes Bay Natchez, Lake Natchez, Bayou Milhomme, and Bayou Long	A B C	60	40	2.3 Mar.-Nov.; 5.0 Dec.-Feb.	6.0-8.5	1	32	300
120202	Bayou Black–From ICWW to Houma	A B C D	85	40	2.3 Mar.-Nov.; 5.0 Dec.-Feb.	6.0-8.5	1	32	500
120203	Bayou Boeuf–From Lake Palourde to ICWW	A B C D	250	75	5.0	6.0-8.5	1	32	500
120204	Lake Verret and Grassy Lake	A B C	100	75	3.3 April-Sept.; 5.0 Oct.-Mar.	6.0-8.5	1	32	350
120205	Lake Palourde	A B C D	100	75	3.3 April-Sept.; 5.0 Oct.-Mar.	6.0-8.5	1	32	350
120206	Grand Bayou and Little Grand Bayou–From headwaters to Lake Verret	A B C	60	40	2.3 Mar.-Nov.; 5.0 Dec.-Feb.	6.0-8.5	1	32	300
120207	Thibodaux Swamp–Forested wetland located in Lafourche and Terrebonne Parishes, 6.2 miles southwest of Thibodaux, east of Terrebonne-Lafourche Drainage Canal, and north of Southern Pacific Railroad; also called Pointe Au Chene Swamp	B C	[5]	[5]	[5]	[5]	2	[5]	[5]
120208	Bayou Ramos Swamp Wetland–Forested wetland located 1.25 miles north of Amelia in St. Mary Parish, south of Lake Palourde	B C	[18]	[18]	[18]	[18]	2	[18]	[18]
120301	Bayou Terrebonne–From Thibodaux to ICWW in Houma	A B C	540	90	2.3 Mar.-Nov.; 5.0 Dec.-Feb.	6.0-8.5	1	32	1,350
120302	Bayou Folse–From headwaters to Company Canal	A B C D F	500	150	5.0	6.5-9.0	1	32	1,000
120303	Bayou L'eau Bleu–From Company Canal to ICWW	A B C	500	150	2.3 Mar.-Nov.; 5.0 Dec.-Feb.	6.5-9.0	1	32	1,000
120304	Intracoastal Waterway–From Houma to Larose	A B C D F	250	75	3.8 June-Aug.; 4.0 Sept.-May	6.5-9.0	1	32	500
120401	Bayou Penchant–From Bayou Chene to Lake Penchant	A B C G	500	150	5.0	6.5-9.0	1	32	1,000
120402	Bayou Chene–From ICWW to Bayou Penchant	A B C	250	75	3.8 April-Aug.; 5.0 Sept.-Mar.	6.5-8.0	1	32	500
120403	Intracoastal Waterway–From Bayou Boeuf Locks to Bayou Black in Houma; includes segments of Bayous Boeuf, Black, and Chene	A B C D F	250	75	3.8 June-Aug.; 4.0 Sept.-May	6.5-8.5	1	32	500
120404	Lake Penchant	A B C	500	150	5.0	6.5-9.0	1	32	1,000
120405	Lake Hache and Lake Theriot	A B C	500	150	5.0	6.0-8.5	1	32	1,000
120406	Lake de Cade	A B C E	N/A	N/A	5.0	6.0-9.0	4	35	N/A
120501	Bayou Grand Caillou–From Houma to Bayou Pelton	A B C	500	150	3.8 April-Aug.; 5.0 Sept.-Mar.	6.0-8.5	1	32	1,000
120502	Bayou Grand Caillou–From Bayou Pelton to Houma Navigation Canal (Estuarine)	A B C E	N/A	N/A	3.8 April-Aug.; 5.0 Sept.-Mar.	6.5-9.0	4	35	N/A
120503	Bayou Petit Caillou–From Bayou Terrebonne to LA-24 bridge	A B C E	500	150	3.8 April-Aug.; 5.0 Sept.-Mar.	6.0-9.0	4	32	1,000
120504	Bayou Petit Caillou–From LA-24 bridge to Boudreaux Canal (Estuarine)	A B C E	N/A	N/A	3.8 April-Aug.; 5.0 Sept.-Mar.	6.0-9.0	4	32	N/A
120505	Bayou Du Large–From Houma to Marmande Canal	A B C	500	150	3.8 April-Aug.; 5.0 Sept.-Mar.	6.5-9.0	1	32	1,000
120506	Bayou Du Large–From Marmande Canal to 1/2 mile north of St. Andrews Mission (Estuarine)	A B C E	N/A	N/A	3.8 April-Aug.; 5.0 Sept.-Mar.	6.0-9.0	4	35	N/A
120507	Bayou Chauvin–From Ashland Canal to Lake Boudreaux (Estuarine)	A B C	N/A	N/A	3.8 June-Aug.; 4.0 Sept.-May	6.5-9.0	1	32	N/A
120508	Houma Navigation Canal–From Bayou Pelton to 1 mile south of Bayou Grand Caillou (Estuarine)	A B C E	N/A	N/A	3.8 June-Aug.; 4.0 Sept.-May	6.5-9.0	4	35	N/A
120509	Houma Navigation Canal–From Houma to Bayou Pelton	A B C D	500	150	3.8 June-Aug.; 4.0 Sept.-May	6.0-8.5	1	32	1,000
120601	Bayou Terrebonne–From Houma to Company Canal (Estuarine)	A B C	445	105	3.8 April-Aug.; 5.0 Sept.-Mar.	6.0-9.0	1	32	1,230
120602	Bayou Terrebonne–From Company Canal to Humble Canal (Estuarine)	A B C E	5,055	775	3.8 April-Aug.; 5.0 Sept.-Mar.	6.5-9.0	4	32	10,000

Table 3. Numerical Criteria and Designated Uses									
A-Primary Contact Recreation; B-Secondary Contact Recreation; C-Fish And Wildlife Propagation; L-Limited Aquatic Life and Wildlife Use; D-Drinking Water Supply; E-Oyster Propagation; F-Agriculture; G-Outstanding Natural Resource Waters									
Code	Stream Description	Designated Uses	Numerical Criteria						
			CL	SO_4	DO	pH	BAC	°C	TDS
120603	Company Canal–From ICWW to Bayou Terrebonne	A B C	500	150	3.8 June-Aug.; 4.0 Sept.-May	6.5-9.0	1	32	1,000
120604	Bayou Blue–From ICWW to Grand Bayou Canal	A B C	445	105	3.8 April-Aug.; 5.0 Sept.-Mar.	6.5-9.0	1	32	1,000
120605	Bayou Pointe Au Chien–From headwaters to St. Louis Canal	A B C	445	105	3.8 April-Aug.; 5.0 Sept.-Mar.	6.5-9.0	1	32	1,000
120606	Bayou Blue–From Grand Bayou Canal to Bully Camp Canal (Estuarine)	A B C	5,055	775	3.8 April-Aug.; 5.0 Sept.-Mar.	6.5-9.0	1	32	10,000
120701	Bayou Grand Caillou–From Houma Navigation Canal to Caillou Bay (Estuarine)	A B C E	N/A	N/A	3.8 April-Aug.; 5.0 Sept.-Mar.	6.5-9.0	4	35	N/A
120702	Bayou Petit Caillou–From Boudreaux Canal to Houma Navigation Canal (Estuarine)	A B C E	N/A	N/A	3.8 April-Aug.; 5.0 Sept.-Mar.	6.0-9.0	4	32	N/A
120703	Bayou Du Large–From 1/2 mile north of St. Andrews Mission to Caillou Bay (Estuarine)	A B C E	N/A	N/A	3.8 April-Aug.; 5.0 Sept.-Mar.	6.0-9.0	4	35	N/A
120704	Bayou Terrebonne–From Humble Canal to Lake Barre (Estuarine)	A B C E	N/A	N/A	3.8 April-Aug.; 5.0 Sept.-Mar.	6.5-9.0	4	35	N/A
120705	Houma Navigation Canal–From 1/2 mile south of Bayou Grand Caillou to Terrebonne Bay (Estuarine)	A B C E	N/A	N/A	3.8 June-Aug.; 4.0 Sept.-May	6.5-9.0	4	35	N/A
120706	Bayou Blue–From Bully Camp Canal to Lake Raccourci (Estuarine)	A B C E	N/A	N/A	3.8 June-Aug.; 4.0 Sept.-May	6.5-9.0	4	35	N/A
120707	Lake Boudreaux	A B C E	N/A	N/A	5.0	6.5-9.0	4	35	N/A
120708	Lost Lake and Four League Bay	A B C E	N/A	N/A	5.0	6.0-9.0	4	35	N/A
120709	Bayou Petite Caillou–From Houma Navigation Canal to Terrebonne Bay	A B C E	N/A	N/A	3.8 June-Aug.; 4.0 Sept.-May	6.0-9.0	4	32	N/A
120801	Caillou Bay	A B C E	N/A	N/A	5.0	6.5-9.0	4	35	N/A
120802	Terrebonne Bay	A B C E	N/A	N/A	5.0	6.5-9.0	4	35	N/A
120803	Timbalier Bay	A B C E	N/A	N/A	5.0	6.5-9.0	4	35	N/A
120804	Lake Barre	A B C E	N/A	N/A	5.0	6.5-9.0	4	35	N/A
120805	Lake Pelto	A B C E	N/A	N/A	5.0	6.5-9.0	4	35	N/A
120806	Terrebonne Basin Coastal Bays and Gulf Waters to the State 3-mile limit	A B C E	N/A	N/A	5.0	6.5-9.0	4	32	N/A

ENDNOTES:

[1] – [24] …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 15:738 (September 1989), amended LR 17:264 (March 1991), LR 20:431 (April 1994), LR 20:883 (August 1994), LR 21:683 (July 1995), LR 22:1130 (November 1996), LR 24:1926 (October 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2405 (December 1999), LR 27:289 (March 2001), LR 28:462 (March 2002), LR 28:1762 (August 2002), LR 29:1814, 1817 (September 2003), LR 30:1474 (July 2004), amended by the Office of Environmental Assessment, LR 30:2468 (November 2004), LR 31:918, 921 (April 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:815, 816, 817 (May 2006), LR 33:832 (May 2007), LR 34:1901 (September 2008), LR 35:446 (March 2009).

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0903#028

RULE

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Mercury Risk Reduction
(LAC 33:I.2701, 2703, 2705, 2707, 2709, 2711, 2713, 2715, 2717, 2719, and 2721)(OS077)

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 adopted the Office of the Secretary regulations, LAC 33:I.2701, 2703, 2705, 2707, 2709, 2711, 2713, 2715, 2717, 2719, and 2721 (Log #OS077).

This rule implements Act 126 of the 2006 Regular Session of the Legislature regarding the control of mercury releases to the environment. This rule creates a comprehensive system for control of mercury-containing products; requires notification to the DEQ by manufacturers of mercury-

containing products; phases out mercury-containing products with increasingly stringent restrictions on sales; requires manufacturers to provide collection plans for discarded mercury-containing products; provides for labeling of mercury-containing products and public outreach on the dangers of mercury; bans certain methods of disposal of mercury-containing products; bans certain uses of mercury-containing products; and provides for exemptions to the requirements. Specific language is included for the disposal ban and proper management of mercury in scrap metal facilities and for providing for the continued use of dental amalgam. The basis and rationale for this rule are to implement Act 126 of the 2006 Regular Session of the Legislature regarding the control of mercury releases to the environment in order to reduce risks of mercury exposure. This rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33
ENVIRONMENTAL QUALITY
Part I. Office of the Secretary
Subpart 1. Departmental Administrative Procedures
Chapter 27. Mercury Risk Reduction
Subchapter A. Requirements Related to the Sale of Mercury-Added Products

§2701. Authority

A. Regulations for the purpose of mercury risk reduction in the state of Louisiana are hereby established by the department pursuant to R.S. 30:2571-2588.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and, in particular, 2571-2588.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 35:450 (March 2009).

§2703. Purpose

A. The purpose of this Chapter is to supplement procedures and requirements set forth in the Louisiana Mercury Risk Reduction Act, R.S. 30:2571 et seq., for manufacturers of mercury-added products offered for sale, users of mercury-added products in drinking water and wastewater treatment systems, and dismantlers of end-of-life products that contain mercury-added products within the state of Louisiana. This Chapter is in addition to any other requirements to provide notice, and nothing in this Chapter shall be construed to relieve the department or any other person from any other requirement set forth in Title 33 of the *Louisiana Administrative Code*. Furthermore, nothing in this Chapter shall prevent a manufacturer of mercury-added products, or the department, from providing additional means for public information and participation consistent with this Chapter or any other Chapter of Title 33 of the *Louisiana Administrative Code*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and, in particular, 2571.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 35:450 (March 2009).

§2705. Definitions

A. The following terms used in this Chapter shall have the meanings listed below, unless the context otherwise requires, or unless specifically redefined in a particular Section.

Amalgam—any of various alloys of mercury and other metals, as with tin or silver.

Amalgam Sludge—the mixture of liquid and solid material collected within vacuum pump filters or other amalgam capture devices.

Appliances (*White Goods*)—discarded domestic and commercial appliances, such as refrigerators, ranges, washers, and water heaters.

Chair Side Traps—devices that capture amalgam waste during amalgam placement or removal procedures.

Contact Amalgam—amalgam that has been in contact with a patient. Examples include extracted teeth with amalgam restorations, carving scrap collected at chair side, and amalgam captured by chair side traps, filters, or screens.

Empty Amalgam Capsule—an individually-dosed container left over after mixing pre-capsulated dental amalgam.

Fabricated Mercury-Added Product—a product that consists of a combination of individual components that combine to make a single unit including, but not limited to, mercury-added measuring devices, lamps, and switches.

Formulated Mercury-Added Product—a chemical product, including, but not limited to, laboratory chemicals, cleaning products, cosmetics, pharmaceuticals, and coating materials, that is sold as a consistent mixture of chemicals.

Health Care Facility—any hospital, nursing home, extended care facility, long-term care facility, clinical or medical laboratory, state or private health or mental institution, clinic, physician's office, or health maintenance organization.

Manufacturer—any person, firm, association, partnership, corporation, governmental entity, organization, or combination or joint venture that produces a mercury-added product, or an importer or domestic distributor of a mercury-added product produced in a foreign country. In the case of a multi-component mercury-added product, the *manufacturer* is the last manufacturer to produce or assemble the product. If the multi-component product is produced in a foreign country, the *manufacturer* is the importer or domestic distributor.

Mercury-Added Novelty—a mercury-added product intended mainly for personal or household enjoyment or adornment. *Mercury-added novelties* include, but are not limited to, items intended for use as practical jokes, figurines, adornments, toys, games, cards, ornaments, yard statues and figures, candles, jewelry, holiday decorations, items of apparel including footwear, and similar products.

Mercury-Added Product—a product, commodity, or chemical, or a product with a component, that contains mercury or a mercury compound intentionally added to the product, commodity, chemical, or component in order to provide a specific characteristic, appearance, or quality or to perform a specific function or for any other reason. These products include *formulated mercury-added products* and *fabricated mercury-added products*, as defined in this Subsection. The presence of mercury as a contaminant does not of itself make a product a *mercury-added product.*

Mercury Fever Thermometer—a mercury-added product that is used for measuring body temperature.

Motor Vehicle—an automobile, motor home, motorcycle, all-terrain vehicle, recreational vehicle trailer, boat trailer, semitrailer, truck, truck-tractor, and any other

device that is self-propelled and drawn, in, upon, or by which any person or property is or may be transported or drawn either upon or off a public highway, except such as is moved by animal power, or is used exclusively upon stationary rails or tracks, or is an implement of husbandry.

Non-Contact Amalgam (Scrap)—excess amalgam mix left over at the end of a dental procedure that has not come into physical contact with a patient.

Vacuum Pump Filter—a device used for filtering amalgam solids from vacuum lines that may contain amalgam sludge and water.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and, in particular, 2571.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 35:450 (March 2009).

§2707. Notifications

A. Effective January 1, 2007, no mercury-added product shall be offered for final sale or use or distributed for promotional purposes in Louisiana without prior notification in writing by the manufacturer of the product to the Office of the Secretary in accordance with the requirements of this Section. The Interstate Mercury Education and Reduction Clearinghouse (IMERC) report may be used for notification purposes; a form can be obtained from IMERC, the department, or the department's website.

1. The notification to the department shall, at a minimum, include:

a. a brief description of the product to be offered for sale, use, or distribution;

b. the amount of, and purpose for, mercury in each unit of the product;

c. the total amount of mercury contained in all products manufactured by the manufacturer; and

d. the name and address of the manufacturer, and the name, address, and phone number of a contact at the manufacturer.

2. For purposes of complying with this Section, the manufacturer may submit to the department a copy of the report sent by the manufacturer to IMERC. At a minimum, the copy of the report shall contain the information listed in Subparagraphs A.1.a-d of this Section.

B. Any mercury-added product for which federal law governs notice in a manner that preempts state authority shall be exempt from the requirements of this Section.

C. The manufacturer may supply the information required in this Section for a product category rather than an individual product. The manufacturer shall update and revise the information in the notification on an annual basis, indicating all changes, or when requested to do so by the department. A notification in accordance with this Subsection is to be submitted to the Office of the Secretary.

D. A manufacturer may request confidentiality for certain submitted information by following the procedures in LAC 33:I.Chapter 5.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and, in particular, 2571.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 35:451 (March 2009).

§2709. Notification of Restrictions Governing Sale of Certain Mercury-Added Products

A. The final sale or use or distribution of certain mercury-added products have been restricted in R.S. 30:2575(A)-(D).

B. Manufacturers that produce and sell such materials shall notify retailers about these restrictions in writing. The notification shall contain the following information:

1. the date of restriction;
2. proper handling and disposal instructions;
3. recycling options; and
4. proper clean-up instructions in case of spills.

C. Manufacturers shall keep records documenting this notification and make them immediately available for the department's inspection upon request. These records shall be maintained for at least three years after the notification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and, in particular, 2571.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 35:451 (March 2009).

§2711. Petitions for Exemptions from Phase Outs

A. The manufacturer of a mercury-added product subject to the phase-out provisions of R.S. 30:2576 may petition the administrative authority for an exemption.

B. Applications for exemption from mercury-added product phase-out must contain the following information:

1. documentation of the basis for the requested exemption or renewal of exemption;

2. a description of how the manufacturer will ensure that a system exists for the proper collection, transportation, and processing of the products at the end of their useful lives;

3. documentation of the readiness of all necessary parties to perform as intended in the planned system;

4. a statement of the consistency of the exemption request with the practices of other IMERC states;

5. criteria considering whether use of the product is beneficial to the environment or protective of public health or protective of public safety, and, if so, how;

6. criteria considering whether there exist any technically feasible alternatives to the use of mercury in the product, and, if so, a description of such alternatives; and

7. criteria considering whether any comparable non-mercury added products are available at a reasonable cost, and, if so, a description of such products and their costs.

C. A mercury-added product shall be exempt from the limits on total mercury content set forth in R.S. 30:2576(A), if the level of mercury or mercury compounds contained in the product is required in order to comply with federal or state health, safety, or homeland security requirements. In order to claim an exemption under this provision the manufacturer must notify, in writing, the Office of the Secretary and provide the legal justification for the claim of exemption.

D. The administrative authority may provide exemptions from the limits on total mercury content set forth in R.S. 30:2576(A) for a product or category of products when requested to do so, and when such an exemption is deemed

appropriate after consideration of the factors enumerated in Paragraphs B.1-7 of this Section, as well as any other pertinent factors.

E. The administrative authority shall decide whether to grant the exemption requested within 180 days from the date on which the request for exemption was filed, unless a longer time period is agreed upon by mutual consent of the applicant and the administrative authority.

F. Exemptions may be renewed upon reapplication by the manufacturer and findings by the department of continued eligibility under the criteria of this Section and of compliance by the manufacturer with the conditions of its original approval. Exemptions may be renewed one or more times, and each renewal shall be for a period of no longer than two years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and, in particular, 2571.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 35:451 (March 2009).

§2713. Labeling of Mercury-Added Products

A. The responsibility for product and package labels required by this Section and R.S. 30:2577 shall be on the manufacturer and not on the wholesaler or retailer unless the wholesaler or retailer agrees with the manufacturer to accept responsibility in conjunction with implementation of an alternative to the labeling requirements of this Section approved under R.S. 30:2579 and LAC 33:I.2715. In the case of a multi-component product the responsible manufacturer is the last manufacturer to produce or assemble the product or, if the multi-component product is produced in a foreign country, the responsible manufacturer is the importer or domestic distributor.

B. Except for items described in R.S. 30:2578, mercury-added products and their associated packaging manufactured after July 1, 2008, shall be labeled in accordance with this Section.

C. If a mercury-added product is a component of another product, the product containing the mercury-added component and the component itself must both be labeled. The product containing a mercury-added component shall be labeled in accordance with Paragraphs F.1-5 of this Section. The label on the larger product must clearly identify the internal mercury-added component with sufficient detail so that it may be readily located for removal. The labeling requirements of this Subsection shall not apply to non-consumer replaceable lamps and components as long as directions for proper disposal are included in the product literature. This requirement can be satisfied by the following wording, or other wording that is substantially equivalent.

> "The [insert description of component] in this product contains mercury. Dispose of according to local, state, and federal laws."

D. Manufacturers of products packaged but not yet sold before the effective date of this Section may apply to the department for an exemption from the labeling requirements of this Section.

E. If the product is offered for sale or use or promotional purposes by catalog, telephone, or Internet such that the label on the product or packaging is not visible prior to purchase or receipt, the consumer must be made aware prior to purchase or receipt that there is intentionally-added mercury in the product by placing a label or providing other information in sales literature, on website pages, etc.

F. The following labeling standards shall apply to all mercury-added consumer products and associated packaging. The label shall:

1. be clearly visible to the product purchaser prior to sale and at the point of sale;
2. be printed in English using a 10 point font or larger;
3. be mounted, engraved, molded, embossed, or otherwise affixed to the product using materials that are sufficiently durable to remain legible throughout the life of the product;
4. bear the wording "Contains Mercury" or equivalent wording;
5. state that the product cannot be placed in the trash and must be recycled, handled as a universal waste, or disposed of as a hazardous waste. This requirement can be satisfied by any of the following wordings, or other wordings that are substantially equivalent.

"Contains Mercury. Don't Put In Trash.
Recycle or Dispose of as Hazardous Waste."

"Contains Mercury. Dispose of According to
Local, State, and Federal Laws."

"Contains Mercury. Dispose of Properly."

G. If the product is sold in packaging that obscures the label, the packaging also must be labeled in accordance with Paragraphs F.1-5 of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and, in particular, 2571.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 35:452 (March 2009).

§2715. Alternative Methods of Public Notification

A. A manufacturer may apply to the department for an alternative to the requirements of R.S. 30:2577 and LAC 33:I.2713 where strict compliance with the requirements is not feasible, or the proposed alternative would be at least as effective in providing pre-sale notification of mercury content and in providing instructions on proper disposal, or federal law governs labeling in a manner that preempts state authority.

B. The manufacturer of a mercury-added product subject to the labeling provisions of R.S. 30:2577 and LAC 33:I.2713 may apply to the department for approval of an alternative labeling plan. Applications for approval of an alternative labeling plan must contain the following information:

1. documentation of the justification for the requested alternative, which shall include, but not be limited to, any claim that strict compliance with the requirements of R.S. 30:2577 and LAC 33:I.2713 is not feasible, and any claim that federal law governs labeling in a manner that preempts state authority;
2. a description of how the alternative ensures that purchasers or recipients of mercury-added products will be made aware of mercury content prior to purchase or receipt;

3. a description of how a person discarding the product will be made aware of the need for proper handling to ensure that the product is not disposed of with trash or garbage or in a sewer system;

4. documentation of the readiness of all necessary parties to implement the proposed alternative; and

5. a description of the performance measures to be utilized by the manufacturer to demonstrate that the alternative is providing effective pre-sale notification and pre-disposal notification.

C. The department may approve, deny, modify, or condition a requested alternative to the requirements of R.S. 30:2577 and LAC 33:I.2713. Approval of the application for the alternative method of public notification shall be for a period of no more than two years and may, upon continued eligibility under the criteria of R.S. 30:2577 and this Section and compliance with the conditions of its prior approval, be renewed for two-year intervals. Prior to approving an alternative, the department shall consult with neighboring states and regional and national organizations to ensure that the alternative labeling requirements are consistent with those of other governments in the region.

D. Requests for renewals of alternative labeling plans shall be submitted to the Office of the Secretary in writing six months prior to the renewal anniversary date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and, in particular, 2571.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 35:452 (March 2009).

§2717. Collection of Mercury-Added Products

A. A manufacturer of any mercury-added product containing more than 10 milligrams of mercury that is offered for final sale or use or distributed for promotional purposes in the state must implement a collection system plan that has been approved by the department. For a product that contains more than one mercury-added product as a component, the limits specified in this Subsection apply to each component. A manufacturer may develop a collection system plan either on its own or in concert with others.

B. The collection system plan must provide for the removal and collection of the mercury-added component or the collection of both the mercury-added component and the product containing it.

C. Prior to offering any mercury-added product containing more than 10 milligrams (or for products with removable components, more than 10 milligrams per component) of mercury for final sale or use or distribution for promotional purposes in Louisiana, the manufacturer or its representative shall submit a written collection system plan, or a request for exemption from the collection system plan requirement, to the Office of the Secretary and receive the department's approval. The proposed plan shall include the following information:

1. the manufacturer's name, mailing address, and if available, Internet address;

2. the contact person's name and phone number;

3. documentation describing a public education program, including implementation dates, that will inform the public about the purpose of the collection system program and how to participate in it;

4. identification of the targeted capture rate for the mercury-added product, product category, or component;

5. a plan for implementation of the proposed collection system;

6. documentation of the willingness of all necessary parties to implement and participate in the program, and their contact information;

7. a description of the performance measures to be used to demonstrate that the collection system is meeting capture rate targets;

8. a description of additional or alternative actions that will be implemented to improve the collection system and its operation in the event that the program targets are not met;

9. a description of a recycling or disposal plan;

10. a signed certification stating that the person signing:

a. has personally examined and is familiar with the information submitted within the collection system plan and all attachments; and

b. is authorized to sign the certification by the entity on whose behalf he is signing.

D. Within a year of the department's approval of the collection system plan, the manufacturer, or the entity that submitted the plan on behalf of the manufacturer, shall ensure that a convenient and accessible recovery system for the users of those products is in full operation. Two years following the implementation of the collection system plan required under this Section, and every two years thereafter, the manufacturer, or the entity that submitted the plan on behalf of the manufacturer, shall submit a report on the effectiveness of the collection system. The report shall be submitted to the Office of the Secretary by July 1 of each reporting year. The report shall include the following information:

1. an estimate of the amount of mercury that was collected;

2. the capture rate for the mercury-added products or components;

3. the results of the other performance measures included in the manufacturer's collection system plan; and

4. such other information as the department may require.

E. Mercury-added formulated products intended to be totally consumed in use, such as cosmetics, pharmaceuticals, and reagents and other laboratory chemicals, shall be exempt from the requirements of this Section.

F. The manufacturer of a mercury-added product subject to the collection system requirements of R.S. 30:2581 and this Section may apply to the department for an exemption from R.S. 30:2581 and this Section for a product or category of products. An exemption request shall contain, at a minimum, the following information:

1. the amount of mercury in the mercury-added product;

2. the total amount of the mercury-added product sold in Louisiana;

3. the total amount of the mercury-added product disposed of in Louisiana;

4. the feasibility of a collection system; and

5. the overall risk to human health and the environment posed by the mercury-added product.

G. The administrative authority shall decide whether to grant the requested exemption within 180 days from the date on which the request for exemption was filed, unless a longer time period is agreed upon by mutual consent of the applicant and the administrative authority.

H. Exemptions may be renewed upon reapplication by the manufacturer and findings by the department of continued eligibility under the criteria of R.S. 30:2581 and this Section and of compliance by the manufacturer with the conditions of its original approval and any other conditions the department may have added. Exemptions may be renewed one or more times, and each renewal may be for a period of no longer than two years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and, in particular, 2571.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 35:453 (March 2009).

§2719. Disposal Ban and Proper Management of Mercury in Scrap Metal Facilities

A. On and after January 1, 2007, mercury shall not be discharged to water, wastewater treatment, and wastewater disposal systems except when it is done in compliance with applicable local, state, and federal requirements.

B. No person, including, but not limited to, Louisiana-licensed dismantlers and parts recyclers, motor vehicle crushers, and scrapped motor vehicle dealers, shall crush, bale, shear, or shred a motor vehicle unless the person has made a reasonable effort, to the extent safe and practicable, to remove, or verify the removal of, the mercury-containing convenience lighting switches and antilock braking system components. The person removing the mercury-containing convenience lighting switches and antilock braking system components from a motor vehicle shall maintain written certification that the mercury-containing convenience lighting switches and antilock braking system components have been removed to the extent safe and practicable. A person verifying the removal of such mercury-containing convenience lighting switches and antilock braking system components from the scrapped motor vehicle by another party shall maintain written documentation supporting the verification that the mercury-containing convenience lighting switches and antilock braking system components have been removed to the extent safe and practicable. Verification that the mercury-containing convenience lighting switches and antilock braking system components have been removed from a motor vehicle shall be accomplished by:

1. obtaining a written certification from the person, or a duly authorized representative of the person, who removed the mercury-containing convenience lighting switches and antilock braking system components that such items required to be removed have been removed and are not included, and conducting a visual inspection as practicable; or

2. adopting a best management practices plan (BMP) governing mercury-containing convenience lighting switches and antilock braking system components in motor vehicles that is provided by the department, or any other such BMP which is submitted to and approved by the department, and participation in the EPA-partnered National Vehicle Mercury Switch Recovery Program (NVMSRP), also known as the End of Life Vehicle Solutions (ELVS). A copy of an approved BMP and lists of known recent makes and models of motor vehicles with mercury-containing convenience lighting switches and antilock braking system components is available from the department and can be obtained for the department's website.

C. Any facility receiving vehicles that have been scrapped by being dismantled, crushed, scrapped, shredded, baled, sheared, or otherwise rendered more easily transported to the recycler shall obtain a written certification from the person, or a duly authorized representative of the person, who removed the mercury-containing convenience lighting switches and antilock braking system components that such items required to be removed have been removed and are not contained in the scrap being delivered, and shall conduct a visual inspection of the scrapped vehicle to the extent practicable to ensure that the mercury-containing components have been removed. Obtaining the certification and conducting the visual inspection shall constitute verification that the mercury contained within the convenience lighting switches and antilock braking system components has been removed. Written documentation of the certification and the visual inspection required by this Subsection shall be maintained.

D. No person shall crush, bale, shear, or shred an appliance containing mercury-containing switches or other mercury-added products unless the person has made a reasonable effort, to the extent safe and practicable, to verify that the component mercury-added products and/or mercury-containing switches have been removed. Verification of the removal of component mercury-added products and/or mercury-containing switches contained within the appliance shall be accomplished by:

1. obtaining and maintaining a written certification from the person, or a duly authorized representative of the person, who removed the mercury-added products and/or mercury-containing switches that such items required to be removed have been removed and are not included, and conducting a visual inspection as practicable; or

2. adopting a best management practices plan (BMP) governing component mercury-added products and/or mercury-containing switches in appliances (white goods) that is provided by the department, or any other such BMP which is submitted to and approved by the department. A copy of an approved BMP and lists of known recent makes and models of appliances with component mercury-added products and/or mercury-containing switches is available from the department and can be obtained through the department's website.

E. Any facility receiving appliances for scrapping that contained mercury-added products and/or mercury-containing switches shall obtain a written certification from the person, or a duly authorized representative of the person, who removed the mercury-added products and/or mercury-containing switches that such items required to be removed have been removed and are not included, and shall conduct a visual inspection to the extent practicable to ensure that the mercury-containing components have been removed. Obtaining the certification and conducting the visual inspection shall constitute verification that the mercury contained within the mercury-added products and/or mercury-containing switches has been removed. Written documentation of the certification and the visual inspection required by this Subsection shall be maintained.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and, in particular, 2571.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 35:454 (March 2009).

§2721. Best Management Practices for Health Care Facilities

A. Any health care facility using a formulated mercury-added product, a fabricated mercury-added product, or a mercury-added product must maintain a current and appropriate Material Safety Data Sheet (MSDS), as defined in 42 U.S.C. 11049, for any elemental mercury used.

B. Any health care facility using a formulated mercury-added product, a fabricated mercury-added product, or a mercury-added product must maintain a statement signed by its authorized representative that certifies that its employees and other persons acting under its direction or control:

1. will use the mercury only for medical, dental, research, or manufacturing purposes;

2. understand that mercury is toxic, and will store, use, and otherwise handle such mercury in accordance with Subsection C of this Section; and

3. will dispose of the elemental mercury, formulated mercury-added product, fabricated mercury-added product, or mercury-added product in accordance with Subsection C or F of this Section.

C. Within 180 days of the effective date of these regulations, any health care facility using a formulated mercury-added product, a fabricated mercury-added product, or a mercury-added product shall develop, maintain, and comply with a Mercury Management Plan (MMP) that is designed to eliminate or capture mercury in waste. The MMP shall contain, at a minimum, the following requirements.

1. A baseline inventory of mercury-containing devices and substances at the facility shall be listed.

2. A timeline for the reduction and eventual elimination of mercury-containing equipment and chemicals, with the exception of dental amalgam, shall be established.

3. Mercury management protocols for safe handling, mercury spill cleanup procedures, disposal procedures, and education and training of employees shall be established.

4. Discarded mercury-containing devices and substances shall be recycled to the maximum extent practicable, and records associated with such recycling shall be maintained at the facility for at least three years. Discarded mercury-containing devices and substances:

a. shall only be offered for recycling to treatment, storage, or disposal facilities that, if located in the United States, are either:

i. permitted under 40 CFR 270, LAC 33:V.Subpart 1, or a RCRA-approved hazardous waste program of any other state; or

ii. authorized to manage hazardous waste by a state with a hazardous waste management program approved under 40 CFR 271; and

b. shall not be offered for disposal by incineration.

5. Management and storage of discarded mercury-containing devices and substances waste shall be protective of human health and the environment. Storage shall be in structurally sound, leak-proof, sealed, labeled containers that are impervious to mercury vapors. An example of a container meeting these criteria would be a clear glass container. Glass containers shall be secured inside a sturdy, padded box in order to prevent breakage of the glass and subsequent release of mercury.

6. An environmentally preferable purchasing (EPP) policy for mercury products and a process to regularly review mercury use reduction and elimination progress shall be established.

7. All other aspects of the MMP shall, at a minimum, conform to any best management practices (BMP) developed by the American Hospital Association or the American Medical Association or the American Dental Association or by Hospitals for a Healthy Environment (H2E). The H2E BMP is known as the Mercury Waste Virtual Elimination Model Plan.

D. Use of Dental Amalgam. Within 180 days of the effective date of these regulations, any health care facility using dental amalgam shall develop, maintain, and comply with a Dental Amalgam Management Plan that is designed to capture mercury in dental amalgam waste and excess. This management plan shall contain, at a minimum, the following requirements.

1. Chair-side traps and vacuum pump filters shall be used for the purpose of waste amalgam capture. Such devices shall be operated according to the manufacturer's recommendations.

2. Disposal of elemental mercury, dental amalgam, and used, disposable amalgam capsules shall be minimized by implementing practices that reduce mercury in waste, such as use of a variety of amalgam capsule sizes to minimize non-contact amalgam waste.

3. Waste amalgam (amalgam sludge and contact and non-contact amalgam) shall be recycled to the maximum extent practicable, and records associated with such recycling shall be maintained at the facility for at least three years. Waste amalgam shall be disposed of in accordance with Paragraph C.4 of this Section.

4. Management and storage of amalgam waste shall be in accordance with Paragraph C.5 of this Section.

5. Water line cleaners shall be of a type that will minimize dissolution of amalgam. Only pH neutral, non-bleach, non-chlorine-containing suction line cleaners shall be used. Water lines shall be cleaned daily on chairs where restorative dentistry is performed and as necessary, or according to the vacuum pump manufacturer's recommendations, on other chairs.

6. All other aspects of the Dental Amalgam Management Plan shall, at a minimum, conform to the BMP for amalgam waste as developed by the American Dental Association (ADA) and effective on June 2, 2006. The ADA publishes BMPs for the disposal of dental amalgam waste. The ADA may be contacted through their website or at American Dental Association, 211 East Chicago Ave., Chicago, IL 60611-2678; phone 312-440-2500.

E. Manufacturers of mercury-containing devices and substances shall establish a convenient and accessible collection system for formulated mercury-added products, fabricated mercury-added products, and/or mercury-added products from medical facilities in accordance with LAC 33:I.2717.

F. Mercury-containing devices and substances that contain mercury in sufficient quantities to be considered a hazardous waste as defined in LAC 33:V.Subpart 1,

Hazardous Waste Regulations shall be subject to that Subpart if such waste cannot be recycled in accordance with Subsection C of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and, in particular, 2571.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 35:455 (March 2009).

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0903#027

RULE

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Regulatory Permits for Oil and Gas Well Testing, Release of Natural Gas from Pipelines, Emergency Engines, and Air Curtain Incinerators
(LAC 33:III.301, 303, 305, 307, 309, 311, 313, and 501)(AQ274)

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 adopted and amended the Air regulations, LAC 33:III.301, 303, 305, 307, 309, 311, 313, and 501 (Log #AQ274).

Act 115 of the 2006 Regular Session of the Louisiana Legislature allows the department to develop and promulgate regulatory permits for certain sources of air emissions pursuant to R.S. 30:2054(B)(9). This rule outlines the requirements and limitations imposed by R.S. 30:2054(B)(9) on regulatory permits developed by the department and establishes several specific regulatory permits. 1) The regulatory permit for oil and gas well testing authorizes air emissions from temporary separators, tanks, meters, and fluid-handling equipment necessary to test the content of a subsurface stratum believed to contain crude oil or natural gas and/or to establish the proper design of a permanent fluid-handling facility. 2) The regulatory permit for release of natural gas from pipelines and associated equipment authorizes air emissions resulting from unavoidable releases and flaring of natural gas due to metering, purging, and maintenance operations. 3) The regulatory permit for emergency engines authorizes air emissions from stationary emergency electrical power generators, emergency firewater pumps, and emergency air compressors. 4) The regulatory permit for portable air curtain incinerators (ACIs) authorizes air emissions from portable ACIs, the engine that drives the fan mechanism, and the associated fuel storage tank. The authorization to emit air emissions pursuant to the provisions of any regulatory permit will become effective only upon notification by the department that the application required by the regulatory permit has been determined to be complete. The basis and rationale for this rule are to establish regulatory provisions outlining the statutory requirements and limitations of regulatory permits. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33
ENVIRONMENTAL QUALITY
Part III. Air

Chapter 3. Regulatory Permits

§301. Purpose

A. This Chapter establishes regulatory permits as authorized by R.S. 30:2054(B)(9). Regulatory permits may be used to authorize emissions of *air contaminants* as defined in LAC 33:III.111 from the sources and activities identified in this Chapter by notifying the department of the planned activity using the appropriate form provided by the department. Sources and activities not addressed by a regulatory permit must be authorized in accordance with LAC 33:III.Chapter 5.

B. Eligibility for a regulatory permit does not confer a vested right to coverage under such a permit. The department may require any person authorized to emit under a regulatory permit to apply for and/or obtain a site-specific air permit in accordance with LAC 33:III.Chapter 5. If the department requires a permittee authorized to emit under a regulatory permit to apply for a site-specific air permit, the department will notify the permittee in writing that a permit application is required. This notification will include a brief statement of the reasons for this decision, a deadline for the permittee to file the application, and a statement that on the effective date of issuance or denial of the site-specific air permit, coverage under the regulatory permit will automatically terminate. If a permittee fails to submit a site-specific air permit application as required by the date specified by the department, then the applicability of the regulatory permit to the individual permittee will be automatically terminated at the end of the date specified by the department for application submittal. The department may grant additional time to submit the application for a site-specific air permit upon request of the applicant.

C. The department is not precluded from using a regulatory permit to authorize air emissions from an activity at a source operating under a site-specific air permit issued pursuant to LAC 33:III.Chapter 5 provided all eligibility requirements of the regulatory permit are satisfied.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 35:456 (March 2009).

§303. Requirements and Limitations of Regulatory Permits

A. Regulatory permits cannot be used to authorize construction of a *major source*, as defined in LAC 33:III.502, or a *major modification*, as defined in LAC 33:III.504.K and 509.B.

B. Use of a regulatory permit may be precluded by specific permit conditions contained within a Part 70 operating permit.

C. Regulatory permits shall not authorize the maintenance of a nuisance or a danger to public health or safety.

D. All emissions control equipment specifically required by, or otherwise installed in order to comply with, the terms

and conditions of a regulatory permit shall be maintained in good condition and operated properly.

E. Regulatory permits shall not preclude the administrative authority from exercising all powers and duties as set forth in R.S. 30:2011(D) including, but not limited to, the authority to conduct inspections and investigations and enter facilities, as provided in R.S. 30:2012, and to sample or monitor, for the purpose of assuring compliance with a regulatory permit or as otherwise authorized by the Louisiana Environmental Quality Act, the Clean Air Act, or regulations adopted thereunder, any substance or parameter at any location.

F. Regulatory permits shall require compliance with all applicable provisions of the Louisiana air quality regulations, the Louisiana Environmental Quality Act, and the federal Clean Air Act. Violation of the terms or conditions of a regulatory permit constitutes a violation of the Louisiana air quality regulations, the Louisiana Environmental Quality Act, or the federal Clean Air Act, as applicable.

G. Regulatory permits shall, as appropriate, prescribe such emission limitations, necessary control requirements, and other enforceable conditions, and associated monitoring, recordkeeping, and reporting provisions, as are necessary for the protection of public health and the environment.

H. Regulatory permits shall require any person seeking such a permit to submit a written notification describing the planned activity and any appropriate fee to the department. Submission of a written notification and appropriate fee shall be in lieu of submission of an individual permit application. The written notification shall be signed and certified by a *responsible official* as defined in LAC 33:III.502. The certification shall state that, based on information and belief formed after reasonable inquiry, the statements and information contained in the notification are true, accurate, and complete.

I. All regulatory permits shall establish notification procedures, permit terms, and provisions for confirmation of notification by the administrative authority and shall be promulgated in accordance with the procedures provided in R.S. 30:2019.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 35:456 (March 2009).

§305. Construction and Operation

A. No operation of any source or activity addressed by a regulatory permit shall commence until the appropriate permit fee has been paid and the administrative authority has notified the applicant that the application (i.e., notification form) submitted in accordance with LAC 33:III.303.H has been determined to be complete.

B. Construction of any source addressed by a regulatory permit may be prohibited by the terms of that regulatory permit until such time as the appropriate permit fee has been paid and the administrative authority has notified the applicant that the application (i.e., notification form) submitted in accordance with LAC 33:III.303.H is complete.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 35:457 (March 2009).

§307. Regulatory Permit for Oil and Gas Well Testing

A. Applicability. This regulatory permit authorizes the operation of temporary separators, tanks, meters, and fluid-handling equipment, including loading facilities, necessary to test the content of a subsurface stratum believed to contain petroleum liquids or natural gas and/or to establish the proper design of a permanent fluid-handling facility, subject to the requirements established herein, upon notification by the administrative authority that the application (i.e., notification form) submitted in accordance with Subsection C of this Section has been determined to be complete.

B. Control Requirements. For purposes of this Section, volumes of natural gas should be calculated at *standard conditions*, as defined in LAC 33:III.111.

1. Releases of natural gas less than 2.5 million (MM) cubic feet in volume require no controls.

2. Releases of natural gas greater than or equal to 2.5 MM cubic feet in volume shall be controlled by flaring. Flaring must continue until less than 0.25 MM cubic feet of gas remains to be released, at which time flaring is no longer required.

3. Notwithstanding the volumes specified in Paragraphs B.1 and 2 of this Section, releases that will result in total VOC emissions of 5,000 pounds or more; benzene emissions equal to or exceeding its minimum emission rate (MER) established by LAC 33:III.5112, Table 51.1; or total benzene, toluene, ethylbenzene, and xylene (BTEX) emissions of 2,000 pounds or more shall be controlled by flaring. Flaring must continue until less than 0.25 MM cubic feet of gas remains to be released, at which time flaring is no longer required.

C. Notification Requirements

1. The following information shall be submitted to the Office of Environmental Services using the appropriate form provided by the department:

a. the name of the owner or operator;

b. the physical location of the well;

c. the date(s) and expected duration of the activity;

d. a description of the processes and equipment involved, including control measures, if required; and

e. the estimated emissions associated with the testing event, including the anticipated volume of natural gas to be flared or released and the amount of crude oil and condensate to be produced. Emissions of toxic air pollutants (TAPs) listed in LAC 33:III.5112, Tables 51.1 and 51.3, shall be speciated.

2. A copy of the notification required by Paragraph C.1 of this Section shall be submitted to the appropriate DEQ Regional Office.

3. A separate notification shall be submitted for each testing event.

4. The notification shall be submitted such that it is received by the department at least three working days prior to the testing event.

D. The authorization for the specific testing event addressed by the application submitted in accordance with Subsection C of this Section shall remain effective for 180 days following the date on which the administrative authority determines that the application is complete.

E. Operation of temporary separators, tanks, meters, and fluid-handling equipment beyond 10 operating days shall not be authorized by this regulatory permit and must be approved separately by the administrative authority.

F. Recordkeeping and Reporting. The following information shall be recorded and submitted to the Office of Environmental Services no later than 30 calendar days after completion of the testing event:

1. the date(s) and duration of the testing event;

2. the actual volumes of natural gas flared and natural gas released, as well as the total amount of crude oil and condensate produced; and

3. the actual criteria pollutant and TAP emissions associated with the testing event.

G. In accordance with LAC 33:III.Chapter 2, the fee for this regulatory permit shall be $300 (fee number 1710). There shall be no annual maintenance fee associated with this regulatory permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 35:457 (March 2009).

§309. Regulatory Permit for Release of Natural Gas from Pipelines and Associated Equipment

A. Applicability. This regulatory permit authorizes the release of natural gas from pipelines and associated equipment resulting from metering, purging, and maintenance operations, subject to the requirements established herein, upon notification by the administrative authority that the application (i.e., notification form) submitted in accordance with Subsection C of this Section has been determined to be complete.

B. Control Requirements. For purposes of this Section, volumes of natural gas should be calculated at *standard conditions*, as defined in LAC 33:III.111.

1. Releases of natural gas greater than or equal to 1.0 million (MM) cubic feet, but less than 2.5 MM cubic feet, in volume require no controls.

2. Releases of natural gas greater than or equal to 2.5 MM cubic feet in volume shall be controlled by flaring. Flaring must continue until less than 0.25 MM cubic feet of gas remains to be released, at which time flaring is no longer required.

3. Notwithstanding the volumes specified in Paragraphs B.1 and 2 of this Section, releases that will result in total VOC emissions of 5,000 pounds or more; benzene emissions equal to or exceeding its minimum emission rate (MER) established by LAC 33:III.5112, Table 51.1; or total benzene, toluene, ethylbenzene, and xylene (BTEX) emissions of 2,000 pounds or more shall be controlled by flaring. Flaring must continue until less than 0.25 MM cubic feet of gas remains to be released, at which time flaring is no longer required.

4. Natural gas releases covered by this regulatory permit shall have a hydrogen sulfide (H_2S) content of no more than 1.5 grains per 100 standard cubic feet.

C. Notification Requirements

1. The following information shall be submitted to the Office of Environmental Services using the appropriate form provided by the department:

a. the name of the owner or operator;

b. the type of, and reason for, the activity;

c. the physical location;

d. the date(s) and expected duration of the activity;

e. a description of the processes and equipment involved, including control measures, if required;

f. the estimated emissions associated with the metering, purging, or maintenance operation, including the volume of natural gas to be flared or released. Emissions of toxic air pollutants (TAPs) listed in LAC 33:III.5112, Tables 51.1 and 51.3, shall be speciated; and

g. the approximate H_2S content in the natural gas.

2. A copy of the notification required by Paragraph C.1 of this Section shall be submitted to the appropriate DEQ Regional Office.

3. A separate notification shall be submitted for each metering, purging, or maintenance operation.

4. The notification shall be submitted such that it is received by the department at least three working days prior to the metering, purging, or maintenance event. In emergency situations, the department will waive the three-working day requirement.

D. The authorization for a release from the specific metering, purging, or maintenance operation addressed by the application submitted in accordance with Subsection C of this Section shall remain effective for 60 days following the date on which the administrative authority determines that the application is complete.

E. This regulatory permit does not authorize releases from metering, purging, or maintenance operations associated with pipelines carrying refined petroleum products (e.g., ethylene, propylene, 1,3-butadiene).

F. Conducting metering, purging, and maintenance operations beyond 10 operating days at a single location shall not be authorized by this regulatory permit and must be approved separately by the administrative authority.

G. Resetting of flow meters (changing orifice plates, etc.) and calibration of meters are considered routine activities and are not classified as purging or maintenance operations.

H. Recordkeeping and Reporting. The following information shall be recorded and submitted to the Office of Environmental Services no later than 30 calendar days after completion of the metering, purging, or maintenance operation:

1. the date(s) and duration of the metering, purging, or maintenance operation;

2. the actual volumes of natural gas flared and natural gas released; and

3. the actual criteria pollutant and TAP emissions associated with the metering, purging, or maintenance operation.

I. In accordance with LAC 33:III.Chapter 2, the fee for this regulatory permit shall be $300 (fee number 1710). There shall be no annual maintenance fee associated with this regulatory permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 35:458 (March 2009).

§311. Regulatory Permit for Emergency Engines

A. Applicability

1. This regulatory permit authorizes the installation and use of stationary emergency engines, including, but not limited to, electrical power generators, firewater pumps, and air compressors, subject to the requirements established herein, upon notification by the administrative authority that the application (i.e., notification form) submitted in accordance with Subsection L of this Section has been determined to be complete. This regulatory permit also authorizes the associated fuel storage tank provided the capacity of the tank is less than 10,000 gallons.

2. This regulatory permit may be used to authorize the use of both permanent and temporary emergency engines.

3. This regulatory permit does not apply to:

a. emergency electrical power generators deemed insignificant in accordance with item B.45 in the insignificant activities list in LAC 33:III.501.B.5; and

b. *nonroad engines*, as defined at 40 CFR 1068.30.

4. This regulatory permit cannot be used to authorize use of an emergency engine that combusts noncommercial fuels, including used crankcase oil or any other used oil, facility byproducts, or any other type of waste material.

5. This regulatory permit cannot be used to authorize use of an emergency engine that, when considering potential emissions from the engine and potential emissions from the remainder of the stationary source, would result in the creation of a major source of criteria pollutants, hazardous air pollutants, or toxic air pollutants.

B. Definitions

Emergency Engine—any stationary internal combustion engine (ICE) whose operation is limited to emergency situations (e.g., involuntary power curtailment, power unavailability, maintenance activity that requires the main source of power to be shut down) and required readiness testing and maintenance checks.

C. Opacity

1. Limitations

a. Smoke. The emission of smoke shall be controlled so that the shade or appearance of the emission is not darker than 20 percent average opacity, except that the emissions may have an average opacity in excess of 20 percent for not more than one 6-minute period in any 60 consecutive minutes.

b. Particulate Matter. The emission of particulate matter shall be controlled so that the shade or appearance of the emission is not denser than 20 percent average opacity, except that the emissions may have an average opacity in excess of 20 percent for not more than one 6-minute period in any 60 consecutive minutes.

c. When the presence of uncombined water is the only reason for failure of an emission to meet the requirements of this Subsection, this Subsection will not apply.

2. Monitoring and Recordkeeping

a. The permittee shall inspect each emergency engine's stack for visible emissions once each month or at each readiness testing event if the engine is tested at a frequency less than monthly.

b. If visible emissions are detected for more than one 6-minute period over a 60 consecutive minute test period using Method 22 of 40 CFR 60, Appendix A, the permittee shall conduct a 6-minute opacity reading in accordance with Method 9 of 40 CFR 60, Appendix A, during the next required visible emissions check.

c. If the shade or appearance of the emission is darker than 20 percent average opacity (per Method 9), the permittee shall take corrective action to return the engine to its proper operating condition, and the 6-minute opacity reading in accordance with Method 9 shall be repeated. The permittee shall notify the Office of Environmental Compliance no later than 30 calendar days after any Method 9 reading in excess of 20 percent average opacity. This notification shall include the date the visual check was performed, results of the Method 9 testing, and a record of the corrective action employed.

d. Records of visible emissions checks shall include the emergency engine's ID number, the engine's serial number, the date the visual check was performed, a record of emissions if visible emissions were detected for a period longer than 6 consecutive minutes, the results of any Method 9 testing conducted, and a record of any corrective action employed. These records shall be kept on-site and available for inspection by the Office of Environmental Compliance.

D. Fuel Sulfur Content

1. The permittee shall not combust distillate oil that contains greater than 0.5 weight percent sulfur.

2. A statement from the fuel oil supplier that each shipment of distillate oil delivered to the facility complies with the specifications of this Subsection shall be kept on-site and available for inspection by the Office of Environmental Compliance.

E. Operating Time

1. Operating time of each emergency engine shall be limited to 500 hours per 12-consecutive-month period. The department may suspend this limit by a declaration of emergency.

2. Operating time of each emergency engine shall be monitored by any technically-sound means, except that a run-time meter shall be required for all permanent units.

3. Operating time of each emergency engine shall be recorded each month, as well as its operating time for the last 12 months. These records shall be kept on-site for five years and available for inspection by the Office of Environmental Compliance.

F. New Source Performance Standards

1. Each emergency stationary compression ignition (CI) internal combustion engine (ICE) described in 40 CFR 60.4200(a) shall comply with the applicable provisions of 40 CFR 60, Subpart IIII–Standards of Performance for Stationary Compression Ignition Internal Combustion Engines, unless the engine is exempted as described in 40 CFR 60.4200(d).

2. Each emergency stationary spark ignition (SI) ICE described in 40 CFR 60.4230(a) shall comply with the applicable provisions of 40 CFR 60, Subpart JJJJ–Standards of Performance for Stationary Spark Ignition Internal Combustion Engines, unless the engine is exempted as described in 40 CFR 60.4230(e) or meets the conditions set forth in 40 CFR 60.4230(f).

G. National Emissions Standards for Hazardous Air Pollutants. Each emergency stationary reciprocating ICE described in 40 CFR 63.6590 shall comply with the applicable provisions of 40 CFR 63, Subpart ZZZZ–National Emissions Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines, unless the engine is exempted as described in 40 CFR 63.6585(e).

H. Temporary Emergency Engines

1. For each temporary emergency engine brought on-site, record the date the unit is delivered; its make, model, and manufacturer's rated horsepower; the fuel type; and the date the unit was removed from the site. These records shall be kept on-site and available for inspection by the Office of Environmental Compliance.

2. The authorization for the use of any emergency engine identified as being temporary shall remain effective for 12 months following the date on which the administrative authority determines that the application submitted in accordance with Subsection L of this Section is complete. If the permittee determines that an emergency engine originally identified as temporary will remain on site longer than 12 months, a new application (i.e., notification form) shall be submitted in accordance with Subsection L of this Section prior to expiration of the authorization to operate under this regulatory permit as provided in this Paragraph.

I. Permanent Emergency Engines. Permanent emergency engines authorized by this regulatory permit shall be included in the next renewal or modification of the facility's existing permit, if a permit is required pursuant to LAC 33:III.501.

J. Gasoline storage tanks associated with an emergency engine and with a nominal capacity of more than 250 gallons shall be equipped with a submerged fill pipe.

K. Emissions Inventory. Each facility subject to LAC 33:III.919 shall include emissions from all emergency engines, including temporary units, authorized by this regulatory permit in its annual emissions statement.

L. Notification Requirements. Written notification describing the planned activity shall be submitted to the Office of Environmental Services using the appropriate form provided by the department. A separate notification shall be submitted for each emergency engine.

M. In accordance with LAC 33:III.Chapter 2, the fee for this regulatory permit is $713 (fee number 1722). In accordance with LAC 33:III.209 and 211, the annual maintenance fee associated with this regulatory permit shall be $143.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 35:459 (March 2009).

§313. Regulatory Permit for Portable Air Curtain Incinerators

A. Applicability

1. This regulatory permit authorizes the installation and use of portable air curtain incinerators, subject to the requirements established herein, upon notification by the administrative authority that the application (i.e., notification form) submitted in accordance with Subsection E of this Section has been determined to be complete. This regulatory permit also authorizes the engine that drives the fan mechanism and the associated fuel storage tank.

2. This regulatory permit does not apply to an air curtain incinerator that:

a. has a manufacturer's rated capacity greater than 10 tons per hour;

b. is operated at a commercial/industrial or institutional facility;

c. combusts *construction/demolition (C&D) debris* as defined in LAC 33:VII.115;

d. incinerates waste, including yard waste, collected from the general public; collected from residential, commercial, institutional, or industrial sources; or otherwise generated at a location other than the operational site; or

e. remains at a single operational site (not to include storage locations) for more than 90 consecutive days.

B. Definitions

Air Curtain Incinerator (ACI)—an incinerator that operates by forcefully projecting a curtain of air across an open chamber or pit in which combustion occurs. Incinerators of this type can be constructed above or below ground and with or without refractory walls and floor.

Commercial/Industrial Facility—any facility involved and/or used in the production, manufacture, storage, transportation, distribution, exchange, or sale of goods and/or commodities, and any facility involved and/or used in providing professional and non-professional services. Such facilities include stores, offices, restaurants, warehouses, and other similar establishments.

Institutional Facility—a facility operated by an organization having a governmental, educational, civic, or religious purpose, such as a school, hospital, prison, military installation, church, or other similar establishment.

Yard Waste—grass, grass clippings, bushes, shrubs, and clippings from bushes and shrubs, originating from residential, commercial/retail, institutional, or industrial sources as part of maintaining yards or other private or public lands.

C. Operating Requirements

1. Visible Emissions

a. Opacity from the ACI shall not exceed 20 percent, except for a 30-minute start-up period once per day during which opacity shall not exceed 35 percent.

b. The emission of smoke, suspended particulate matter, or uncombined water, or any air contaminants or combinations thereof, that passes onto or across a public road and creates a traffic hazard by *impairment of visibility*, as defined in LAC 33:III.111, or intensifies an existing traffic hazard condition is prohibited.

c. The owner or operator shall conduct a 6-minute opacity reading in accordance with Method 9 of 40 CFR 60, Appendix A, upon request of the department. Results shall be kept on-site and available for inspection by the Office of Environmental Compliance.

2. Approved Wastes

a. The ACI shall be used to burn only untreated wood, wood refuse, untreated wood products (i.e., crates, pallets, etc.), trees, branches, leaves, grass, and/or other vegetable matter.

b. The owner or operator shall use only clean oils (e.g., diesel fuel, No. 2 fuel oil, kerosene) to ignite waste.

3. Operating Locations

a. The owner or operator shall not locate the ACI at any permitted municipal or sanitary landfill.

b. The ACI must be situated at least 1,000 feet from any dwelling other than a dwelling or structure located on the property on which the burning is conducted, unless the location has been approved by the appropriate DEQ Regional Office.

c. Relocation. The owner or operator shall notify the department prior to moving the ACI to a new operating site. Approval must be obtained before operations at the new site can commence.

4. The owner or operator shall restrict incineration to the time period from 8 a.m. to 5 p.m. each day. Piles of combustible material should be of such size as to allow complete reduction in this time interval.

5. The owner or operator shall obtain all necessary permits from local and/or state agencies.

6. The owner or operator shall install on the ACI a manufacturer's nameplate giving the manufacturer's name and the unit's model number and capacity.

7. The owner or operator shall maintain the ACI to design standards and shall not operate the ACI if any equipment is malfunctioning.

8. The owner or operator shall use care to minimize the amount of dirt on the material being burned.

9. Material shall not be added to the ACI in such a manner as to be stacked above the air curtain.

10. An operator shall remain with the ACI at all times when it is operating.

11. Operation of the ACI shall be limited to no more than 1,500 hours per calendar year.

D. Recordkeeping and Reporting

1. A daily record of the hours of operation of the ACI shall be kept on-site and available for review by the Office of Environmental Compliance. Daily records shall include the time combustion commences and the time the fire is completely extinguished.

2. Annual hours of operation for the preceding calendar year shall be reported to the Office of Environmental Compliance annually by February 15.

E. Notification Requirements. Written notification describing the planned activity shall be submitted to the Office of Environmental Services using the appropriate form provided by the department. A separate notification shall be submitted for each air curtain incinerator.

F. In accordance with LAC 33:III.Chapter 2, the fee for this regulatory permit is $2,394 (fee number 1520). If emissions from the ACI are such that it qualifies for a small source permit as described in LAC 33:III.503.B.2, the fee is $713 (fee number 1722), in accordance with LAC 33:III.211.B.13.e. In accordance with LAC 33:III.209 and 211, the annual maintenance fee associated with this regulatory permit shall be $478, if fee number 1520 is applicable, or $143, if fee number 1722 is applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 35:460 (March 2009).

Chapter 5. Permit Procedures

§501. Scope and Applicability

A. - B.8. …

C. Scope

1. Except as specified in LAC 33:III.Chapter 3, for each source to which this Chapter applies, the owner or operator shall submit a timely and complete permit application to the Office of Environmental Services as required in accordance with the procedures delineated herein. Permit applications shall be submitted prior to construction, reconstruction, or modification unless otherwise provided in this Chapter.

2. Except as specified in LAC 33:III.Chapter 3, no construction, modification, or operation of a facility which ultimately may result in an initiation of, or an increase in, emission of *air contaminants* as defined in LAC 33:III.111 shall commence until the appropriate permit fee has been paid (in accordance with LAC 33:III.Chapter 2) and a permit (certificate of approval) has been issued by the permitting authority.

3. - 13. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011 and 2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:613 (July 1990), LR 17:478 (May 1991), LR 19:1420 (November 1993), LR 20:1281 (November 1994), LR 20:1375 (December 1994), LR 23:1677 (December 1997), amended by the Office of the Secretary, LR 25:660 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2445 (November 2000), LR 28:997 (May 2002), amended by the Office of Environmental Assessment, LR 31:1063 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2436 (October 2005), LR 32:1842 (October 2006), LR 33:2082 (October 2007), LR 33:2626 (December 2007), LR 35:461 (March 2009).

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0903#026

RULE

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Transportation Conformity
(LAC 33:III.1432, 1434, 1435, and 1437)(AQ302ft)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air regulations, LAC 33:III.1432, 1434, 1435, and 1437 (Log #AQ302ft).

This Rule is identical to federal regulations found in 40 CFR 93.105, 122(a)(4)(ii), and 125(c), which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3471 or Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the Rule. This

Rule will be promulgated in accordance with the procedures in R.S. 49:953(F)(3) and (4).

This Rule amends the transportation conformity regulations to fulfill the requirements in the Clean Air Act (CAA), as amended by the August 10, 2005, Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU). Transportation conformity is required under the CAA to ensure that federally supported highway and transit project activities conform to the purpose of the air quality state implementation plan (SIP). EPA promulgated regulations that revise the transportation conformity Rule to address the changes that SAFETEA-LU made to the CAA. These changes require a state to include criteria and procedures for consultation, enforcement, and enforceability in the state's transportation conformity SIP. This Rule also updates the incorporation by reference in LAC 33:III.1432 and amends an incorrect citation. The EPA promulgated 40 CFR 51.390 on January 24, 2008, to streamline the requirements for state transportation conformity SIPs. Previously, a state was required to address the entire federal conformity rule requirements found in 40 CFR 93. Under SAFETEA-LU, a state is only required to address 40 CFR 93.105, 122(a)(4)(II), AND 125(c). This Rule is a revision to the State Implementation Plan (SIP) for transportation conformity. The basis and rationale for this Rule are to update the Louisiana transportation conformity regulations to align with 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 III. Air

Chapter 14. Conformity

Subchapter B. Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded, or Approved under Title 23 U.S.C. or the Federal Transit Act

§1432. Incorporation by Reference

A. 40 CFR Part 93, Subpart A, July 1, 2008, is hereby incorporated by reference with the exclusion of Sections 105, 122(a)(4)(ii), and 125(c).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 24:1280 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 29:697 (May 2003), LR 30:1009 (May 2004), amended by the Office of Environmental Assessment, LR 31:640 (March 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:808 (May 2006), LR 35:462 (March 2009).

§1434. Consultation

A. - C.1.e. ...

f. the MPO shall notify the agencies specified in Paragraph B.2 of this Section of transportation plan or TIP amendments that merely add or delete exempt projects listed in 40 CFR 93.126 or 93.127 (as incorporated by reference in LAC 33:III.1432), and allow a 30-day comment period; and

C.1.g. - D.4. …

E. Public Consultation Procedures. Consistent with the requirements of 23 CFR 450.316(a), relating to public involvement, affected agencies making conformity determinations on transportation plans, programs, and projects shall establish a proactive public involvement process that provides opportunity for public review and comment. This process shall, at a minimum, provide reasonable public access to technical and policy information considered by the agency at the beginning of the public comment period and before taking formal action on conformity determinations for all transportation plans and TIPs. Any charges imposed for public inspection and copying of conformity-related materials shall be consistent with the fee schedule contained in 49 CFR 7.43. In addition, any such agency must specifically address in writing any public comments claiming that known plans for a regionally significant project that is not receiving FHWA or FTA funding or approval have not been properly reflected in the emissions analysis supporting a proposed conformity finding for a transportation plan or TIP. Any such agency shall also provide opportunity for public involvement in conformity determinations for projects where otherwise required by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repromulgated LR 24:1280 (July 1998), amended LR 24:1684 (September 1998), repromulgated LR 24:1925 (October 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2451 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2085 (October 2007), LR 35:462 (March 2009).

§1435. Commitments for Regional Emissions Analysis

A. In accordance with 40 CFR 93.122(a)(4)(ii), prior to making a conformity determination on the transportation plan or TIP, the MPO, where one exists, or the MPO's designee, shall not include emissions reduction credits from any control measures that are not included in the transportation plan or TIP, and that do not require a regulatory action in the regional emissions analysis used in the conformity analysis unless the MPO, where one exists, or the MPO's designee, or the FHWA/FTA obtains written commitments, as defined in 40 CFR 93.101, from the appropriate entities to implement those control measures. The written commitments to implement those control measures must be fulfilled by the appropriate entities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 35:462 (March 2009).

§1437. Commitments for Project-Level Mitigation and Control Measures

A. In accordance with 40 CFR 93.125(c), prior to making a project-level conformity determination for a transportation project, the FHWA/FTA must obtain from the project sponsor and/or operator written commitments, as defined in 40 CFR 93.101, to implement any project-level mitigation or control measures in the construction or operation of the project identified as conditions for NEPA process completion. The written commitments to implement those project-level mitigation or control measures must be

fulfilled by the appropriate entities. Prior to making a conformity determination of the transportation plan or TIP, the MPO, where one exists, or the MPO's designee, shall ensure that any project-level mitigation or control measures are included in the project design concept and scope, and are appropriately identified in the regional emissions analysis used in the conformity analysis. Written commitments must be obtained before such mitigation or control measures are used in a project-level hot-spot conformity analysis for a project-level determination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 35:462 (March 2009).

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0903#025

RULE

Office of the Governor
Division of Administration
Racing Commission

Modern Therapeutic Measures (LAC 35:I.1721)

The Louisiana State Racing Commission has amend LAC 35:I.1721 "Modern Therapeutic Measures" to promote the health and well-being of race horses, to guard the integrity of the sport, and to adjust to changes in nation-wide standards in the realm of equine veterinary practices, health and medication.

Title 35
HORSE RACING
Part 1. General Provisions
Chapter 17. Corrupt and Prohibited Practices
§1721. Modern Therapeutic Measures

A. Full use of modern therapeutic measures for the improvement and protection of the health of a horse is authorized. However, no medication, including any prohibited drug, permitted medication, chemical or other substance, or any therapeutic measure may be administered, caused to be administered or applied by any means to a horse during the 24-hour period before post time for the race in which the horse is entered unless otherwise provided by Rule.

B.1. The presence of exogenous anabolic steroids in a race horse is strictly prohibited. The presence of endogenous anabolic steroids:

a. boldenone;

b. nandrolone; and

c. testosterone at levels above the normal physiological state of the stallion, gelding or mare is strictly prohibited.

2. The administration of any of these endogenous steroids within 45 days of a race day shall be considered a violation. A violation of this sub-paragraph shall be regarded as a Class III violation under the penalty guidelines.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, promulgated by the Department of Commerce, Racing Commission, LR 2:449 (December 1976), amended LR 3:45 (January 1977), LR 4:287 (August 1978), LR 6:174 (May 1980), LR 6:543 (September 1980), LR 35:463 (March 2009).

Charles A. Gardiner, III
Executive Director

0903#031

RULE

Office of the Governor
Division of Administration
Racing Commission

Shoes (LAC 35:V.6359)

The Louisiana State Racing Commission hereby gives notice that it has amended LAC 35:V.6359 "Shoes" to promote the health and well being of race horses, to guard the integrity of the sport, and to adjust to changes in nation-wide standards in the realm of equine veterinary practices, health, and medication.

Title 35
HORSE RACING
Part V. Racing Procedures
Chapter 63. Entries
§6359. Shoes

A. A horse starting in a race, shall not be shod with ordinary or training shoes. Toe grabs with a height greater than two millimeters, bends, jar caulks, stickers and any other appliance worn on the front shoes of horses while racing or training on all racing surfaces are prohibited. Bar plates may be used only with the consent of the stewards, and permission to discontinue their use must be obtained from the stewards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, promulgated by the Department of Commerce, Racing Commission, LR 2:438 (December 1976), amended LR 3:34 (January 1977), LR 4:280 (August 1978), LR 35:463 (March 2009).

Charles A. Gardiner III
Executive Director

0903#032

RULE

Office of the Governor
Pilotage Fee Commission

Officers of the Commission

Under the authority of R.S. 34:1122 et seq., and in accordance with the provisions of the Rules of Practice and Procedure of the Louisiana Pilotage Fee Commission, LR 32:614 (Effective April 2006) ("the Rules"), the Administrator gives notice that rulemaking procedures have been initiated to change the title and supplement the text of Rule 4 regarding the election of officers.

The revised title of Rule 4 will reflect expanded language to be included in Rule 4 that defines the election and term of office for officers of the Louisiana Pilotage Fee Commission ("the Commission").

Presently, Rule 4 states only: "The officers of the Commission shall be a chairman, vice-chairman, and secretary who shall be elected from among the at-large members of the Commission."

There being no guidance from this provision regarding the timing and procedure to be followed in the conduct of elections of officers, the Commission directed its Administrator to draft the appropriate supplemental text. The draft was approved during a public hearing conducted on January 8, 2009, wherein the Commission directed the Administrator to submit the amendments and initiate the provisions of Rule 58 of the Rules of the Commission regarding.

The basis and rationale behind the modification and supplementation of Rule 4 is to establish formal policy for the election, removal and term of office for officers, and to make the existing Rule more specific.

Title: Rules of Practice and Procedure of the Louisiana Pilotage Fee Commission

Chapter 1: General Rules

Rule 4: Election, Term of Office, Removal of Officers; Composition of Staff; Special Appointment Powers of the Chairman; Authority to Retain Hearing Master by the Chairman

A. The officers of the Commission shall be a chairman, vice-chairman, and secretary who shall be elected from among the at-large members of the Commission.

1. Officers of the Commission shall be elected by no less than six votes of the members of the Commission.

2. An election of officers of the Commission shall be conducted at the first regular meeting of the Commission that is held after the Governor of the State of Louisiana has made formal appointment of at-large members, beginning with the 2011-2015 term of office. The Administrator of the Commission shall provide members with formal notice of the election at least 30 days in advance of the regular meeting during which the elections are to be held.

3. A candidate for each office from among the at-large member(s) shall be offered by any member of the Commission, whether in person or by proxy, at the regular meeting during which the election of officers is conducted.

4. The term of office for of the Commission officers shall run concurrently with the term of office of the Governor who appointed them, or until their successors are duly elected.

5. Succession of Officers

a. Upon resignation, removal or retirement of the chairman, the vice-chairman shall assume the office of chairman.

b. Upon resignation, removal, or retirement of, or assumption of the office of chairman by the vice-chairman, the secretary shall assume the office of vice-chairman.

c. An incoming replacement at-large member appointed by the Governor shall serve as secretary. In the event that two or more replacement at-large members are appointed simultaneously, a special election shall be held at the next regular meeting after official appointment to determine the office to be held by each new at-large member.

6. An officer of the Commission may be removed for cause upon motion of any member at a regular or special meeting of the Commission and by majority vote of the Commission, provided that the officer sought to be removed has had the opportunity to speak before the entire membership to address and rebut the grounds asserted in favor of his or her removal from office. Any officer removed by vote of the Commission shall be considered ineligible to serve as officer for the remainder of his or her present term as at-large Commissioner.

B. The Commission staff members shall include an Administrator, and such other staff personnel, including legal counsel, as the Commission may from time to time employ or retain by contract.

C. The Commission may permit one or more of the Commission staff members to also serve as staff for the Board of Louisiana River Pilot Review and Oversight.

D. The Chairman shall exercise his discretion from time to time to appoint committees and their members. On the motion of any member, the Commission may modify or rescind such appointments.

E. The Chairman shall select Commission members to serve on Hearing Panels, as needed and shall have the authority to retain a Hearing Master selected pursuant to the procedures outlined in Rule 7.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:967 and Pilotage Fee Commission Rule 60.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Pilotage Fee Commission, LR 32:614 (April 2006), amended LR 35:464 (March 2009).

Larry E. McNutt, Jr.
Administrator

0903#075

RULE

Department of Health and Hospitals
Board of Medical Examiners

Physician Licensure and Certification;
Short-Term Training Permit
(LAC 46:XLV.411)

The Louisiana State Board of Medical Examiners (Board), pursuant to the authority vested in the Board by the Louisiana Medical Practice Act, R.S. 37:1261-1292, and in accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., has amended its rules governing physicians, LAC 46:XLV, Subpart 2, Licensure and Certification, Chapter 3 (Physicians), Subchapter H (Restricted Licensure, Permits), Section 411. The amendments are set forth below.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XLV. Medical Professions
Subpart 2. Licensure and Certification
Chapter 3. Physicians
Subchapter H. Restricted Licensure, Permits
§411. Graduate Education Temporary Permit/Short-Term IMG Training Permit

A. - I. ...

J. Short-Term IMG Training Permit. The board may, in its discretion, issue an institutional temporary permit for the purpose of participating in a short-term residency or other postgraduate training program (*short-term training permit*) conducted by a Louisiana medical school or a major teaching hospital, as defined herein, to an IMG applicant who possesses the qualifications prescribed by B.1-4 of this Section, provided that:

1. the applicant has not held any permit issued under this Chapter within one year prior to the date of application;

2. the postgraduate training program is approved in advance by the board;

3. the applicant presents, or causes to be presented to the board:

a. a completed application upon a form provided by the board, together with the fees prescribed by Chapter 1 of these rules. An application form will be supplied by the board only after receipt of a written commitment signed by the program director under whom the applicant will train in the postgraduate training program describing the capacity in which the applicant will be training and the inclusive dates of such training; and

b. satisfactory documentation that the applicant possesses the qualifications required by this Subsection;

4. an IMG holding a permit under this Subsection shall not assume independent responsibility for patient care in the state of Louisiana, and shall only receive postgraduate training in this state:

a. within the postgraduate training program for which he or she is approved by the board; and

b. under the immediate supervision (*e.g.,* in the physical presence) of a Louisiana licensed physician who has been appointed or designated by the medical school or major teaching hospital;

5. a permit issued under this Subsection shall expire and thereby become null, void and to no effect on the date specified by such permit or three months from the date of its issuance, whichever period is the shortest. Such permit shall also expire on any date that the permittee's appointment to the designated postgraduate training program is terminated;

6. a short-term training permit which has expired may, at the board's discretion, be renewed or reissued for not more than one successive three month period commencing without interruption immediately following the initial expiring permit, provided all requirements prerequisite to initial permit issuance have been met to the board's satisfaction;

7. the board may refuse to issue or revoke a short-term training permit for any of the causes that it may deny issuance of licensure under R.S. 37:1285A, or for which it may revoke a permit pursuant to 411J.8 of this Subsection;

8. a short-term training permit may be revoked by the board:

a. for any of the causes specified by R.S. 37:1285A;

b. upon a finding by the board that the permittee has failed to maintain, or did not possess at the time of application, any of the qualifications requisite to eligibility for a permit as prescribed by this Subsection; or

c. upon a finding by the board that the permittee has exceeded the scope of authority accorded by the permit or otherwise violated any of the conditions, restrictions, and limitations prescribed by this Subsection;

9. an IMG whose short-term training permit has been revoked by the board shall not thereafter be eligible for any other permit or a license to practice medicine in this state.

K. The term *major teaching hospital,* as used in Subsection J of this Section, means a facility that:

1. has a documented affiliation agreement with a Louisiana medical school accredited by the Liaison Committee on Medical Education. The facility must be a major participant in at least four approved medical residency programs. At least two of the programs must be in medicine, surgery, obstetrics/gynecology, pediatrics, family practice, emergency medicine or psychiatry. For purposes of recognition as a major teaching hospital, a facility shall be considered a *major participant* in a graduate medical education program if it meets both of the following criteria:

a. the facility must pay for the costs of the training program in the non-hospital or hospital setting including the residents' salaries and fringe benefits attributable to direct graduate medical education and other direct administrative costs of the program; and

b. the facility must participate in residency programs that:

i. require residents to rotate for a required experience, or

ii. require explicit approval by the appropriate Residency Review Committee of the medical school with which the facility is affiliated prior to utilization of the facility, or

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

2. maintains an intern and resident full time equivalency of at least 15 filled positions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A), 37:1270(B)(6), 37:1275, 37:1277 and 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 21:467 (May 1995), amended LR 27:846 (June 2001), LR 35:465 (March 2009).

Robert L. Marier, M.D.
Executive Director

0903#017

RULE

Department of Health and Hospitals
Bureau of Health Services Financing

Minimum Licensing Standards for
Emergency Medical Transportation Services
(LAC 48:I.Chapter 60)

The Department of Health and Hospitals, Bureau of Health Services Financing has adopted LAC 48:I.Chapter 60 in the Medical Assistance Program as authorized by R.S. 36:254, R.S. 40:1231 and R.S.40:1235.1-1236.7, 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 48
PUBLIC HEALTH—GENERAL
Part I. General Administration
Subpart 3. Health Standards
Chapter 60. Emergency Medical Transportation Services
Subchapter A. General Provisions
§6001. Definitions

Advanced Life Support (ALS)—emergency medical care administered to at least the level of an emergency medical technician-paramedic's scope of practice.

Air Ambulance—any aircraft, either fixed-winged or rotary-winged, designed and operated as a part of a regular course of conduct or business to transport a sick or injured individual, or which is advertised or otherwise held out to the public as such.

Air Ambulance Service—any person, firm, association, or government entity owning, controlling, or operating any business or service which furnishes, operates, conducts, maintains, advertises, engages in, proposes to engage in, or professes to engage in the business or service of transporting, in air ambulances, individuals who may need medical attention during transport.

Ambulance—any authorized emergency vehicle, equipped with warning devices, designed and operated as a part of a regular course of conduct or business to transport a sick or injured individual or which is advertised or otherwise held out to the public as such.

1. For purposes of these provisions, ambulance shall not mean a hearse or other funeral home vehicle utilized for the transportation of the dead.

Ambulance Service or Ambulance Provider—any person, firm, association, or government entity owning, controlling, or operating any business or service which furnishes, operates, conducts, maintains, advertises, engages in, proposes to engage in, or professes to engage in the business or service of transporting, in ambulances, individuals who may need medical attention during transport.

1. Ambulance services/providers shall not include any of the following:

a. an agency of the federal government;

b. a volunteer nonprofit organization or municipal nonprofit organization operating an invalid coach or coaches;

c. an entity rendering assistance to a licensed ambulance or ambulances in the case of a major disaster;

d. a licensed hospital providing nonemergency, noncritical, inter-hospital transfer and patient transportation for diagnostic and therapeutic purposes when such transportation originates at a licensed hospital;

e. an entity operating an ambulance(s) from a location outside of the state to transport patients from a location outside of the state to a location inside the state or to transport a patient(s)from a medical facility inside of the state to a location outside of the state; or

f. an entity providing transportation to employees, who become sick or injured during the course of their employment, from a job site to the nearest appropriate medical facility.

Auto-Injector—a spring-loaded needle and syringe with a single dose of epinephrine that will automatically release and inject the medicine.

Basic Life Support (BLS)—emergency medical care administered to the EMT-basic scope of practice.

Bureau—the Department of Health and Hospitals, Office of Public Health, Bureau of Emergency Medical Services.

Certified Emergency Medical Technician—an individual who is certified as any one of the following:

1. a certified emergency medical technician-basic;

2. a certified emergency medical technician-intermediate; or

3. a certified emergency medical technician-paramedic.

Certified Emergency Medical Technician-Basic—an individual who has successfully completed the emergency medical technician-basic training program adopted by the bureau, who is nationally registered and who is certified by the bureau.

Certified Emergency Medical Technician-Intermediate—an individual who has successfully completed the emergency medical technician-intermediate training program adopted by the bureau, who is nationally registered and who is certified by the bureau.

Certified Emergency Medical Technician-Paramedic—an individual who has successfully completed the emergency medical technician-paramedic training program adopted by the bureau, who is nationally registered and who is certified by the bureau.

Certified First Responder—an individual who has successfully completed a training course adopted by the bureau for first responders and who is certified by the bureau.

Change of Ownership (CHOW)—the sale or transfer (whether by purchase, lease, gift or otherwise) of an ambulance service by a person/entity with controlling interest that results in a change of ownership, or control of 30 percent or greater of either the voting rights or assets of a provider, or that results in the acquiring person/corporation holding a 50 percent or greater interest in the ownership or control of the provider.

Commission—the Louisiana Emergency Medical Services Certification Commission.

Department—the Louisiana Department of Health and Hospitals (DHH).

Emergency Medical Personnel or Emergency Service Person—an individual who is a certified first responder or a certified emergency medical technician.

Emergency Medical Response Vehicle—a marked emergency vehicle with fully visual and/or audible warning signals, operated by a certified ambulance service, whose primary purpose is to respond to the scene of a medical emergency to provide emergency medical stabilization or support, command, control, and communications, but which is not an ambulance designed or intended for the purpose of transporting a victim from the scene to a medical facility, regardless of its designation.

1. Included are such vehicles referred to, but not limited to, the designation as "sprint car", "quick response vehicle", "special response vehicle", "triage trucks", "staff cars", "supervisor units", and other similar designations.

2. Emergency medical response vehicles shall not include fire apparatus and law enforcement patrol vehicles which carry first aid or emergency medical supplies, and which respond to medical emergencies as part of their routine duties.

Emergency Medical Services (*EMS)*—a system that represents the combined efforts of several professionals and agencies to provide pre-hospital emergency care to the sick and injured.

EMS Professional—an individual who is a certified first responder or certified emergency medical technician.

EMS Task Force—individuals appointed by the assistant secretary of the Office of Public Health who advise and make recommendations to the office and the department on matters related to emergency medical services.

Emergency Vehicle—a vehicle that meets the definition of emergency vehicle in the Louisiana Highway Regulatory Act (R.S. 32:1).

First Aid Certificate—a certificate in the emergency response course issued by the American Red Cross or other certificate in a first aid course approved by the bureau and issued to any individual who has successfully completed the required training and met the established standards of such organizations.

Headquarters—an ambulance service's center of operation and control.

Industrial Ambulance—any vehicle owned and operated by an industrial facility and used for transporting any employee who becomes sick, injured or otherwise incapacitated in the course and scope of his employment from a job site to an appropriate medical facility.

Intermediate Life Support (ILS)—emergency medical care administered to the EMT-Intermediate scope of practice.

Moral Turpitude—an act of baseness, vileness, or depravity in the duties which one person owes another, or to society in general, which is contrary to the usual, accepted and customary rule of right and duty which a person should follow.

Municipal Nonprofit Organization—an organization owned by a parish, municipality or entity of a parish or municipality which in its regular course of business responds to a call for help and renders medical treatment and whose attendants are emergency medical personnel, a registered nurse or a physician.

Operational—for an ambulance service to be considered operational, it must have a functional communications center (either owned and operated, or contracted) on duty 24 hours a day, 365 days a year. There must also be at least one staffed ambulance at the service's level of care on duty and able to respond to requests for service 24 hours a day, 365 days a year within the provider's service area unless excepted under other provisions of this Chapter.

Physician—a physician licensed to practice medicine by the Louisiana State Board of Medical Examiners.

V-MED 28—the National Emergency Medical Services Mutual Aid (radio) frequency of 155.340 MHZ in the VHF broad band frequency spectrum.

Volunteer Nonprofit Organization—an organization which in its regular course of business responds to a call for help and renders medical treatment, whose attendants are emergency medical personnel, a registered nurse, or a physician and which is chartered as a nonprofit organization under Section 501c of the United States Internal Revenue Code, as a volunteer fire department by the Louisiana State Fire Marshal's Office, or as a nonprofit organization by the Louisiana Secretary of State.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1231.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:466 (March 2009).

§6003. Licensing Requirements and Types of Licenses

A. All ambulance services shall be licensed by the Department of Health and Hospitals (DHH). It shall be unlawful to operate or maintain an ambulance service in the state of Louisiana without possessing a license from the department. The Department of Health and Hospitals is the only licensing agency for ambulance services in the state of Louisiana.

B. No person, firm, corporation, association or government entity shall conduct, manage, operate, or maintain an ambulance service in Louisiana without a valid current license from the department.

1. Exception. No license shall be required for any hospital that operates a vehicle solely for the purpose of moving its own patients between parts of its own campus, provided that all of the following conditions are met:

a. the parts of the hospital's campus are not more than 10 miles apart;

b. at the time of transport, the patient is attended by at least two individuals who are an emergency medical technician, a licensed practical or registered nurse, or a physician; and

c. the vehicle utilized by the hospital for transport contains the same equipment as is required for a licensed ambulance.

C. Ground ambulance services shall be licensed separately from air ambulance services. In those air ambulance services that are joint ventures, the license shall be issued to the provider of medical care and services.

D. A separately licensed ambulance service shall not use a name which is substantially the same as the name of another ambulance service licensed by the department unless the applicant is part of the same corporation or is chain affiliated.

E. A license issued to an ambulance service shall:

1. be issued to the person or entity named in the license application;

2. be valid only for one service's headquarters and its substations to which it is issued, and only for the specific geographic address of that headquarters;

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 service;

5. not be subject to sale, assignment, donation or other transfer, whether voluntary or involuntary; and

6. be posted in a conspicuous place in the ambulance service's headquarters at all times.

F. The department has the authority to issue the following types of licenses.

1. A full license is issued only to those applicants that are in substantial compliance with all applicable federal, state, and local laws, regulations, and policies. The license shall be valid until the expiration date shown on the license, unless the license is modified, revoked, suspended or terminated.

2. A provisional license may be issued to those providers or applicants that do not meet the criteria for full licensure. The license shall be valid for a period not to exceed six months.

a. The department may conduct a follow-up inspection prior to the expiration of the provisional license. If at the follow-up inspection, the provider or applicant has corrected all non-compliance or violations, the department may issue a full license. The full license will be valid until the ambulance service's license anniversary date.

b. For an applicant applying for initial licensure, if the follow-up inspection reveals that the ambulance service failed to correct all violations, the service shall be required to begin the initial licensing process again by submitting a new initial licensing packet and fee in order to become licensed.

c. For an existing ambulance provider, if the follow-up inspection reveals that the provider has failed to correct all violations, the department may re-issue a provisional license or allow the provisional license to expire.

d. A provisional license may be issued by the department for the following nonexclusive reasons:

i. the applicant or service has more than five violations of ambulance service regulations during one inspection;

ii. the applicant or service has more than three valid complaints in a one-year period;

iii. the department, medical director, or the quality improvement program have identified medical care that places patient(s) at risk;

iv. the applicant or service fails to correct violations within 60 days of being cited, or at the time of a follow-up inspection, whichever occurs first;

v. the applicant fails to submit assessed fees after notification by the department; or

vi. there is documented evidence that the applicant has bribed, intimidated or harassed someone to use the services of any particular ambulance service.

3. If an existing licensed ambulance provider has been issued a notice of license revocation, suspension, modification or termination and the provider's license is due for annual renewal, the department shall issue a renewal license subject to the pending license revocation, suspension, modification or termination if a timely administrative appeal has been filed. The license renewal letter and the renewal license shall state that the license is being renewed subject to the pending license revocation, suspension, modification or termination. The renewal of such a license does not affect in any manner the license revocation, suspension, modification or termination; the renewal of such a license does not render any such license revocation, suspension, modification or termination moot. This type of license is valid for the pendency of the administrative appeal, provided that the renewal fees are timely paid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1235.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:467 (March 2009).

§6005. Initial Licensing

A. All requirements of the application process for licensing shall be completed by the applicant before the application will be processed by the department. No application will be reviewed until the application fee is paid.

B. An application packet shall be obtained from the Department of Health and Hospitals. A completed application packet for an ambulance service shall be submitted to, and approved by, the department prior to an applicant providing ambulance services.

C. The license application shall be submitted to the department on forms provided for that purpose. The application shall provide documentation that the applicant meets the appropriate requirements for an ambulance provider as specified by regulations established by the department. An incomplete application shall be returned to the applicant.

D. An applicant seeking a license as an ambulance provider shall:

1. apply to provide the level of care consistent with its equipment and personnel and in accordance with the United States Department of Transportation National Highway Traffic Safety Administration's National Standard Emergency Medical Services (EMS) Curriculum and the Louisiana EMS Certification Commission's rules; this is the highest level of care that the service may function:

a. applicants must be able to provide at least one unit at the level of care for which they apply for 24 hours a day, 365 days a year;

b. ambulance services that serve more than one parish, must be able to provide at least one unit at the highest level of care for 24 hours a day, 365 days a year in each parish served;

c. the minimum level of care for an air ambulance service shall be at least at the EMT paramedic level. The department may require the submission of work schedules and individual credentials to verify this;

2. in the initial application only, petition the department for hours of operation other than 24 hours a day, 365 days a year;

3. submit a completed application to the department on the designated forms with the required information and the following supporting documentation:

a. a notarized certificate of insurance verifying that the provider has the legally mandated insurance coverage;

b. proof that the provider has a medical director and that such director is a physician licensed to practice medicine by the Louisiana State Board of Medical Examiners;

c. all medical protocols signed by the physician/medical director with their prescribed approvals by the parish or component medical society, and/or the Louisiana Emergency Response Network (LERN) as applicable;

d. copies of personnel certifications:

i. the department may inspect and review these certifications at an applicant's office(s) by prior agreement between the applicant and the department;

e. for those providers providing advanced life support, verification that the provider possesses a Louisiana Controlled Substance License and a United States Drug Enforcement Administration Controlled Substance Registration;

f. proof that the service holds a Clinical Laboratory Improvement Act waiver;

g. a Federal Aviation Administration (FAA) Part 135 Commercial Air Taxi Certificate (where applicable); and

h. documentation that the provider is in compliance with the criminal history check requirements of R.S. 40:1300.51-1300.56;

4. submit to a background investigation which includes, but is not limited to, fingerprinting and a criminal history check; and

5. be a United States citizen or a legal alien with appropriate documentation from the U.S. Department of Homeland Security.

E. The applicant must be prepared to be fully operational for an initial inspection within 90 days after payment of the application fee. If the applicant is unable to do so, the application will be closed.

1. If the application is closed and the applicant is still interested in becoming an ambulance service provider, he/she shall submit a new initial application packet, including a new initial fee to start the licensing process.

F. Prior to the initial license being issued to the provider, an initial licensing inspection shall be conducted on-site at the ambulance provider to assure compliance with licensing standards and appropriate federal, state or local statues, laws, ordinances, rules and regulations.

G. Until the initial license is issued to the provider by the department, no patient shall be provided ambulance services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1235.2

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:468 (March 2009).

§6007. Service Areas

A. An ambulance provider's service area is that territory which the ambulance provider renders services, has vehicles posted or domiciled, and is legally authorized by the local governing body(ies) to provide services.

B. Upon initial application, an applicant for an EMS license shall declare his service area in writing. The department may require the applicant to provide a map of the service area. The applicant shall also provide copies of all necessary local licenses and permits to operate within the service area, or other legal clearances.

C. If an ambulance provider wishes to expand into additional service areas, he must notify the department at least 72 hours in advance.

1. This notification must include:

a. a description of the territory added;

b. the unit numbers and vehicle identification numbers of vehicles assigned to the area; and

c. the address and telephone number of any substations within the designated service area.

2. The provider shall also provide a copy of all necessary local permits and licenses or other legal clearances.

D. Within 90 days of moving into a new territory, the ambulance service shall furnish the department with a copy of the necessary protocol approvals by the appropriate parish or component medical society in accordance with RS 40:1234.E.1.

E. If an ambulance service withdraws from a territory, it must notify the department at least 30 days in advance. It must provide the department with evidence that it has notified the appropriate local authorities that it will no longer be providing ambulance service in the area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1235.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:469 (March 2009).

§6009. Fees

A. Any remittance submitted to the department in payment of a required fee must be in the form of a company or certified check or money order made payable to the Department of Health and Hospitals.

B. Fee amounts shall be determined by the department.

C. Fees paid to the department are not refundable.

D. A fee is required to be submitted with:

1. an initial application;
2. a renewal application;
3. a change of controlling ownership; and
4. a change of name or physical address.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1235.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:469 (March 2009).

§6011. Inspections

A. Initial Inspections. An applicant must successfully complete an initial inspection by the department which includes:

1. an inspection of all vehicles to determine that they are safe and in working order and that they are equipped with all of the prescribed medical equipment as required by these provisions and R.S. 40:1235, 40:1235.1 or 40:1236.2:

a. what is safe and working order shall be determined pursuant to the provisions of R.S. 32 and the Louisiana Motor Vehicle Inspection Manual, in addition to the provisions of this Chapter and R.S. 40:1235 and 1235.1;

b. for aircraft, the safe and working order shall be determined by the rules of the FAA;

c. each vehicle successfully completing the inspection shall receive a permit authorizing it to be operated as part of the applicant's service;

2. an inspection of all personnel credentials to verify that they meet the requirements of law;

3. an inspection, and when deemed necessary by the department, verification of the information required in this Chapter and that such information remains current;

4. verification that the provider has complied with all applicable federal, state, and local statutes, and rules, and

that the provider has obtained all necessary and applicable licenses, permits, and certifications, including certificates of need or certificates of public convenience and necessity; and

5. for those providers rendering advanced life support, verification that the provider possesses a Louisiana controlled substance license and a U.S. Drug Enforcement Administration controlled substance registration.

B. Other Inspections. The department may conduct the following types of inspections.

1. Licensing Inspection. Licensing inspection is a periodic onsite visit conducted as necessary to assure compliance with ambulance licensing standards.

2. Follow-Up Inspection. An onsite follow-up may be conducted whenever necessary to assure correction of violations. When applicable, the department may clear violations at an exit interview and/or by mail.

3. Complaint Inspection. A complaint inspection shall be conducted to investigate allegations of noncompliance. Complaint inspections are unannounced.

C. Vehicle Inspections

1. Fleet Addition Inspections

a. Any ambulance service adding an ambulance, air ambulance or sprint vehicle to their fleet must provide written notification to the department in advance of the addition. The notification must include:

i. the vehicle identification number;

ii. a copy of the certificate of registration from the Office of Motor Vehicles or the Federal Aviation Administration;

iii. proof of commercial automobile or aircraft liability insurance; and

iv. the vehicle certification fee.

b. All ambulances, air ambulances, and emergency medical response vehicles must be inspected as soon as possible after they are placed in service. They will be inspected for the requirements of the Louisiana Motor Vehicle Inspection Act, FAA Part 135 rules, and this Chapter.

c. Any vehicle borrowed, leased or rented by the service for less than 90 days shall not be subject to a vehicle inspection fee. However, all vehicles shall be subject to compliance with this Chapter.

2. Spot Check Inspections

a. A vehicle compliance inspection may be performed at any time that the vehicle is not in route to a call or transporting a patient. This may include verification of staff credentials.

D. The department may issue appropriate sanctions including, but not limited to, civil fine(s) and license revocation for violations or findings of non-compliance found during an inspection.

E. DHH surveyors and staff shall be given access to all areas of the provider and all relevant files during any inspection. DHH surveyors and staff shall be allowed to interview any person with ownership interest, staff or patient, as necessary or required to conduct the inspection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1235.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:469 (March 2009).

§6013. Changes

A. The Department of Health and Hospitals shall be notified, in writing, within five working days of the occurrence of any changes in:

1. physical address of the headquarters;
2. agency name;
3. phone number;
4. 24-hour contact procedure;
5. ownership;
6. address or phone number of any substation or the addition of any substation;
7. administrators (a completed key personnel change form obtained from department is required);
8. director of operations (a completed key personnel change form is required);
9. medical directors;
10. insurance coverage;
11. cessation of business; or
12. change in the service area.

B. Change of Ownership (CHOW)

1. Actions which constitute a change of ownership include, but are not limited to the following.

a. Unincorporated Sole Proprietorship. Transfer of title and property to another party constitutes a change of ownership.

b. Corporation/Limited Liability Corporation (LLC). The merger of the provider corporation into another corporation, or the consolidation of two or more corporations, resulting in the creation of a new corporation constitutes a change of ownership. Transfer of corporate stock or the merger of another corporation into the provider corporation does not constitute a change of ownership.

c. Partnership. In the case of a partnership, the removal, addition or substitution of a partner, unless the partners expressly agree otherwise, as permitted by applicable state law, constitutes a change of ownership.

d. Leasing. The lease of all or part of a provider facility constitutes a change of ownership of the leased portion.

2. Change of Ownership packets may be obtained from the department. Only an agency with a full license shall be approved to undergo a change of ownership. An ambulance service license is not transferable from one entity or owner to another.

3. The following information must be submitted within five working days after the act of sale:

a. a new license application and the current licensing fee:

i. the purchaser of the agency must meet all criteria required for initial licensure as an ambulance services provider;

b. any changes in the name and/or address of the ambulance service;

c. any changes in administrative personnel (administrator, medical director, director of operations);

d. disclosure of ownership forms; and

e. a copy of the Bill of Sale and Articles of Incorporation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1235.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:470 (March 2009).

§6015. License Renewal

A. An ambulance service license must be renewed annually.

B. An ambulance service seeking a renewal of its license shall:

1. request a renewal packet from the department if one is not received at least 45 days prior to license expiration;

2. complete all forms and attachments and return to the department at least 30 days prior to license expiration; and

3. submit the current annual licensing fees with the packet. An application is not considered to have been submitted unless the licensing fees are received.

C. The department may issue a full renewal license to an existing licensed provider that 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 revoked, suspended, denied, or modified.

D. Failure to submit to the department a completed license renewal application packet prior to the expiration of the current license or prior to the expiration of deadlines established by the department shall result in the voluntary non-renewal of the license.

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1235.2.E.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:471 (March 2009).

§6017. Denial, Revocation or Suspension of a License

A. Denial of a License. An applicant may be denied a license for one of the following nonexclusive reasons:

1. the background investigation indicates that the applicant has a felony conviction;

2. has had any license pertaining to the provision of emergency medical services revoked in any jurisdiction;

3. failure to comply with applicable federal, state, and local laws, statutes, rules or regulations;

4. intentional falsification of material information provided pursuant to this Chapter; or

5. conviction, guilty plea or plea of nolo contendre of a felony by the following, as shown by a certified copy of the record of the court of the conviction:

a. administrator;

b. director of operations;

c. members or officers; or

d. the person(s) designated to manage or supervise the ambulance service if the applicant is a firm or corporation.

B. Revocation or Denial of License Renewal. An ambulance service's license may be revoked or may be denied renewal for any one of the following:

1. failure to be in substantial compliance with the ambulance service licensing standards;

2. failure to be in substantial compliance with other required statutes, laws, ordinances, rules or regulations;

3. failure to comply with the terms of a settlement agreement or education letter;

4. failure to uphold patient rights whereby violations may result in harm or injury;

5. failure of the agency to protect patients/persons in the community from harmful actions of the agency employees; including, but not limited to:

a. health and safety;

b. coercion;

c. threat;

d. intimidation; and

e. harassment;

6. failure to notify proper authorities of all suspected cases of neglect, criminal activity, or mental or physical abuse which could potentially cause harm to the patient;

7. failure to employ qualified personnel and maintain an adequate quality insurance program that identifies poorly performing staff and remediates or terminates them for deficiencies;

8. failure to remain fully operational at any time for any reason other than a disaster, unless specifically excepted by the department;

9. failure to submit fees including, but not limited to:

a. renewal fee;

b. change of agency address or name; or

c. any fines assessed by the department;

10. failure to allow the department to conduct an investigation, inspection or survey, or to interview staff or participants, or to allow access to any relevant records during any inspection;

11. failure to remedy a situation where patients were not protected from unsafe, skilled and/or unskilled care by any person employed by the ambulance service;

12. failure to correct violations after being issued a provisional license;

13. ambulance provider staff or owner has knowingly, or with reason to know, made a false statement of a material fact in:

a. application for licensing;

b. data forms;

c. clinical records;

d. matters under investigation by the department;

e. information submitted for reimbursement from any payment source;

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

g. ambulance service staff being misrepresented or was fraudulent in conducting ambulance service business; or

h. convictions of a felony by an owner, administrator, director of operations or medical director as shown by a certified copy of the record of the court of conviction; or if the applicant is a firm or corporation, of any of its members or officers, or of the person designated to manage or supervise the ambulance service agency;

14. failure to comply with all reporting requirements in a timely manner; or

15. cessation of operations for any reason other than a man-made or natural disaster.

C. If an ambulance provider's license is revoked or denied renewal by the department, other than for cessation of business or non-operational status, any owner, officer, member, manager or administrator of such service is

prohibited from owning, managing, directing or operating another service for a period of two years from the date of the final disposition of the revocation or denial action.

D. The secretary of the department may immediately suspend the license of an ambulance provider in accordance with the provisions of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1235.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:471 (March 2009).

§6019. Sanctions

A. Any person or provider violating the provisions of this Chapter when such violation poses a threat to the health, safety, rights, or welfare of a patient or client may be liable to civil fines and other penalties, to be assessed by the department, in addition to any criminal action which may be brought under other applicable laws.

B. Class A Violations. If an ambulance or emergency medical response vehicle is found to have been operated in violation of any of the requirements of this Chapter concerning the number of personnel, the qualifications of personnel or failure to provide a qualified attendant to the patient, the ambulance, emergency medical response vehicle, or air ambulance shall be immediately taken out of service until it meets those requirements. The ambulance service shall be subject to a civil fine of not more than $500 for the first violation and not more than $1,000 per day for each repeat violation.

C. Class B Violations. If an ambulance service is found to have been operating in violation of any of the requirements of this Chapter concerning insurance coverage, its license shall be immediately suspended until it meets those requirements. The ambulance service shall be subject to a civil fine of not more than $500 for the first violation and not more than $1,000 per day for each repeat violation.

D. Class C Violations. If an ambulance, emergency medical response vehicle or air ambulance is found to have been operated without undergoing any inspection required under the provisions of this Chapter, the ambulance or emergency medical response vehicle shall be immediately taken out of service until it meets those requirements. The ambulance service shall be subject to a civil fine of not more than $500 for the first violation and not more than $1,000 per day for each repeat violation.

E. Class D Violations. If an ambulance or emergency medical response vehicle is found to have been operated in violation of any of the requirements of this Chapter concerning medical and safety equipment, the ambulance, emergency medical response vehicle or air ambulance shall be immediately taken out of service until it meets those requirements. The ambulance service shall be subject to a civil fine of not more than $100 for the first violation and not more than $500 per day for each repeat violation.

F. Class E Violations. If an ambulance or emergency medical response vehicle is found to have been operated in violation of any of the requirements of Chapter 7 of Title 32 of the Louisiana Revised Statutes, the ambulance, emergency response vehicle or air ambulance shall be immediately taken out of service until it meets those requirements. The ambulance service shall be subject to a civil fine of not more than $100 for the first violation and not more than $500 per day for each repeat violation.

G. Repeat and Egregious Violations. Those providers who commit multiple or egregious violations may be subject to suspension of their license to operate an ambulance service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1235.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:472 (March 2009).

§6021. Notices, Informal Reconsideration and Appeals

A. Following an inspection, the department will issue a notice of violations if any violations are found. The notice of violations will list the department's findings at the inspection and the statutes, laws, and/or regulations that were violated.

B. If the department decides to impose a civil fine upon a provider, the department shall issue written notice of the civil fine to the provider detailing the amount of the fine and the violation(s) which is the basis of the fine. This notice may be issued subsequent to the notice of violations.

C. Informal Reconsideration. Upon notice of a violation of any of the rules in this Chapter or any applicable statute, notice of a denial, suspension, revocation of a license or license non-renewal, notice of the expiration of a provisional license due to non-compliance or of the imposition of a civil fine, or other sanction, the ambulance service provider may request an informal reconsideration.

1. A request for an informal reconsideration must be submitted in writing to the department within 15 days of receipt of the notification.

2. The reconsideration shall be conducted by a designated official(s) of the department who did not participate in the initial decision to impose the action taken.

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

4. Reconsideration shall be made based on the documents before the official(s). The provider may present documents at the informal reconsideration.

5. Correction of a violation shall not be the basis for reconsideration.

6. There is no right to an informal reconsideration of the department's decision to issue a provisional license or for a license that has been voluntarily surrendered.

D. Administrative Appeal of a Decision to Deny, Suspend, Revoke or Deny Renewal of a License. Any ambulance service provider whose license has been revoked, suspended, denied or denied renewal by the department shall have the right to have the proceedings of the department reviewed by an administrative law judge, provided that such appeal is made within 30 days after the notice of the decision of the department.

1. An appeal of a decision to deny, revoke or deny renewal of a license is suspensive, and the decision will not be implemented until a decision affirming the department's decision is rendered on judicial review, or there is no request for judicial review within the applicable time limits.

2. An appeal of a suspension of a license is devolutive. The provider must cease providing services upon receipt of notification of the suspension of its license.

3. An ambulance provider has the right to a judicial review of an administrative appeal affirming a denial, suspension, revocation or non-renewal of a license in

accordance with the Administrative Procedures Act. Judicial review shall be by trial de novo.

F. Administrative Appeal of a civil fine or other sanction. An ambulance service provider has the right to submit an administrative appeal of a notice of a civil fine(s). Such appeal is suspensive and must be submitted within 30 days of the notice of the results of the informal reconsideration contesting the civil fine(s). If the administrative appeal decision is adverse to the provider, the provider may request a judicial review of the decision in accordance with the Administrative Procedures Act.

G. Administrative appeal of an expired provisional license due to non-compliance at the follow-up inspection. A provider with a provisional license that expires due to non-compliance or deficiencies cited at the follow-up inspection may request an administrative appeal of the expiration.

1. The appeal is limited to whether the violations or findings of non-compliance were properly cited at the follow-up inspection.

2. The provider has 15 days from the notice of the results of the follow-up inspection to request an administrative appeal.

3. The provider's appeal is devolutive; the provider must cease providing services unless an administrative tribunal issues a stay of the expiration. To request a stay, an application for a stay must be filed by the provider at the time the administrative appeal is filed. The stay may be granted by the administrative tribunal; only after a contradictory hearing and only upon a showing that there is no potential harm to the patient(s) being served by the provider.

H. If an ambulance provider fails to submit an administrative appeal within 30 days of receiving the notification of which the provider may appeal, the department's decision becomes final and enforceable against the provider.

I. There is no right to an administrative appeal of the department's decision to issue a provisional license or for a license that has been voluntarily surrendered.

J. Correction of a violation or finding of non-compliance after the applicable inspection shall not be the basis for an administrative appeal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1235.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:472 (March 2009).

Subchapter B. Provider Responsibilities

§6031. General Provisions

A. Insurance Coverage

1. Each ambulance provider shall continuously have in effect the following minimum amounts of insurance:

a. general liability insurance in the amount of $500,000 per occurrence and $500,000 in the aggregate;

b. automobile or aircraft liability insurance in the amount of $500,000; and

c. medical malpractice liability insurance in the amount of $500,000.

2. Participation in the Louisiana Patients' Compensation Fund will be accepted as medical malpractice insurance.

3. An ambulance service shall provide an original notarized certificate of insurance as proof that it has sufficient insurance coverage.

B. Infection Control and Laboratory Testing

1. An ambulance service must have and comply with a written infection control plan in accordance with 29 CFR 1910.120.

2. Ambulance services conducting blood glucose or other laboratory testing in the field must have the appropriate Clinical Laboratory Improvement Act (CLIA) permits or waivers.

C. Communications

1. All ambulance services shall have a dispatch facility. They may either own and operate their own facility or contract their dispatching to an appropriate emergency communications agency. All dispatch facilities must have 24 hour emergency power.

2. In addition to 911, the ambulance service will provide the department with a conventional seven digit telephone number for their dispatch facility that may be reached 24 hours a day, 365 days a year.

3. All ambulance services shall have a Federal Communications Commission (FCC) type accepted two-way dispatching communications system. They may either own or lease the system.

a. All dispatch center(s) and/or point(s) of dispatch shall have a proper FCC licensed radio system or an agreement with an FCC licensed communication provider that does not allow for transmission by unauthorized users, but will provide the capability for the dispatcher, with one transmission, to be heard simultaneously by all of its ambulances/emergency medical response units within that defined geographic service area.

b. Services that utilize multiple transmitters/tower sites shall have simultaneous communications capabilities with all units utilizing a specific transmitter/tower site.

4. Ambulance services may not dispatch their day-to-day ambulance operations over a commercial wireless telephone, pager system, FMRS, or GMRS radio system, or Voice over Internet Protocol radio system.

5. All ambulance services must be compliant with the Louisiana EMS Communications Plan.

6. All ambulance services shall be compliant with any applicable mandates of the FCC, the U.S. Department of Homeland Security, the Governor's Office of Homeland Security and Emergency Preparedness, and other applicable governmental agencies.

7. Any ambulance encountering a patient outside of its service area must make radio or telephone with the local 911 communications center.

D. Scanner Usage

1. No commercial ambulance shall make any emergency run based solely on information intercepted by use of a radio communication scanner or similar device except in cases where human life is threatened, unless that commercial ambulance has been specifically requested to respond to such an emergency. Nothing in this Section shall be construed to prohibit service to a subscriber of a commercial ambulance service.

a. No person certified under this Chapter or certified or licensed pursuant to any provision of Louisiana law shall operate a commercial ambulance in violation of this provision.

b. An ambulance service that violates this provision shall have its license to operate an ambulance service in Louisiana suspended for a period of six months.

E. Cessation of Business

1. If at any time the ambulance service is no longer operational, for any reason other than man-made or natural disaster, the license shall be deemed to be invalid and shall be returned to the department within five working days.

2. The agency owner shall be responsible for notifying the department of the location of all records and a contact person.

3. All emergency vehicles no longer in use shall have all audible and visible warning signals and markings indicating their emergency status removed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1235.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:473 (March 2009).

§6033. Personnel

A. Director of Operations

1. The director of operations (DOO), or equivalent job title, shall be designated, in writing, to supervise:

a. all aspects of patient care;

b. all activities of professional staff and allied health personnel; and

c. responsible for compliance with regulatory requirements.

2. The DOO, or alternate, shall be on site or immediately available to be on site at all times during operating hours, and additionally as needed. If the DOO is unavailable he/she shall designate a certified EMT or paramedic to be responsible during his/her absence.

3. The director of operations shall be at least a nationally registered EMT, or above, and must be currently certified to practice in the state of Louisiana:

a. with at least three years experience as an EMT; and

b. be a full-time employee of only one ambulance service facility. The director of operations is prohibited from simultaneous/concurrent employment.

4. The department may exempt the director of operations from the requirements of this §6133.A.3.a-b if services are primarily staffed and operated by volunteers.

5. The director of operations shall supervise all patient care activities to assure compliance with current standards of accepted EMS practice including, but not limited to, the following:

a. supervise the employee health program and implement policies and procedures that establish and support quality patient care;

b. assure compliance with local, state, and federal laws, and promote health and safety of employees, patients and the community, using the following nonexclusive methods:

i. resolve problems;

ii. perform complaint investigations;

iii. provide orientation and in-service training to employees to promote effective ambulance services and safety of the patient, and to familiarize staff with regulatory issues, and agency policy and procedures;

iv. orient new direct health care personnel;

v. perform timely annual performance evaluations of health care personnel;

vi. assure participation in regularly scheduled appropriate continuing education for all health professionals;

viii. assure that the care provided by the health care personnel promotes effective emergency medical care and the safety of the patient; and

ix. assure that the ambulance service polices are enforced.

6. The director of operations shall be responsible for compliance with all regulations, laws, policies and procedures applicable to the ambulance service facility specifically and to Medicare/Medicaid issues when applicable.

7. The director of operations shall also perform the following duties:

a. implement personnel and employment policies to assure that only qualified personnel are hired:

i. licensing and/or certification (as required by law) shall be verified prior to employment and annually thereafter and records shall be maintained to support competency of all allied health personnel;

b. implement policies and procedures that establish and support quality patient care, cost control and mechanisms for disciplinary action for infractions;

c. be on-site during business hours or immediately available by telecommunications when off-site conducting the business of the ambulance service and be available after hours as needed;

d. be responsible for and direct the day-to-day operations of the ambulance service facility;

e. act as liaison among staff, patients and the community;

f. designate, in writing, an individual who meets the qualifications of director of operations to assume the authority and the control of the ambulance service if the director of operations is unavailable; and

g. designate in advance a committee he/she chooses to establish policies governing the day-to-day provisions of the ambulance service.

8. The Director of Operations shall refer to the Louisiana Emergency Medical Services Commission, or other authority of competent jurisdiction, any certified or licensed employee who has been proven to have committed any of the following:

a. the selling, attempting to sell, falsely obtaining, or furnishing any professional certification document;

b. conviction of a crime or offense which reflects the inability of that person to provide care with due regard of the health and safety of the patient. This includes a plea of *nolo contendre* regardless of the final outcome; or

c. is guilty in the aiding and abetting of someone in violation of these regulations or the regulations of the Louisiana EMS Certification Commission.

B. Medical Director

1. The medical director must be a licensed physician, authorized to practice medicine in Louisiana and knowledgeable about emergency medical care and the emergency medical services system. The medical director is

the clinical supervisor of the ambulance service. The medical director reviews, coordinates, and is responsible for the management of clinical and medical care for all patients. The medical director may be an employee or a volunteer of the agency. The agency may also contract for the services of the medical director.

2. The medical director or his designee shall assume overall responsibility for the medical component of the patient care program including, but not limited to:

a. responsibility for all controlled dangerous substances utilized by the ambulance service;

b. developing and coordinating procedures for the provision of emergency medical care;

c. participating in the development of the protocols or procedures for providing care; and

d. acting as a liaison between the ambulance service provider and the local health care community.

3. The medical director must maintain a current list of all certified emergency medical services personnel that function under the Medical Director's supervision.

C. Certified Emergency Medical Services Personnel

1. A certified first responder must be certified by the Louisiana Bureau of Emergency Medical Services. A certified first responder may only drive the ambulance and assist the EMT. He may not attend the patient in the back of the ambulance by himself.

2. A certified emergency medical technician-basic may drive the ambulance, assist another medic and may attend the patient by himself provided the patient does not require advanced life support (ALS) services, and the assessment and interventions fall within the scope of practice of the EMT-basic.

3. A certified emergency medical technician-intermediate may drive the ambulance, assist another medic or attend the patient by himself as long as the assessment and interventions fall within the scope of the EMT-intermediate.

4. An emergency medical technician-paramedic may drive the ambulance, assist another medic or attend the patient by himself provided the medical procedures being performed are within his established scope of practice.

5. The highest ranking EMT in the ambulance is responsible for the patient's care.

D. Other Medical Personnel. Other medical personnel such as physicians, registered nurses, etc., may function in an ambulance in accordance with R.S. 40:1235 and the scopes of practice established by the appropriate boards of competent jurisdiction.

E. All medical personnel working in an ambulance shall have either a current Health Care Provider or a Professional Rescuer CPR certification from the American Heart Association or the American Red Cross.

F. All drivers must successfully complete and hold a valid current defensive driving certificate issued by the National Safety council or its equivalent as determined by the Department of Health and Hospitals. The course must be equivalent to at least the National Safety Council's DDC-6 program or emergency vehicle operation program. Pre-licensing driving courses shall not be acceptable.

G. Pilots

1. Pilots shall not participate in patient care activities, except for loading and unloading the patient, and incidental duties.

2. Pilots shall:

a. hold a valid appropriate commercial pilot's license from the Federal Aviation Administration;

b. have a valid physical examination certificate from an FAA flight surgeon. Copies of these credentials shall be made available to the department;

c. be qualified to operate the specific aircraft; and

d. have an appropriate instrument flight rating as necessary.

H. The ambulance service shall have a person (employee or contractor) charged with the following financial responsibilities:

1. ensuring that all services are correctly billed to the proper payer source; and

2. reviewing patient eligibility for Medicare and Medicaid reimbursement.

I. Identification and Credentials

1. All personnel working on an ambulance and/or sprint vehicle shall carry with them at all times while on duty a copy of their pertinent medical certifications (state license or certification) and driver's license.

2. All medical personnel working on an ambulance, air ambulance, or emergency medical response vehicle, shall have their level of certification readily identifiable to the public. This may include, but is not limited to, a badge, embroidered patch or emblem, lapel pin, photo ID card, or distinguishable shirt.

3. All ambulance services must provide their personnel with photo identification cards. All personnel working on ambulance service vehicles must carry these cards while working on duty.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1235.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:474 (March 2009).

§6035. Medications

A. All medications, including IV fluids, shall be current in accordance with the manufacturer's expiration date.

B. All ambulance services shall have a system in place to identify and remove recalled pharmaceuticals from the service's inventory.

C. Controlled Dangerous Substances

1. All paramedic ambulance services must have both a Louisiana Controlled Dangerous Substance (CDS) license and a U.S. Drug Enforcement Administration (DEA) controlled substance registration. This license and registration shall be for the services, headquarters or central location.

a. If the ambulance service is owned by a hospital that holds a CDS license and DEA registration it is exempt from this requirement.

2. All controlled dangerous substances carried on ambulances must be under the personal control of a paramedic or kept in a substantially constructed, securely locked cabinet on the vehicle. Controlled substances may not be left unattended in unlocked medication kits.

3. All controlled substances kept at the ambulance service's central location must be stored in a substantially constructed securely locked cabinet or a safe.

4. Ambulance services must maintain both a dispenser's log and a perpetual inventory of their controlled substances unless they are part of a hospital.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1235.2 and R.S. 40:973.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:475 (March 2009).

§6037. Medical Protocol

A. In those parishes where the parish or component medical society has established a written pre-hospital EMS protocol for use in the parish, the ambulance service must follow that protocol, and/or the protocols of the Louisiana Emergency Response Network as applicable.

B. In those parishes where the parish or component medical society have not established a written pre hospital EMS protocol for use in the parish, the EMS service must develop a protocol to be used by its personnel. The appropriate portions of this protocol must be approved by the parish or component medical society.

C. These protocols shall include protocols for the care of:

1. cardiac arrest;
2. ventricular tachycardia;
3. supraventricular tachycardia;
4. premature ventricular ectopy when greater than six per minute, multifocal, bigeminal, occurring in bursts of two or more, falling on or close to the T wave;
5. severe, unrelieved, suspected cardiogenic chest pain, or suspected myocardial infarction;
6. bradydysrhythmias;
7. hypoglycemia;
8. anaphylactic reactions;
9. hypovolemic shock;
10. unconsciousness, altered mental status, or respiratory depression from suspected drug overdose;
11. treatment induced unconsciousness, altered mental status, hypotension, or respiratory depression from physician ordered or protocol appropriate paramedic administered narcotics;
12. respiratory failure or respiratory arrest;
13. active seizure;
14. hospital patient destination;
15. pre hospital diversion;
16. patient with advanced directives;
17. mass casualty incidents; and
18. injuries from weapons of mass destruction.

D. All protocols shall:

1. meet or exceed requirements of these licensing standards and all applicable federal, state, and local laws;
2. be consistent with the National Standard EMS Scope of Practice and the rulings of the Louisiana EMS Certification Commission; and
3. be reviewed annually.

E. Ambulance services are accountable for assuring compliance with applicable protocols by their personnel. Exceptions to these protocols must be reviewed on a case-by-case basis by the physician medical director.

F. Ambulance services must produce and provide to all personnel a policy and procedures manual governing the service's operation to all personnel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1234.E.1 and 40:1235.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:476 (March 2009).

§6039. Records

A. There shall be a permanent record of each patient encounter made by the ambulance service. These records may be maintained as hard copy and/or electronically. The record shall be maintained to assure that the medical treatment of each patient is completely and accurately documented. Records shall be readily available and systematically organized to facilitate the compilation and copying of such information.

B. The record of each patient encounter shall include at a minimum:

1. pertinent demographic information about the patient;
2. location of the response;
3. date and time of response;
4. situation;
5. patient's chief complaint;
6. patient's signs and symptoms;
7. a synopsis of the assessment of the patient to include both the initial and complete assessment of the patient;
8. vital signs;
9. pertinent past medical history;
10. any interventions or treatments conducted;
11. transport destination and arrival time if applicable; and
12. any other significant information that pertains to the patient or to the response.

C. Safeguards shall be established and implemented to maintain confidentiality and protection of the medical record from fire, water, or other sources of damage.

D. Safeguards shall be established and implemented to maintain the confidentiality and protection of all medical records in accordance with the Health Insurance Portability and Accountability Act (HIPAA) regulations.

E. The department shall have access to all business records, patient records or other documents maintained by, or on behalf of the provider, to the extent necessary to insure compliance with this Chapter. Ensuring compliance includes, but is not limited to:

1. permitting photocopying of records by the department; and
2. providing photocopies to the department of any record or other information the department may deem necessary to determine or verify compliance with this Chapter.

F. The provider shall keep patient records for a period of six years after the patient encounter. The patient records shall:

1. remain in the custody of the provider;
2. remain in the headquarters for at least one year from the date of the last patient encounter; and
3. not be disclosed or removed unless authorized by law or regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1235.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:476 (March 2009).

§6041. Emergency Preparedness

A. All ambulance services shall have an all hazards disaster plan on file that has been approved by their local Office of Emergency Preparedness and/or Homeland Security.

B. This plan shall include terrorist incidents and Weapons of Mass Destruction events.

C. This plan shall include an incident command system that is compliant with the National Incident Management System as established by the U.S. Department of Homeland Security.

D. All ambulance services shall have disaster mutual aid agreements with all ambulance services that are located in the same DHH established region(s) that the ambulance service operates in.

E. All ambulance services shall have appropriate medical protocols as a part of their disaster plan.

F. All ambulance services shall have an emergency communications plan. This plan should be triple redundant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1235.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:477 (March 2009).

§6043. Quality Assurance

A. The ambulance service shall have an on-going comprehensive, integrated, self-assessment quality improvement process which provides assurance that patient care is provided at all times in compliance with accepted standards of professional practice.

B. The ambulance service shall have written plans, policies and procedures addressing quality assurance.

C. The ambulance service shall monitor and evaluate its resource allocation regularly to identify and resolve problems with the utilization of its services, facilities and personnel.

D. The ambulance service shall follow a written plan for continually assessing and improving all aspects of operations which include:

1. goals and objectives;
2. the identity of the person responsible for the program;
3. a system to ensure systematic, objective regular reports are prepared and distributed to the governing body and any other committees as directed by the governing body;
4. the method for evaluating the quality and the appropriateness of care;
5. a method for resolving identified problems; and
6. a method for implementing practices to improve the quality of patient care.

E. The plan shall be reviewed at least annually and revised as appropriate by the medical director and director of operations.

F. Quality assessment and improvement activities shall be based on the systematic collection, review, and evaluation of data which, at a minimum, includes:

1. services provided by professional and volunteer staff;
2. audits of patient charts;
3. reports from staff, volunteers and clients about services;
4. concerns or suggestions for improvement in services;
5. organizational review of the ambulance service program;
6. patient/family evaluations of care; and
7. high-risk, high volume and problem-prone activities.

G. When problems are identified in the provision of ambulance care, there shall be:

1. evidence of corrective actions, including ongoing monitoring;
2. revisions of policies and procedures; and
3. educational intervention and changes in the provision of services.

H. The effectiveness of actions taken to improve services or correct identified problems shall be evaluated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1235.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:477 (March 2009).

Subchapter C. Emergency Vehicles—Ground Transportation

§6053. General Provisions

A. All emergency vehicles utilized by ambulance services must be in compliance with the Louisiana Motor Vehicle Regulatory Act.

B. All emergency vehicles must be insured in accordance with R.S. 40:1236.4.

C. An ambulance service may rent or borrow a vehicle for up to 90 days without having it inspected or pay certification fees. However, the vehicle will be subject to spot check inspection if necessary. The vehicle must be in compliance with R.S. 32:1 et seq., and this Chapter.

D. Unless an ambulance or a sprint vehicle is obtained for less than 90 days, it must be registered in the ambulance service's name.

E. All emergency vehicles must have permanent signage indicating the name of the provider and the unit number. All numbering and lettering shall be reflective and be at least 3 inches high or greater. If a logo is used it must be 6 inches or greater in size. This shall appear on the rear and on both sides of the vehicle.

1. Vehicles borrowed or rented for less than 90 days are exempt from this permanent signage requirement.

F. Any equipment provided to ambulance services for their vehicles with grants from the U.S. Department of Health and Human Services must be stocked on the vehicle in accordance with the provisions of the grant.

G. Emergency Warning Lights. These lights shall be mounted as high and as widely spaced laterally apart as practicable. There must be two alternating flashing red lights on the front of the vehicle mounted at the same level. There must be two alternating flashing red lights on the rear of the vehicle mounted at the same level. These front and rear lights shall have sufficient intensity to be visible at 500 feet in normal sunlight. The following exceptions apply:

1. Any authorized emergency vehicle may be equipped with a large revolving red light on the roof instead of alternating flashing red lights on the front. This light must

be discernible in all directions and have sufficient intensity to be visible at 500 feet in normal sunlight.

2. Authorized emergency medical response vehicles of organized fire companies may be equipped with a large red and white light on the roof encased in a clear dome, instead of the large red light on the roof. This light must be discernible in all directions and have sufficient intensity to be visible at 500 feet in normal sunlight.

H. Audible Warning Signals. Each emergency medical response vehicle must have a siren, exhaust whistle, or bell capable of giving an audible signal sufficient to warn motorists of its approach (audible up to 500 feet).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1235.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:477 (March 2009).

§6055. Emergency Medical Response Vehicles (Sprint Vehicles)

A. Emergency Medical Response Vehicle Qualifications. The vehicle may be on either an automobile or truck chassis, have four or more wheels and must have the following external markings:

1. all numbering and lettering shall be reflective;

2. the unit number shall be displayed in numerals 3 inches high or greater on the rear and both sides of the vehicle;

3. the agency's name shall appear on both sides of the vehicle in lettering 3 inches high or greater, or with a logo that is 6 inches or greater in size;

4. the agency's name or logo shall appear on the trunk or rear door in lettering 3 inches high. Agency logos must be specific to the agency and on file with the department; and

5. the vehicle's markings shall indicate its designation as an emergency medical response vehicle such as sprint car, supervisor, chief, special services, etc. No markings on the vehicle may imply that it is an ambulance.

B. Equipment and Supplies

1. All vehicle units must have a FCC type accepted two-way radio communication system for day-to-day communications. The emergency medical response vehicle's dispatch center(s) and/or point(s) of dispatch must be capable of interactive two-way radio communications within all of the service's defined area.

2. In addition to the day-to-day communication system, all emergency medical response vehicles must have a two-way radio with disaster communications capability on the very high frequency (VHF) broadband frequency designated by the FCC to be V-MED 28 or the national EMS mutual aid frequency, also known as the Hospital Emergency Activation Radio (HEAR) system (155.340) MHz with carrier squelch, ENCODER optional.

a. Direct communication with a physician and hospital must be conducted through:

i. HEAR;

ii. wireless telephone;

iii. Radio Telephone Switch Station (RTSS); or

iv. Med. 10 System, etc.

3. All emergency medical response vehicles must be equipped with at least the following:

a. one fire extinguisher, 10 B:C (secured and identified);

b. one set of three triangle reflectors (or cyalume light sticks or traffic cones);

c. one flashlight, two "C" minimum;

d. one current USDOT Hazardous Materials Guidebook;

e. per each crew member, one hard hat and safety goggles (ANZI spec) or fire fighter's helmet with face shield; and

f. per each crew member, one pair of leather or nomex gauntlet gloves.

4. All emergency medical response vehicles must have the following basic life support medical supplies:

a. one portable suction unit;

b. one suction tubing, wide bore (if required);

c. one rigid pharyngeal/tonsillar wide bore suction;

d. one suction catheter 5 or 6 or 5/6;

e. one suction catheter, 14 or larger;

f. one portable oxygen cylinder, D, Jumbo D, or E, appropriate color:

i. maximum of 2000 to 2200 psi, minimum of 500 psi;

g. one variable flow regulator for portable oxygen cylinder with wrench;

h. one oxygen nonrebreather mask with tubing, adult;

i. one oxygen nonrebreather mask with tubing, pediatric;

j. one oxygen nasal prongs with tubing;

k. one bag valve mask, adult;

l. one bag valve mask, pediatric;

m. one oral airway, adult;

n. one oral airway, child;

o. one oral airway, infant;

p. one extremity splint device, long;

q. one extremity splint device, short;

r. one long spine immobilization device with at least 3 points of confinement:

i. a clamshell device may be used;

s. one cervical immobilization device;

t. one extrication-type cervical collar, pediatric, small;

u. one extrication-type cervical collar, pediatric, medium;

v. one extrication-type cervical collar, pediatric, large;

w. one extrication-type cervical collar, adult, small;

x. one extrication-type cervical collar, adult, medium;

y. one extrication-type cervical collar, adult, large;

z. one burn sheet, sterile;

aa. ten small sterile dressings 4" x 4", at least 2 per packet;

bb. four large sterile dressings at least 5" x 9";

cc. one multi-trauma dressing (at least 10" x 30") or 1" x 24" military ABD dressing;

dd. two triangular bandages, manufactured;

ee. four complete rolls of roller bandage, soft gauze, at least 2 inches wide;

ff. one roll each of Hypoallergenic medical adhesive tape, 1" and 2";

gg. two occlusive dressings, 3" x 8" or larger or commercial chest seal;

hh. one liter normal saline for irrigation in plastic container;

ii. one supra glottis airway approved by Louisiana EMS Certification Commission;

jj. one tube of oral glucose gel or paste, 12.5 grams, cake icing will suffice;

kk. one epinephrine auto-injector, adult, .30 mg;

ll. one epinephrine auto-injector, pediatric, .15 mg;

mm. one 5 grain (325 mg) aspirin tablet or four 81 grain pediatric aspirin tablets;

nn. one Albuterol, 2.5 mg with appropriate delivery device;

oo. one two-way radio communication device, EMS Disaster (VMED 28);

pp. one two-way radio communications device, EMT to physician;

qq. one two-way radio communication device, EMT to dispatch;

rr. one disposable OB kit;

ss. one roll of aluminum foil or a silver swaddler;

tt. one stethoscope;

uu. one blood pressure cuff, adult;

vv. one blood pressure cuff, pediatric;

ww. one pair EMT shears, either issued to vehicle or individual;

xx. one blanket;

yy. twenty-five triage tags;

zz. one sharps container, 1 quart; and

aaa. one Supraglottic airway, approved by the Louisiana EMS Certification Commission.

5. All emergency medical response vehicles that are not staffed and equipped to the EMT-paramedic level must carry an automated external defibrillator (either automatic or semi-automatic) with the appropriate lead cables and at least two sets of the appropriate disposable electrodes. If the automated defibrillator is also capable of manual defibrillation, then an appropriate lock out mechanism (such as an access code, computer chip, or lock and key) to prevent unauthorized use of the device by those persons not authorized to manually defibrillate must be an integral part of the device.

6. All emergency medical response vehicles must carry infection control equipment as follows:

a. one box of gloves, non sterile exam;

b. one box of gloves, non latex;

c. one pair per crew member, full peripheral glasses with surgical face mask or fluid shields;

d. one per crew member, N-95 mask;

e. one per crew member, disposable, impervious coveralls, gown, jumpsuit;

f. one pair per crew member, disposable, impervious shoe covers;

g. one bottle or 12 towelettes, commercial, anti-microbial hand cleaner;

h. one readily identifiable bio hazard disposal bag;

i. one per crew member, chemical resistant, full coverage, hooded coverall;

j. one pair per crew member, chemical resistant footwear;

k. one roll of chemical resistant sealant tape (not duct tape);

l. one pair per crew member, chemical resistant goggles with a minimum of N-95 mask;

m. one per crew member, incident command vest with florescent trim and appropriate logos; and

n. one per crew member Mark I kits (.7 mg atropine and 2 PAM-V).

7. The following must be carried by intermediate level and paramedic level emergency medical response vehicles:

a. two bags of IV fluid for KVO lines, D5W or isotonic 0.9% NaCl in at least 250 cc bags:

i. all IV fluids must be in plastic bags or jugs, not glass bottles, unless medically indicated otherwise;

b. 1000 cc of Lactated ringers or isotonic 0.9% NaCl in at least 2 approved containers;

c. one macrodrip IV administration set

d two minidrip IV administration sets;

e. one three way stopcock extension tubing;

f. one each, over-the-needle IV catheters, 1.5" long, 14, 16, 18, 20, and 22 gauge;

g. one intraosseous needle of choice;

h. one venous tourniquet;

i. one 1 cc syringe with .1 cc graduations;

j. one 3 to 6 cc syringe;

k. one 30 cc or larger syringe;

l. one 21 to 23 gauge hypodermic needle;

m. one 24 to 26 gauge hypodermic needle; and

n. six antiseptic prep pads.

8. The following must be carried by all paramedic level emergency medical response vehicles:

a. one pair of McGill forceps, adult;

b. one pair of McGill forceps, pediatric;

c. one tube or five packets of water soluble lubricating jelly (non cellulose);

d. one endotracheal tube, uncuffed (3.0 to 3.5);

e. one endotracheal tube, uncuffed, 4.0 to 4.5;

f. one endotracheal tube, uncuffed, 5.0 to 5.5;

g. one endotracheal tube, cuffed, 6.0 to 6.5;

h. one endotracheal tube, cuffed, 7.0 to 7.5;

i. one endotracheal tube, cuffed, 8.0 to 8.5;

j. one stylette, adult;

k. one stylette, pediatric;

l. one laryngoscope handle with batteries and bulb;

m. one set of spare batteries and bulb;

n. one laryngoscope blade, straight, size 0;

o. one laryngoscope blade, straight, size 1;

p. one laryngoscope blade, straight, size 2;

q. one laryngoscope handle, straight or curved, size 4;

r. one monitor defibrillator with electrodes, lead cables, defib pads or jel;

s. one glucometer, CLIA approved;

t. one pediatric dosing chart;

u. one end title CO2 detection or monitoring device;

v. analgesics:

i. one aspirin 5 grain or four 81 mg; and

ii. morphine *, 10 mg/ml;

w. anti-arrhythmics:

i. three Adenosine, 6 mg;

ii. four Atropine, pf, 1 mg;

iii. one Calcium Chloride, 10 percent, 1 gram;

iv. three Amiodorone (pre-filled), 150 mg or four Lidocaine, 100 mg pf bolus; and

v. one Lidocaine, pm, 1 gram;

x. anti-convulsive:

i. one Valium *, 10 mg/2 ml; and

ii. one Mag Sulfate, 2 grams;

y. anti-histamine:

i. Benadryl,50 mg;

z. bronchodilators:

i. one Albuterol , 2.5 mg*, inhalation;

aa. cardio-vascular:

i. one Dopamine, pm, 200 mg; and

ii. three NTG, .4 mg Tablet or spray;

bb. diabetic control:

i. one D50W, 50 cc; and

ii. one Glucagon, 1 mg;

cc. loop diuretic:

i. one Bumex, 2 mg; or

ii. one Lasix; 80 mg;

dd. narcotic antagonist:

i. one Naloxone, 2 mg;

ee. vasopressors, 4 mg total:

i. two Epinephrine, 1 mg 1:1,000;

ii. two Epinephrine, 1 mg 1:10,000; and

iii. Vasopressin (optional), 1 mg

NOTE: Laryngoscopes may be reusable or disposable.

*-or alternative drug approved by parish or component medical society.

AUTHORITY NOTE: Promulgated in 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 35:478 (March 2009).

§6057. Ambulances

A. Any vehicle used as an ambulance must be designed and constructed by the manufacturer as such.

B. The following medical and safety equipment are requirements for certification of all ground ambulances operating within the state of Louisiana.

1. All ambulances must have a national standard public safety two-way radio communication (day-to-day communications). The ambulance dispatch center(s) and/or point(s) of dispatch must be capable of interactive two-way communications within all of the service's defined area.

2. Two-way radio with disaster communications must be VHF-National EMS Mutual Aid Frequency, V-MED 28, also known as the Hospital Emergency Activation Radio (HEAR) system 155.34 0 Mhz with carrier squelch, ENCODER optional.

3. Direct communication with a physician and hospital must be conducted through:

a. HEAR; or

b. wireless telephone;

c. Radio Telephone Switch Station (RTSS); or

d. Med. 10 System, etc.

4. All ambulances must carry the following basic medical supplies and equipment:

a. one suction unit capable of providing a suction of at least 300 mm Hg;

b. two wide bore tubing;

c. two rigid pharygeal tonsilar wide bore tip;

d. a second suction unit that is portable;

e. two each suction liners or refills, if required;

f. two suction catheters, 5 fr, or 6 fr, or 5/6 fr;

g. two suction catheters, 14 fr or larger;

h. one portable oxygen cylinder, at least 500 psi, 2000 psi full, appropriate color;

i. one portable oxygen regulator/ flowmeter, variable flow;

j. one fixed oxygen cylinder, "M" or "O" cylinder, at least 500 psi, 2000 psi full, appropriate color or equivalent;

k. one fixed oxygen regulator, variable flow;

l. one oxygen wrench;

m. one fixed oxygen flowmeter;

n. one humidifier;

o. four adult non-rebreather masks;

p. four pediatric non-rebreather masks;

q. four adult nasal prongs with supply tubing;

r. two adult BVM with reservoir and supply tubing;

s. two pediatric BVM with reservoir and supply tubing;

t. two oral airways, adult;

u. two oral airways, child;

v. two oral airways, pediatric;

w. one traction splint with ratchet, straps, and ankle hitch, adult;

x. two extremity splints, upper;

y. two extremity splints, lower;

z. three extrication-type cervical collars, adult;

aa. three extrication-type cervical collars–pediatric;

bb. three cervical immobilization devices;

cc. three long spine immobilization device with at least 3 points of confinement (one must be a clamshell device);

dd. one short spine immobilization device with appropriate straps and pillows;

ee. two burn sheets, sterile;

ff. fifty small sterile dressings, 4" x 4" (at least 25 packs of 2);

gg. ten large combine dressings, sterile, 5" x 9" or larger;

hh. two multi-trauma dressings, 10" x 30" or larger or 18" x 24" military abdominal dressings;

ii. eight triangle bandages, commercial;

jj. ten soft roller bandages, 2" wide, unused rolls;

kk. six rolls of hypoallergenic adhesive tape, 1" and 2" or wider (no paper tape);

ll. two occlusive dressings, 3" x 8" petroleum gauze or commercial chest seal;

mm. four chemical cold packs;

nn. two liters normal saline for irrigation in plastic containers;

oo. sterile water, 500 cc or larger in plastic container;

pp. oral glucose, 12.5 mg (cake icing may be substituted);

qq. one aspirin, 325 mg (5 grain) or four aspirin, 81 grain pediatric;

rr. one albuterol inhalation solution, 2.5 mg with appropriate delivery device;

ss. three per crew member Mark I kits (.7 mg atropine and 2 PAM-V0;

tt. radio communication , two-way disaster;

uu. radio communication, two way EMT to physician;

vv. radio communication, two way EMT to dispatch;
ww. one OB kit;
xx. one roll of aluminum or a silver swaddler;
yy. one blood pressure cuff, adult;
zz. one blood pressure cuff, pediatric;
aaa. one stethoscope;
bbb. one pair trauma shears;
ccc. one set of three triangle reflectors (or cyalume light sticks, or traffic; cones), set;
ddd. two flashlights, minimum of 2 "C" cell size with spare batteries and bulbs;
eee. twenty-five triage tags; and
fff. one supra glottis airway approved by the Louisiana EMS Certification Commission.

5. All ambulances must carry the following infection control supplies and equipment:
a. one box of non-sterile exam gloves;
b. one box of gloves, non latex;
c. two pair of full peripheral glasses with face masks, or fluid shields;
d. one per crew member jumpsuit/gown, impervious to liquid, disposable;
e. two readily identifiable trash bags, labeled for contaminated wastes;
f. one pair per crew member shoe covers;
g. one sharps container, 1 quart;
h. one bottle or 12 towelettes of commercial antimicrobial hand cleaner;
i. two biohazard trash bags;
j. four N-95 masks;
k. one set per crew member, chemical resistant, full body coverage coverall with hood;
l. one pair per crew member, chemical resistant footwear;
m. one roll per crew member, chemical sealant tape (not duct tape);
n. one pair per crew member, chemical resistant goggle with a minimum of a N-95 mask.

6. All ambulances must be equipped with the following:
a. two fire extinguishers, 2:-10:B:C;
b. two blankets;
c. one current US DOT Hazardous Materials Guidebook;
d. one set per crew member, hard hat and safety goggles (ANZ! 37.1 or NFPA approved fire fighter turn out gear);
e. one pair per crew member, leather or nomex gauntlet gloves;
f. one per crew member, incident command vest with florescent trim and appropriate logos;
g. one stretcher, wheeled, multi-level;
h. one set of stretcher straps with at least three points of confinement, including shoulder harness; and
i. all ambulances that are not staffed and equipped to the EMT Paramedic level must carry:
i. one automated external defibrillator with electrodes and leads;
ii. one epinephrine auto injector adult, .30 mg; and
iii. one epinephrine auto injector, pediatric, .15 mg.

7. The following must be carried by all ambulances that are not staffed and equipped to the EMT Paramedic level:
a. an automated external defibrillator (either automatic or semi-automatic) with the appropriate lead cables and at least two sets of the appropriate disposable electrodes. If the automated defibrillator is also capable of manual defibrillation, then an appropriate lock-out mechanism (such as an access code, computer chip, or lock and key) to prevent unauthorized use of the device by those persons not authorized to manually defibrillate must be an integral part of the device;
b. two bags of IV fluids for KVO lines, D5W or isotonic 0.9 percent NaCl, 250 cc bag minimum:
i. all IV fluids must be in plastic bags or bottles, not glass bottles, unless medically indicated otherwise;
c. 4,000 cc IV fluids for volume expansion, Ringers' Lactate or 0.9% isotonic NaCl (these bags of saline do not include the bags or bottles of saline above for irrigation purposes):
i. all IV fluids must be in plastic bags or bottles, not glass bottles, unless medically indicated otherwise;
d. four sets of minidrip tubing;
e. four sets of macrodrip tubing;
f. one set of Y-type blood tubing;
g. two extension tubings;
h. one three-way stop cock;
i. four over-the-needle IV catheters, 14 gauge;
j. four over-the-needle IV catheters, 16 gauge;
k. four over-the-needle IV catheters, 18 gauge;
l. four over-the-needle IV catheters, 20 gauge;
m. four over-the-needle IV catheters, 22 gauge;
n. two venous tourniquets;
o. two syringes, 1 cc w/ .1cc graduations;
p. two syringes, 3cc to 6 cc;
q. two syringes, 10 cc to 12 cc;
r. two syringes, 30 cc w/ leur lock
s. two hypodermic needles, 21 to 23 gauge;
t. two hypodermic needles, 25 to 27 gauge;
u. one EPA or OSHA approved sharps container for use at the patient's side;
v. ten antiseptic solution wipes;
w. one IV pole or roof hook;
x. three arm boards of various sizes; and
y. one supra glotic airway device as approved by the Louisiana EMS Certification Commission.

8. The following must be carried by all paramedic level ambulances:
a. two intra osseus needles of preference;
b. one McGill forceps, adult;
c. one McGill forceps, pediatric;
d. one tube or five packets of water soluble lubricant not containing cellulose;
e. two endotracheal tubes, uncuffed, 3.0 to 3.5;
f. two endotracheal tubes, uncuffed, 4.0 to 4.5;
g. two endotracheal tubes, uncuffed, 5.0 to 5.5;
h. two endotracheal tubes, cuffed, 6.0 to 6.5;
i. two endotracheal tubes, cuffed, 7.0 to 7.5;
j. two endotracheal tubes, cuffed, 8.0 to 8.5;
k. two stylettes, adult;
l. two stylettes, pediatric;

m one laryngoscope handle w/ 1 set of spare batteries and bulbs, or two disposable handle units;

n. one laryngoscope blade, Size 0, straight, or two disposable blades, Size 0, straight;

o. one laryngoscope blade, Size 1, straight, or two disposable blades, Size 1, straight;

p. one laryngoscope blade, Size 2, straight, or two disposable blades, Size 2, straight;

q. one laryngoscope blade, Size 3, straight or curved, or two disposable blades, Size 3, straight or curved;

r. one laryngoscope blade, Size 4, straight or curved, or two disposable, Size 4, straight or curved;

s. one cardiac monitor defibrillator with paper strip recorder;

t. two sets defib pads or gel;

u. one set of lead cables;

v. two sets of disposable monitoring electrodes;

w. one glucometer, CLIA approved;

x. two end tidal CO_2 detection or monitoring devices;

y. analgesic:

i. one aspirin 5 grain or four 81 mg;

ii. morphine *, 10 mg/ml;

z. anti-arrhythmic:

i. five Adenosine, 6 mg;

ii. four Atropine, pf, 1 mg;

iii. one Calcium Chloride, 10 percent, 1 gram;

iv. three Amiodorone (pre-filled), 150 mg or four Lidocaine,100 mg pf bolus;

v. one Lidocaine, pm, 1 gram;

aa. anti-convulsive:

i. one Valium *, 10 mg/2 ml;

ii. two Mag Sulfate, 2 grams;

bb. anti-histamine:

i. one Benadryl, 50 mg;

cc. bronco-dilators:

i. one Albuterol , 2.5 mg*;

dd. cardio-vascular:

i. two Dopamine, pm, 200 mg;

ii. three NTG, .4mg Tablet or spray;

ee. diabetic control:

i. two D50W, 50 cc;

ii. two Glucagon, 1 mg;

ff. loop diuretic:

i. two Bumex, 2 mg or two Lasix, 80 mg;

gg. narcotic antagonist:

i. Naloxone, 2mg;

hh. vasopressors, 12 mg total;

i. at least two Epinephrine, 1 mg 1:1000;

ii. at least two Epinephrine, 1 mg 1:10000; and

iii. Vasopressin, 1 mg (optional).

NOTE: *or alternative medication approved by the appropriate parish or component medical society.

C. All ambulances must have a functional air conditioner and heater in the patient compartment. They must function within the vehicle manufacturer's recommended guidelines or specifications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1235.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:480 (March 2009).

Subchapter D. Emergency Vehicles—Aircraft Transportation

§6065. General Provisions

A. All aircraft utilized as air ambulances must provide the department with a copy of their FAA Certificate of Registrations and Certificate of Air Worthiness. Upon request, they shall make their maintenance logs available to the department.

B. All air ambulances shall be equipped with the safety equipment required by the FAA.

C. All air ambulances shall be equipped with the medical and patient care equipment as recommended by the Air Ambulance Standards Committee and promulgated into the Administrative Rules of the Department of Health and Hospitals.

D. Until a specific list of medical equipment has been prepared and required by the department, air ambulances will carry the equipment that is mandated to them in protocol by the service's medical director.

E. An air ambulance provider must indicate to the department whether his air ambulances are fixed-winged or rotary winged.

F. All air ambulances shall be staffed to at least the advanced life support (EMT-paramedic) level.

G. Any equipment provided to ambulance services for their vehicles with grants from the U.S. Department of Health and Human Services, must be stocked on the vehicle in accordance with the provisions of the grant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1235.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:482 (March 2009).

§6067. Emergency Aircraft—Rotary-Winged (Reserved)

§6069. Emergency Aircraft—Fixed (Reserved)

Alan Levine
Secretary

0903#073

RULE

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

Home and Community-Based Services Waiver
New Opportunities Waiver
Skilled Nursing Services Rate Increase
(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 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 11. New Opportunities Waiver
Chapter 143. Reimbursement
§14301. Reimbursement Methodology

A. - A.7.c. …

d. Effective January 1, 2009, the reimbursement rate for skilled nursing services provided by a registered nurse (RN) will be increased by 39 percent of the rate in effect on December 31, 2008.

e. Effective January 1, 2009 the reimbursement rate for skilled nursing services provided by a licensed practical nurse (LPN) will be increased by 31 percent of the rate in effect on December 31, 2008.

A.8. - F.10.d. …

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of 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 35:483 (March 2009).

Alan Levine
Secretary

0903#074

RULE

Department of Health and Hospital
Office of Public Health

Safe Drinking Water Program
(LAC 51:XII.101, 313, 913, 1139, 1507, 1509, and Chapter 19)

Under the authority of R.S. 40:4 and 40:5, and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the state health officer, acting through the Department of Health and Hospitals, Office of Public Health (DHH-OPH), has amended Part XII (Water Supplies) of the Louisiana State Sanitary Code (LAC 51). These amendments are necessary in order that DHH-OPH may be able to maintain primacy (primary enforcement authority) from the United States Environmental Protection Agency (USEPA) over public water systems within Louisiana. USEPA requires state primacy agencies to adopt state rules and regulations which are no less stringent than the federal Safe Drinking Water Act's (42 U.S.C. §300f, et seq.) primary implementing regulations (40 CFR Part 141).

Pursuant to the Safe Drinking Water Act Amendments of 1986 (Pub.L. 99-339/June 19, 1986), the then existing federal public notification regulations applicable to public water systems at the time were amended by the USEPA and were subsequently promulgated in the federal Public Notification Rule on October 28, 1987 (52 FR 41534-41550). On September 20, 1988 (LR 14:630), DHH-OPH adopted equivalent state regulations by reference. Technical amendments to the October 28, 1987 federal Public Notification Rule were published on April 17, 1989 by the USEPA (54 FR 15185-15188). Amendments to a portion of the public notification regulations were also included when DHH-OPH adopted the federal Total Coliform Rule (54 FR 27562-27567, June 29, 1989) by reference on July 20, 1991 (LR 17:670). Amendments to a portion of the public notification regulations were also included when DHH-OPH adopted the federal Phase II Rule (56 FR 3578-3597, January 30, 1991), the federal Lead and Copper Rule (56 FR 26547-26564, June 7, 1991), the federal Phase IIB Rule (56 FR 30274-30281, July 1, 1991), and the federal Phase V Rule (57 FR 31838-31849, July 17, 1992) by reference on May 20, 1994 (LR 20:545). The April 17, 1989 federal technical amendments mentioned previously, along with amendments to a portion of the federal public notification regulations as per the federal Technical Amendments and Clarifications for Phase I, II and V Rule (59 FR 34322-34325, July 1, 1994), were adopted by DHH-OPH by reference on May 20, 2000 (LR 26:1036) when the state's definition of the term "*National Primary Drinking Water Regulations*" first included a reference to Part 141 of Title 40 of the July 1, 1997 edition of the *Code of Federal Regulations*.

The Rule amends DHH-OPH's existing public notification rule for public water systems. The Safe Drinking Water Act Amendments of 1996 (Pub.L. 104-182/August 6, 1996) required the USEPA to issue updated general public notification regulations. Subsequently, the USEPA amended the National Primary Drinking Water Regulations (40 CFR Part 141) on May 4, 2000 (65 FR 25981-26049) by promulgating a rule entitled "National Primary Drinking Water Regulations: Public Notification Rule; Final Rule". Technical corrections to the May 4, 2000 federal public notification rule were subsequently made on June 21, 2000 (65 FR 38629-38634), on June 30, 2000 (65 FR 40520-40522), and on November 27, 2002 (67 FR 70857-70858). The May 4, 2000 federal public notification regulations became effective for Louisiana public water systems at the federal level on May 6, 2002.

This Rule also amends DHH-OPH's existing Consumer Confidence Report Rule. The Consumer Confidence Report (CCR) is a form of public notification that is required to be distributed by community water systems to their customers on an annual basis. Distribution of the CCR does not necessarily mean that the water system experienced any violations, although it may have had. The purpose of the CCR is to provide information on the quality of the water delivered by the community water system and characterize the risks (if any) from exposure to contaminants detected in the drinking water in an accurate and understandable manner. Technical corrections to the August 19, 1998 federal CCR rule [which DHH-OPH adopted by reference on August 20, 2000 (LR 26:1624)] were made by the USEPA on November 27, 2002 (67 FR 70855-70857).

This rulemaking amends the current state regulations relative to public notification and the CCR by adopting the new federal public notification and CCR regulations by reference, along with adopting certain state discretionary items.

For the reasons set forth above, Part XII (Water Supplies) of the Louisiana State Sanitary Code (LAC 51:XII) is amended as follows.

Title 51
PUBLIC HEALTH—SANITARY CODE
Part XII. Water Supplies

Chapter 1. General

§101. Definitions [formerly paragraph 12:001]

A. Unless otherwise specifically provided herein, the following words and terms used in this Part of the Sanitary Code, and all other Parts which are adopted or may be adopted, are defined for the purposes thereof as follows:

* * *

National Primary Drinking Water Regulations—

a. drinking water regulations promulgated by the U.S. Environmental Protection Agency pursuant to applicable provisions of title XIV of the Public Health Service Act, commonly known as the "Safe Drinking Water Act," 42 U.S.C.A. §300f, et seq., and as published in the July 1, 2000 edition of the *Code of Federal Regulations*, Title 40, Part 141 (40 CFR 141), less and except:

i. Subpart H—Filtration and Disinfection (40 CFR 141.70 through 40 CFR 141.75);

ii. Subpart M—Information Collection Requirements (ICR) for Public Water Systems (40 CFR 141.140 through 40 CFR 141.144); and

iii. Subpart P—Enhanced Filtration and Disinfection (40 CFR 141.170 through 141.175);

b. 40 CFR 141 drinking water regulation amendments promulgated by the U.S. Environmental Protection Agency pursuant to applicable provisions of title XIV of the Public Health Service Act, commonly known as the "Safe Drinking Water Act," 42 U.S.C.A. §300f, *et seq.*, and as published in the *Federal Register* dated January 16, 2001 (Volume 66, Number 10, pages 3769 through 3780), less and except:

i. any amendments contained therein applicable to 40 CFR 141.70 through 141.75; and

ii. any amendments contained therein applicable to 40 CFR 141.170 through 141.175;

c. 40 CFR 141 drinking water regulation amendments promulgated by the U.S. Environmental Protection Agency pursuant to applicable provisions of title XIV of the Public Health Service Act, commonly known as the "Safe Drinking Water Act," 42 U.S.C.A. §300f, et seq., and as published in the *Federal Register* dated February 12, 2001 (Volume 66, Number 29, page 9903);

d. 40 CFR 141 drinking water regulation amendments promulgated by the U.S. Environmental Protection Agency pursuant to applicable provisions of title XIV of the Public Health Service Act, commonly known as the "Safe Drinking Water Act," 42 U.S.C.A. §300f, et seq., and as published in the *Federal Register* dated November 27, 2002 (Volume 67, Number 229, pages 70855 through 70858); and

e. 40 CFR 141 drinking water regulation amendments promulgated by the U.S. Environmental Protection Agency pursuant to applicable provisions of title XIV of the Public Health Service Act, commonly known as the "Safe Drinking Water Act," 42 U.S.C.A. §300f, et seq., and as published in the *Federal Register* dated June 29, 2004 (Volume 69, Number 124, pages 38855 through 38857), less and except:

i. any amendments contained therein applicable to 40 CFR 141.25 through 141.26;

ii. any amendments contained therein applicable to 40 CFR 141.70 through 141.76;

iii. any amendments contained therein applicable to 40 CFR 141.170; and

iv. any amendments contained therein applicable to 40 CFR 141.502 through 570.

f. When "Subpart H" or "Subpart P" is used within the actual text of the drinking water regulations cited in Subparagraphs a, b, c, d, or e of this Paragraph (definition), "LAC 51:XII.Chapter 11" shall be substituted therein.

* * *

Tier 1 Public Notice—the form, manner, timing, and frequency required to notify the public of *National Primary Drinking Water Regulations* violations and/or situations (as well as violations and/or situations of §§913, 1139, 1317, 1507, and 1509) with a significant potential to have serious adverse effects on human health as a result of short-term exposure.

Tier 2 Public Notice—the form, manner, timing, and frequency required to notify the public of all other *National Primary Drinking Water Regulations* violations and/or situations (as well as violations and/or situations of §§913, 1139, 1317, 1507, and 1509) with a potential to have serious adverse effects on human health.

Tier 3 Public Notice—the form, manner, timing, and frequency required to notify the public for all other *National Primary Drinking Water Regulations* violations and/or situations (as well as violations and/or situations of §§913, 1139, 1317, 1507, and 1509) not included in *Tier 1 Public Notice* or *Tier 2 Public Notice*.

* * *

AUTHORITY NOTE: The first source of authority for promulgation of the Sanitary Code is in R.S. 36:258(B), with more particular provisions found in Chapters 1 and 4 of Title 40 of the Louisiana Revised Statutes. This Part is promulgated in accordance with R.S. 36:254 (B)(7), R.S. 40:4 (A)(8), R.S. 40:5 (2)(3)(5)(6)(17)(20), and R.S. 40:1148.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1318 (June 2002), amended LR 28:2513 (December 2002), amended LR 30:1194 (June 2004), amended LR 30:2326 (October 2004), amended LR 35:484 (March 2009).

Chapter 3. Water Quality Standards

§313. Reserved. [formerly paragraph 12:003-4]

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(8) and R.S. 40:5 (5)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1321 (June 2002), repealed LR 35:484 (March 2009).

Chapter 9. Louisiana Total Coliform Rule [formerly Appendix C]

§913. Public Notification [formerly Public Notification of Appendix C]

A. Public notification shall be provided in accord with the requirements of the National Primary Drinking Water Regulations, as amended under Chapter 19 of this Part.

1. If a replacement sample cannot be analyzed and give a readable result, the public water supply will be assessed a monitoring violation and must give appropriate public notification.

AUTHORITY NOTE: Promulgated in accordance with R. S. 40: 4 (A)(8) and R.S. 40:5 (3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1335 (June 2002), amended LR 35:484 (March 2009).

Chapter 11. Interim Enhanced Surface Water Treatment Rule

Subchapter F. Public Notification

§1139. Consumer Notification

A. - A.1. …

B. Tier 1 Violations. When:

1. an event occurs which may affect the ability of the treatment plant to produce safe, potable water as specified under §1133.A.6 of this Chapter;

2. a waterborne disease outbreak occurs as specified under §1133.A.7 of this Chapter;

3. the combined filter effluent turbidity level exceeds 5.0 NTU; or,

4. other conditions/violations which are deemed by the state health officer, acting personally, as posing an acute risk to human health exist or occur;

5. the public water system shall, unless directed otherwise by the Office of Public Health in writing, furnish a notice to radio and television stations and daily newspapers serving the area as soon as possible but not later than 24 hours after the public water system learns of the violation or situation. The public water system shall also ensure that the actual public notice prepared by the water system is published in a daily or weekly newspaper serving the area as soon as possible but no later than 48 hours after learning of the violation or situation.

EXCEPTION: When furnishing a notice to radio and television stations, newspaper notice, or mailing is deemed not feasible for a non-community water system, continuous posting (in conspicuous places within the area served by the system) and, if available, e-mailing (to students or employees, for example) may be substituted. The notice shall remain posted for a minimum of at least 7 days.

C. Tier 2 Violations. When there is a failure to comply with a treatment technique requirement or performance standard as required in Subsection A of this Section, the public water system shall, unless directed otherwise by the Office of Public Health in writing, provide public notification in a daily or weekly newspaper serving the area as soon as possible but no later than 14 days after the violation or failure. In addition to newspaper notice, a notice shall also be provided to the consumers by direct mail or hand delivery within 30 days after the violation or failure.

EXCEPTION: When furnishing a notice to a newspaper is deemed not feasible for a non-community water system, continuous posting (in conspicuous places within the area served by the system) and, if available, e-mailing (to students or employees, for example) may be substituted. The notice shall remain posted for a minimum of at least 7 days.

D. Tier 3 Violations. The public water system shall notify persons served by the system in the manner approved by DHH whenever there is a failure to comply with the monitoring requirements specified in §§1123 or 1125 of this Chapter or the analytical requirements in §1105 of this Chapter. When there is a failure to comply with these monitoring or analytical requirements, the public water system shall, unless directed otherwise by the Office of Public Health in writing, provide public notification in a daily or weekly newspaper serving the area within 45 days of the violation or failure. In addition to newspaper notice, a notice shall also be provided to the consumers by direct mail or hand delivery within 90 days after the violation or failure.

EXCEPTION: When furnishing a notice to a newspaper is deemed not feasible for a non-community water system, continuous posting (in conspicuous places within the area served by the system) and, if available, e-mailing (to students or employees, for example) may be substituted. The notice shall remain posted for a minimum of at least 7 days.

E. Systems required to provide public notification shall otherwise be required to comply with the requirements of §1903 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(8) and R.S. 40:5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:2527 (December 2002), amended LR 35:485 (March 2009).

Chapter 15. Approved Chemical Laboratories/Drinking Water

Subchapter B. Procedures to Become an Approved Chemical Laboratory/Drinking Water

§1507. Application and Approval

A. - D.1. …

2. Any sample results for a public water system which are officially deemed invalid for failure to have them analyzed in a certified chemical laboratory/drinking water may result in a monitoring violation if replacement samples are not collected and properly analyzed by a certified chemical laboratory/drinking water within the prescribed monitoring period. Any monitoring or analytical violations require public notification as prescribed in §1903 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(8) and R.S. 40:5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 30:1200 (June 2004), amended LR 35:485 (March 2009).

Subchapter C. Consequences of Non-Compliance

§1509. Public Notification

A. If it becomes apparent either through laboratory reporting, on-site visits, or any other means that the "DHH-OPH Approved Chemical Laboratory/Drinking Water" is either intentionally or unintentionally not using or improperly using the required analytical methodology to perform an accurate and precise determination of an analyst associated with drinking water, the "DHH-OPH Approved Chemical Laboratory/Drinking Water's" certificate of approval shall be immediately suspended or revoked by the state health officer, and all public water systems utilizing such laboratory shall provide public notification as prescribed in §1903 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(8) and R.S. 40:5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 30:1201 (June 2004), amended LR 35:485 (March 2009).

Chapter 19. Public Notification Rule

§1901. General

A. Pursuant to a revision of the state's definition of *National Primary Drinking Water Regulations (NPDWRs)* published in the September 20, 1988 *Louisiana Register* (LR 14:630), the Department of Health and Hospitals (DHH) Office of Public Health (OPH) adopted by reference the United States Environmental Protection Agency's (USEPA) revised Public Notification rule as published in the *Federal Register* dated October 28, 1987 (Volume 52, Number 208, pages 41534 through 41550). These revisions of the federal public notification regulations were as a result of the Safe

Drinking Water Act Amendments of 1986 (Pub. L. 99-339 dated June 19, 1986). Technical amendments were made to the public notification regulations in the *Federal Register* dated April 17, 1989 (Volume 54, Number 72, pages 15185 through 15188). These April 17, 1989 federal technical amendments were adopted by DHH-OPH by reference when the state's definition of the *NPDWRs* first included a reference to Part 141 of Title 40 of the July 1, 1997 edition of the *Code of Federal Regulations*. Amendments to a portion of the public notification regulations were also included when DHH-OPH adopted the federal Total Coliform Rule which was published in the *Federal Register* on June 29, 1989 (Volume 54, Number 124, pages 27562 through 27567) by reference. Amendments to a portion of the public notification regulations were also included when DHH-OPH adopted the federal Phase II Rule published in the *Federal Register* on January 30, 1991 (Volume 56, Number 20, pages 3578 through 3597), the federal Lead and Copper Rule published in *Federal Register* on June 7, 1991 (Volume 56, Number 110, pages 26547 through 26564), the federal Phase IIB Rule published in the Federal Register on July 1, 1991 (Volume 56, Number 126, pages 30274 through 30281), and the federal Phase V Rule published in the *Federal Register* on July 17, 1992 (Volume 57, Number 138, pages 31838 through 31849) by reference. Amendments to a portion of the federal public notification regulations as per the federal Technical Amendments and Clarifications for Phase I, II and V Rule published in the *Federal Register* on July 1, 1994 (Volume 59, Number 126, pages 34322 through 34325) were also adopted by DHH-OPH by reference when the state's definition of the *NPDWRs* first included a reference to Part 141 of Title 40 of the July 1, 1997 edition of the *Code of Federal Regulations*.

1. The federal public notification regulations were amended once again by the USEPA pursuant to the Safe Drinking Water Act Amendments of 1996 (Pub. L. 104-182 dated August 6, 1996). Pursuant to yet another DHH-OPH revision of the definition of *NPDWRs*, published in the [final date of this rule, for example, March 20, 2009] *Louisiana Register* (LR 35:000), and the provisions of §377 of this Part, the DHH-OPH adopted by reference the USEPA federal Public Notification Rule as published in the *Federal Register* dated May 4, 2000 (Volume 65, Number 87, pages 25981 through 26049) as well as additional technical corrections to the Public Notification Rule as published in the *Federal Register* dated June 21, 2000 (Volume 65, Number 120, pages 38629 through 38634), the *Federal Register* dated June 30, 2000 (Volume 65, Number 127, pages 40520 through 40522), and the *Federal Register* dated November 27, 2002 (Volume 67, Number 229, pages 70857 through 70858). The regulations in this Chapter are promulgated in order to clarify the state's discretionary decisions allowed by the federal requirements. [As stated in §377 of this Part, be advised that when the NPDWRs (as defined in this Part) and the state's own rules and/or regulations applicable to public water systems conflict, then the state's own rules and/or regulations shall govern.]

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 35:485 (March 2009).

§1903. Public Notification [formerly §313]

A. If a public water system fails to comply with an applicable maximum contaminant level, treatment technique requirement, or analytical requirement as prescribed by this Code or fails to comply with the requirements of any schedule prescribed pursuant to a variance or exemption, or fails to perform any monitoring required by this Code, the public water system shall notify persons served by the system of the failure in a manner prescribed by the National Primary Drinking Water Regulations (as defined in this Part), §§ 913, 1139, 1317, 1507, 1509, and the Public Notification Rule (Chapter 19 of this Part), as applicable.

B. In addition, if a public water system fails to report required analytical data to the appropriate office designated by the state health officer within the applicable time limit(s) stipulated by the National Primary Drinking Water Regulations (as defined in this Part), the Louisiana Total Coliform Rule (Chapter 9 of this Part), the Interim Enhanced Surface Water Treatment Rule (Chapter 11 of this Part), the Stage I Disinfectants and Disinfection Byproducts Rule (Chapter 13 of this Part), or the Approved Chemical Laboratories/Drinking Water Rule (Chapter 15 of this Part), and such data (e.g., turbidity measurements, corrosion control chemical concentrations, etc.) is required to determine a maximum contaminant level or treatment technique requirement prescribed by this Code, the public water system shall be assessed a monitoring violation and must give appropriate public notification.

C. With the exception of Tier 1 public notification which requires a more prompt certification response (see §1905.A), the water supply, within 10 days subsequent to the completion of each public notification shall submit to the state health officer a completed public notification certification form and a representative copy of each type of notice distributed, published, posted and/or made available to the persons served by the supply and/or to the news media.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 35:486 (March 2009).

§1905. Tier 1 Public Notice

A. Delivery. When a Tier 1 public notice is required under the National Primary Drinking Water Regulations, §913, §1139.B, or §1317.A.1 of this Part, and after consultation with the Office of Public Health (see Subsection C of this Section for after-hours contact procedures), the public water system shall, unless directed otherwise by the Office of Public Health in writing, furnish a notice to broadcast media (such as radio and television stations) and daily newspapers serving the area as soon as possible but not later than 24 hours after the public water system learns of the violation or situation. The public water system shall also ensure that the actual public notice prepared by the water system is published in a daily or weekly newspaper serving the area as soon as possible but no later than 48 hours after the violation or failure.

EXCEPTION: When furnishing a notice to radio and television stations, newspaper notice, or mailing is deemed not feasible for a non-community water system, continuous posting (in conspicuous places within the area served by the system) and, if available, e-mailing (to students or employees,

for example) may be substituted. The notice shall remain posted for a minimum of at least 7 days.

B. Immediate Certification of Completion of 24 hour Notification. As soon as possible, but not later than 24 hours after providing public notice to the broadcast media and daily newspapers as required under §1905.A, the public water system shall deliver or fax a completed public notice certification form (including a copy of the actual public notice provided) to the Office of Public Health's District Engineering Services Section office which oversees the water system. The purpose of this form is for the water system to confirm to the Office of Public Health that Tier 1 public notice has been completed. Should the Office of Public Health's District Engineering Services Section office fail to receive the completed public notice certification form within 24 hours after the system should have completed providing the Tier 1 public notice, the Office of Public Health is authorized to issue Tier 1 public notice directly to the broadcast media and newspapers and to take other measures to ensure that the public is notified. The owner or operator of the public water system remains responsible for ensuring that the requirements of this Chapter are met.

C. Consultation/Certification with the Office of Public Health during weekends and state holidays and other times of office closure. Should the need for consultation with and/or the need to provide certification to the Office of Public Health occur during a weekend, state holiday, or other times of state office closure, the public water system shall contact the Office of Public Health's Safe Drinking Water Program via BlackBerry® (or equivalent smartphone) by e-mail communication to: "safe.water@la.gov". Besides stating the need to consult with and/or the need to provide certification to the Office of Public Health, the e-mail message should additionally provide the name of the public water system, the Office of Public Health PWS ID # (for example, PWS ID #1095009) which has been assigned to identify your water system, the name of the person sending the e-mail communication, and a telephone number (with area code) so that a Safe Drinking Water Program staff member can in turn speak with whoever sent the e-mail. [In most cases, it is expected that your own district or regional engineer will be returning the call (even when the office is closed) in order to consult directly with you on your problem or situation.]

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 35:486 (March 2009).

§1907. Tier 2 Public Notice

A. When a Tier 2 public notice is required under the National Primary Drinking Water Regulations, §913 or §1139.C of this Part, the public water system shall, unless directed otherwise by the Office of Public Health in writing, provide public notification in a daily or weekly newspaper serving the area as soon as possible but no later than 14 days after the violation or failure. In addition to newspaper notice, a notice shall also be provided to the consumers by direct mail or hand delivery within 30 days after the violation or failure.

EXCEPTION: When furnishing a notice to a newspaper is deemed not feasible for a non-community water system, continuous posting (in conspicuous places within the area served by the system) and, if available, e-mailing (to students or employees, for example) may be substituted. The notice shall remain posted for a minimum of at least 7 days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 35:487 (March 2009).

§1909. Tier 3 Public Notice

A. When a Tier 3 public notice is required under the National Primary Drinking Water Regulations, §913, §1139.D, §1507.D.2 or §1509.A of this Part, the public water system shall, unless directed otherwise by the Office of Public Health in writing, provide public notification in a daily or weekly newspaper serving the area as soon as possible but no later than 45 days after the violation or failure. In addition to newspaper notice, a notice shall also be provided to the consumers by direct mail or hand delivery within 90 days after the violation or failure.

EXCEPTION: When furnishing a notice to a newspaper is deemed not feasible for a non-community water system, continuous posting (in conspicuous places within the area served by the system) and, if available, e-mailing (to students or employees, for example) may be substituted. The notice shall remain posted for a minimum of at least 7 days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 35:487 (March 2009).

§1911. Public Notice for Certain Violations of Specific Drinking Water Rules

A. Louisiana Total Coliform Rule. Also refer to §913 of this Part.

B. Interim Enhanced Surface Water Treatment Rule. Also refer to §1139 of this Part.

C. Stage I Disinfectants and Disinfection Byproducts Rule. Also refer to §1317 of this Part.

D. Approved Chemical Laboratories/Drinking Water. Also refer to §§1507 and 1509 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 35:487 (March 2009).

Alan Levine
Secretary

0903#061

RULE

Department of Public Safety and Corrections
Corrections Services

Searches of Visitors (LAC 22:I.303)

In accordance with the provisions of the Administrative Procedure Act (R.S.49:950), the Department of Public Safety and Corrections, Corrections Services, has amended the contents of §303, Searches of Visitors.

Title 22
CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT
Part I. Corrections
Chapter 3. Adult Services
§303. Searches of Visitors

A. Purpose. To establish the secretary's policy regarding searches of visitors at state correctional facilities and to set forth the procedures to be followed when searching visitors.

B. Applicability. Deputy Secretary, Chief of Operations, Assistant Secretary, Regional Wardens and Wardens. Each warden is responsible for ensuring that appropriate unit written policy and procedures are in place to comply with the provisions of this regulation and for implementing and notifying all affected persons of its contents.

C. Policy. The United States and Louisiana Constitutions prohibit unreasonable searches. Pursuant to R.S. 14:402, it is a crime to bring contraband into a correctional facility. Therefore, it is the secretary's policy to respect the prohibition against unreasonable searches while acting in the public interest to halt the flow of contraband into correctional facilities under the jurisdiction of the department through implementation of a policy regarding visitor searches. Such searches shall be conducted in a professional manner that minimizes indignity to the visitor while still accomplishing the objective of the search. Only staff trained in effective search techniques shall conduct searches.

D. Definitions

He/His—pronouns which include both male and female unless specifically stated otherwise.

Health Care Personnel—individuals whose primary duty is to provide health services to offenders in keeping with their respective levels of health care training, experience and authority.

Institutional Grounds—any tract of land owned by the state which is under the control of the Department of Public Safety and Corrections, Corrections Services.

NOTE: Parking lots are also part of the institutional grounds whether fenced or not.

Official Institutional Guest—includes, but is not limited to: law enforcement officers; employees of the department who are based at headquarters or other units; elected officials; approved news media representatives; members of the Parole Board and the Pardon Board; judges; magistrates; commissioners of the Nineteenth Judicial District Court and court reporters who accompany them; civil service referees and other institutional guests as designated by the warden. (It is anticipated that official institutional guests would primarily be under staff escort or observation while on institutional grounds.)

Personal Searches—

a. *Property Search*—a search of personal property brought onto institutional grounds including, but not limited to, vehicles, lunchboxes, purses, coats, jackets and briefcases.

b. *Pat-Down Search* (also *Frisk Search*)—a search of a fully clothed visitor for the purpose of discovering contraband. Pat-down searches are conducted by an employee of the same sex.

i. The visitor being searched may be required to empty his pockets, purse or any other item in his control where contraband may be stored or carried.

ii. The visitor being searched may be required to remove any wig or hairpiece being worn. This portion of the search must be conducted in a private place and out of the view of others.

iii. The visitor being searched may also be required to remove all outerwear (coats, jackets, hats, caps, belts, gloves, shoes, socks, etc.) in order for these items to be inspected. He may also be required to run his hands through his hair and to open his mouth for inspection. The visitor will not be required to remove articles of clothing, which are the visitor's basic dress (shirt, pants, dress, skirt, etc.)

iv. The person conducting the search shall use his hands to touch the visitor being searched, through his clothes, in such a manner to determine if something is being concealed. If the person conducting the search discovers an unusual lump, bulge, etc., he may order the visitor being searched to disclose the source. Failure to comply with this order constitutes reasonable suspicion to conduct a general search or a strip search and/or to refuse the visit.

c. *General Search*—a search whereby a visitor is required to remove his clothing down to his underwear (shorts for male visitors and camisole or bra and panties for female visitors) in order that the clothing may be inspected for contraband and the visitor's person be visually observed. Visitors who claim they are not wearing underwear will still be required to remove their basic dress. This search shall be conducted in a private place by an employee of the same sex as the visitor being searched and out of the view of others.

d. *Strip Search*—a visual search of a visitor's nude body, conducted by employees of the same sex as the visitor. Strip searches shall be conducted in a private place and out of the view of others. The visitor being searched may be required to bend over, squat, turn around, raise his arms and lift the genitals. (The foregoing list is exemplary, not exclusive.) The clothing of the visitor being searched shall be thoroughly inspected prior to returning it. Strip searches shall be conducted in a respectful and dignified manner.

e. *Visual Body Cavity Search (Strip Search/Genital Examination)*—a search having the characteristics of a strip search with the addition of a visual search of the anal and/or vaginal openings, whereby the visitor being searched is required to open the cheeks of the buttocks and/or the lips of the vagina. The visitor's clothing shall also be thoroughly inspected prior to returning it. Such searches shall be conducted by officers of the same sex as the visitor, in private and based on articulable factors that the visitor is carrying contraband.

f. *Body Cavity Search*—a search of a person's body cavities conducted by trained health care personnel only.

Probable Cause—articulable factors supported by reasonable suspicion that contraband is being concealed. Probable cause exists when facts and circumstances within the officer's knowledge and about which he has reasonable trustworthy information are sufficient to support a reasonable suspicion that an offense has been or will be committed and that contraband may be found at the place to be searched or on the visitor.

Reasonable Suspicion—suspicion supported by facts and circumstances which lead an employee of ordinary caution to believe that a visitor is concealing contraband in or on his body. Factors to consider in determining reasonable suspicion include, but are not limited to, the following:

a. nature of the tip or information;

b. reliability of the informant;

c. degree of corroboration of the tip or other information; or

d. other facts contributing to suspicion.

Visitor—any non-offender or non-employee of the department who is on institutional grounds for any authorized visit, or who is attempting to gain entry to the grounds for a visit, to conduct business with staff, for purposes of a tour or as a volunteer, etc.

E. When Searches Are Permitted

1. Property Search

a. Property searches of visitors may be conducted at any time when deemed appropriate by the warden or designee.

b. Property searches of official institutional guests may be conducted at any time, but would generally be conducted only when there is reasonable suspicion that the guest may be in possession of contraband.

2. Pat-Down Search

a. Pat-down searches of visitors may be conducted at any time when deemed appropriate by the warden or designee.

b. Pat-down searches of official institutional guests should be conducted only when there is reasonable suspicion that a guest may be in possession of contraband.

3. General Search. General searches of visitors or official institutional guests may be conducted when there is reasonable suspicion and/or probable cause directed toward a specific visitor. However, institutional officials must point to specific objective facts and rational inferences that they are entitled to draw from those facts. Absent reasonable suspicion directed toward the specific individual, these searches are prohibited. (The consent of a visitor to such a search does not make the search permissible, absent reasonable suspicion directed toward the visitor.) The search shall be conducted by one officer and witnessed by one additional officer or staff member of the same sex as the visitor or official institutional guest and in a location out of the view of others. The warden or designee shall give prior written approval for this search.

a. The search shall be documented in the Visitor Shakedown Log by the employees who conducted the search. Additionally, the circumstances giving rise to the search and the search results shall be documented on an Unusual Occurrence Report (UOR.)

4. Strip Search. Strip searches of visitors or official institutional guests may be conducted when there is reasonable suspicion and/or probable cause directed toward the specific visitor. However, institutional officials must point to specific objective facts and rational inferences that they are entitled to draw from those facts. Absent reasonable suspicion directed toward the specific individual, these searches are prohibited. (The consent of a visitor to such a search does not make the search permissible, absent reasonable suspicion directed toward the visitor.) The search shall be conducted by one officer and witnessed by one additional officer or staff member of the same sex as the visitor or official institutional guest and in a location out of the view of others. The warden or designee shall give prior written approval for this search.

a. A strip search shall be documented and reported as described in Paragraph E.3 of this policy.

5. Visual Body Cavity Search. A visual body cavity search of visitors or official institutional guests may be conducted when there is reasonable suspicion and/or probable cause directed toward the specific visitor. However, institutional officials must point to specific objective facts and rational inferences that they are entitled to draw from those facts. Absent reasonable suspicion directed toward the specific individual, these searches are prohibited. (The consent of a visitor to such a search does not make the search permissible, absent reasonable suspicion directed toward the visitor.) The search shall be conducted in the presence of at least two officers of the same sex as the visitor or official institutional guest and in a location out of the view of others. The warden or designee shall give prior written approval for this search.

a. A visual body cavity search shall be documented and reported as described in Paragraph E.3 of this policy.

6. Body Cavity Search. When a visual body cavity search creates reasonable suspicion and/or probable cause directed toward the specific individual, a body cavity search of the visitor or official institutional guest may be conducted. However, institutional officials must point to specific objective facts and rational inferences that they are entitled to draw from those facts. Absent reasonable suspicion directed toward an individual, these searches are prohibited. (The consent of a visitor to such a search does not make the search permissible, absent reasonable suspicion directed toward the visitor.)

a. Trained health care personnel only shall conduct a body cavity search and perform any necessary extraction. The visitor or official institutional guest must be searched in a sanitary manner and in a sanitary location in accordance with standard medical practice. The warden or designee shall give prior written approval for this search.

b. A body cavity search shall be documented and reported as described in Paragraph E.3 of this policy.

F. Searches by Drug-Sniffing Dogs. Searches of a visitor's or official institutional guest's property by trained drug-sniffing dogs may be conducted at any time.

G. When Contraband Is Not Found during a Search. The visitor or official institutional guest may proceed if the visitor or official institutional guest to whom reasonable suspicion and/or probable cause is directed consents to the search and no contraband is found.

H. When a Visitor or Official Institutional Guest Refuses to be Searched or Contraband Is Found during a Search. Should the visitor or official institutional guest refuse to be searched or contraband is found during a search, pursuant to C.Cr.P. Art. 215.2, the warden or designee may notify law enforcement officials and may detain the visitor or official institutional guest for the length of time necessary for law enforcement to arrive and arrest the visitor or official institutional guest or for the procurement of a search warrant. The detention shall not constitute an arrest.

I. Disposition of Contraband. Pursuant to R.S. 14:402(F), any contraband which is seized may be destroyed, donated to a charitable organization or put to lawful use within the institution, unless it is needed as evidence in a criminal prosecution. However, any money seized which is legal tender shall be placed in a fund at the

institution to be used solely for the purchase of contraband detection and escape chase team equipment. A record of the disposition of all contraband shall be maintained for the greater of either three years or the completion of any criminal proceedings arising from the incident.

J. Suspension of Visiting Privileges. If contraband is found on any visitor or official institutional guest or if any visitor or official institutional guest refuses to be searched or refuses to allow his property to be searched as provided in Section 7. or violates any other institutional rules, that particular visit may be halted, the visitor or official institutional guest told to leave the institution and action taken as appropriate to suspend future visits to the institution.

a. If the offense is such that the warden desires to remove the visitor from the offender's visitor list (either indefinitely or for a fixed period of time) the established procedures shall be followed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 14:402.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 12:443 (July 1986), amended LR 35:488 (March 2009).

James M. Le Blanc
Secretary

0903#015

RULE

Department of Public Safety and Corrections
Gaming Control Board

Application and License (LAC 42:XI.2405)

Editor's Note: This Rule, originally promulgated on page 82 of the January 2009 issue of the *Louisiana Register*, is being repromulgated to correct a citation error.

The Louisiana Gaming Control Board hereby gives notice that it has amended LAC 42:XI.2405, in accordance with R.S. 27:15 and 24, and the Administrative Procedure Act, R.S. 49:950 et seq.

Title 42
LOUISIANA GAMING
Part XI. Video Poker
Chapter 24. Video Draw Poker
§2405. Application and License

A. Initial and Renewal Applications

1. - 5.b.v. …

5.c.i. An applicant for a Type V license may submit Form DPSSP 0031 and all other forms and fees required by the Board within 120 days of the planned completion of the truck stop facility and commencement of operations. Upon submission of these forms and fees, the Division may commence its investigation of the facility and all persons required to meet suitability.

ii. The applicant shall notify the Division in writing of all changes to any information provided on the application or required forms within 10 business days of the change.

iii. An application shall be considered withdrawn and the application fee forfeited if completion of the truck stop facility and commencement of operations does not occur within 180 days of the date the application is filed with the Division. The Division may grant an extension for good cause shown.

A.5.d. - D.7. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Gaming Enforcement Section, Video Gaming Division, LR 18:196 (February 1992), amended LR 21:582 (June 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 23:1322 (October 1997), LR 24:955 (May 1998), LR 26:346 (February 2000), LR 26:2322 (October 2000), LR 27:61 (January 2001), LR 29:362 (March 2003), LR 30:267 (February 2004), repromulgated LR 30:439 (March 2004), amended LR 34:1037 (June 2008), LR 35:82 (January 2009), repromulgated LR 35:490 (March 2009).

H. Charles Gaudin
Chairman

0903#016

RULE

Department of Public Safety and Corrections
Office of Management and Finance
Uniform Construction Code Council

Wind Mitigation Surveyor
(LAC 55:VI.703 and 705)

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 has amended Chapter 7 to create a new category of third party provider, the wind mitigation surveyor.

Title 55
PUBLIC SAFETY
Part VI. Uniform Construction Code
Chapter 7. Certificates of Registration
§703. Classifications and Required Certifications for Municipal or Parish Building Code Enforcement Officers

A. - A.1 ...

B. Definitions

* * *

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. - C.2.c.v. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.34(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State 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, State Uniform Construction Code Council, Uniform Construction Code Council, LR 35:490 (March 2009).

§705. Third Party Providers

A. - A.1. ...

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.

1. Exceptions

a. Wind mitigation surveyors shall carry at least $300,000 in professional liability insurance.

C. - D.3. ...

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. 40:1730.34(B).

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, State Uniform Construction Code Council, Uniform Construction Code Council, LR 35:491 (March 2009).

Jill P. Boudreaux
Undersecretary

0903#010

RULE

Department of Public Safety and Corrections
Office of State Police
Transportation and Environmental Safety Section

Explosives Code (LAC 55:I.1505 and 1543)

The Department of Public Safety and Corrections, Office of State Police, in accordance with R.S. 49:950 et seq., and R.S. 40:1472.1 et seq., has amended its rules regulating explosives to create an exception with regard to the requirement of a photographic identification card, and to now require drug screening within 72 hours of applying for, or renewal of, an explosives license.

Title 55
PUBLIC SAFETY
Part I. State Police

Chapter 15. Explosives Code

Subchapter A. General

§1505. General Administrative Requirements

A. - K. …

1. The photo license shall not be required to be in the possession of the licensee only when the presence of the license would create a danger of physical injury to the licensee or others and only while the licensee is actually working with explosives on his employer's facility. However, when this exception is invoked, the license shall be on file or otherwise available at the site of the employer's facility and, upon request, shall be produced for inspection within a reasonable amount of time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1472.1 et seq.

HISTORICAL NOTE: Filed by the Department of Public Safety, Office of State Police, at the Office of the State Register, 1974, promulgated and amended LR 10:803 (October 1984), amended by the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, Explosive Control Unit, LR 22:1230 (December 1996), amended by the Department of Public Safety and Corrections, Office of State Police, LR 34:2674, (December 2008), amended by the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, LR 35:491 (March 2009).

§1543. Drug Testing Requirements

A. - C. …

D. All holders of Louisiana Explosives Licenses shall be drug-screened within 72 hours of initial application for, or renewal of, an explosives license. The drug testing required by this paragraph shall meet the same testing standards as tests required by Subsection A of this Section**.**

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1472.1 et seq.

HISTORICAL NOTE: Filed by the Department of Public Safety, Office of State Police, at the Office of the State Register, 1974, promulgated and amended LR 10:803 (October 1984), amended by the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, Explosive Control Unit, LR 22:1230 (December 1996), LR 24:106 (January 1998), amended by the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, LR 35:491 (March 2009).

Jill P. Boudreaux
Undersecretary

0903#011

RULE

Department of Revenue
Tax Commission

Ad Valorem Taxation
(LAC 61:V.101, 303, 703, 705, 901, 907, 1103, 1301, 1305, 1307, 1503, 2101, 2501, 2503, 3101, and 3501)

In accordance with provisions of the Administrative Procedure Act (R.S. 49:950 et seq.), and in compliance with statutory law administered by this agency as set forth in R.S. 47:1837, the Tax Commission has adopted, amended and/or repealed Sections of the Louisiana Tax Commission Real/Personal Property Rules and Regulations for use in the 2009 (2010 Orleans Parish) tax year.

This Rule is necessary in order for ad valorem tax assessment tables to be disseminated to property owners and local tax assessors no later than the statutory valuation date of record of January 1, 2009. Cost indexes required to

finalize these assessment tables are not available to this office until late October 2008.

Title 61
REVENUE AND TAXATION
Part V. Ad Valorem Taxation

Chapter 1. Constitutional and Statutory Guides to Property Taxation

§101. Constitutional Principles for Property Taxation

A. - F.3.h. ...

G. Special Assessment Level

1. - 1.d. ...

2. Any person or persons shall be prohibited from receiving the special assessment as provided in this Section if such person's or persons' adjusted gross income, for the year prior to the application for the special assessment, exceeds $64,655 for tax year 2009 (2010 Orleans Parish). For persons applying for the special assessment whose filing status is married filing separately, the adjusted gross income for purposes of this Section shall be determined by combining the adjusted gross income on both federal tax returns.

3. - 9. ...

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Constitution of 1974, Article VII, §18.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 15:1097 (December 1989), amended by the Department of Revenue, Tax Commission, LR 24:477 (March 1998), LR 26:506 (March 2000), LR 31:700 (March 2005), LR 32:425 (March 2006), LR 33:489 (March 2007), LR 34:673 (April 2008), LR 35:492 (March 2009).

Chapter 3. Real and Personal Property

§303. Real Property

A. - B.2. ...

C. In assessing affordable rental housing, the income approach is recommended. As defined in this Section, "affordable rental housing" means residential housing consisting of one or more rental units, the construction and/or rental of which is subject to Section 42 of the Internal Revenue Code (26 USC 42), the Home Investment Partnership Program under the Cranston-Gonzalez National Affordable Housing Act (42 USC 12741 et seq.), the Federal Home Loan Banks Affordable Housing Program established pursuant to the Financial Institutions Reform, Recovery and Enforcement Act (FIRREA) of 1989 (Public Law 101-73), or any other federal, state or similar program intended to provide affordable housing to persons of low or moderate income and the occupancy and maximum rental rates of such housing are restricted based on the income of the persons occupying such housing.

1. Audited financial statements shall be submitted to the assessor as an attachment to the LAT filing, or as soon thereafter as practicable, but no later than the last date that the assessment lists are open for public inspection each year pursuant to Louisiana R.S. 47:1992. For properties under construction and newly constructed property prior to the first full year of operation, the owner shall provide net operating income based on projected or pro-forma operating income and expense information.

2. The capitalization rate shall be set by the Louisiana Tax Commission in conjunction with their Rulemaking Session.

D. The Louisiana Tax Commission has ordered all property to be reappraised for the 2008 tax year in all parishes. All property is to be valued as of January 1, 2007.

E. The annual ratio studies of the Tax Commission will be indexed to the date of the last reappraisal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 7:44 (February 1981), amended by the Department of Revenue and Taxation, Tax Commission, LR 9:69 (February 1983), LR 12:36 (January 1986), LR 13:764 (December 1987), LR 16:1063 (December 1990), LR 17:611 (June 1991), LR 21:186 (February 1995), amended by the Department of Revenue, Tax Commission, LR 25:312 (February 1999), LR 26:506 (March 2000), LR 29:367 (March 2003), LR 30:487 (March 2004), LR 34:678 (April 2008). LR 35:492 (March 2009).

Chapter 7. Watercraft

§703. Tables—Watercraft

A. Floating Equipment—Motor Vessels

Table 703.A
Floating Equipment—Motor Vessels

Cost Index (Average)		Average Economic Life 12 Years		
Year	**Index**	**Effective Age**	**Percent Good**	**Composite Multiplier**
2008	0.980	1	94	.92
2007	1.019	2	87	.89
2006	1.074	3	80	.86
2005	1.124	4	73	.82
2004	1.209	5	66	.80
2003	1.251	6	58	.73
2002	1.272	7	50	.64
2001	1.280	8	43	.55
2000	1.290	9	36	.46
1999	1.314	10	29	.38
1998	1.318	11	24	.32
1997	1.329	12	22	.29
1996	1.351	13	20	.27

B. Floating Equipment—Barges (Non-Motorized)

Table 703.B
Floating Equipment—Barges (Non-Motorized)

Cost Index Average		Average Economic Life 20 Years		
Year	**Index**	**Effective Age**	**Percent Good**	**Composite Multiplier**
2008	0.980	1	97	.95
2007	1.019	2	93	.95
2006	1.074	3	90	.94
2005	1.124	4	86	.93
2004	1.209	5	82	.92
2003	1.251	6	78	.91
2002	1.272	7	74	.90
2001	1.280	8	70	.90
2000	1.290	9	65	.84
1999	1.314	10	60	.79
1998	1.318	11	55	.72
1997	1.329	12	50	.66
1996	1.351	13	45	.61
1995	1.371	14	40	.55
1994	1.421	15	35	.50
1993	1.461	16	31	.45

Table 703.B Floating Equipment—Barges (Non-Motorized)				
Cost Index Average		Average Economic Life 20 Years		
Year	Index	Effective Age	Percent Good	Composite Multiplier
1992	1.489	17	27	.40
1991	1.507	18	24	.36
1990	1.537	19	22	.34
1989	1.578	20	21	.33
1988	1.663	21	20	.33

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:924 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:204 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:479 (March 1998), LR 25:312 (February 1999), LR 26:506 (March 2000), LR 27:425 (March 2001), LR 28:518 (March 2002), LR 29:368 (March 2003), LR 30:487 (March 2004), LR 31:715 (March 2005), LR 32:430 (March 2006), LR 33:490 (March 2007), LR 34:678 (April 2008), LR 35:492 (March 2009).

§705. Tables—Watercraft

A. Table 705.A—140' – 159'

Table 705.A 140' - 159'								
Type	2009 LAA Day Rate	Base Cost	Multiplier	2008 - 2003 .86	2002 - 1998 .72	1997 - 1993 .58	1992 - 1988 .44	1987 - Earlier .30
Supply Vessel (OSV)	$4,500	$1,801,000	1.14	1766	1478	1191	903	616
Offshore Towing	$3,300	$1,801,000	0.97	1502	1258	1013	769	524

B. Table 705.B—160' - 179'

Table 705.B 160' - 179'								
Type	2009 LAA Day Rate	Base Cost	Multiplier	2008 - 2003 .86	2002 - 1998 .72	1997 - 1993 .58	1992 - 1988 .44	1987 - Earlier .30
Supply Vessel (OSV)	$5,000	$3,088,000	1.21	3213	2690	2167	1644	1121
Offshore Towing	$5,000	$3,088,000	1.21	3213	2690	2167	1644	1121

C. Table 705.C—180' - 199'

Table 705.C 180' - 199'								
Type	2009 LAA Day Rate	Base Cost	Multiplier	2008 - 2003 .86	2002 - 1998 .72	1997 - 1993 .58	1992 - 1988 .44	1987 - Earlier .30
Supply Vessel (OSV)	$6,500	$4,117,000	1.43	5063	4239	3415	2590	1766
Offshore Towing	$6,250	$4,117,000	1.39	4921	4120	3319	2518	1717

D. Table 705.D—180' - 199'

Table 705.D 180' - 199'								
Type	2009 LAA Day Rate	Base Cost	Multiplier	2008 - 2003 .86	2002 - 1998 .72	1997 - 1993 .58	1992 - 1988 .44	1987 - Earlier .30
AHT Tug/Supp	$6,500	$4,825,000	1.43	5934	4968	4002	3036	2070

E. Table 705.E—200' - 219'

Table 705.E 200' - 219'								
Type	2009 LAA Day Rate	Base Cost	Multiplier	2008 - 2003 .86	2002 - 1998 .72	1997 - 1993 .58	1992 - 1988 .44	1987 - Earlier .30
Supply Vessel (OSV)	$8,500	$6,948,000	1.71	10218	8554	6891	5228	3564
AHT Tug/Supp	$8,000	$6,948,000	1.64	9799	8204	6609	5014	3418
Offshore Towing	$8,750	$6,948,000	1.75	10457	8754	7052	5350	3648

F. Table 705.F—220' - 230'

Table 705.F 220' - 230'								
Type	2009 LAA Day Rate	Base Cost	Multiplier	2008 - 2003 .86	2002 - 1998 .72	1997 - 1993 .58	1992 - 1988 .44	1987 - Earlier .30
Supply Vessel (OSV)	$10,000	$8,235,000	1.93	13668	11443	9218	6993	4768
AHT Tug/Supp	$14,000	$8,235,000	2.50	17705	14823	11941	9059	6176
Offshore Towing	$9,,000	$8,235,000	1.78	12606	10554	8502	6450	4397

G. Table 705.G—231' and Longer

Table 705.G 231' and Longer								
Type	2009 LAA Day Rate	Base Cost	Multiplier	2008 - 2003 .86	2002 - 1998 .72	1997 - 1993 .58	1992 - 1988 .44	1987 - Earlier .30
Supply Vessel (OSV)	$11,250	$10,474,000	2.11	19006	15912	12818	9724	6630
AHT Tug/Supp	$16,300	$10,474,000	2.83	25492	21342	17192	13042	8892

H. Table 705.H—60' - 70'

Table 705.H 60' - 70'								
Type	2009 LAA Day Rate	Base Cost	Multiplier	2008 - 2003 .86	2002 - 1998 .72	1997 - 1993 .58	1992 - 1988 .44	1987 - Earlier .30
Offshore Crew	$600	$401,000	1.10	379	318	256	194	132

I. Table 705.I—85' - 99'

Table 705.I 85' - 99'								
Type	2009 LAA Day Rate	Base Cost	Multiplier	2008 - 2003 .86	2002 - 1998 .72	1997 - 1993 .58	1992 - 1988 .44	1987 - Earlier .30
Offshore Crew	$1,000	$535,000	1.13	520	435	351	266	181

J. Table 705.J—100' - 119'

Table 705.J 100' - 119'								
Type	2009 LAA Day Rate	Base Cost	Multiplier	2008 - 2003 .86	2002 - 1998 .72	1997 - 1993 .58	1992 - 1988 .44	1987 - Earlier .30
Offshore Crew	$2,500	$1,137,000	1.33	1301	1089	877	665	454
Utility Vessel	$2,300	$1,137,000	1.27	1242	1040	838	635	433

K. Table 705.K—120' - 140'

Table 705.K 120' - 140'								
Type	2009 LAA Day Rate	Base Cost	Multiplier	2008 - 2003 .86	2002 - 1998 .72	1997 - 1993 .58	1992 - 1988 .44	1987 - Earlier .30
Offshore Crew	$2,900	$1,606,000	1.23	1699	1422	1146	869	593
Utility Vessel	$2,500	$1,606,000	1.13	1561	1307	1053	799	544

L. Table 705.L—141' - 165'

Table 705.L 141' - 165'								
Type	2009 LAA Day Rate	Base Cost	Multiplier	2008 - 2003 .86	2002 - 1998 .72	1997 - 1993 .58	1992 - 1988 .44	1987 - Earlier .30
Offshore Crew	$4,000	$3,078,000	1.17	3097	2593	2089	1585	1080
Utility Vessel	$4,000	$3,078,000	1.17	3097	2593	2089	1585	1080

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Tax Commission, LR 33:490 (March 2007), LR 35:493 (March 2009).

Chapter 9. Oil and Gas Properties

§901. Guidelines for Ascertaining the Fair Market Value of Oil and Gas Properties

A. - B.2. ...

3. Each well is assessed in accordance with guidelines establishing "fair market value".

C. Explanations

Inactive Wells—wells that are shut-in. Shut-in status becomes effective on the date the application for shut-in status is filed, consistent with the Louisiana Department of Conservation requirements.

Injection Wells—wells completed as single or wells reclassified by the Louisiana Department of Conservation after a conversion of another well. Wells are used for gas and water injection for production purposes, also used for disposal wells.

Multiple Completions—wells consisting of more than one producing zone. Deepest or primary completion may or may not be the base well number depending upon the Louisiana Department of Conservation permits and classification.

Production Depth—the depth from the surface to the active lower perforation in each producing zone in which the well is completed. As an example, a well completed in three separate zones is a triple completion and will have three different production depths as determined by the depth of the active lower perforation for each completion. Provided, however, that in the case of wells drilled with a minimum of 80 degrees deviation from vertical for a distance of at least 50 feet, *production depth* shall mean the true vertical distance from the surface of the earth to the lowest point in the formation that is penetrated by a horizontal lateral.

Single Completions—

a. well originally completed as a single;

b. well reclassified by the Louisiana Department of Conservation after a conversion of multiple completed well to a single producing zone.

Water Wells—wells used for production purposes only—both fresh and salt water supply.

D. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 2:359 (November 1976), amended by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), LR 9:69 (February 1983), LR 17:1213 (December 1991), LR 19:212 (February 1993), amended by the Department of Revenue, Tax Commission, LR 31:717 (March 2005), LR 33:492 (March 2007), LR 35:495 (March 2009).

§907. Tables—Oil and Gas

A. The cost-new schedules below cover only that portion of the well subject to ad valorem taxation. Functional and/or economic obsolescence shall be considered in the analysis of fair market value as substantiated by the taxpayer in writing. Consistent with Louisiana R.S. 47:1957, the assessor may request additional documentation.

Instructions for Use of Tables 907.A-1, 907.A-2 and 907.A-3 and Procedure for Arriving at Assessed Value

1. Determine if well is located in Region 1 by reference to Table 907.B-1. See note for Region 2 or Region 3 (offshore state waters) wells.
2. Multiply depth of well by appropriate 15 percent of Cost-New amount as indicated in Table 907.A-1, 907.A-2 or 907.A-3.
3. Multiply the appropriate percent good factor based on age of the well as found in Table 907.B-2.
4. Use Oil cost-new to assess all active service wells for region where located.
5. See explanations in Section 901.E regarding the assessment of multiple completion wells.
6. For wells recompleted, use new perforation depth to determine fair market value.

7. Adjustments for Allowance of Economic Obsolescence

a. All wells producing 10 bbls oil or 100 mcf gas, or less, per day, as well as, all active service wells (i.e., injection, salt water disposal, water source, etc.) shall be allowed a 40 percent reduction. Taxpayer shall provide the assessor with proper documentation to claim this reduction. Once the 40 percent reduction has been applied and calculated, an additional 60 percent reduction shall be applied for any well producing 1 bbl of oil or 10 mcf of gas or less per day.

b. All inactive (shut-in) wells shall be allowed a 90 percent reduction.

c. Deduct any additional obsolescence that has been appropriately documented by the taxpayer, as warranted, to reflect fair market value.

d. All oil and gas property assessments may be based on an individual cost basis.

e. Sales, properly documented, should be considered by the assessor as fair market value, provided the sale meets all tests relative to it being a valid sale.

* * *

2. Serial Number to Percent Good Conversion Chart

Table 907.B.2
Serial Number to Percent Good Conversion Chart

Year	Beginning Serial Number	Ending Serial Number	33 Year Life Percent Good
2008	236927	Higher	96
2007	234780	236926	92
2006	232639	234779	88
2005	230643	232638	84
2004	229010	230642	80
2003	227742	229009	76
2002	226717	227741	72
2001	225352	226716	68
2000	223899	225351	64
1999	222882	223898	60
1998	221596	222881	56
1997	220034	221595	52
1996	218653	220033	48
1995	217588	218652	44
1994	216475	217587	40
1993	215326	216474	36
1992	214190	215325	32
1991	212881	214189	28
1990	211174	212880	24
1989	Lower	211173	20*
VAR.	900000	Higher	50

*Reflects residual or floor rate.

NOTE: For any serial number categories not listed above, use year well completed to determine appropriate percent good. If spud date is later than year indicated by serial number; or, if serial number is unknown, use spud date to determine appropriate percent good.

C. Surface Equipment

1. Listed below is the cost-new of major items used in the production, storage, transmission and sale of oil and gas. Any equipment not shown shall be assessed on an individual basis.

2. All surface equipment, including other property associated or used in connection with the oil and gas industry in the field of operation, must be rendered in accordance with guidelines established by the Tax Commission and in accordance with requirements set forth on LAT Form 12-Personal Property Tax Report—Oil and Gas Property.

3. Oil and gas personal property will be assessed in seven major categories, as follows:

a. oil, gas and associated wells;
b. oil and gas equipment (surface equipment);
c. tanks (surface equipment);
d. lines (oil and gas lease lines);
e. inventories (material and supplies);
f. field improvements (docks, buildings, etc.);
g. other property (not included above).

4. The cost-new values listed below are to be adjusted to allow depreciation by use of the appropriate percent good listed in Table 907.B.2. The average age of the well/lease/field will determine the appropriate year to be used for this purpose.

5. Economic and/or functional obsolescence is a loss in value of personal property above and beyond physical deterioration. Upon a showing of evidence of such loss, substantiated by the taxpayer in writing, economic or functional obsolescence may be given.

6. Sales, properly documented, should be considered by the assessor as fair market value, provided the sale meets all tests relative to it being a valid sale.

Table 907.C.1
Surface Equipment

Property Description	$ Cost New
* * *	* * *
Separators—(No metering equipment included)	
Horizontal—Filter /1,440 psi (High Pressure)	
6-5/8" OD x 5'-6"	4,100
8-5/8" OD x 7'-6"	4,450
10-3/4" OD x 8'-0"	6,250
12-3/4" OD x 8'-0"	8,400
16" OD x 8'-6"	13,500
20" OD x 8'-6"	19,950
20" OD x 12'-0"	21,000
24" OD x 12'-6"	28,300
30" OD x 12'-6"	41,300
36" OD x 12'-6"	49,100
Separators—(No metering equipment included)	
Vertical 2—Phase /125 psi (Low Pressure)	
24" OD x 7'-6"	4,650
30" OD x 10'-0"	5,000
36" OD x 10'-0"	10,450
Vertical 3—Phase /125 psi (Low Pressure)	
24" OD x 7'-6"	4,900
24" OD x 10'-0"	5,550
30" OD x 10'-0"	7,700
36" OD x 10'-0"	10,950
42" OD x 10'-0"	12,700
Horizontal 3—Phase /125 psi (Low Pressure)	
24" OD x 10'-0"	7,250
30" OD x 10'-0"	9,300
36" OD x 10'-0"	10,150
42" OD x 10'-0"	16,200

Table 907.C.1 Surface Equipment	
Property Description	**$ Cost New**
Vertical 2—Phase /1440 psi (High Pressure)	
12-3/4" OD x 5'-0"	2,750
16" OD x 5'-6"	4,100
20" OD x 7'-6"	7,800
24" OD x 7'-6"	9,450
30" OD x 10'-0"	14,400
36" OD x 10'-0"	18,650
42" OD x 10'-0"	29,850
48" OD x 10'-0"	35,200
54" OD x 10'-0"	53,300
60" OD x 10'-0"	66,650
Vertical 3 - Phase /1440 psi (High Pressure)	
16" OD x 7'-6"	4,800
20" OD x 7'-6"	8,400
24" OD x 7'-6"	9,750
30" OD x 10'-0"	15,050
36" OD x 10'-0"	19,250
42" OD x 10'-0"	31,400
48" OD x 10'-0"	36,400
Horizontal 2—Phase /1440 psi (High Pressure)	
16" OD x 7'-6"	4,700
20" OD x 7'-6"	7,550
24" OD x 10'-0"	10,300
30" OD x 10'-0"	15,850
36" OD x 10'-0"	20,100
42" OD x 15'-0"	40,800
48" OD x 15'-0"	47,050
Separators—(No metering equipment included)	
Horizontal 3—Phase /1440 psi (High Pressure)	
16" OD x 7'-6"	7,250
20" OD x 7'-6"	8,100
24" OD x 10'-0"	11,800
30" OD x 10'-0"	16,800
36" OD x 10'-0"	24,200
36" OD x 15'-0"	27,050
Offshore Horizontal 3—Phase /1440 psi (High Pressure)	
30" OD x 10'-0"	34,850
36" OD x 10'-0"	33,250
36" OD x 12'-0"	48,250
36" OD x 15'-0"	50,350
42" OD x 15'-0"	78,150
* * *	* * *

Table 907.C-2. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2326.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:205 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:480 (March 1998), LR 25:313 (February 1999), LR 26:507 (March 2000), LR 27:425 (March 2001), LR 28:518 (March 2002), LR 29:368 (March 2003), LR 30:488 (March 2004), LR 31:717 (March 2005), LR 32:431 (March 2006), LR 33:492 (March 2007), LR 34:679 (April 2008), LR 35:495 (March 2009).

Chapter 11. Drilling Rigs and Related Equipment

§1103. Drilling Rigs and Related Equipment Tables

A. Land Rigs

Table 1103.A Land Rigs		
Depth "0" to 7,000 Feet		
Depth (Ft.)	**Fair Market Value**	**Assessment**
	$	$
3,000	893,000	134,000
4,000	1,151,200	172,700
5,000	1,643,800	246,600
6,000	2,130,900	319,600
7,000	2,612,300	391,800
Depth 8,000 to 10,000 Feet		
Depth (Ft.)	**Fair Market Value**	**Assessment**
	$	$
8,000	3,088,300	463,200
9,000	3,558,600	533,800
10,000	4,023,400	603,500
Depth 11,000 to 15,000 Feet		
Depth (Ft.)	**Fair Market Value**	**Assessment**
	$	$
11,000	4,482,600	672,400
12,000	4,936,200	740,400
13,000	5,384,300	807,600
14,000	5,826,800	874,000
15,000	6,263,700	939,600
Depth 16,000 to 20,000 Feet		
Depth (Ft.)	**Fair Market Value**	**Assessment**
	$	$
16,000	6,695,000	1,004,300
17,000	7,120,800	1,068,100
18,000	7,541,000	1,131,200
19,000	7,955,700	1,193,400
20,000	8,364,700	1,254,700
Depth 21,000 + Feet		
Depth (Ft.)	**Fair Market Value**	**Assessment**
	$	$
21,000	8,768,200	1,315,200
25,000 +	9,666,200	1,449,900

Barges (Hull)—Assess Barges (Hull) at 25 percent of the assessment for the rig value bracket, and add this to the proper rig assessment to arrive at total for barge and its drilling rig.

Living quarters are to be assessed on an individual basis.

B. Jack-Ups

Table 1103.B Jack-Ups			
Type	**Water Depth Rating**	**Fair Market Value**	**Assessment**
IC	0-199 FT.	$ 50,000,000	$ 7,500,000
	200-299 FT.	100,000,000	15,000,000
	300-Up FT.	200,000,000	30,000,000
* * *	* * *	* * *	* * *

* * *

C. …

* * *

D. Well Service Rigs Land Only (Good Condition)

Table 1103.D Well Service Rigs Land Only (Good Condition)				
Class	**Mast**	**Engine**	**Fair Market Value**	**Assessment**
I	72' X 125M# 75' X 150M#	6V71	234,000	35,100
II	96' X 150M# 96' X 180M# 96' X 185M# 96' X 205M# 96' X 210M# 96' X 212M# 96' X 215M#	8V71	330,000	49,500
III	96' X 240M# 96' X 250M# 96' X 260M# 102' X 215M#	8V92	360,000	54,000
IV	102' X 224M# 102' X 250M# 103' X 225M# 103' X 250M# 104' X 250M# 105' X 225M# 105' X 250M#	12V71	390,000	58,500
V	105' X 280M# 106' X 250M# 108' X 250M# 108' X 260M# 108' X 268M# 108' X 270M# 108' X 300M#	12V71 12V92	441,000	66,150
VI	110' X 250M# 110' X 275M# 112' X 300M# 112' X 350M#	12V71 (2) 8V92	500,000	75,000
VII	117' X 215M#	(2) 8V92 (2) 12V71	580,000	87,000

NOTE: These tables assume complete rigs in good condition. If it is documented to the assessor that any rig is incomplete or is in less than good condition, these amounts should be adjusted.

D.1. - D.3.b.i. ...

E. Consideration of Obsolescence

1. Functional and/or economic obsolescence is a loss in value of personal property above and beyond physical deterioration. Functional and/or economic obsolescence shall be considered in the analysis of fair market value as substantiated by the taxpayer in writing. Consistent with Louisiana R.S. 47:1957, the assessor may request additional documentation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:939 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 22:117 (February 1996), LR 23:205 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:487 (March 1998), LR 25:315 (February 1999), LR 26:508 (March 2000), LR 27:426 (March 2001), LR 28:519 (March 2002), LR 30:488 (March 2004), LR 31:718 (March 2005), LR 32:431 (March 2006), LR 33:493 (March 2007), LR 34:683 (April 2008), LR 35:497 (March 2009).

Chapter 13. Pipelines

§1301. Guidelines for Ascertaining the Fair Market Value of Pipelines

A. General

1. Pipelines, except those regulated pipelines, which are assessed as public service properties as provided by R.S. 47:1851(K), are to be assessed by parish assessors. Two separate classes of pipelines are identified because of differences in function, design and quality. The two classes are "lease lines," which are generally of lower quality, subject to changes in routes, etc.; and, "other pipelines," which are generally larger and of higher quality.

2. Both classes of pipelines are to be assessed in the taxing district where located. A copy of LAT Form 14 is to be provided the pipeline owner. Surface equipment associated with pipelines (compressor stations, booster stations, etc.) are to be reported separately on LAT Form 5. Surface pipeline related equipment is to be valued individually at cost factored to current value less physical deterioration. Pipelines are to be valued for assessment purposes at cost less physical deterioration. A cost schedule is provided for the various sizes of "other pipelines" (See Tables 1307.A and B). Represented in these schedules is the cost-new, as of the appropriate assessment date, for the different size pipelines. This cost is to be reduced for the appropriate allowance for physical deterioration (See Table 1307.C), based on the age of the pipeline, by multiplying replacement cost by the appropriate percent good factor. Functional and/or economic obsolescence shall be considered in the analysis of fair market value as substantiated by the taxpayer in writing. Consistent with Louisiana R.S. 47:1957, the assessor may request additional documentation.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:940 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 15:1097 (December 1989), amended by the Department of Revenue, Tax Commission, LR 24:488 (March 1998), LR 35:498 (March 2009).

§1305. Reporting Procedures

A. - E. ...

F. Assessment will be based on fair market value. Functional and/or economic obsolescence shall be considered in the analysis of fair market value as substantiated by the taxpayer in writing. Consistent with Louisiana R.S. 47:1957, the assessor may request additional documentation.

G. Pipeline sales, properly documented, should be considered by the assessor as the fair market value, provided the sale meets all tests relative to it being a valid sale.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:940 (November 1984), LR 17:1213

(December 1991), amended by the Department of Revenue, Tax Commission, LR 24:488 (March 1998), LR 25:316 (February 1999), LR 26:508 (March 2000), LR 35:498 (March 2009).

§1307. Pipeline Transportation Tables

A. Current Costs for Other Pipelines Onshore

Table 1307.A Current Costs for Other Pipelines Onshore		
Diameter (inches)	**Cost per Mile**	**15% of Cost per Mile**
2	$156,970	$23,550
4	183,290	27,490
6	214,020	32,100
8	249,900	37,490
10	291,800	43,770
12	340,720	51,110
14	397,850	59,680
16	464,550	69,680
18	542,440	81,370
20	633,680	95,050
22	739,570	110,940
24	863,570	129,540
26	1,008,350	151,250
28	1,177,410	176,610
30	1,374,810	206,220
32	1,605,310	240,800
34	1,874,460	281,170
36	2,188,720	328,310
38	2,555,680	383,350
40	2,984,160	447,620
42	3,484,480	522,670
44	4,068,680	610,300
46	4,750,820	712,620
48	5,547,340	832,100

NOTE: Excludes river and canal crossings

B. Current Costs for Other Pipelines Offshore

Table 1307.B Current Costs for Other Pipelines Offshore		
Diameter (inches)	**Cost per Mile**	**15% of Cost per Mile**
6	$892,320	$133,850
8	900,580	135,090
10	904,000	135,600
12	915,740	137,360
14	935,820	140,370
16	964,230	144,630
18	1,000,970	150,150
20	1,046,040	156,910
22	1,099,450	164,920
24	1,161,190	174,180
26	1,231,260	184,690
28	1,309,660	196,450
30	1,396,390	209,460
32	1,491,460	223,720
34	1,594,850	239,230
36	1,706,580	255,990
38	1,826,640	274,000
40	1,955,030	293,250
42	2,091,760	313,760
44	2,236,820	335,520
46	2,390,200	358,530
48	2,551,920	382,790

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:941 (November 1984), LR 12:36 (January 1986), LR 16:1063 (December 1990), amended by the Department of Revenue, Tax Commission, LR 24:489 (March 1998), LR 25:316 (February 1999), LR 26:509 (March 2000), LR 27:426 (March 2001), LR 31:719 (March 2005), LR 32:432 (March 2006), LR 33:494 (March 2007), LR 34:684 (April 2008), LR 35:499 (March 2009).

Chapter 15. Aircraft

§1503. Aircraft (Including Helicopters) Table

A. Aircraft (Including Helicopters)

Table 1503 Aircraft (Including Helicopters)				
Cost Index (Average)		**Average Economic Life (10 Years)**		
Year	**Index**	**Effective Age**	**Percent Good**	**Composite Multiplier**
2008	0.980	1	97	.95
2007	1.019	2	93	.95
2006	1.074	3	90	.94
2005	1.124	4	86	.93
2004	1.209	5	82	.92
2003	1.251	6	78	.91
2002	1.272	7	74	.90
2001	1.280	8	70	.90
2000	1.290	9	65	.84
1999	1.314	10	60	.79
1998	1.318	11	55	.72
1997	1.329	12	50	.66
1996	1.351	13	45	.61
1995	1.371	14	40	.55
1994	1.421	15	35	.50
1993	1.461	16	31	.45
1992	1.489	17	27	.40
1991	1.507	18	24	.36
1990	1.537	19	22	.34
1989	1.578	20	21	.33
1988	1.663	21	20	.33

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:943 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:206 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:490 (March 1998), LR 25:316 (February 1999), LR 26:509 (March 2000), LR 27:427 (March 2001), LR 28:520 (March 2002), LR 29:370 (March 2003), LR 30:489 (March 2004), LR 31:719 (March 2005), LR 32:433 (March 2006), LR 33:495 (March 2007), LR 34:685 (April 2008), LR 35:499 (March 2009).

Chapter 21. Leased Equipment

§2101. Guidelines for Ascertaining the Fair Market Value of Leased Equipment

A. - F.1. ...

G. Consideration of Obsolescence when Using the Cost Approach. Functional and/or economic obsolescence shall be considered in the analysis of fair market value as substantiated by the taxpayer in writing. Consistent with Louisiana R.S. 47:1957, the assessor may request additional documentation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1952 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 4: 209 (May 1978), amended by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), LR 10:40 (January 1984), LR 13:248 (April 1987), LR 13:764 (December 1987), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 35:499 (March 2009).

Chapter 25. General Business Assets

§2501. Guidelines for Ascertaining the Fair Market Value of Office Furniture and Equipment, Machinery and Equipment, and Other Assets Used in General Business Activity

A. - H.2.f. ...

3. Procedure 3 shall be used to develop fair market value when supporting data for the analysis of economic and/or functional obsolescence has been submitted.

4. If external (economic) and/or functional obsolescence/munificence, when documented and supported by the taxpayer, is not included in the valuation when warranted, a value greater or lower than fair market value will result.

5. Otherwise, use Procedure 1 to calculate the fair market value.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:943 (November 1984), LR 12:36 (January 1986), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), amended by the Department of Revenue, Tax Commission, LR 31:719 (March 2005), LR 33:495 (March 2007), LR 34:685 (April 2008), LR 35:500 (March 2009).

§2503. Tables Ascertaining Economic Lives, Percent Good and Composite Multipliers of Business and Industrial Personal Property

A. …

* * *

B. Cost Indices

Table 2503.B
Cost Indices

Year	Age	National Average 1926 = 100	January 1, 2008 = 100*
2008	1	1427.3	0.980
2007	2	1373.3	1.019
2006	3	1302.3	1.074
2005	4	1244.5	1.124
2004	5	1157.3	1.209
2003	6	1118.6	1.251
2002	7	1100.0	1.272
2001	8	1093.4	1.280
2000	9	1084.3	1.290
1999	10	1065.0	1.314
1998	11	1061.8	1.318
1997	12	1052.7	1.329
1996	13	1036.0	1.351
1995	14	1020.4	1.371
1994	15	985.0	1.421
1993	16	958.0	1.461
1992	17	939.8	1.489
1991	18	928.5	1.507
1990	19	910.2	1.537
1989	20	886.5	1.578
1988	21	841.4	1.663
1987	22	806.9	1.734
1986	23	795.4	1.759
1985	24	787.9	1.776
1984	25	776.4	1.802
1983	26	755.8	1.851

*Reappraisal Date: January 1, 2008 – 1399.2 (Base Year)

* * *

C. …

* * *

D. Composite Multipliers 2009 (2010 Orleans Parish)

Table 2503.D
Composite Multipliers
2009 (2010 Orleans Parish)

Age	3 Yr	5 Yr	6 Yr	8 Yr	10 Yr	12 Yr	15 Yr	20 Yr	25 Yr
1	.69	.83	.85	.88	.90	.92	.93	.95	.96
2	.50	.70	.74	.81	.86	.89	.92	.95	.95
3	.37	.56	.61	.72	.82	.86	.91	.94	.94
4	.18	.38	.46	.61	.75	.82	.89	.93	.93
5		.28	.36	.52	.70	.80	.88	.92	.92
6		.23	.24	.41	.61	.73	.85	.91	.91
7			.23	.33	.50	.64	.79	.90	.90
8				.28	.38	.55	.70	.90	.89
9				.26	.31	.46	.63	.84	.88
10					.28	.38	.57	.79	.87
11					.26	.32	.49	.72	.86
12						.29	.41	.66	.85
13						.27	.35	.61	.81
14							.32	.55	.77
15							.30	.50	.74
16							.29	.45	.70
17								.40	.66
18								.36	.59
19								.34	.52
20								.33	.47
21								.33	.47
22									.45
23									.42
24									.36
25									.36
26									.35

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 9:69 (February 1983), LR 10:944 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:207 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:490 (March 1998), LR 25:317 (February 1999), LR 26:509 (March 2000), LR 27:427 (March 2001), LR 28:520 (March 2002), LR 29:370 (March 2003), LR 30:489 (March 2004), LR 31:719 (March 2005), LR 32:433 (March 2006), LR 33:496 (March 2007), LR 34:686 (April 2008), LR 35:500 (March 2009).

Chapter 31. Public Exposure of Assessments; Appeals

§3101. Public Exposure of Assessments, Appeals to the Board of Review and Board of Review Hearings

A. - D. ...

E. Each assessor shall publish two notices of the parish's Board of Review appeal hearing dates in the local newspaper within a period of 21 and 7 days prior to the actual hearing date(s). Each assessor shall then notify the Tax Commission in writing of the Board of Review hearing date(s) and shall provide the commission with an affidavit executed by the local paper demonstrating proof of publication. Appeals must be received by the Board of Review no later than seven days prior to the public hearing.

* * *

AUTHORITY NOTE: Promulgated in accordance with LSA-Constitution of 1974, Article VII, §18, R.S. 47:2302, R.S. 47:2303 and R.S. 47:2304.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 3:289 (June 1977), amended by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), LR 15:1097 (December 1989), LR 19:212 (February 1993), amended by the Department of Revenue, Tax Commission, LR 25:319 (February 1999), LR 26:512 (March 2000), LR 30:492 (March 2004), LR 32:435 (March 2006), LR 33:498 (March 2007), LR 34:688 (April 2008), LR 35:501 (March 2009).

Chapter 35. Miscellaneous

§3501. Service Fees—Tax Commission

A. The Tax Commission is authorized by R.S. 47:1838 to levy and collect fees on an interim basis for the period beginning on July 1, 2008, and ending on June 30, 2010, in connection with services performed by the Tax Commission as follows:

A.1. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1835 and R.S. 47:1838.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 19:212 (February 1993), amended LR 20:198 (February 1994), amended by the Department of Revenue, Tax Commission, LR 24:494 (March 1998), LR 25:320 (February 1999), LR 26:513 (March 2000), LR 28:521 (March 2002), LR 30:493 (March 2004), LR 31:724 (March 2005), LR 32:439 (March 2006), LR 33:502 (March 2007), LR 35:501 (March 2009).

James D. "Pete" Peters
Chairman

0903#030

RULE

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Natural Areas Dedication and Servitudes
(LAC 76:I.318)

The Wildlife and Fisheries Commission established guidelines and requirements for Natural Areas Registry Program.

Title 76
WILDLIFE AND FISHERIES
Part I. Wildlife and Fisheries Commission and Agencies Thereunder

Chapter 3. Special Powers and Duties

Subchapter E. Louisiana Natural Heritage

§318. Natural Areas Dedication and Servitudes

A. Background. In 1987, by an Act of the Louisiana State Legislature (Acts 1987, No. 324, §1, effective July 6, 1987), the Louisiana Department of Wildlife and Fisheries (LDWF) was named as the state agency responsible for administering the Louisiana Natural Areas Registry. A subsequent state legislative Act established the Wildlife Habitat and Natural Heritage Trust to manage funds for the purpose of acquiring and properly managing natural areas in Louisiana (Acts 1988, No. 492, §1, effective July 9, 1988). The Louisiana Natural Areas Registry provides official state recognition of natural heritage values on land parcels where they occur. A voluntary registration agreement adds a measure of protection, and servitudes or dedication of a Natural Areas Preserve provides secure protection.

B. Purpose. The primary purpose of dedicated nature preserves and conservation servitudes is to permanently protect high quality examples of Louisiana's natural heritage through land acquisition or perpetual easements by LDWF. To "dedicate" a property is defined as the transfer to LDWF of property rights in any natural area to be held for the citizens of Louisiana to protect the natural heritage values of the property.

C. Objectives. The primary objective of the Louisiana Natural Heritage Program (LNHP) is to assure that each species of conservation concern and each natural community type tracked by LNHP is adequately represented at securely protected sites. This can be accomplished by dedication of the property or through conservation servitudes that duly protect the property.

D. General Guidelines

1. A request for a dedication or servitude may be initiated by any party (LDWF, other state or federal agency, landowner, non-government organization, or other interested parties), and must be submitted to LNHP in writing and must include a justification, general information on the property and specific location and boundary map.

2. LNHP will review initial requests, and determine if proposed sites are eligible for dedication or servitude. LNHP will recommend only those properties that support rare plant or animal species, or an exemplary natural community type(s).

E. Specific Requirements

1. To begin the dedication or servitude process, a site is first evaluated by means of a comprehensive field survey(s) conducted by LNHP. These baseline results should include a general description of the natural communities present on the site specifying size (in acres or hectares), condition, plant species composition, and community structure. Other site data should include topography, soils,

rare plant and animal species present, any disturbances to the site (anthropogenic or natural), current management, and status of the landscape surrounding the site. Evaluations that depend on seasonal opportunities for study (i.e., determination of the presence or absence of a particular species that is only evident during certain seasons of the year or within a limited time frame) may extend the survey period. A general description of the site boundaries, photographs of key areas within the property, management considerations and assessment factors mentioned above, are all documented in the survey.

2. LDWF shall accept only those areas determined to be high quality for dedication or servitudes. LDWF's determination will take into consideration information from the site survey, biodiversity of the site, numbers and quality of rare species and/or natural communities, whether the species and natural communities present are protected elsewhere within the state, previous land-use and its impacts to the site, any invasive species present and any other relevant biological or management factors.

3. LDWF shall not accept any portion of a property for natural areas dedication or servitude that currently has pine plantations with off-site timber, homesites, extensive livestock grazing, agricultural farms, or industrial or commercial uses unless LDWF determines that the site can be reclaimed and restored to natural conditions.

4. A Natural Areas Preserve Committee within LDWF composed of staff from the Office of Wildlife, and such other staff as is appropriate will review all pertinent information to make a determination of whether the site qualifies for natural areas dedication or servitude.

5. If the committee finds that dedication of the area as a Natural Areas Preserve or servitude to be appropriate and feasible, then the landowners of the proposed dedicated nature preserve/servitude and the LDWF Natural Areas Preserve Committee will work together to formulate the deed of dedication. The landowner is responsible for the land survey to determine the property appraisal, and agrees to subordinate any mortgages or deeds of trust affecting the property. The dedication or servitude agreement will contain a legal description of the boundaries of the site, specify the natural heritage values the agreement is designed to protect, and detail any financial provisions and any other considerations as needed. Additional documents may accompany the dedication or servitude agreement as required to meet the needs of the agency or other parties.

6. The landowner(s) who is transferring ownership or donating a servitude to LDWF is responsible for obtaining professional advice as they so desire.

7. LDWF shall notify adjacent landowners in writing of the dedicated preserve or servitude and measures to protect it, at a minimum through publication in the official parish journal(s) of the parish(es) in which the property is located. LDWF is also responsible for any associated costs of this notification.

8. LDWF shall monitor each natural areas dedicated preserve and servitude annually to assess its condition and ensure that there have been no violations of the agreement. The monitor shall inspect the preserve/servitude, documenting current conditions, and identifying and documenting any violations of the agreement.

9. A management plan shall be developed by LNHP for each dedication and servitude that includes a property description (location, geology, physiography, hydrology, and soils), biological conditions, land use history and current conditions (hydrology, natural communities, logging, invasive and off-site species, trespassing), management objectives, and the management activities with specific natural community and species management related actions. The plan should delineate a detailed management scheme with the primary purpose to guide maintenance and/or restoration of native species and natural communities while integrating appropriate human use without compromising ecological integrity.

10. The Natural Areas Preserve Committee shall review and approve the management plan and any amendments. Amendments to the original servitude agreement or preserve management plan may be accepted by the committee only if the amendments will not negatively impact the overall natural heritage values present on the property.

11. Dedicated preserve/servitude signs shall be posted at each entrance and along its boundary at or near 100-yard intervals.

12. The LDWF Natural Areas Preserve Committee shall review each dedicated preserve and servitude management plan every 5 years to ensure adequate protection and/or restoration efforts are being followed.

13. Penalties and enforcement. LDWF will arrange meetings with the servitude owner and/or adjacent landowners as necessary to discuss any violations of the preserve or servitude agreement. Reparation by the violator shall be documented, course of action agreed on, deadline for compliance determined, all parties informed of required restoration action and compliance deadline, and any restoration work is inspected and documented.

14. Servitudes may be transferred to another qualified organization or agency if LDWF is no longer able to meet its servitude stewardship responsibilities.

F. Additional Information. For more information on Natural Areas Dedication and Conservation Servitudes, contact the following office:

Department of Wildlife and Fisheries
Louisiana Natural Heritage Program
P.O. Box 98000
Baton Rouge, LA 70898-9000.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1869.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 35:501 (March 2009).

Robert J. Barham
Secretary

0903#018

RULE

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Oyster Seed Ground Vessel—Permit Appeals Board
(LAC 76:VII.529)

The Wildlife and Fisheries Commission has promulgated a Rule on the Appeals Board for Oyster Seed Ground Vessel Permits. Authority for adoption of this proposed Rule is through R.S. 56:433.1.

Title 76
WILDLIFE AND FISHERIES
Part VII. Fish and Other Aquatic Life
Chapter 5. Oysters
§529. Oyster Seed Ground Vessel Permit Appeals Board

A. A person whose application for an Oyster Seed Ground Vessel Permit is denied by the department may appeal the denial to the Oyster Seed Ground Vessel Appeals Board. Based upon the following procedure and requirements, the appeals board may recommend to the secretary that a permit be issued.

1. Hardship. The appeals board may recommend issuance of an Oyster Seed Ground Vessel Permit based on a decision of hardship.

a. An applicant submitting an appeal based upon the denial of an initial application submitted on or before December 31, 2009 for a Seed Ground Vessel Permit shall demonstrate by clear evidence that all of the following requirements have been met.

i. The applicant legally harvested oysters from the public seed grounds, either for market or seed, during at least two of the license years 2004, 2005, 2006, 2007, and 2008. This evidence may be trip ticket information or notarized written statements of two Louisiana licensed oyster harvesters.

ii. If the applicant is an individual, the applicant shall have held a Louisiana Commercial Fishing License and a Louisiana Oyster Harvester's License for at least two of the license years 2004, 2005, 2006, 2007, and 2008.

iii. One of the following conditions prevented the applicant's ability to otherwise meet the statutory eligibility requirements for a permit:

(a). divorce proceeding;

(b). bankruptcy or bank foreclosure;

(c). dissolution of an oyster harvesting business partnership;

(d). applicant's former or current vessel was the subject of a lawsuit;

(e). military service;

(f). serious medical condition or death;

(g). applicant's former or current vessel was damaged or destroyed in a fire, natural disaster, sinking, or other accident.

b. An applicant submitting an appeal based upon the denial of a renewal or re-issuance permit application, shall provide clear evidence that one of the following prevented the applicant from otherwise meeting the eligibility requirements for a renewal or re-issuance permit:

i. military service;

ii. serious medical condition or death;

iii. applicant's former or current vessel was damaged or destroyed in a fire, natural disaster, sinking, or other accident.

2. Eligibility: The appeal application for a permit based upon eligibility must set forth in detail the facts the applicant is contending meet the eligibility requirements for a permit under the eligibility requirements provided in R.S. 56:433.1 and the rules promulgated pursuant thereto. The appeal application shall include the application submitted to and denied by the department.

3. The appeal application shall include the applicant's name, address, tax identification or Social Security number, date of birth or date of incorporation, and vessel registration or documentation number.

4. No other appeals shall be considered by the board unless additional rules or regulations are developed to address different circumstances.

5. After consideration, the appeals board may recommend to the secretary that the department issue a permit, but only upon affirmative vote of a majority of the appointed members of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:433.1.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 35:503 (March 2009).

Robert J. Barham
Secretary

0903#019

RULE

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Oyster Seed Ground Vessel—Permit Renewal and Re-Issuance (LAC 76:VII.527)

The Wildlife and Fisheries Commission has promulgated a Rule on renewal and re-issuance of Oyster Seed Ground Vessel Permits. Authority for adoption of this proposed Rule is through R.S. 56:433.1.

Title 76
WILDLIFE AND FISHERIES
Part VII. Fish and Other Aquatic Life
Chapter 5. Oysters
§527. Oyster Seed Ground Vessel Permit Renewal and Re-Issuance

A. Renewal Permit. A holder of a valid permit for the current license year may apply for a renewal of the permit for the immediately following license year beginning on November 15 of the current license year or at any time during the immediately following license year, provided the holder and the vessel are identical to the holder and vessel listed on the permit for the current license year.

B. Re-Issuance Permit. The following persons shall be eligible to apply for a re-issuance permit.

1. A holder of a valid permit for the current or immediately preceding license year whose vessel listed on the permit is no longer in-service for the commercial harvest of oysters on the public seed grounds may apply for a re-issuance permit in the holders name for another vessel. The

current permit shall be relinquished to the department prior to obtaining a re-issuance permit.

2. A person acquiring a vessel listed on a valid permit for the current or immediately preceding license year may apply for a re-issuance permit for the vessel in the applicant's name upon providing documentation to the department that the vessel is titled in the applicant's name. Documentation shall be in the form of a bill of sale, judgment of possession, or act of donation. The current permit shall be relinquished to the department prior to obtaining a re-issuance permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:433.1.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 35:503 (March 2009).

Robert J. Barham
Secretary

0903#020

Notices of Intent

NOTICE OF INTENT
Department of Civil Service
Board of Ethics

Records and Reports (LAC 52:I.1318-1321)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Civil Service, Louisiana Board of Ethics, has initiated rulemaking procedures to make amendments to the Rules for the Board of Ethics to bring the rules into compliance with current statutory provisions and Act 1 of the 2008 1st Special Legislative Session and Act 472 of the 2008 Regular Legislative Session.

The proposed Rule changes have no impact on family formation, stability or autonomy, as described in R.S. 49:972.

Title 52
ETHICS
Part I. Board of Ethics
Chapter 13. Records and Reports
§1318. Statements Filed Pursuant to Section 1124 of the Code of Governmental Ethics

PERSONAL FINANCIAL DISCLOSURE
"TIER 1"
LSA-R.S. 42:1124

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1. Due annually by May 15th.
2. Candidates must file the statement within 10 days of filing a notice of candidacy for one of the above offices.
3. If you hold more than one office that requires the filing of a financial disclosure statement, please note that only one financial disclosure report shall be filed by the filer. Such report shall be filed under the highest Tier (with Tier 1 being the highest, then Tier 2, then Tier 2.1 and Tier 3 being the lowest).

This form applies only to:

(1) Statewide elected officials (and candidates)
(2) Secretaries in executive branch agencies
- Department of Economic Development
- Department of Culture, Recreation, and Tourism
- Department of Environmental Quality
- Department of Health and Hospitals
- Department of Labor
- Department of Natural Resources
- Department of Public Safety and Corrections
- Department of Revenue
- Department of Social Services
- Department of Transportation and Development
- Department of Wildlife and Fisheries
- Department of Veterans Affairs

(3) Executive secretary of the Public Service Commission
(4) Director of state civil service
(5) The Superintendent of Education
(6) The Commissioner of Higher Education
(7) The president of each public post-secondary education system
(8) The Commissioner of the Division of Administration
(8) Senior staff in the governor's office: the chief of staff, the policy director, the deputy chief of staff, the executive counsel, and the legislative director

INSTRUCTIONS

Use as many pages of each section of the form as are required. Machine copies of the form's pages may be used. Complete all sections (if not applicable, so indicate). Please type or print. Use blue or black ink.

Please file the completed form with the Louisiana Board of Ethics by mail or facsimile at:

P.O. Box 4368 or (225) 381-7271
Baton Rouge, LA 70821

The report shall reflect income, amounts, and values for the activities with respect to employment, transaction, liabilities, etc. for the prior calendar year.

Instructions (continued):

NOTE: Where amounts are required herein, indicate such amounts by using one of the following categories, categories, unless otherwise indicated on the schedule:

I	**Less than $5,000**
II	**$5,000 to $24,999**
III	**$25,000 to $49,999**
IV	**$50,000 to $99,999**
V	**$100,000 to $199,999**
VI	**$200,000 or more**

For the purposes of this form, the following definitions apply:

- **"Business"** means any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, business, organization, self-employed individual, holding company, trust, or any other legal entity or person.
- **"Income"** for a business means gross income less (i) costs of goods sold, and (ii) operating expenses.
- **"Income"** for an individual means taxable income and shall not include any income received pursuant to a life insurance policy.
- **LSA-R.S. 18:1505.2(L)(3)(a)** refers to (i) any person who holds a license or permit as a distributor of gaming devices, who holds a license or permit as a manufacturer of gaming devices, who holds a license or permit as a device service entity, and any person who owns a truck stop or a licensed pari-mutuel or off-track wagering facility which is a licensed device establishment, all pursuant to the Video Draw Poker Devices Control Law; (ii) any person who holds a license to conduct gaming activities on a riverboat, who holds a license or permit as a distributor or supplier of gaming devices or gaming equipment including slot machines, or who holds a license or permit as a manufacturer of gaming devices or gaming equipment including slot machines issued pursuant to the Louisiana Riverboat Economic Development and Gaming Control Act, and any person who owns a riverboat upon which gaming activities are licensed to be conducted, and (iii) any person who holds a license or entered into a contract for the conduct of casino gaming operations, who holds a license or permit as a distributor of gaming devices or gaming equipment including slot machines, or who holds a license or permit as a manufacturer of gaming devices or gaming equipment including slot machines issued pursuant to the Louisiana Economic Development and Gaming Corporation Act, and any person who owns a casino where such gaming operations are licensed.

* * *

SCHEDULE E
INCOME

The name, address, type, nature of services rendered, and amount of each source of income in excess of $1,000 received by you or your spouse.

NOTE: If the income is derived from professional or consulting services and the disclosure of the name or address of the source of income is prohibited by law or by professional code, such income should be disclosed on Schedule F.

DO NOT include income derived from child support and alimony payments contained in a court order OR from disability payments from any source. **INCOME SHALL BE REPORTED BY CATEGORY.**

DO NOT INCLUDE INFORMATION WITH RESPECT TO INCOME DISCLOSED ON SCHEDULE D.

☐ Filer ☐ Spouse Amount of Income: I, II, III, IV, V, VI

Name of Source of Income_____ Type:_____

Address _____
Street Suite #

_____
City State Zip Code

Nature of Services_____
_____

☐ Filer ☐ Spouse Amount of Income: I, II, III, IV, V, VI

Name of Source of Income_____ Type:_____

Address _____
Street Suite #

_____
City State Zip Code

Nature of Services_____
_____

☐ Filer ☐ Spouse Amount of Income: I, II, III, IV, V, VI

Name of Source of Income_____ Type:_____

Address _____
Street Suite #

_____
City State Zip Code

Nature of Services_____
_____

☐ Filer ☐ Spouse Amount of Income: I, II, III, IV, V, VI

Name of Source of Income_____ Type:_____

Address _____
Street Suite #

_____
City State Zip Code

Nature of Services_____
_____

Page 1 of ____

SCHEDULE F
INCOME FROM CERTAIN PROFESSIONAL OR CONSULTING SERVICES

☐Check if no income was received from professional or consulting services for which the disclosure of the name or address of the source of income is prohibited by law or by professional code.

For income derived from professional or consulting services, including mental health, medical health, or legal services, when the disclosure of the name or address of the source of income is prohibited by law or by professional code, report the number of clients and amount of income for the applicable industry types below. **INCOME SHALL BE REPORTED BY CATEGORY.**

Industry Type	# of Clients	Amount	Individual or Spouse
D-1 UTILITIES			
Electric	I II III IV V VI		
Gas	I II III IV V VI		
Telephone	I II III IV V VI		
Water	I II III IV V VI		
Cable television companies	I II III IV V VI		
D-2 TRANSPORTATION			
Intrastate companies	I II III IV V VI		
Pipeline companies	I II III IV V VI		
Oil and gas exploration	I II III IV V VI		
Oil and gas production	I II III IV V VI		
Oil and gas retailers	I II III IV V VI		
D-3 FINANCE AND INSURANCE			
Banks	I II III IV V VI		
Savings and loan associations	I II III IV V VI		
Loan and/or finance companies	I II III IV V VI		
Manufacturing firms	I II III IV V VI		
Mining companies	I II III IV V VI		
Life insurance companies	I II III IV V VI		
Casualty insurance companies	I II III IV V VI		
Other insurance companies	I II III IV V VI		
D-4 RETAIL COMPANIES			
Beer companies	I II III IV V VI		
Wine companies	I II III IV V VI		
Liquor companies	I II III IV V VI		
Beverage distributors	I II III IV V VI		
D-5 ASSOCIATIONS			
Trade	I II III IV V VI		
Professional	I II III IV V VI		
D-6 OTHER (SPECIFY)			

Page 1 of ____

SCHEDULE G
IMMOVABLE PROPERTY

A brief description, fair market value or use value (in value ranges by category) as determined by the assessor for purposes of ad valorem taxes, and the address (if no address, then provide the location by state and parish or county), of each parcel of immovable property in which you or your spouse, either individually or collectively, has an interest provided that the fair market value or use value as determined by the assessor exceeds $2,000. **VALUE SHALL BE REPORTED BY CATEGORY.**

☐ Filer ☐ Spouse ☐ Both Value of Property: I II III IV V VI

Address _____
Street Suite #
_____
City State Zip Code
Property Description_____
_____
_____

☐ Filer ☐ Spouse ☐ Both Value of Property: I II III IV V VI

Address _____
Street Suite #
_____
City State Zip Code
Property Description_____
_____
_____

☐ Filer ☐ Spouse ☐ Both Value of Property: I II III IV V VI

Address _____
Street Suite #
_____
City State Zip Code

Property Description_____
_____
_____

☐ Filer ☐ Spouse ☐ Both Value of Property: I II III IV V VI

Address _____
Street Suite #
_____
City State Zip Code
Property Description_____
_____
_____

Page 1 of ____

SCHEDULE H
INVESTMENT HOLDINGS

The name, a brief description, and amount (in value ranges by category) of each investment security having a value exceeding $1,000 held by you or your spouse, excluding variable annuities, variable life insurance, variable universal life insurance, whole life insurance, any other life insurance product, mutual funds, education investment accounts, retirement investment accounts, government bonds, and cash or cash equivalent investments. (NOTE: Exclude any information concerning any property held and administered for any person other than you or your spouse under a trust, tutorship, curatorship, or other custodial instrument.)

Individual, Spouse, or Both	Name of Security	Description	Amount (categories)
☐ Filer ☐ Spouse ☐ Both			I II III IV V VI
☐ Filer ☐ Spouse ☐ Both			I II III IV V VI
☐ Filer ☐ Spouse ☐ Both			I II III IV V VI
☐ Filer ☐ Spouse ☐ Both			I II III IV V VI
☐ Filer ☐ Spouse ☐ Both			I II III IV V VI
☐ Filer ☐ Spouse ☐ Both			I II III IV V VI
☐ Filer ☐ Spouse ☐ Both			I II III IV V VI
☐ Filer ☐ Spouse ☐ Both			I II III IV V VI
☐ Filer ☐ Spouse ☐ Both			I II III IV V VI
☐ Filer ☐ Spouse ☐ Both			I II III IV V VI

Page 1 of ____

SCHEDULE I
TRANSACTIONS

A brief description, amount (in value ranges by category), and date of any purchase or sale, in excess of $1,000, of any immovable property AND of any personally owned tax credit certificates, stocks, bonds, or commodities futures, including any option to acquire or dispose of any immovable property or of any personally owned tax credit certificates, stocks, bonds, or commodities futures. (NOTE: Exclude variable annuities, variable life insurance, variable universal life insurance.)

Individual, Spouse, or Both	Transaction Date	Description of Transaction	Amount (categories)
☐ Filer ☐ Spouse ☐ Both			I II III IV V VI
☐ Filer ☐ Spouse ☐ Both			I II III IV V VI
☐ Filer ☐ Spouse ☐ Both			I II III IV V VI
☐ Filer ☐ Spouse ☐ Both			I II III IV V VI
☐ Filer ☐ Spouse ☐ Both			I II III IV V VI
☐ Filer ☐ Spouse ☐ Both			I II III IV V VI
☐ Filer ☐ Spouse ☐ Both			I II III IV V VI
☐ Filer ☐ Spouse ☐ Both			I II III IV V VI
☐ Filer ☐ Spouse ☐ Both			I II III IV V VI
☐ Filer ☐ Spouse ☐ Both			I II III IV V VI

Page 1 of ____

SCHEDULE J
LIABILITIES

The name and address of each creditor, and name of each guarantor, if any, to whom you or your spouse owes any liability which exceeds $10,000. **AMOUNT SHALL BE REPORTED BY CATEGORY.**
NOTE: Exclude the following:

_ any loan secured by movable property, if such loan does not exceed the purchase price of the movable property which secures it;
_ any liability, secured or unsecured, which is guaranteed by you or your spouse for a business in which you or your spouse owns any interest, provided that the liability is in the name of the business and, if the liability is a loan, that you or your spouse does not use proceeds from the loan for personal use unrelated to business;
_ any loan from an immediate family member, unless such family member is a registered lobbyist, or his principal or employer is a registered lobbyist, or he employs or is a principal of a registered lobbyist, or unless such family member has a contract with the state.

☐ Filer ☐ Spouse Nature of Liability_____

Name of Creditor_____ Amount: I II III IV V VI

Address _____
Street Suite #

_____
City State Zip Code

Name of Guarantor (if any)_____

☐ Filer ☐ Spouse Nature of Liability_____

Name of Creditor_____ Amount: I II III IV V VI

Address _____
Street Suite #

_____
City State Zip Code

Name of Guarantor (if any)_____

☐ Filer ☐ Spouse Nature of Liability_____

Name of Creditor_____ Amount: I II III IV V VI

Address _____
Street Suite #

_____
City State Zip Code

Name of Guarantor (if any)_____

Page 1 of ____
* * *

SCHEDULE K
OTHER OFFICES/POSITIONS

Please set forth below any and all other office/positions held which would trigger a filing under Section 1124.2 (Tier 2), Section 1124.2.1 (Tier 2.1) or Section 1124.3 (Tier 3) of the Code of Governmental Ethics. Please note that only one financial disclosure report shall be filed by the filer and such report shall be filed under the highest Tier (with Tier 1 being the highest, then Tier 2, then Tier 2.1and Tier 3 being the lowest).

NAME OF POSITION OR OFFICE HELD:

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AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 35:408 (March 2009), amended LR 35:

1319. Statements Filed Pursuant to Section 1124.2 of the Code of Governmental Ethics

PERSONAL FINANCIAL DISCLOSURE
"TIER 2"
LSA-R.S. 42:1124.2

This form applies only to:
(1) Legislators (and candidates)
(2) Elected officials representing a voting district with a population over 5,000
(3) Candidates seeking office in a voting district with a population over 5,000
(4) BESE members (and candidates)
(5) Board of Ethics members
(6) Ethics Adjudicatory Board members
(7) Ethics Board Administrator

1. Due annually by May 15th. If the filer files for an extension of his federal income tax and notice has been filed with the Board of Ethics by May 15th that such an extension has been made, then the financial statement must be filed within 30 days after the filer files his federal income taxes.
2. Candidates must file the statement within 10 days of filing a notice of candidacy for one of the above offices.
3. If you hold more than one office that requires the filing of a financial disclosure statement, please note that only one financial disclosure report shall be filed by the filer. Such report shall be filed under the highest Tier (with Tier 1 being the highest, the Tier 2, then Tier 2.1 and Tier 3 being the lowest).

INSTRUCTIONS:

Use as many pages of each section of the form as are required. Machine copies of the form's pages may be used. Complete all sections (if not applicable, so indicate). Please type or print. Use blue or black ink.

Please file the completed form with the Louisiana Board of Ethics by mail or facsimile at:

P.O. Box 4368 or (225)381-7271
Baton Rouge, LA 70821

The report shall reflect income, amounts, and values for the activities with respect to employment, transactions, liabilities, etc. for the prior calendar year.

NOTE: Where amounts are required herein, indicate such amounts by using one of the following categories, unless otherwise indicated on the schedule:

I	**Less than $5,000**
II	**$5,000 to $24,999**
III	**$25,000 to $100,000**
IV	**more than $100,000**

For the purposes of this form, the following definitions apply:
- "**Business**" means any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, business, organization, self-employed individual, holding company, trust, or any other legal entity or person.
- "**Income**" for a business means gross income less (i) costs of goods sold, and (ii) operating expenses.
- "**Income**" for an individual means taxable income and shall not include any income received pursuant to a life insurance policy.
- "**Public office**" means any state, parish, municipal, ward, district, or other office or position that is filled by election of the voters, except the president or vice president of the United States, presidential elector, delegate to the political party convention, US Senator, US congressman, or political party office.
- **LSA-R.S. 18:1505.2(L)(3)(a)** refers to (i) any person who holds a license or permit as a distributor of gaming devices, who holds a license or permit as a manufacturer of gaming devices, who holds a license or permit as a device service entity, and any person who owns a truck stop or a licensed pari-mutuel or off-track wagering facility which is a licensed device establishment, all pursuant to the Video Draw Poker Devices Control Law; (ii) any person who holds a license to conduct gaming activities on a riverboat, who holds a license or permit as a distributor or supplier of

gaming devices or gaming equipment including slot machines, or who holds a license or permit as a manufacturer of gaming devices or gaming equipment including slot machines issued pursuant to the Louisiana Riverboat Economic Development and Gaming Control Act, and any person who owns a riverboat upon which gaming activities are licensed to be conducted, and (iii) any person who holds a license or entered into a contract for the conduct of casino gaming operations, who holds a license or permit as a distributor of gaming devices or gaming equipment including slot machines, or who holds a license or permit as a manufacturer of gaming devices or gaming equipment including slot machines issued pursuant to the Louisiana Economic Development and Gaming Corporation Act, and any person who owns a casino where such gaming operations are licensed.

· "**Consumer credit transaction**" means a consumer loan or a consumer credit sale but does not include a motor vehicle credit transaction made pursuant to R.S. 6:969.1 et seq. R.S. 9:3516(13).

* * *

SCHEDULE E
INCOME RECEIVED FROM EMPLOYMENT

Please disclose the name and address of the employer that provides income, job title, a brief description of the job description for each full-time or part-time employment position held by the individual or spouse. **DO NOT INCLUDE INFORMATION WITH RESPECT TO INCOME DISCLOSED ON SCHEDULE D.**
INCOME RECEIVED THROUGH SELF-EMPLOYMENT SHALL BE DISCLOSED ON SCHEDULE F.

☐ Filer ☐ Spouse Amount of Income: I II III IV

☐ Full-time ☐ Part-time

Employer Name_____

Employer Address _____
Street Suite #
_____
City State Zip Code

Nature of services rendered pursuant to the employment _____
_____

☐ Filer ☐ Spouse Amount of Income: I II III IV
☐ Full-time ☐ Part-time

Employer Name_____

Employer Address _____
Street Suite #
_____
City State Zip Code

Job Description _____
_____

☐ Filer ☐ Spouse Amount of Income: I II III IV

☐ Full-time ☐ Part-time

Employer Name_____

Employer Address _____
Street Suite #
_____
City State Zip Code

Job Description _____
_____

SCHEDULE F
INCOME FROM BUSINESS INTERESTS

The name and address of all businesses which provide income to you or your spouse, including a brief description of the nature of services rendered for each business or the reason such income was received, and the aggregate amount (in value ranges by category) of such income, excluding income reported in another section of this report. **DO NOT INCLUDE INFORMATION WITH RESPECT TO INCOME DISCLOSED ON SCHEDULES D AND/OR E.**

Aggregate Amount of Income received from the business interests listed on Schedule F:I II III IV

☐ Filer
☐ Spouse

Name of Business_____

Address _____
Street Suite #
_____
City State Zip Code

Description of services rendered for the business or a reason the income was received:
_____
_____
_____

☐ Filer
☐ Spouse

Name of Business_____

Address _____
Street Suite #
_____
City State Zip Code

Description of services rendered for the business or a reason the income was received:
_____
_____
_____

☐ Filer
☐ Spouse

Name of Business_____

Address _____
Street Suite #
_____
City State Zip Code

Description of services rendered for the business or a reason the income was received:
_____
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Page 1 of ____

SCHEDULE G
OTHER INCOME

A description of any other type of income, exceeding $1,000 received by the individual or spouse, including a brief description of the nature of the services rendered or the reason such income was received, and the amount of income (in value ranges by category), excluding income reported in another section of this report.
Note: Do NOT include income derived from child support and alimony payments contained in a court order OR from disability payments from any source. **DO NOT INCLUDE INFORMATION WITH RESPECT TO INCOME DISCLOSED ON SCHEDULES D, E and/or F.**

☐ Filer Amount of Income: I II III IV
☐ Spouse

Description of Income_____
_____
_____

Description of service rendered or the reason the income was received:
_____
_____
_____

☐ Filer Amount of Income: I II III IV
☐ Spouse

Description of Income_____
_____
_____

Description of service rendered or the reason the income was received:
_____
_____
_____

☐ Filer Amount of Income: I II III IV
☐ Spouse

Description of Income_____
_____
_____

Description of service rendered or the reason the income was received:
_____
_____
_____

Page 1 of ____

SCHEDULE H
IMMOVABLE PROPERTY

A brief description, fair market value or use value (in value ranges by category) as determined by the assessor for purposes of ad valorem taxes, and the location of the property by state and parish or county of each parcel of immovable property in which you or your spouse, either individually or collectively, has an interest provided that the fair market value or use value as determined by the assessor exceeds $2,000.

☐ Filer ☐ Spouse ☐ Both Value of Property: I II III IV

Location of property:
Country _____

Parish/County_____

Property Description_____
_____
_____

☐ Filer ☐ Spouse ☐ Both Value of Property: I II III IV

Location of property:
Country _____

Parish/County_____

Property Description_____
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☐ Filer ☐ Spouse ☐ Both Value of Property: I II III IV

Location of property:
Country _____

Parish/County_____

Property Description_____
_____
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☐ Filer ☐ Spouse ☐ Both Value of Property: I II III IV

Location of property:
Country _____

Parish/County_____

Property Description_____
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Page 1 of ____

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SCHEDULE J
TRANSACTIONS

A brief description, amount (in value ranges by category), and date of any purchase or sale, in excess of $5,000, of any immovable property AND of any personally owned tax credit certificates, stocks, bonds, or commodities futures, including any option to acquire or dispose of any immovable property or of any personally owned tax credit certificates, stocks, bonds, or commodities futures. (NOTE: Exclude variable annuities, variable life insurance, variable universal life insurance, whole life insurance, any other life insurance product, mutual funds, education investment accounts, retirement investment accounts, government bonds, cash or cash equivalent investments.)

Individual, Spouse, or Both	Transaction Date	Description of Transaction	Amount
☐ Filer ☐ Spouse ☐ Both			I II III IV
☐ Filer ☐ Spouse ☐ Both			I II III IV
☐ Filer ☐ Spouse ☐ Both			I II III IV
☐ Filer ☐ Spouse ☐ Both			I II III IV
☐ Filer ☐ Spouse ☐ Both			I II III IV
☐ Filer ☐ Spouse ☐ Both			I II III IV
☐ Filer ☐ Spouse ☐ Both			I II III IV
☐ Filer ☐ Spouse ☐ Both			I II III IV
☐ Filer ☐ Spouse ☐ Both			I II III IV
☐ Filer ☐ Spouse ☐ Both			I II III IV

Page 1 of ____

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SCHEDULE L

OTHER OFFICES/POSITIONS

Please set forth below any and all other office/positions held which would trigger a filing under Section 1124.2.1 (Tier 2.1) and/or Section 1124.3 (Tier 3) of the Code of Governmental Ethics

NAME OF POSITION OR OFFICE HELD

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Page ____ of ____

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AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 35:421 (March 2009), amended LR 35:

§1320. Statements Filed Pursuant to Section 11242.1 of the Code of Governmental Ethics

PERSONAL FINANCIAL DISCLOSURE
"TIER 2.1"
LSA-R.S. 42:1124.2.1

This form applies only to:

(1) Each member and designee of a board or commission (see definition below) with the authority to expend, disburse, or invest $10,000 in a fiscal year.

(2) Civil Service Commission members

(3) Stadium and Exposition District commissioners

DUE ANNUALLY BY MAY 15TH

INSTRUCTIONS

Use as many pages of each section of the form as are required. Machine copies of the form's pages may be used. Complete all sections (if not applicable, so indicate). Please type or print. Use blue or black ink.

Please file the completed form with the Louisiana Board of Ethics by mail or facsimile at:

P.O. Box 4368 or (225) 381-7271
Baton Rouge, LA 70821

The report shall reflect income, amounts, and values for the activities with respect to employment, transaction, liabilities, etc. for the prior calendar year.

If you hold more than one office that requires the filing of a financial disclosure statement, please note that only one financial disclosure report shall be filed by the filer. Such report shall be filed under the highest Tier (with Tier 1 being the highest, then Tier 2, then Tier 2.1 and Tier 3 being the lowest).

For the purposes of this form, the following definitions apply:

- **"Board or commission"** shall mean:
  - Each board, commission, and like entity created by law or executive order that is made a part of the executive branch, or that is placed in an executive branch department or in the office of the governor or lieutenant governor by law or executive order, or that exercises any authority or performs any function of state government.
  - Each board, commission, and like entity created by the constitution, by law, by a political subdivision, or jointly by two or more political subdivisions as a governing authority of a political subdivision of the state or local government.
- "**Board or commission**" shall **NOT** mean:
  - The governing authority of a parish
  - Any board or commission that governs a political subdivision created by a single parish governing authority of a parish with a population of 200,000 or less, or any subdistrict of such a political subdivision.
  - The governing authority of a municipality
  - Any board or commission that governs a political subdivision created by a single municipal governing authority of a municipality with a population of 25,000 or less, or any subdistrict of such a political subdivision.
  - A board of directors of a private nonprofit corporation that is not created by law.
- **"Business"** means any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, business, organization, self-employed individual, holding company, trust, or any other legal entity or person.
- **"Income"** for a business means gross income less (i) costs of goods sold, and (ii) operating expenses.
- "**Income**" for an individual means taxable income and shall not include any income received pursuant to a life insurance policy.
- **"Public office"** means any state, parish, municipal, ward, district, or other office or position that is filled by election of the voters, except the president or vice president of the United States, presidential elector, delegate to the political party convention, US Senator, US congressman, or political party office.
- **LSA-R.S. 18:1505.2(L)(3)(a)** refers to (i) any person who holds a license or permit as a distributor of gaming devices, who holds a license or permit as a manufacturer of gaming devices, who holds a license or permit as a device service entity, and any person who owns a truck stop or a licensed pari-mutuel or off-track wagering facility which is a licensed device establishment, all pursuant to the Video Draw Poker Devices Control Law; (ii) any person who holds a license to conduct gaming activities on a riverboat, who holds a license or permit as a distributor or supplier of gaming devices or gaming equipment including slot machines, or who holds a license or permit as a manufacturer of gaming devices or gaming equipment including slot machines issued pursuant to the Louisiana Riverboat Economic Development and Gaming Control Act, and any person who owns a riverboat upon which gaming activities are licensed to be conducted,

and (iii) any person who holds a license or entered into a contract for the conduct of casino gaming operations, who holds a license or permit as a distributor of gaming devices or gaming equipment including slot machines, or who holds a license or permit as a manufacturer of gaming devices or gaming equipment including slot machines issued pursuant to the Louisiana Economic Development and Gaming Corporation Act, and any person who owns a casino where such gaming operations are licensed.

* * *

SCHEDULE E
OTHER OFFICES/POSITIONS

Please set forth below any and all other office/positions held which would trigger a filing under Section 1124.2.1 (Tier 2.1) and/or Section 1124.3 (Tier 3) of the Code of Governmental Ethics

NAME OF POSITION OR OFFICE HELD

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Page ____ of ____

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 35:434 (March 2009), amended LR 35:

§1321. Statements Filed Pursuant to Section 1124.3 of the Code of Governmental Ethics

PERSONAL FINANCIAL DISCLOSURE
"TIER 3"
LSA-R.S. 42:1124.3

This form applies to:

(1) Elected officials representing a voting district with a population of fewer than 5,000; and
(2) Candidates seeking office in a voting district with a population of fewer than 5,000.

1. Due annually by May 15th.
2. Candidates must file the statement within 10 days of filing a notice of candidacy for one of the above offices.

INSTRUCTIONS

Use as many pages of each section of the form as are required. Machine copies of the form's pages may be used. Complete all sections (if not applicable, so indicate). Please type or print. Use blue or black ink.

Please file the completed form with the Louisiana Board of Ethics by mail or facsimile at:

P.O. Box 4368 or (225) 381-7271
Baton Rouge, LA 70821

The report shall reflect income, amounts, and values for the activities with respect to employment, transaction, liabilities, etc. for the prior calendar year.

For the purposes of this form, the following definitions apply:

- **"Business"** means any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, business, organization, self-employed individual, holding company, trust, or any other legal entity or person.
- **"Income"** for a business means gross income less (i) costs of goods sold, and (ii) operating expenses.
- "**Income**" for an individual means taxable income and shall not include any income received pursuant to a life insurance policy.
- **"Public office"** means any state, parish, municipal, ward, district, or other office or position that is filled by election of the voters, except the president or vice president of the United States, presidential elector, delegate to the political party convention, US Senator, US congressman, or political party office.
- **LSA-R.S. 18:1505.2(L)(3)(a)** refers to (i) any person who holds a license or permit as a distributor of gaming devices, who holds a license or permit as a manufacturer of gaming devices, who holds a license or permit as a device service entity, and any person who owns a truck stop or a licensed pari-mutuel or off-track wagering facility which is a licensed device establishment, all pursuant to the Video Draw Poker Devices Control Law; (ii) any person who holds a license to conduct gaming activities on a riverboat, who holds a license or permit as a distributor or supplier of gaming devices or gaming equipment including slot machines, or who holds a license or permit as a manufacturer of gaming devices or gaming equipment including slot machines issued pursuant to the Louisiana Riverboat Economic Development and Gaming Control Act, and any person who owns a riverboat upon which gaming activities are licensed to be conducted, and (iii) any person who holds a license or entered into a contract for the conduct of casino gaming operations, who holds a license or permit as a distributor of gaming devices or gaming equipment including slot machines, or who holds a license or permit as a manufacturer of gaming devices or gaming equipment including slot machines issued pursuant to the Louisiana Economic Development and Gaming Corporation Act, and any person who owns a casino where such gaming operations are licensed.

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AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 35:440 (March 2009), amended LR 35:

Interested persons may direct their comments to Louis Simon, Louisiana Board of Ethics, P.O. Box 4368, Baton Rouge, LA 70821, telephone (225) 219-5600, until 4:45 p.m. on April 10, 2008.

Kathleen M. Allen
Deputy General Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Records and Reports

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The estimated costs to implement the financial disclosure forms is $492 in FY 08-09, which accounts for the cost to publish the Notice of Intent and the forms in the State Register.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed forms will have no anticipated effect on revenue collections of the state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed action will affect the members of the Louisiana Board of Ethics and the Ethics Administrator with respect to disclosure statements filed with the Board of Ethics. However, it will have no effect on the cost to those individuals.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed forms will not have an effect on competition and employment.

Kathleen M. Allen
Deputy General Counsel
0903#051

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—General Career, Technical Education and Technology Education. (LAC 28:CXV.2377 and 2385)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 741—Louisiana Handbook for School Administrators*, §2377, "*General Career and Technical Education"* and §2385. "*Technology Education*". The proposed amendment will add seven courses to the current Technical Education course offerings and will move the Engineering I, II course from General Career and Technical Education section to the Technology Education section for correct placement in the *Louisiana Administrative Code*. It is vital to update these course offerings in the Technical program of studies for Louisiana to be more aligned with national standards. It is necessary to Move Engineering I, II from LAC 28:CXV.2377 to LAC 28:CXV.2385 because this course is a Technical Education course, not a General Career and Technical Education course.

Title 28
Part CXV. Bulletin 741—Louisiana Handbook for School Administrators
Chapter 23. Curriculum and Instruction
§2377. General Career and Technical Education

A. General Career and Technical Education course offerings shall be as follows.

Course Title(s)	Recommended Grade Level	Units
CTE Internship I	11-12	1
CTE Internship II	12	1
CTE Internship I	11-12	2
CTE Internship II	12	2
General Cooperative Education I	11-12	3
General Cooperative Education II	12	3
Education for Careers	9-12	1/2 -1
Teacher Cadet I	11-12	1
Teacher Cadet II	12	1
Advanced Television Broadcasting I	10-12	1-3
Advanced Television Broadcasting II	11-12	1-3
Digital Media I	10-12	1-3
Digital Media II	11-12	1-3
Oracle Internet Academy		
Database Design and Programming	11-12	1
Java Programming	11-12	1
Database Programming with PL/SQL	11-12	1
Finance Academy		
Economics and the World of Finance	11-12	1/2
Banking and Credit	11-12	1/2
Financial Planning	11-12	1/2
Securities	11-12	1/2
Insurance	11-12	1/2
International Finance	11-12	1/2
Introduction to Financial Services	11-12	1/2 - 1
Hospitality and Tourism Academy		
Introduction to Travel and Tourism	11-12	1/2
Travel and Tourism II	11-12	1/2
Travel Geography	11-12	1/2
Systems Applications	11-12	1/2
Economics for Travel and Tourism	11-12	1/2
Information Technology Academy		
Introduction to Information Technology	11-12	1/2
Digital Networks	11-12	1/2
Advanced Web Tools	11-12	1/2
Databases	11-12	1/2
Introduction to the Internet	11-12	1/2
Logic for Programming	11-12	1/2
STAR I	11-12	1
STAR II	12	1
Entrepreneurship	11-12	1

B. General Cooperative Education courses shall be limited to students who meet the specific prerequisites and requirements of one of the specialized cooperative education programs.

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 31:1299 (June 2005),

amended LR 32:546 (April 2006), LR 32:1415 (August 2006) LR 33:278 (February 2007), LR 33:2050 (October 2007), LR 34:1386 (July 2008), LR 34:2558 (December 2008), LR 35:

§2385. Technology Education

A. Technology Education (formerly industrial arts) course offerings shall be as follows.

Course Title(s)	Recommended Grade Level	Units
Communication/Middle School	6-8	-
Construction/Middle School	6-8	-
Manufacturing Technology/Middle School	6-8	-
Modular Technology/Middle School	6-8	-
Transportation Technology/Middle School	6-8	-
Advanced Electricity/Electronics	10-12	1
Advanced Metal Technology	10-12	1
Advanced Technical Drafting	10-12	1
Advanced Wood Technology	10-12	1
Architectural Drafting	10-12	1
Basic Electricity/Electronics	9-12	1
Basic Metal Technology	9-12	1
Basic Technical Drafting	9-12	1
Basic Wood Technology	9-12	1
Communication Technology	9-12	1
Construction Technology	10-12	1
Cooperative Technology Education	10-12	3
Energy, Power, and Transportation Technology	9-12	1
General Technology Education	9-12	1
Manufacturing Technology	9-12	1
Materials and Processes	10-12	1
Physics of Technology I	10-12	1
Physics of Technology II	11-12	1
Power Mechanics	9-12	1
Technology Education Computer Applications	9-12	1
Technology Education Elective I, II	9-12	1/2-3
Welding Technology	10-12	1
Industry-Based Certifications		
Process Technician I, II	11-12	1
ABC Carpentry I, II TE	11-12	1-3
ABC Electrical I, II TE	11-12	1-3
ABC Instrumentation Control Mechanic I, II	11-12	1-3
ABC Pipe Fitter I, II TE	11-12	1-3
ABC Welding Technology I, II TE	11-12	1-3
Introduction to Engineering Design	8 -12	1
Principles of Engineering	9-10	1
Digital Electronics	9-10	1
Aerospace Engineering	11-12	1
Civil Engineering and Architecture	11-12	1
Computer Integrated Manufacturing	11-12	1
Engineering Design and Development	11-12	1
Engineering Design I, II	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 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 effect the stability of the family? No.

2. Will the proposed Rule effect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule effect the functioning of the family? No.

4. Will the proposed Rule effect family earnings and family budget? No.

5. Will the proposed Rule effect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Interested persons may submit written comments until 4:30 p.m., May 9, 2009, to Nina A. Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Amy B. Westbrook, Ph.D.
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: General Career, Technical Education and Technology Education

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed revision provides additional Career and Technical course offerings. It is estimated that there will be no additional costs to state governmental units. It is unknown at this time if there are any costs to local governmental units. The LEA may choose to offer new courses to students that may require updating course offerings or other counseling brochures. LEAs choosing to offer the new courses may need to purchase items such as new textbooks, instructional materials or equipment. Each LEA will make its determination.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections by state/local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed changes will bring current Career and Technical offerings in line with industry demands. In aligning our course offerings with national standards, it will strengthen

the link between secondary and postsecondary institutions. This will assist Career and Technical students in attaining vocational and professional skills for the workplace.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Employers could have a larger, trained, and qualified pool from which to select employees.

Beth Scioneaux	H. Gordon Monk
Deputy Superintendent	Legislative Fiscal Officer
0903#047	Legislative Fiscal Office

NOTICE OF INTENT

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, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 741—Louisiana Handbook for School Administrators*: §2319, High School Graduation Requirements. The proposed changes to Bulletin 741, Section 2319, will allow students with disabilities who complete the Carnegie unit requirements and pass the required components of the LEAP Alternate Assessment, Level 2 (LAA 2) to earn a standard high school diploma. Only students with disabilities eligible under IDEA who meet the LAA 2 eligibility participation criteria may take the LAA 2. Federal No Child Left Behind (NCLB) at section 200.1(f)(2)(iv) requires a State to ensure that a student who takes an alternate assessment based on modified academic achievement standards is not precluded from attempting to complete the requirements, as defined by the state, for a regular high school diploma. Currently in our state, students taking the LAA2 are precluded from attempting to complete a standard high school diploma.

Title 28
EDUCATION
Part CXV. Bulletin 741—Louisiana Handbook for School Administrators
Chapter 23. Curriculum and Instruction
§2319. High School Graduation Requirements

A. - A.3.d. …

B. In addition to completing a minimum of 23 Carnegie credits, students must pass the English language arts and mathematics components of the GEE or LEAP Alternate Assessment, Level 2 (LAA 2) and either the science or social studies portions of GEE or LAA 2 to earn a standard high school diploma. For students with disabilities who have passed two of the three required components of the GEE or LAA 2 and have exhausted all opportunities available through the end of the twelfth grade to pass the remaining required GEE or LAA 2 component, that GEE or LAA 2 component may be waived by the State Superintendent of Education if the Department of Education determines the student's disability significantly impacts his/her ability to pass the GEE or LAA 2 component.

1. Only students with disabilities eligible under IDEA who meet the LAA 2 participation criteria may take the LAA 2.

2. The English language arts and mathematics components of GEE or LAA 2 shall first be administered to students in the tenth grade.

3. The science and social studies components of the GEE or LAA 2 shall first be administered to students in the eleventh grade.

4. Remediation and retake opportunities will be provided for students that do not pass the GEE or LAA 2. Students shall be offered 50 hours of remediation each year in each content area they do not pass. Refer to *Bulletin 1566*: *Guidelines for Pupil Progression*, and the addendum to *Bulletin 1566: Regulations for the Implementation of Remedial Education Programs Related to the LEAP/CRT Program, Regular School Year.*

5. Students may apply a maximum of two Carnegie units of elective credit toward high school graduation by successfully completing specially designed courses for remediation.

a. A maximum of one Carnegie unit of elective credit may be applied toward meeting high school graduation requirements by an eighth grade student who has scored at the *Unsatisfactory* achievement level on either the English language arts and/or the mathematics component(s) of the eighth grade LEAP provided the student:

i. successfully completed specially designed elective(s) for LEAP remediation;

ii. scored at or above the *Basic* achievement level on those component(s) of the eighth grade LEAP for which the student previously scored at the *Unsatisfactory* achievement level.

C. Prior to or upon the student's entering the tenth grade, all LEAs shall notify each student and his/her parents or guardians of the requirement of passing GEE or LAA 2.

1. Upon their entering a school system, students transferring to any high school of an LEA shall be notified by that system of the requirement of passing GEE or LAA 2.

D. – J …

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

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

Interested persons may submit written comments until 4:30 p.m., May 9, 2009, to Nina A. Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Amy B. Westbrook, Ph.D.
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 741—Louisiana Handbook for School Administrators—High School Graduation Requirements

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The only costs associated with this rule change are the preparation and printing of the document. The cost is projected to be approximately $2,000. Publication can also be accomplished via the Department's web site. The proposed changes in Bulletin 741 at Section 2319 will allow students with disabilities who complete the Carnegie unit requirements and pass the required components of the LEAP Alternate Assessment, Level 2 (LAA 2) to earn a standard high school diploma. Only students with disabilities eligible under IDEA who meet the LAA 2 eligibility participation criteria may take the LAA2.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collection of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There could be economic benefits to students with disabilities who earn a high school diploma.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There could be a small impact on competition and employment with more students earning a diploma.

Elizabeth Scioneaux	H. Gordon Monk
Deputy Superintendent	Legislative Fiscal Officer
0903#048	Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel—Introduction (LAC 28:CXXXI.741)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 746—Louisiana Standards for State Certification of School Personnel:* §741.Introduction. The policy regarding individuals who were enrolled in programs under the previous position specific administrative certification policy were given until December 31, 2008, to complete requirements to have those areas added to their teaching certificates. This change in policy will allow applicants who have completed all courses, testing requirements, and degree requirements until 12/31/2013 to accrue the five years of experience required for administrative certification. Current policy does not allow applicants for specific position administrative certification the option of completing years of experience to have these areas added to their teaching certificate. This change will allow these applicants five years to accrue the required experience.

Title 28
EDUCATION
Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel
Chapter 7. Administrative and Supervisory Credentials
Subchapter C. Administrative and Supervisory Endorsements Superseded by the Educational Leadership Certification Structure

§741. Introduction

A. The effective date for implementation of redesigned leadership programs is July 1, 2006. After June 30, 2006, universities cannot admit candidates into a leadership/administration program that has not undergone the redesign and review process. Since some individuals will already be in the process of working toward one of the older leadership certifications (e.g., Principal, Supervisor, Superintendent), those individuals will be given a transition time to complete all coursework. Consequently, some universities may be admitting students into a redesigned educational leadership program and at the same time allowing students to pursue coursework that meets old certification requirements. Individuals who have completed all courses, testing requirements, and degree requirements under the position specific policy prior to 12/31/08 will be allowed until 12/31/2013 to accrue the five years of experience for the administrative certifications listed below:

1. - 7. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1825 (October 2006), 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? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

Interested persons may submit written comments until 4:30 p.m., May 9, 2009, to Nina Ford, State Board of

Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Amy B. Westbrook, Ph.D.
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 746—Louisiana Standards for State Certification of School Personnel—Introduction

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The policy regarding individuals who were enrolled in programs under the previous position specific administrative certification policy were given until December 31, 2008 to complete requirements to have those areas added to their teaching certificates. This change in policy will allow applicants who have completed all courses, testing requirements, and degree requirements until 12/31/2013 to accrue the five years of experience required for administrative certification. The adoption of this policy will cost the Department of Education approximately $700 (printing and postage) to disseminate the policy.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy will have no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Beth Scioneaux	H. Gordon Monk
Deputy Superintendent	Legislative Fiscal Officer
0903#044	Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel—Teacher Leader Endorsement (LAC 28:CXXXI.711)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 746—Louisiana Standards for State Certification of School Personnel:* §711. Teacher Leader Endorsement (Optional). This revision of policy clarifies the types of roles, jobs, and responsibilities that a teacher may assume upon obtaining a Teacher Leader endorsement. Current policy does not clarify the roles of teachers who are certified as Teacher Leaders, this change clarifies those responsibilities.

Title 28
EDUCATION
Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel
Chapter 7. Administrative and Supervisory Credentials
Subchapter A. The Educational Leadership Certification Structure—Effective July 1, 2006
§711. Teacher Leader Endorsement (Optional)

A. As part of the educational leader certification structure, there is an option for a teacher to become certified as a teacher leader. This optional endorsement allows principals the opportunity to afford leadership experiences to teachers at the school level and recruit potential educational leader candidates for their school districts. Teacher Leader is the certification authorization needed by those who fill school site leadership roles (e.g., serving as a school curriculum coordinator, chairperson or content teacher, serving as the School Improvement Team Chairperson, serving as the lead teacher in developing and scheduling a special activity at the school site, serving as the lead teacher in the school's preparation for a technical assistance visit etc.) This endorsement is valid for five years and is renewable every five years based upon successful completion and verification of 150 continuing learning units of professional development consistent with the Individual Professional Growth Plan (IPGP) over a five-year time period.

B. Eligibility requirements:

1. - 2.d. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1824 (October 2006), 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? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

Interested persons may submit written comments until 4:30 p.m., May 9, 2009, to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Amy B. Westbrook, Ph.D.
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 746—Louisiana Standards for State Certification of School Personnel
Teacher Leader Endorsement

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This revision of policy clarifies the types of roles, jobs, and responsibilities that a teacher may assume upon obtaining a Teacher Leader endorsement. The adoption of this policy will cost the Department of Education approximately $700 (printing and postage) to disseminate the policy.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy will have no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Beth Scioneaux	H. Gordon Monk
Deputy Superintendent	Legislative Fiscal Officer
0903#043	Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act—Admission and Release (LAC 28:XLIII.464)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act* (R.S. 17:1941 et seq.):

Current regulations do not provide an adequate structure for addressing the denial of admission or continued enrollment to students at these facilities when the facilities' setting is inappropriate for those students. Although current regulations do allow a Board Special School to release a student when the student's IEP (Individualized Education Plan) team determines that the facility is not appropriate for the student, this determination is often limited to the school setting. Some students, however, may function in the school setting but the residential component is not appropriate for the student.

Title 28
EDUCATION
Part XLIII. Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act [R.S. 17:1941 et seq.]
Subpart 1. Regulations for Students with Disabilities
Chapter 4. Special School District (SSD) and BESE Special Schools (BSS)
Subchapter B. BESE Special Schools
§464. Admission and Release

A. - B.2.b.iii. …

c. when the student's IEP Team determines that the BSS is not appropriate for the student or when the BSS determines that the BSS residential setting is not appropriate for the student;

d. - e. …

3. A BSS may deny admission or continued enrollment to a student and release a student from a BSS if the BSS determines that the BSS program is inappropriate for the student's individual needs.

4. The BSS shall notify the appropriate LEA when a student who is still eligible for a free appropriate public education is released from BSS.

5. Students not admitted or denied continued admission under Paragraph 3 may apply for admission to the school in the future.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2067 (October 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? No.
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 until 4:30 p.m., May 9, 2009, to Nina A. Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Amy B. Westbrook, Ph.D.
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act—Admission and Release

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed Rule distinguishes the educational program and the residential program of the Board Special Schools, acknowledging that the residential setting may be inappropriate for some students, and authorizing the schools to take action to ensure that all students are appropriately served in each setting. There will be no implementation costs for state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collection of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no costs or economic benefits to non-governmental groups affected by this Rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated impact on competition and employment.

Beth Scioneaux	H. Gordon Monk
Deputy Superintendent	Legislative Fiscal Officer
0903#045	Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Nonpublic Bulletin 741—Louisiana Handbook for Nonpublic School Administrators—Immunization
(LAC 28:LXXIX.1101)

In accordance with R.S. 49:950, et. seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to Nonpublic Bulletin 741, *Louisiana Handbook for Nonpublic School Administrators*: §1101. Immunization.

The proposed changes are the result of legislation passed during the 2008 Regular Legislative Session.

Title 28
EDUCATION
Part LXXIX. Nonpublic Bulletin 741—Louisiana Handbook for Nonpublic School Administrators
Chapter 11. Health
§1101. Immunization

A. …

1. If an existing student-specific electronic data system exists, immunization compliance reports shall be electronically transmitted to the Department of Health and Hospitals, Office of Public Health according to specifications provided by the Department of Health and Hospitals.

B.

C. Beginning with the 2009-2010 school year and thereafter, each person entering the sixth grade in any school within the state shall present satisfactory evidence of immunity to or immunization against vaccine preventable diseases according to a schedule approved by the Office of Public Health, Department of Health and Hospitals, or shall present evidence of an immunization program in progress.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411; R.S. 17:170(D); R.S. 17:170(A)(1).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2348 (November 2003), amended LR 31:3078 (December 2005), 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? Yes.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Interested persons may submit written comments until 4:30 p.m., May 9, 2009, to: Nina A. Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Amy B. Westbrook, Ph.D.
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Nonpublic Bulletin 741—Louisiana Handbook for Nonpublic School Administrators—Immunization

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The following table provides a brief description of the proposed policy change and the estimated cost of each:

Policy Number/Title in Bulletin 741 (Nonpublic)	Description of Policy Change	Estimated Cost
§1101. Immunization	Provides for electronic submission of immunization reports when school operates an existing student-specific electronic data system	None
§1101. Immunization	Requires each person entering sixth grade to present evidence of immunization against vaccine-preventable diseases	None

There is no estimated cost or savings to the state or local governmental units as a result of the proposed policy changes.

The only cost resulting from the policy changes is approximately $164.00 for printing associated with the Louisiana Register.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed policy changes will have no effect on revenue collection of state and local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed policy changes will not provide economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed policy changes will have no effect on competition and employment.

Beth Scioneaux,	H. Gordon Monk
Deputy Superintendent	Legislative Fiscal Officer
0903#046	Legislative Fiscal Office

NOTICE OF INTENT

Student Financial Assistance Commission
Office of Student Finanical Assistance

Scholarship/Grant Programs—Definitions
(LAC 28:IV.2103)

The Louisiana Tuition Trust Authority announces its intention to amend its START Saving Program rules (R.S. 17:3091 et seq.).

These rule changes will authorize account owners to change their investment option twice during the 2009 calendar year. This change is a one time authorization of the Internal Revenue Service and is time sensitive.

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972. (ST09104NI)

Title 28
EDUCATION
Part IV. Student Financial Assistance—Higher Education Scholarship and Grant Programs
Chapter 21. Miscellaneous Provisions and Exceptions
§2103. Circumstances Warranting Exception to the Initial and Continuous Enrollment Requirements

A. - C.3. …

a. *Course of Study*—for the purposes of this paragraph is a program:

i. established by the postsecondary institution leading to an associate's degree, or

ii. with course work specified by school of study at a postsecondary institution (e.g., business, architecture, mass communications, art and design) required for admission to that school for further studies to earn a baccalaureate degree.

b. *Clinical Program*—for the purposes of this paragraph means student teaching, practicum courses, or clinic based experiences required to earn a baccalaureate degree.

D. - G.5.b.iii. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3042.1, R.S. 17:3048.1 and R.S. 17:3050.1-3050.4.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), amended LR 23:1648 (December 1997), repromulgated LR 24:647 (April 1998), amended LR 24:1916 (October 1998), LR 26:1015 (May 2000), LR 26:2002 (September 2000), LR 27:36 (January 2001), repromulgated LR 27:1866 (November 2001), amended LR 27:1875 (November 2001), LR 28:46 (January 2002), LR 28:449 (March 2002), LR 28:775 (April 2002), LR 28:2330, 2333 (November 2002), LR 29:126 (February 2003), LR 29:2373, 2373 (November 2003), LR 30:785 (April 2004), LR 30:1167 (June 2004), LR 31:1060 (May 2005), LR 33:440 (March 2007), LR 35:.

Interested persons may submit written comments on the proposed changes (SG09102NI) until 4:30 p.m., April 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—Definitions

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed changes modify the Scholarship and Grant Program Rules to refine the definition of "full-time" for students who are enrolled in less than twelve hours a semester or eight hours a term by adding definitions for "Course of Study" and "Clinical Programs". These revisions will assist postsecondary schools classify students as "program full time" to meet the renewal criteria for TOPS. This action does not change the requirements, but clarifies the rules to highlight a procedure that is already in effect. Except for the nominal cost of rulemaking, there should be no additional cost to the program. There could possibly be a nominal reduction in costs to the program in those cases when payment is for students enrolling in less than twelve semester hours or eight term hours.

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 students more flexibility to maintain eligibility for their TOPS award. Many of these students attend an in-state school to further their education and remain in Louisiana upon completion of their education. This will provide Louisiana employers a better-educated workforce and may also attract out-of-state employers to Louisiana thus providing additional better paying jobs.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed change gives students more flexibility to maintain eligibility for their TOPS award to complete their education. Any increase in the number of students completing their 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	H. Gordon Monk
General Counsel	Legislative Fiscal Officer
0903#013	Legislative Fiscal Office

NOTICE OF INTENT

Student Financial Assistance Commission
Office of Student Finanical Assistance

Scholarship/Grant Programs—LEAP Notification
(LAC 28:IV.1903)

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 revises the rules regarding the Leveraging Educational Assistance Partnership (LEAP) to include a federally mandated notice to award recipients of the source of the funds for the LEAP award.

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972. (SG09103NI)

Title 28
EDUCATION
Part IV. Student Financial Assistance—Higher Education Scholarship and Grant Programs
Chapter 19. Eligibility and Responsibilities of Post-Secondary Institutions
§1903. Responsibilities of Post-Secondary Institutions

A. - C.1.f. …

g. certify that it has notified each eligible student that the grant is a LEAP grant which is funded by the state of Louisiana and the federal government.

C.2. - G. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, 17:3041.10-3041.15, 17:3041.21-3041.26 and R.S. 17:3048.1 and R.S. 17:3050.1-3050.4.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:645 (April 1998), amended LR 24:1914 (October 1998), LR 25:1459 (August 1999), LR 26:1998, 2002 (September 2000), repromulgated LR 27:1864 (November 2001), amended LR 28:448 (March 2002), LR 28:775 (April 2002), LR 28:1760 (August 2002), LR 28:2333 (November 2002), LR 30:784 (April 2004), LR 30:1166 (June 2004), LR 31:40 (January 2005), LR 31:3111, 3114 (December 2005), LR 33:1340 (July 2007), LR 35:

Interested persons may submit written comments on the proposed changes (SG09102NI) until 4:30 p.m., April 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 LEAP Notification

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed change requires notice to students that receive a LEAP award that the award is both state and federally funded. This is a procedural change required by federal law that will not impact state or local governmental unit costs.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue collections of state and local governments will not be affected by the proposed change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed change requires notice to students that receive a LEAP award that the award is both state and federally funded. This is a procedural change required by federal law that will not directly impact students or nongovernmental units.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed change is procedural in nature and will not have a direct impact on competition or employment.

George Badge Eldredge	H. Gordon Monk
General Counsel	Legislative Fiscal Officer
0903#014	Legislative Fiscal Office

NOTICE OF INTENT

Tuition Trust Authority
Office of Student Financial Assistance

START Saving Program—Deposits
(LAC 28:VI.305)

The Louisiana Tuition Trust Authority announces its intention to amend its START Saving Program rules (R.S. 17:3091 et seq.).

These rule changes will authorize account owners to change their investment option twice during the 2009 calendar year. This change is a onetime authorization of the Internal Revenue Service and is time sensitive.

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972. (ST09104NI)

Title 28
EDUCATION
Part VI. Student Financial Assistance—Higher Education Savings
Chapter 3. Education Savings Account
§305. Deposits to Education Savings Accounts

A. - D.3. …

4. Changing the Investment Option

a. Through 2008, the investment option can be changed only once in any 12-month period.

b. For the 2009 calendar year, the investment option may be changed at any time, but no more than two times.

c. Beginning the 2010 calendar year and thereafter, the investment option may be changed one time each calendar year.

D.5. - E.4. …

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

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

Interested persons may submit written comments on the proposed changes (ST09104NI) until 4:30 p.m., April 10, 2009, to Melanie Amrhein, Executive Director, Office of Student Financial Assistance, P.O. Box 91202, Baton Rouge, LA 70821-9202.

Interested persons may submit written comments on the proposed changes (ST09104NI) until 4:30 p.m., April 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—Deposits

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The IRS responded to concerns caused by the recent condition of the financial markets by issuing special guidance on January 7, 2009, that authorizes Section 529 program administrators to allow an account owner to change an investment option twice during the 2009 calendar year. Previously, an account owner was restricted to one investment option change per twelve month period. The Authority acknowledges that there is public concern that the inability to make investment option changes may interfere with the preservation of the value of a 529 account. This rulemaking will implement the IRS guidance for the START Saving Program (a Section 529 program), which will provide account owners with additional investment flexibility during the 2009 calendar year. After 2009, account owners will be allowed to make one change in investment option during a calendar year. Since this change involves private funds in the START Savings Program, there is no impact on local government finances. The estimated cost for the state to implement this proposed change is $14,040 in one-time programming changes.

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)

Allowing an account owner more flexibility during the 2009 calendar year to change investment options entails some risk that the account owner's change will actually cause a greater loss than would be incurred if the funds remained in the same option and were allowed to recover their value. However, allowing one (1) additional investment option change without a time restriction only during the 2009 calendar year could address the concerns of many account owners at this time of historic volatility in the financial markets. Some account owners may view this change as an opportunity to protect the value of their investment and prevent further losses.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no anticipated effects on competition and employment resulting from these measures.

George Badge Eldredge	H. Gordon Monk
General Counsel	Legislative Fiscal Officer
0903#012	Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Exemption of VOCs (LAC 33:III.2117)(AQ304ft)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air regulations, LAC 33:III.2117 (Log #AQ304ft).

This proposed rule is identical to federal regulations found in 72 FR 2193-2196, No. 11 (January 18, 2007), and 74 FR 3437-3441, No. 12 (January 21, 2009), which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3471 or Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the proposed rule. This rule will be promulgated in accordance with the procedures in R.S. 49:953(F)(3) and (4).

This rule adds the compounds propylene carbonate; dimethyl carbonate; and 1,1,1,2,2,3,4,5,5,5-decafluoro-3-methoxy-4-trifluoromethyl-pentane to the list of compounds that are exempt from the control requirement of LAC 33:III.Chapter 21. These compounds are being added on the basis that they make a negligible contribution to tropospheric ozone formation. In addition to the added compounds, several chemical names are being enhanced for clarity. This action is necessary to keep the state list of exempted compounds identical to the federal list of compounds that make a negligible contribution to tropospheric ozone formation. The basis and rationale for this rule are to mirror the federal regulations. This proposed rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33
ENVIRONMENTAL QUALITY
Part III. Air
Chapter 21. Control of Emission of Organic Compounds
Subchapter A. General
§2117. Exemptions

A. The compounds listed in the following table are exempt from the control requirements of this Chapter.

Exempt Compounds
acetone
1-chloro-1,1-difluoroethane (HCFC-142b)
chlorodifluoromethane (HCFC-22)
1-chloro-1-fluoroethane (HCFC-151a)
chlorofluoromethane (HCFC-31)
chloropentafluoroethane (CFC-115)
2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124)
cyclic, branched, or linear completely fluorinated alkanes
cyclic, branched, or linear completely fluorinated ethers with no unsaturations
cyclic, branched, or linear completely fluorinated tertiary amines with no unsaturations
cyclic, branched, or linear completely methylated siloxanes
1,1,1,2,2,3,4,5,5,5-decafluoro-3-methoxy-4-trifluoromethyl-pentane (HFE-7300)
1,1,1,2,3,4,4,5,5,5-decafluoropentane (HFC-43-10mee)
dichlorodifluoromethane (CFC-12)
1,1-dichloro-1-fluoroethane (HCFC-141b)
1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225cb)
3,3-dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225ca)
1,2-dichloro-1,1,2,2-tetrafluoroethane (CFC-114)
1,2-dichloro-1,1,2-trifluoroethane (HCFC-123a)
1,1-difluoroethane (HFC-152a)
difluoromethane (HFC-32)
dimethyl carbonate
ethane
3-ethoxy-1,1,1,2,3,4,4,5,5,6,6,6-dodecafluoro-2-(trifluoromethyl) hexane (HFE–7500)
1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane ($C_4F_9OC_2H_5$ or HFE-7200)
ethylfluoride (HFC-161)
1,1,1,2,2,3,3-heptafluoro-3-methoxypropane (n-$C_3F_7OCH_3$, HFE–7000)
1,1,1,2,3,3,3-heptafluoropropane (HFC 227ea)
2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane ($(CF_3)_2CFCF_2OCH_3$)
2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane ($(CF_3)_2CFCF_2OC_2H_5$)
1,1,1,2,3,3-hexafluoropropane (HFC-236ea)
1,1,1,3,3,3-hexafluoropropane (HFC-236fa)
methane
methyl acetate
methylene chloride (dichloromethane)
methyl formate ($HCOOCH_3$)
1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxy-butane ($C_4F_9OCH_3$ or HFE-7100)
parachlorobenzotrifluoride (PCBTF)
1,1,1,3,3- pentafluorobutane (HFC-365mfc)
pentafluoroethane (HFC-125)
1,1,1,2,3-pentafluoropropane (HFC-245eb)
1,1,1,3,3-pentafluoropropane (HFC-245fa)
1,1,2,2,3-pentafluoropropane (HFC-245ca)
1,1,2,3,3-pentafluoropropane (HFC-245ea)
perchloroethylene (tetrachloroethylene)
sulfur-containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine
propylene carbonate
1,1,1,2-tetrafluoroethane (HFC-134a)
1,1,2,2-tetrafluoroethane (HFC-134)
1,1,1-trichloroethane (methyl chloroform)
trichlorofluoromethane (CFC-11)
1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113)
1,1,1-trifluoro-2,2-dichloroethane (HCFC-123)
1,1,1-trifluoroethane (HFC-143a)
trifluoromethane (HFC-23)

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 16:118 (February 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:289 (March 1994), LR 21:681 (July 1995), LR 21:1330 (December 1995), repromulgated LR 22:14 (January 1996), amended LR 22:703 (August 1996), LR 23:1661 (December 1997), LR 24:22 (January 1998), LR 25:258 (February 1999), amended by the Office of Environmental Assessment, LR 31:1062 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 35:

This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

A public hearing will be held on April 28, 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 Christopher A. Ratcliff at the address given below or at (225) 219-3471. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ304ft. Such comments must be received no later than April 28, 2009, at 4:30 p.m., and should be sent to Christopher A. Ratcliff, Attorney Supervisor, Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3398 or by e-mail to chris.ratcliff@la.gov. 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 AQ304ft. 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

0903#024

NOTICE OF INTENT

Office of the Governor
Office of Financial Institutions

Louisiana Money Transmitters
(LAC 10:XV.1101-1103)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, as provided under R.S. 6:126(A), and as authorized by R.S. 6:1038.1; and 6:1054, the Commissioner of the Office of Financial Institutions gives notice of intent to promulgate a Rule to provide for the administration and regulatory oversight of the Louisiana Sale of Checks and Money Transmission Act [R.S. 6:1031 et seq.]. The

proposed Rule establishes fees to cover anticipated regulatory costs.

Title 10
FINANCIAL INSTITUTIONS, CONSUMER CREDIT, INVESTMENT SECURITIES AND UCC
Part XV. Other Regulated Institutions
Chapter 11. Money Transmitters
§1101. Examinations and Visitations

A. Each individual, partnership, association, or corporation that is licensed to sell checks or money orders in Louisiana shall pay the following fees and charges to the Office of Financial Institutions for examinations and visitations by the Office of Financial Institutions, whether conducted solely by the Office of Financial Institutions or jointly with the regulator of such activity in other jurisdictions and whether conducted in Louisiana or at the licensee's offices outside Louisiana:

1. $50 per hour for each examiner who participates in the examination or visitation;

2. the actual cost of subsistence, lodging, and transportation for out-of-state examinations, not to exceed the amounts provided for in Division of Administration travel regulations in force at the time of such examination or visitation.

B. Pursuant to the authority granted under R.S. 6:121; 6:1038.1; and 6:1054, the following fee structure is hereby established to cover necessary costs associated with the administration of the Louisiana Sale of Checks and Money Transmission Act, R.S. 6:1031 et seq.

Description	Fee
Application for a temporary license.	$300
Application for the change in control of a licensee.	$200

C. The fees, charges, and expenses shall be paid by the examined licensee within 30 days after the Office of Financial Institutions mails its bill. Failure to pay within the allowed time shall be a basis for initiating proceedings to suspend the license, or the imposition of a penalty assessment of $50 for each day the fees, charges, and expenses remain unpaid, or both.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 18:144 (February 1992), amended by the Office of the Governor, Office of Financial Institutions, LR 35:

§1103. Statement of Anticipated Costs and Proceeds

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121 (B)(1).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 18:144 (February 1992), amended by the Office of the Governor, Office of Financial Institutions, LR 35:

Family Impact Statement

There is no family impact associated with the proposed Rule as provided in R.S. 49:972.

All interested persons are invited to submit written comments on this proposed Rule no later than 4:30 p.m., April 9, 2009, to John D. Fields, Deputy Chief Examiner, Office of Financial Institutions, P.O. Box 94095, Baton Rouge, LA 70804-9095, or by hand-delivery to 8660 United Plaza Boulevard, Second Floor, Baton Rouge, LA 70809

John Ducrest, CPA
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Louisiana Money Transmitters

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no net implementation costs or savings associated with the adoption of this rule by either state or local governmental units. The proposed rule revises the fee schedule that requires money transmitters to bear the cost the Office of Financial Institutions (OFI) incurs with the administration of the Louisiana Sale of Checks and Money Transmission Act ("Program"). Administrative costs associated with performing this function will be funded by application and examination fees collected from licensed money transmitters. Since OFI operates on an actual cost basis, there is no net change in expenditures to OFI since any reductions in expenditures for other regulatory areas as a result of the reallocation of staff to administer and regulate the Program will result in a reduction of assessments for depository institutions. In accordance with LAC 10:303(H), any amounts collected in excess of actual expenditures associated with depository institutions are credited or refunded the collected fees on a pro-rata basis to the affected institutions.

The Program grants the Commissioner of Financial Institutions the authority to promulgate rules necessary to establish a reasonable fee schedule to cover the cost of administration and regulatory oversight [LSA-R.S. 6:1038.1.A.(5) and 1054.C.(3)]. The proposed rule revises the fee schedule for examinations and establishes fees for certain applications associated with the Program.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no net impact on the revenue collections of state or local governmental units. Any fee income will be utilized to cover anticipated administrative and examination costs to supervise and regulate the Program. This results in a zero net change in OFI total budget since the additional fee income and reallocation of administrative costs would result in a reduction of assessments for other regulated institutions.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Entities seeking to conduct money transmission activities in Louisiana will be required to pay additional fees established by this proposed rule for applications and examinations.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule is not expected to have any significant impact on competition or employment. The proposed rule revises the current fee structure and requires licensees to bear the cost of regulation of the Program.

John Ducrest, CPA	H. Gordon Monk
Commissioner	Legislative Fiscal Officer
0903#029	Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Board of Medical Examiners

Licensure and Certification; Waiver of Qualifications
(LAC 46:XLV.315)

Notice is hereby given that pursuant to the authority vested in it by the Louisiana Medical Practice Act, R.S. 37:1261-1292, and in accordance with the applicable provisions of the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana State Board of Medical Examiners (Board), intends to amend its rules governing Licensure and Certification of Physicians, LAC 46:XLV, Subpart 2, Chapter 3, Subchapter B, Section 315. The proposed Rule amendment would expand the discretionary waiver of certain licensure qualifications currently provided in the Rule to an applicant who has been offered a full-time position at a rank of assistant professor or above at a medical school or college within the state that is approved by the board. The proposed amendment would also clarify that the practice of any individual licensed on the basis of §315 shall be limited to the medical school or college for which such individual was approved by the board, and to hospitals and clinics affiliated with that medical school or college.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XLV. Medical Professions
Subpart 2. Licensure and Certification
Chapter 3. Physicians
Subchapter B. Graduates of American and Canadian Medical School and Colleges
§315. Waiver of Qualifications

A. Upon request by an applicant, supported by certification from the dean of a medical school or college within the state of Louisiana which is approved by the board, the board may, in its discretion, waive the qualifications for licensure otherwise required by §311.A.5 or 6, in favor of an applicant who has been formally appointed by and with such medical school or college to a full-time position at a rank of assistant professor or above. The practice of such an individual shall be limited to the medical school or college for which such person has been approved by the board, and to hospitals and clinics affiliated with such medical school or college.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1271, 37:1272, 37:1274 and 37:1275.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:909 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:513 (June 1990), LR 27:837 (June 2001), LR 35:

Family Impact Statement

The proposed Rule amendment has no known impact on family, formation, stability or autonomy, as described in R.S. 49:972.

Interested persons may submit written data, views, arguments, information or comments on the proposed rule amendment to Rita Arceneaux, Confidential Executive Assistant, Louisiana State Board of Medical Examiners, at Post Office Box 30250, New Orleans, LA, 70190-0250 (630 Camp Street, New Orleans, LA, 70130), (504) 568-6820, Ex. 242. She is responsible for responding to inquiries. Written comments will be accepted until 4 p.m., April 20, 2009.

Robert L. Marier, M.D.
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Licensure and Certification; Waiver of Qualifications

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Other than notice/rule publication costs estimated at a combined total of $246, which will be absorbed within the Board's budget during FY 2009, it is not anticipated that the proposed rule amendments will result in any additional costs or savings to the Board or any other state or local governmental unit.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

While the Board has no reliable data, it is believed that only a very limited number of physician-applicants may qualify for medical licensure on the basis of the proposed amendments. The Board is not, however, in a position to estimate the proposed amendments' effect in this respect as no information or data is available either as to the number of physicians who may be offered a full-time position of assistant professor at a medical school or college in this state or the extent to which he or she may fall within the scope of the proposed amendments. It is anticipated that such applicants will be infrequent and non-recurring on an annual basis. Any such applicant would be subjected to the medical licensing fees specified by the Board's rules. Accordingly, no material effect on the Board's revenue collections or those of any other state or governmental unit is anticipated.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

It is not anticipated that the proposed rule amendments will have any material effect on costs, paperwork or workload of physicians or applicants. Nor is it anticipated that the proposed amendments will result in any adverse costs and/or economic impact on applicants, licensees or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that the proposed rules will have any material impact on competition or employment in either the public or private sector.

Robert Marier, M.D.	Robert E. Hosse
Executive Director	Staff Director
0903#053	Legislative Fiscal Officer

NOTICE OF INTENT

Department of Health and Hospitals
Board of Optometry Examiners

Employment Restrictions; Continuing Education; Professional Conduct (LAC 46:LI.109, 301, and 501)

Notice is hereby given, in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., that the Louisiana State Board of Optometry Examiners, pursuant to authority vested in the Louisiana State Board of Optometry

Examiners by the Optometry Practice Act, R.S. 37:1041-1068, intents to amend Title 46, Part LI by adopting the following proposed amendments to the rules set forth below.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LI. Optometrists

Chapter 1. General Provisions

§109. Employment Restrictions

A. - A2.b. …

c. Repealed.

3. an individual, unless such individual is duly licensed as an optometrist or physician in the state of Louisiana.

B. - D. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1048.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Optometry Examiners, LR 32:630 (April 2006), amended LR 35:

Chapter 3. License

§301. Continuing Education

A. …

1. Standard optometry license holders and diagnostic pharmaceutical certificate holders shall complete between January 1 and December 31 of each calendar year at least 12 hours of continuing education courses, of which a minimum of 10 hours must be obtained in a classroom setting, approved by the Louisiana State Board of Optometry Examiners.

2. License holders authorized to diagnose and treat pathology and use and prescribe therapeutic pharmaceutical agents shall complete between January 1 and December 31 of each calendar year at least 16 hours of continuing education courses, of which a minimum of 14 hours must be obtained in a classroom setting, approved by the Louisiana State Board of Optometry Examiners, and of which at least eight classroom hours shall consist of matters related to ocular and systemic pharmacology and current diagnosis and treatment of ocular disease. Such certificate holders will be entitled to apply the CPR continuing education to their required annual continuing education, provided that such CPR continuing education shall not count toward the required eight classroom hours related to ocular and system pharmacology and current diagnosis and treatment of ocular disease, and provided further that no more than four hours of CPR continuing education may be applied to the continuing education requirement in any two calendar year periods. The eight hours of continuing education relating to ocular and systemic pharmacology and/or current diagnosis and treatment of ocular disease shall be obtained solely from the following sources:

a. - e. …

3. All hours shall be computed on a 60 minute basis.

4. - 6. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1048.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Optometry Examiners, LR 32:631 (April 2006), amended LR 35:

Chapter 5. Practicing Optometry

§501. Professional Conduct

A. - C. …

D. - F. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1048.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Optometry Examiners, LR 32:632 (April 2006), amended LR 35:

Family Impact Statement

The proposed Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. The proposed Rule has no known fiscal or economic impact and no known impact on family functioning stability, or autonomy as described in R.S. 49:972.

Interested persons may submit written data, views, arguments, information or comments on the proposed Rule until 11 a.m., May 10, 2009, to Dr. James D. Sandefur, O.D., Louisiana State Board of Optometry Examiners, 115-B North 13th Street, Oakdale, LA 71463. He is responsible for responding to inquiries regarding the proposed Rule.

Dr. James D. Sandefur, O.D.
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Employment Restrictions; Continuing Education; Professional Conduct

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Other than the rule publication costs, which are estimated to be $500 in FY 09, it is not anticipated that the proposed rule amendments will result in any material costs or savings to the Board of Optometry Examiners, any state unit or local governmental unit. Notification of these rule changes will be included in a mass mailing to all licensees, which has already been budgeted for notification of such rule changes.

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)

Optometrists who utilize online continuing education allowed by the proposed rule changes will have decreased travel costs and fewer demands on their time associated with obtaining their continuing education credits.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

J. Graves Theus, Jr.
Attorney
0903#076

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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 proposes to amend 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 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 Rules which established the prospective reimbursement methodology for inpatient hospital services provided in free-standing psychiatric hospitals and distinct part psychiatric units of acute care general hospitals (*Louisiana Register*, Volume 19, Number 6) as well as in private (non-state) acute care general hospitals (*Louisiana Register*, Volume 20, Number 6). In compliance with the directives of Act 17 of the 2006 Regular Session of the Louisiana Legislature, the Bureau amended the reimbursement methodology for inpatient hospital services to increase the Medicaid reimbursement rates paid to private hospitals and free-standing and distinct part psychiatric units (*Louisiana Register*, Volume 33, Number 2). The bureau has now determined that it is necessary to amend the provisions governing the reimbursement methodology for non-rural, non-state community hospitals to align the prospective per diem rates more closely with reported costs.

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 July 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 July 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 July 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 July 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 July 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 July 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 July 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 July 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 July 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 July 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 July 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:

§955. Long Term Hospitals

A. ...

B. Effective for dates of service on or after July 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:

§959. Inpatient Psychiatric Hospital Services

A. ...

B. Effective for dates of service on or after July 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:

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 upon 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, April 29, 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: Inpatient Hospital Services—Non-Rural, Non-State Hospitals—Reimbursement Rate Adjustment

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 $246 for FY 08-09, $11,006,256 for FY 09-10, and $12,955,935 for FY 10-11. It is anticipated that $492 ($246 SGF and $246 FED) will be expended in FY 08-09 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on the "hold harmless" Federal Medical Assistance Percentage (FMAP) as allowed in the American Recovery and Reinvestment Act of 2009 (72.47%). 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 (estimated to be 80.01% in the current year) for the eligibility period (through December 2010), state general fund match could be reduced. In FY 10-11, the FMAP is projected to drop below the hold harmless rate by an unknown amount. In the event of this decrease, the state general funds will increase to the federally required match.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately $246 for FY 08-09, $28,972,879 for FY 09-10, and $34,105,218 for FY 10-11. It is anticipated that $246 will be expended in FY 07-08 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on the "hold harmless" Federal Medical Assistance Percentage (FMAP) as allowed in the American Recovery and Reinvestment Act of 2009 (72.47%). 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 (estimated to be 80.01% in the current year) for the eligibility period (through December 2010), state general fund match could be reduced. In FY 10-11, the FMAP is projected to drop below the hold harmless rate by an unknown amount. In the event of this decrease, the state general funds will increase to the federally required match.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule proposes to amend the provisions governing the reimbursement methodology for non rural, non state community hospitals to align the prospective per diem rates more closely with reported costs (approximately 60 facilities affected). It is anticipated that implementation of this proposed rule will increase program expenditures for inpatient hospital services by approximately $39,979,135 for FY 09-10 and $47,061,153 for FY 10-11.

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	Robert E. Hosse
Medicaid Director	Staff Director
0903#068	Legislative Fiscal Office

NOTICE OF INTENT

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 proposes to amend 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 and as directed by Act 19 of the 2008 Regular Session of the Louisiana Legislature which states: "The secretary shall, subject to the review and approval of the Joint Legislative Committee on the Budget, implement reductions in the Medicaid program as necessary to control expenditures to the level appropriated in this Schedule. Notwithstanding any law to the contrary, the secretary is hereby directed to utilize various cost-containment measures to accomplish these reductions, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations and other measures as allowed by federal law." 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 promulgated provisions governing the reimbursement methodology for intermediate care facilities for persons with developmental disabilities that utilize the Inventory for Client and Agency Planning instruments (*Louisiana Register*, Volume 31,

Number 9). Provisions governing the reimbursement methodology for hospital leave of absence days were also included in the Rule. As a result of a budgetary shortfall, the Bureau promulgated an Emergency Rule to reduce the reimbursement rate paid to non-state intermediate care facilities for persons with developmental disabilities (*Louisiana Register*, Volume 35, Number 2). This proposed Rule is being promulgated to only continue the provisions of the February 20, 2009 Emergency Rule which reduced the reimbursement rate paid for leave of absence days.

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:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule may have an adverse impact on family functioning, stability and autonomy as described in R.S. 49:972 in the event that provider participation in the Medicaid Program is diminished as a result of reduced reimbursement rates.

Implementation of the provisions of this Rule is contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid 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, April 29, 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: Intermediate Care Facilities for Persons with Developmental Disabilities—Leave of Absence Days Reimbursement Rate Reduction

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in an estimated savings to the state of $106,117 for FY 08-09, $398,069 for FY 09-10, and $410,011 for FY 10-11. It is anticipated that $328 ($164 SGF and $164 FED) will be expended in FY 08-09 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on the "hold harmless" Federal Medical Assistance Percentage (FMAP) as allowed in the American Recovery and Reinvestment Act of 2009 (72.47%). 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 (estimated to be 80.01% in the current year) for the eligibility period (through December 2010), state general fund match could be reduced. In FY 10-11, the FMAP is projected to drop below the hold harmless rate by an unknown amount. In the event of this decrease, the state general funds will increase to the federally required match.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately $279,609 for FY 08-09, $1,047,879 for FY 09-10, and $1,079,315 for FY 10-11. It is anticipated that $164 will be collected in FY 08-09 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on the "hold harmless" Federal Medical Assistance Percentage (FMAP) as allowed in the American Recovery and Reinvestment Act of 2009 (72.47%). 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 (estimated to be 80.01% in the current year) for the eligibility period (through December 2010), state general fund match could be reduced. In FY 10-11, the FMAP is projected to drop below the hold harmless rate by an unknown amount. In the event of this decrease, the state general funds will increase to the federally required match.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule, which continues the provisions of the February 20, 2009 Emergency Rule, proposes to amend the reimbursement methodology for intermediate care facilities for persons with developmental disabilities (ICF/DDs) to reduce the reimbursement rate paid for leave of absence days. It is anticipated that implementation of this proposed rule will decrease program expenditures in the Medicaid Program by approximately $386,054 for FY 08-09, $1,445,948 for FY 09-10 and $1,489,326 for FY 10-11.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will have a negative effect on competition and employment as it will reduce the payment made to ICF/DDs when residents are away from the facility for home visits. The reduction in payments may adversely impact the facility's financial standing and could possibly cause a reduction in employment opportunities.

Jerry Phillips	Robert E. Hosse
Medicaid Director	Staff Director
0903#069	Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Bureau of Health Services Financing

Medicaid Eligibility—Louisiana Health Insurance Premium Payment Program (LAC 50:III.2311)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt LAC 50:III.2311 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.

Section 1906 of Title XIX of the Social Security Act provides for the mandatory enrollment of Medicaid eligibles in cost effective group health plans as a condition of Medicaid eligibility. Federal regulations specify that cost effectiveness of such a group health plan for an individual would occur if the amount paid for premiums, coinsurance, deductibles, other cost sharing obligations and any additional administrative costs would be less than the amount paid for an equivalent set of Medicaid services. In compliance with Section 1906, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing established the Group Health Insurance Premium Payment (GHIPP) Program (*Louisiana Register*, Volume 19, Number 9). The intent of this program is to reduce Medicaid costs by establishing or maintaining a third party resource as the primary payer of the Medicaid beneficiary's medical expenses.

The Department of Health and Hospitals, Bureau of Health Services Financing now proposes to repromulgate and clarify the provisions of the September 20, 1993 Rule in a codified format for inclusion in the *Louisiana Administrative* Code and to adopt provisions changing the name of the program.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part III. Eligibility
Subpart 3. Eligibility Groups and Factors
Chapter 23. Eligibility Groups and Medicaid Programs
§2311. Louisiana Health Insurance Premium Payment Program

A. Section 1906 of Title XIX of the Social Security Act mandates that Medicaid recipients enroll and maintain their enrollment in cost effective group health insurance plans as a condition of Medicaid eligibility if such a plan is available. In compliance with Section 1906, the department established the Group Health Insurance Premium Payment Program (GHIPP) to provide Medicaid payment of the costs associated with the enrollment of recipients in cost effective group health insurance plans. The department hereby changes the name of the GHIPP Program to the Louisiana Health Insurance Premium Payment (La HIPP) Program.

B. Medicaid recipients shall be enrolled in La HIPP when cost-effective health plans are available through the recipient's employer or a responsible party's employer-based health plan if the recipient is enrolled or eligible for such a health plan.

1. The enrollment period for the La HIPP program shall be no less than six months.

C. When coverage for eligible family members is not possible unless ineligible family members are enrolled, the Medicaid Program will pay the premiums for the enrollment of other family members when it is cost-effective.

D. The recipient or the individual acting on behalf of the recipient shall cooperate to establish the availability and cost effectiveness of group health insurance.

1. Medicaid benefits of the parent may be terminated for failure to cooperate unless good cause for non-cooperation is established. Medicaid benefits for a child shall not be terminated due to the parent's or authorized representative's failure to cooperate.

E. Continued eligibility for this program is dependent upon the individual's ongoing eligibility for Medicaid.

F. LaHIPP recipients shall be entitled to coverage of the patient responsibility amounts for services covered under the group health insurance to the extent allowed under the Medicaid State Plan and for all services that are not covered by the group health insurance but are provided for under the Medicaid State Plan and rendered by Medicaid providers.

G. The department shall be entitled to any rate refund made when the health insurance carrier determines a return of premiums to the policy holder is due because of lower than anticipated claims for any period of time in which the Department paid the premiums.

H. The Medicaid Program will make the determination whether the group health insurance plan(s) available to the recipient is cost effective.

AUTHORITY NOTE: Promulgated in 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 a positive impact on family functioning, stability or autonomy as described in R.S. 49:972 by increasing access to health care for family members.

Implementation of the provisions of this Rule is contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services, if it is determined that submission to CMS for review and appeal 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, April 29, 2008 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: Medicaid Eligibility—Louisiana Health Insurance Premium Payment Program

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 no programmatic costs for FY 08-09, FY 09-10, and FY 10-11. It is anticipated that $410 ($205 SGF and $205 FED) will be expended in FY 08-09 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections other than the federal share of the promulgation costs for FY 08-09. It is anticipated that $205 will be expended in FY 07-08 for the federal administrative expenses for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule proposes to: 1) repromulgate and clarify the provisions of the September 20, 1993 rule governing Medicaid coverage of group health insurance premium payments in a codified format for inclusion in the Louisiana Administrative Code; 2) adopt provisions changing the name of the program; and 3) change the method of evaluating cost effectiveness of the program. It is anticipated that implementation of this proposed rule will not have estimable cost or economic benefits for directly affected persons or non-governmental groups in FY 08-09, FY 09-10 and FY 10-11.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this rule will have no effect on competition and employment.

Jerry Phillips	Robert E. Hosse
Medicaid Director	Staff Director
0903#070	Legislative Fiscal Office

NOTICE OF INTENT

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 proposes to adopt 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 and as directed by Act 19 of the 2008 Regular Session of the Louisiana Legislature which states: "The Secretary shall, subject to the review and approval of the Joint Legislative Committee on the Budget, implement reductions in the Medicaid program as necessary to control expenditures to the level appropriated in this Schedule. Notwithstanding any law to the contrary, the Secretary is hereby directed to utilize various cost-containment measures to accomplish these reductions, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations and other measures as allowed by federal law." 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 promulgated a Rule that amended the provisions governing reimbursement to nursing facilities for hospital leave of absence days (*Louisiana Register,* Volume 27, Number 1). Effective for dates of service on or after July 1, 2008, the reimbursement paid to nursing facilities was increased in accordance with the reimbursement methodology established in the August 20, 2002 Rule (*Louisiana Register, Volume 28, Number 8*). As a result of a budgetary shortfall, the Bureau promulgated an Emergency Rule to reduce the reimbursement paid to nursing facilities for leave of absence days (*Louisiana Register*, Volume 35, Number 2). The Bureau subsequently promulgated an Emergency Rule to amend the February 20, 2009 Emergency Rule to adjust the reimbursement rate for hospital leave of absence days (*Louisiana Register*, Volume 35, Number 3). This proposed Rule is being promulgated to continue the provisions of the February 20, 2009 and March 1, 2009 Emergency Rules.

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:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability or autonomy as described in R.S. 49:972.

Implementation of the provisions of this Rule is contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid 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, April 29, 2008 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: Nursing Facilities Leave of Absence Days—Reimbursement Reduction

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in an estimated savings to the state of $406,044 for FY 08-09, $1,521,586 for FY 09-10, and $1,567,233 for FY 10-11. It is anticipated that $410 ($205 SGF and $205 FED) will be expended in FY 08-09 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on the "hold harmless" Federal Medical Assistance Percentage (FMAP) as allowed in the American Recovery and Reinvestment Act of 2009 (72.47%). 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 (estimated to be 80.01% in the current year) for the eligibility period (through December 2010), state general fund match could be reduced. In FY 10-11, the FMAP is projected to drop below the hold harmless rate by an unknown amount. In the event of this decrease, the state general funds will increase to the federally required match.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately $1,069,204 for FY 08-09, $4,005,424 for FY 09-10, and $4,125,587 for FY 10-11. It is anticipated that $205 will be collected in FY 08-09 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on the "hold harmless" Federal Medical Assistance Percentage (FMAP) as allowed in the American Recovery and Reinvestment Act of 2009 (72.47%). 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 (estimated to be 80.01% in the current year) for the eligibility period (through December 2010), state general fund match could be reduced. In FY 10-11, the FMAP is projected to drop below the hold harmless rate by an unknown amount. In the event of this decrease, the state general funds will increase to the federally required match.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule, which continues the provisions of the February 20, 2009 and March 1, 2009 Emergency Rules, proposes to adopt provisions to reduce the reimbursement rate paid to private nursing facilities for hospital leave and home leave days. It is anticipated that implementation of this proposed rule will decrease program expenditures in the Medicaid Program by approximately $1,475,658 for FY 08-09, $5,527,010 for FY 09-10 and $5,692,820 for FY 10-11.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule may have a negative effect on competition and

employment as it will reduce the payment made to nursing facilities when residents are away from the facility for hospitalizations and home visits. The reduction in payments may adversely impact the facility's financial standing and could possibly cause a reduction in employment opportunities.

Jerry Phillips Medicaid Director 0903#071	Robert E. Hosse Staff Director Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Bureau of Health Services Financing

Refugee Medical Assistance (LAC 50:XXXI.Chapter 1)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt LAC 50:XXXI in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Section 412(e)(5) of the Immigration and Nationality Act, and to repeal the December 20, 1988 Rule governing Refugee Medical Assistance. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq.

The Immigration and Nationality Act of 1952, Public Law 82-414, established provisions allowing states to provide medical assistance, during the one-year period after entry, to any refugee who does not qualify for Medicaid State Plan services. In compliance with the directives of the Act, the Department of Health and Hospitals, Office of the Secretary, Bureau of Medical Services Financing adopted provisions governing the eligibility period for Refugee Medical Assistance *(Louisiana Register*, Volume 14, Number 12). Under the authority of the U.S. Department of Health and Human Services, Administration for Children and Families, administration of the Louisiana Refugee Medical Assistance (RMA) Program was transferred to the Department of Health and Hospitals. Hence, the Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt provisions governing the administration of the Refugee Medical Assistance Program which provides health care coverage to refugees and asylees. The department also proposes to repeal the December 20, 1988 Rule.

Title 50
PUBLIC HEALTH—GENERAL
Part XXXI. Refugee Medical Assistance
Chapter 1. Refugee Medical Assistance Program
§101. General Provisions

A. The Immigration and Nationality Act of 1952, Public Law 82-414, allows states to provide medical assistance, during the one-year period after entry, to any refugee who does not qualify for assistance under a State Plan approved under Title XIX of the Social Security Act. The Refugee Medical Assistance (RMA) Program provides medical assistance to refugees and asylees in Louisiana who are not otherwise eligible for Medicaid/SCHIP coverage. Under the authority of the U.S. Department of Health and Human Services, Administration for Children and Families, the Department of Health and Hospitals hereby assumes responsibility for the administration of the RMA Program.

B. The Refugee Medical Assistance Program is a short-term, federally funded program designed to ensure that refugees receive the medical care they need while transitioning to life in the United States.

C. Refugee medical assistance is available to all individuals with the immigration status of refugee or asylee.

D. All recipients who receive refugee cash assistance through the Office of Refugee Resettlement, and who are not eligible for a regular Medicaid/SCHIP program, shall be certified for RMA.

1. Receipt or application for refugee cash assistance is not a requirement of the RMA program.

E. A refugee who has been certified in a regular Medicaid program and loses that coverage because of increased earnings from employment, and is within the eligibility time period, shall be transferred to RMA.

F. Retroactive coverage does not apply to RMA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Public Law 82-414, 8 U.S. Code 1522 (e)(5).

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

§103. Eligibility Requirements

A. Individuals who meet the following requirements may receive health care coverage through the Refugee Medical Assistance Program.

1. The individual must be a refugee or asylee who is not eligible to receive benefits through a regular Medicaid or SCHIP program.

2. Application for RMA benefits must fall within the established time limit of eight months from the date of arrival in the United States for refugees or from the date asylees are granted asylum.

3. The individual must not be enrolled as a full-time student in an institution of higher education unless it is a one-year recertification program which is part of the refugee's comprehensive resettlement plan.

4. The individual must provide the name of the sponsoring Refugee Resettlement Agency.

a. Asylees are exempt from this requirement.

5. Applicants for refugee medical assistance must meet income and resource guidelines.

B. A newborn may receive RMA coverage if both parents meet the RMA requirements or the mother is receiving RMA when the child is born.

1. These children can receive RMA until the end of the mother's period of eligibility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Public Law 82-414, 8 U.S. Code 1522 (e)(5).

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

§105. Covered Services

A. Recipients of RMA are eligible to receive the full range of Medicaid covered services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Public Law 82-414, 8 U.S. Code 1522 (e)(5).

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

§107. Certification Period

A. Refugee medical assistance coverage begins the month of application.

B. The certification period shall not exceed eight months from the date of entry. For Afghan Special Immigrants, the certification period shall not exceed six months from the date of entry.

1. The date of entry for asylees is the date the individual is granted asylum.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Public Law 82-414, 8 U.S. Code 1522 (e)(5).

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 or autonomy as described in R.S. 49:972 by providing health care coverage to refugees who have had little or no access to medical care.

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, April 29, 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: Refugee Medical Assistance

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have no programmatic fiscal impact to the state other than cost of promulgation for FY 08-09. It is anticipated that $492 ($246 SGF and $246 FED) will be expended in FY 08-09 for the state's administrative expense for promulgation of this proposed rule and the final rule. (Although oversight of the Refugee Medical Assistance Program was just recently transferred to DHH, the expenditures were already being incurred in the Medical Assistance Program and remain 100% federally funded.)

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that implementation of this proposed rule will not affect federal revenue collections other than the federal share of the promulgation costs for FY 08-09. It is anticipated that $246 will be collected in FY 08-09 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule proposes to adopt provisions governing the administration of the federally-funded Refugee Medical Assistance (RMA) Program which provides health care coverage to refugees and asylees (approximately 390). It is anticipated that implementation of this proposed rule will not have estimable cost or economic benefits for directly affected persons or non-governmental groups in FY 08-09, FY 09-10 and FY 10-11.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Jerry Phillips	Robert E. Hosse
Medicaid Director	Staff Director
0903#072	Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Office of Public Health

Marine and Freshwater Animal Food Products
(LAC 51:IX. 305, 321 and 331)

Notice is hereby given, in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., that the state health officer acting through the Department of Health and Hospitals, Office of Public Health, pursuant to the authority in R.S. 40:4(A)(6) and R.S. 40:5, intends to amend and revise Title 51, Part IX (Marine and Fresh Water Animal Food Products), by effecting changes as outlined below. The proposed change will result in code provisions which are consistent with the National Shellfish Sanitation Program (NSSP) 2007 Model Ordinance. The NSSP is the federal/state cooperative program recognized by the U.S. Food and Drug Administration (FDA) and the Interstate Shellfish Sanitation Conference (ISSC) for the sanitary control of shellfish produced and sold for human consumption.

Title 51
PUBLIC HEALTH—SANITARY CODE
Part IX. Marine and Fresh Water Animal Food Products
Chapter 3. Preparation and Handling of Seafood for Market
§305. Sewage Disposal on Shellfish Boats [formerly paragraph 9:007]

A. Owners and operators of all vessels in which persons are engaged in the handling of shellfish from the planting or growing grounds, shall provide their vessels with suitable receptacles, including tight fitting lids. These waste receptacles shall be properly labeled with the wording "FOR HUMAN WASTE ONLY" with the letter size being no less than 1and 1/2 inches and be of adequate size and type having a capacity of at least 2 gallons for each person on the boat, in which the extract, both solid and liquid, of person on the boats, shall be received. The contents of such receptacles shall be disposed of either by means of the sewerage system of a municipality, by incineration, or by burial in the ground at points sufficiently removed from the banks of streams or tidal waters to prevent the pollution of the waters thereof, or any other means of disposal authorized by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.A.(1), R.S. 40:4.A.(6),R.S.40:5(2)(3)(5)(7)(9)(15), and R.S. 40:5.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1302 (June 2002), amended LR 33:850 (May 2007), LR 35:

§321. Shipping Shell-Stock Requirements [formerly paragraph 9:047]

A. - D. …

E. If shellstock is received either "sacked or in boxes" from a certified dealer and is not processed or repacked in any form, the product when reshipped to another certified dealer, wholesaler, or retailer, must have a label attached to the package, bearing the name and certification number of the reshipper.

F. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.A.(1), R.S. 40:5(2)(3)(5)(7)(15), and R.S. 40:5.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1307 (June 2002), amended by the Department of Health and Hospitals, Office of Public Health, Center for Environmental Health Services, LR 34:445 (March 2008), LR 34:2175 (October 2008), LR 35:

§331. Refrigeration Requirements for Shell-Stock Harvested for Shucking by a Certified Dealer during the Months January through December [formerly paragraph 9:052-2]

A. - A.2 …

3. Dealer/harvester tags utilized for shellstock harvested outside of the time-temperature matrix must be labeled "FOR SHUCKING BY A CERTIFIED DEALER OR POST-HARVEST PROCESSING ONLY".

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.A.(1), R.S. 40:5(2)(3)(5)(7)(15), and R.S. 40:5.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1309 (June 2002), amended LR 31:2896 (November 2005), LR 34:2175 (October 2008), LR35:

Family Impact Statement

1. The Effect on the Stability of the Family. There will be no effect on the stability of the family.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. There will be no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. There will be no effect on the functioning of the family.

4. The Effect on the Family Earnings and Family Budget. There will be no effect on family earnings or budget.

5. The Effect on the Behavior and Personal Responsibility of Children. There will be no effect on the behavior and personal responsibility of children.

6. The Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rule. There will be no effect on the ability of the family or a local government to perform the function as contained in the proposed rule.

All interested persons are invited to submit written comments on the proposed regulation. Persons may submit written comments no later than 4:30 pm on April 24, 2009 to David Guilbeau, Commercial Seafood Program Administrator, Office of Public Health, 628 North Fourth Street, P.O. Box 4489, Baton Rouge, LA. 70821.

Alan Levine
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Marine and Freshwater Animal Food Products

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

These proposed rule changes to Title 51, Part IX, Sections 305 and 331, will result in code provisions which are consistent with the National Shellfish Sanitation Program (NSSP) Model Ordinance. The (NNSP) is the federal/state cooperative program recognized by the U.S. Food and Drug Administration (FDA) and the Interstate Shellfish Sanitation Conference (ISSC) for the sanitary control of shellfish produced and sold for human consumption.

The first proposed rule requires owners of all oyster vessels in which persons are engaged in the handling of shellfish from oyster harvesting areas to provide their vessels with suitable receptacles including tight fitting lids. These waste receptacles shall be properly labeled with the wording "FOR HUMAN WASTE ONLY".

The second proposed rule makes a technical change to the labeling requirement for shellstock that is received either "sacked or in boxes" from a certified dealer and is not processed or repacked in any form, when reshipped to another certified dealer, wholesaler, or retailer to require that the label bear the name and certification number of the reshipper.

The third proposed rule makes a technical change to require that oysters harvested outside the time-temperature matrix be tagged "FOR SHUCKING BY A CERTIFIED DEALER OR POST-HARVEST PROCESSING ONLY".

The only cost associated with this rule change for the Office of Public Health is an estimated cost of $1,189 (SGF) to publish the notice of intent and the final rule in the Louisiana Register. This cost is routinely covered in the agency's budget.

These changes will not require any additional enforcement measures and; therefore, is not anticipated to result in any additional costs to the Louisiana Department of Wildlife and Fisheries.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no effects on revenue collections of state or local governmental units anticipated as a result of promulgation of this regulation.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no significant costs or economic benefits to directly affected persons or non-governmental groups anticipated as a result of promulgation of this regulation.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no significant effect on competition and employment anticipated as a result of promulgation of this regulation.

M. Rony Francois, M.D., MSPH, Ph.D.	Robert E. Hosse
Assistant Secretary	Staff Director
0903#063	Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Office of Public Health

Safe Drinking Water Program
(LAC 51:XII.101, 355, 1101, 1103, 1113, 1115, 1117, 1119, 1123, 1125, 1127, 1129, 1133, 1135, 1137, 1139, 1141, 1903, and 1911)

Under the authority of R.S. 40:4 and 40:5, and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the state health officer, acting through the Department of Health and Hospitals, Office of Public Health (DHH-OPH), intends to amend Part XII (Water Supplies) of the Louisiana State Sanitary Code (LAC 51). These amendments are necessary in order that DHH-OPH may be able to maintain primacy (primary enforcement authority) from the United States Environmental Protection Agency (USEPA) over public water systems within Louisiana. USEPA requires state primacy agencies to adopt state rules and regulations which are no less stringent than the federal Safe Drinking Water Act's (42 U.S.C. §300f et seq.) primary implementing regulations (40 CFR Part 141).

The proposed Rule herein is intended to amend and update DHH-OPH's existing rule for public water systems. The Safe Drinking Water Act Amendments of 1996 (Pub. L. 104-182/August 6, 1996) required the USEPA to issue updated rules relative to the regulation of radionuclides, arsenic, treatment of surface waters used to produce potable water, and to enact a new rule relative to filter backwash recycling. Subsequently, the USEPA amended the National Primary Drinking Water Regulations (40 CFR Part 141) on December 7, 2000 (65 FR 76745-76751) by promulgating a rule entitled "National Primary Drinking Water Regulations: Radionuclides; Final Rule". The December 7, 2000 federal radionuclide regulations became effective for Louisiana public water systems at the federal level on December 8, 2003. Again, the USEPA amended the National Primary Drinking Water Regulations (40 CFR Part 141) on January 22, 2001 (66 FR 7060-7066) by promulgating a Rule entitled "National Primary Drinking Water Regulations: Arsenic; Final Rule". The January 22, 2001 federal arsenic regulation became fully effective for Louisiana public water systems at the federal level on January 23, 2006. Likewise, the USEPA amended the National Primary Drinking Water Regulations (40 CFR Part 141) on June 8, 2001 (66 FR 31103-31105) by promulgating a rule entitled "National Primary Drinking Water Regulations: Filter Backwash Recycling Rule; Final Rule". The June 8, 2001 federal filter backwash recycling regulation became effective for applicable Louisiana public water systems on the federal level on December 8, 2003. On the federal level, systems were required to be in full compliance by June 8, 2004 unless it received a capital improvement extension to physically relocate its recycle return location (if necessary). Again, the USEPA amended the National Primary Drinking Water Regulations (40 CFR Part 141) on January 14, 2002 (67 FR 1835-1843) by promulgating a rule entitled the "National Primary Drinking Water Regulations: Long Term 1 Enhanced Surface Water Treatment Rule; Final Rule". The January 14, 2002 federal Long Term 1 Enhanced Surface Water Treatment Rule became effective for applicable Louisiana public water systems [surface water systems (and ground water under the direct influence of surface water systems) serving less than 10,000 individuals] on March 15, 2002. Disinfection profiling and benchmarking were required to be performed in 2003 and 2004 with a final compliance deadline date of January 1, 2005.

It is the intent of this rulemaking to amend the current state regulations relative to radionuclides and arsenic by adopting these newly amended federal radionuclides and arsenic regulations by reference. It is also the intent of this rulemaking to adopt state-equivalent rules of the new federal Long Term 1 Enhanced Surface Water Treatment Rule. The current Chapter 11 titled the Interim Enhanced Surface Water Treatment Rule is to be amended and its title renamed as the Long Term 1 Enhanced Surface Water Treatment Rule. Just as the state's current Interim Enhanced Surface Water Treatment Rule incorporated provisions from the original Louisiana Surface Water Treatment Rule (adopted in 1991), so too will the state's Long Term 1 Enhanced Surface Water Treatment Rule incorporate provisions from both the original Louisiana Surface Water Treatment Rule as well as from the state's Interim Enhanced Surface Water Treatment Rule (adopted in 2002). It is also the intent of this rulemaking to adopt state-equivalent rules of the new federal filter backwash recycling regulations by proposing to enact Subchapter G (Recycle Provisions) into Chapter 11 (Long Term 1 Enhanced Surface Water Treatment Rule).

For the reasons set forth above, Part XII (Water Supplies) of the Louisiana State Sanitary Code (LAC 51:XII) is proposed to be amended as follows.

Title 51
PUBLIC HEALTH—SANITARY CODE
Part XII. Water Supplies

Chapter 1. General

§101. Definitions [formerly paragraph 12:001]

A. Unless otherwise specifically provided herein, the following words and terms used in this Part of the Sanitary Code, and all other Parts which are adopted or may be adopted, are defined for the purposes thereof as follows:

* * *

National Primary Drinking Water Regulations—

a. drinking water regulations promulgated by the U.S. Environmental Protection Agency pursuant to applicable provisions of title XIV of the Public Health Service Act, commonly known as the "Safe Drinking Water Act," 42 U.S.C.A. §300f, et seq., and as published in the July 1, 2005 edition of the *Code of Federal Regulations*, Title 40, Part 141 (40 CFR 141), less and except:

i. Subpart H—Filtration and Disinfection (40 CFR §§141.70-141.76);

ii. Subpart P—Enhanced Filtration and Disinfection—Systems Serving 10,000 or More People (40 CFR §§141.170-141.175); and

iii. Subpart T—Enhanced Filtration and Disinfection—Systems Serving Fewer Than 10,000 People (40 CFR §§141.500—571).

b. when "Subpart H", "Subpart P", or "Subpart T" is used within the actual text of the drinking water regulations cited in Subparagraph "a." of this Paragraph (definition), "LAC 51:XII.Chapter 11" shall be substituted therein.

* * *

AUTHORITY NOTE: The first source of authority for promulgation of the Sanitary Code is in R.S. 36:258(B), with more particular provisions found in Chapters 1 and 4 of Title 40 of the Louisiana Revised Statutes. This Part is promulgated in accordance with R.S. 36:254 (B)(7), R.S. 40:4 (A)(8), R.S. 40:5 (2)(3)(5)(6)(17)(20), and R.S. 40:1148.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1318 (June 2002), amended LR 28:2513 (December 2002), LR 30:1194 (June 2004), LR 30:2326 (October 2004), LR 35:

Chapter 3. Water Quality Standards

§355. Mandatory Disinfection [formerly paragraph 12:021-1]

A. - B. …

C. Public water systems which use surface water or ground water under the direct influence of surface water shall meet the requirements of applicable sections of the Long Term 1 Enhanced Surface Water Treatment Rule (LAC 51:XII.Chapter 11) as it pertains to CT and *Giardia*, *Cryptosporidium*, and virus removal/inactivation/disinfection requirements.

D. – E. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(8) and R.S. 40:5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1326 (June 2002), amended LR 28:2514 (December 2002), LR 35:

Chapter 11. Long Term 1 Enhanced Surface Water Treatment Rule

Subchapter A. General Requirements and Definitions

§1101. General Requirements

A. For public water systems using surface water or groundwater under the direct influence of surface water (GWUDISW), this Chapter establishes or extends treatment technique requirements in lieu of maximum contaminant levels for the following microbial contaminants: *Giardia lamblia* (cysts), viruses, heterotrophic plate count bacteria, *Legionella*, turbidity, and *Cryptosporidium* oocysts.

B. - D. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(8) and R.S. 40:5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1335 (June 2002), amended LR 28:2514 (December 2002), LR 35:

§1103. Definition of Terms

A. …

B. Definitions. Definitions contained in §101 of this Part shall also apply to this Chapter where the following special definitions apply.

* * *

Disinfection Profile—a summary of *Giardia lamblia* inactivation through the treatment plant. For any system that uses chloramines, ozone, or chlorine dioxide for primary disinfection, this term shall additionally include a summary of virus inactivation through the treatment plant.

* * *

Groundwater under the Direct Influence of Surface Water (GWUDISW)—any water beneath the surface of the ground with significant occurrence of insects or other macroorganisms, algae, or large diameter pathogens such as *Giardia lamblia* or *Cryptosporidium*, or significant and relatively rapid shifts in site specific water characteristics such as turbidity, temperature, conductivity or pH which closely correlate to climatological or surface water conditions. The DHH determination of direct influence may be based on an evaluation of site-specific measurements of water quality and/or documentation of well construction characteristics and geology with field evaluation.

* * *

IESWTR—Interim Enhanced Surface Water Treatment Rule.

* * *

Liquids from Dewatering Processes—a stream containing liquids generated from a unit used to concentrate solids for disposal.

LT1ESWTR—Long Term 1 Enhanced Surface Water Treatment Rule.

* * *

Spent Filter Backwash Water—a stream containing particles that are dislodged from filter media when water is forced back through the filter (backwashed) to clean the filter.

* * *

SWTR—Surface Water Treatment Rule.

SWTR Guidance Manual—U.S. EPA's Guidance Manual for Compliance with the Filtration and Disinfection Requirements for Public Water Systems using Surface Water Sources, March 1991 Edition.

Thickener Supernatant—a stream containing the decant from a sedimentation basin, clarifier or other unit that is used to treat water, solids, or semi-solids from the primary treatment processes.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8), R.S. 40:5(2)(3)(5)(6)(17)(20), and R.S. 40:1148.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1336 (June 2002), amended LR 28:2514 (December 2002), LR 30:1195 (June 2004), LR 35:

Subchapter B. Treatment Technique Requirements and Performance Standards

§1113. Treatment Technique Requirements

A. - A.2. …

3. a total of 99 percent (2 Log) removal of *Cryptosporidium* oocysts through treatment processes including filtration;

4. the total reductions to be required by the DHH may be higher and are subject to the source water concentration of *Giardia lamblia*, viruses, and *Cryptosporidium*.

B. - C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and R.S. 40:5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1340 (June 2002), amended LR 28:2518 (December 2002), LR 35:

§1115. Filtration Performance Standards

A. - A.4. …

B. Conventional filtration treatment shall be deemed to be capable of achieving at least 99.7 percent (2.5 Log) removal of *Giardia* cysts, 99 percent (2 Log) removal of *Cryptosporidium* oocysts, and 99 percent (2 Log) removal of viruses when in compliance with operation criteria (Subchapter D of this Chapter) and performance standards (§§1115 and 1119 of this Subchapter). Direct filtration treatment and diatomaceous earth filtration shall be deemed to be capable of achieving at least 99 percent (2 Log) removal of *Giardia* cysts, 99 percent (2 Log) removal of

Cryptosporidium oocysts, and 90 percent (1 Log) removal of viruses when in compliance with operation criteria (Subchapter D of this Chapter) and performance standards (§§1115 and 1119 of this Subchapter). Slow sand filtration shall be deemed to be capable of achieving at least 99 percent (2 Log) removal of *Giardia* cysts, 99 percent (2 Log) removal of *Cryptosporidium* oocysts, and 99 percent (2 Log) removal of viruses when in compliance with operation criteria and performance standards.

1. Expected minimum removal credits for public water systems are listed in Table 2 of this Chapter along with the corresponding remaining minimum disinfection log inactivation required.

Table 2						
Treatment Methods						
Filtration Method	Expected Minimum Log Removals			Remaining Minimum Disinfection Log Inactivation Required		
	Giardia	*Crypto*	Virus	*Giardia*	*Crypto*	Virus
Conventional	2.5	2.0	2.0	0.5	-0-	2.0
Direct	2.0	2.0	1.0	1.0	-0-	3.0
Slow Sand	2.0	2.0	2.0	1.0	-0-	2.0
Diatomaceous Earth	2.0	2.0	1.0	1.0	-0-	3.0

2. The remaining minimum disinfection log inactivation shall not be less than what is required pursuant to Table 2.

C. Conventional Filtration Treatment or Direct Filtration Treatment shall comply with the following performance standards for each treatment plant.

1. The turbidity level of the filtered water shall be equal to or less than 0.3 NTU in at least 95 percent of the measurements taken each month.

2. Filtered water turbidity shall not exceed 1 NTU at any time.

D. - E.1. …

F. An alternative to the filtration technologies specified in §1115.A of this Chapter may be used provided the supplier demonstrates to the DHH that the alternative technology: provides a minimum of 99 percent *Giardia* cyst removal, a 99 percent virus removal, and a 99 percent (2 Log) *Cryptosporidium* oocyst removal, and meets the turbidity performance standards established in §1115.C of this Chapter. Such alternative filtration technology, in combination with disinfection treatment, shall be shown to consistently achieve a total of no less than 99.9 percent (3 Log) removal and/or inactivation of *Giardia lamblia* cysts and 99.99 percent (4 Log) removal and/or inactivation of viruses. The demonstration shall be based on the results from a prior equivalency demonstration or a testing of a full scale installation that is treating a water with similar characteristics and is exposed to similar hazards as the water proposed for treatment. A pilot plant test of the water to be treated may also be used for this demonstration if conducted with the approval of the DHH. The demonstration shall be presented in an engineering report prepared by a qualified engineer. Additional reporting for the first full year of operation of a new alternative filtration treatment process approved by the DHH, may be required at DHH discretion. The report shall include results of all water quality tests performed and shall evaluate compliance with established performance standards under actual operating conditions. It shall also include an assessment of problems experienced, corrective actions needed, and a schedule for providing needed improvements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1340 (June 2002), amended LR 28:2519 (December 2002), LR 30:1196 (June 2004), LR 35:

§1117. Non-Filtering Systems

A. - B.1.b. …

c. Minimum Sampling Frequencies

Table 3	
Population	Samples/Week
≤500	1
501-3300	2
3301-10,000	3
10,001-25,000	4
> 25,000	5

B.1.d. - D.1.b. …

c. identify within each WHPA all potential anthropogenic sources of contaminants which may have any adverse effect on the health of persons, specifically with the goal of minimizing the potential for contamination of the source water by *Giardia lamblia* cysts, viruses, and *Cryptosporidium* oocysts;

1.d. - 7.…

AUTHORITY NOTE: Promulgated in accordance with R.S. 40: 4 (A)(8) and 40: 5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1341 (June 2002), amended LR 28:2520 (December 2002), LR 35:

§1119. Disinfection Performance Standards

A. - B.2. …

C. Determination of Inactivation by Disinfection. Minimum disinfection requirements shall be determined by DHH on a case-by-case basis but shall not be less than those required in Table 2 of §1115.B.1 of this Chapter. The desired level of inactivation shall be determined by the calculation of CT values; residual disinfectant concentration ("C") times the contact times ("T") when the pipe or vessel is in operation. Disinfectant contact time shall be determined by tracer studies.

1. - 4. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 40: 4 (A)(8) and 40: 5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1341 (June 2002), amended LR 28:2522 (December 2002), LR 35:

Subchapter C. Monitoring Requirements

§1123. Filtration Monitoring

A. - B.2. …

C. Combined Filter Effluent Turbidity Monitoring. To determine compliance with the performance standards specified in §§1115 of this Chapter, each supplier using surface water or GWUDISW shall conduct continuous turbidity monitoring of representative samples of the combined filter effluent prior to clearwell storage during all times that the system is in operation. Combined filter effluent turbidity measurements shall be recorded every 15 minutes. The accuracy of the turbidity measurements from the continuous turbidity monitor shall be validated weekly in accord with §1107.D of this Chapter. If there is a failure in the continuous turbidity monitoring equipment, the system shall collect and analyze a grab sample every two hours in lieu of continuous monitoring, but for no more than five working days following the failure of the equipment. Failure to have the continuous monitoring equipment replaced or repaired and put back into continuous service following the five working days allowed herein shall be deemed to constitute a violation of this Chapter. Systems shall maintain the results of combined filter effluent turbidity monitoring for at least three years.

EXCEPTION: In the case of public water systems using surface water or GWUDISW and serving less than 10,000 individuals, if there is a failure in the continuous turbidity monitoring equipment, the system shall collect and analyze a grab sample every four hours in lieu of continuous monitoring, but for no more than five working days following the failure of equipment. Failure to have the continuous monitoring equipment replaced or repaired and put back into continuous service following the five working days allowed herein shall be deemed to constitute a violation of this Chapter. Systems shall maintain the results of combined filter effluent turbidity monitoring for at least three years.

C.1. - D. …

E. Individual Filter Turbidity Monitoring/Additional Actions

1. Monitoring Individual Filters for Turbidity. Public water systems using surface water or GWUDISW as its source of water supply and which utilizes conventional filtration treatment or direct filtration shall conduct continuous turbidity monitoring for each individual filter. Such systems shall record the results of individual filter monitoring every 15 minutes while the filter is in service. The accuracy of the turbidity measurements from the continuous turbidity monitor shall be validated weekly in accord with §1107.D of this Chapter. If there is a failure in the continuous turbidity monitoring equipment, the system shall conduct grab sampling every four hours in lieu of continuous monitoring, but for no more than five working days following the failure of equipment. Failure to have the continuous monitoring equipment replaced or repaired and put back into continuous service following the five working days allowed herein shall be deemed to constitute a violation of this Chapter. Systems shall maintain the results of individual filter monitoring for at least three years.

a. …

2. Triggered Actions Based on Individual Filter Results

a. For a public water system using surface water or GWUDISW and which serves at least 10,000 individuals, refer to §1135.E.1 of this Chapter for additional actions which may be triggered dependent upon the results of individual filter turbidity monitoring. Compliance deadlines for performing such additional actions are also contained in §1135.E.1 of this Chapter.

b. For a public water system using surface water or GWUDISW and which serves less than 10,000 individuals, refer to §1135.F.1 of this Chapter for additional actions which may be triggered dependent upon the results of individual filter turbidity monitoring. Compliance deadlines for performing such additional actions are also contained in §1135.F.1 of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40: 4 (A)(8) and 40: 5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1342 (June 2002), amended LR 28:2522 (December 2002), LR 35:

§1125. Disinfection Monitoring

A. CT Parameters Monitoring. To determine compliance with disinfection inactivation requirements specified in Table 2 of §1115.B.1 of this Chapter, each supplier shall develop and conduct a monitoring program to measure those parameters that affect the performance of the disinfection process. This shall include but not be limited to:

A.1. - B. …

C. Small System Disinfectant Residual Monitoring at Plant. Suppliers serving fewer than 3,300 people may collect and analyze grab samples of the water being delivered to the distribution system for disinfectant residual determination each day in lieu of the continuous monitoring, in accordance with Table 4 of this Chapter, provided that any time the residual disinfectant falls below 0.2 mg/l free chlorine or 0.4 mg/l total chlorine, the supplier shall take a grab sample every two hours until the residual concentrations is equal to or greater than 0.2 mg/l free chlorine or 0.4 mg/l total chlorine.

Table 4 (Applicable to Systems Serving less than 3,300 Individuals)	
Disinfectant Residual Sampling	
System Population	Samples/Day
#500	1
501-1,000	2
1,001-2,500	3
2,501-3,300	4

D. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 40: 4 (A)(8) and R.S. 40: 5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1342 (June 2002), amended LR 28:2523 (December 2002), LR 35:

§1127. Disinfection Profiling

A. All public water systems using surface water or GWUDISW as its source of water supply and serving at least 10,000 individuals shall perform a disinfection profile of its disinfection practice on a continuous, daily basis. All public water systems using surface water or GWUDISW as its source of water supply and serving less than 10,000

individuals shall perform a disinfection profile of its disinfection practice on a continuous, weekly basis.

1. Any system that meets the criteria of Subsection A of this Section shall perform monitoring on each day [or, in the case of systems serving less than 10,000 individuals, once each week (on the same calendar day)] of operation to determine the total logs of inactivation of *Giardia lamblia* cysts, based upon the $CT_{99.9}$ (3-Log) values in Appendix E of the SWTR Guidance Manual, as appropriate, through the entire treatment plant. Any system that uses chloramines, ozone, or chlorine dioxide for primary disinfection shall additionally calculate the total logs of inactivation of viruses for each day of operation, based upon the $CT_{99.99}$ (4-Log) values in Appendix E of the SWTR Guidance Manual. Systems with more than one point of disinfectant application shall conduct monitoring for each disinfection segment. The following parameters shall be monitored:

a. - b. …

c. the disinfectant contact time(s) ("T") at peak hourly flow at each residual disinfectant concentration sampling point using approved mathematical computations as outlined in Appendix C of the SWTR Guidance Manual or using the system's specific curve which is graphed as "Detention Time (T_{10} in minutes) vs. Flow (in MGD)" (as per the example shown in Figure C-4 of Appendix C of the SWTR Guidance Manual) to determine the contact time based upon flow, subject to the following additional requirements:

i. for systems serving 3,300 persons or more, the disinfectant contact time(s) is to be determined through the use of data developed from actual tracer studies conducted on the system (see Paragraph 1119.C.1). [Theoretical contact time(s) using baffling factors are not to be used for systems serving 3,300 persons or more.];

ii. for systems serving less than 3,300 persons, the disinfectant contact time(s) may be estimated through the use of data developed in a theoretical manner by determining pipeline capacities, treatment basin capacities, clearwell storage capacity, storage tank capacities, etc., and applying the appropriate geometry and baffling factor(s) (see Paragraph 1119.C.2)*;*

d. - e. …

B. In addition, systems subject to the requirements of Subsection A of this Section shall compute their daily or weekly (dependent upon system size, see Subsection A of this Section) total logs of inactivation utilizing a computer spread sheet format/formulas approved by DHH. The system shall retain printed disinfection profile data as daily or weekly (dependent upon system size, see Subsection A of this Section) individual spreadsheets (containing the monitoring data, CT computation, and total log inactivation data) and in monthly/yearly graphical profile form for review as part of sanitary surveys conducted by DHH.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(8) and R.S. 40: 5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:2524 (December 2002), amended LR 35:

§1129. Disinfection Practice Changes

A. - A.3. …

4. any disinfection practice modification which may lower the system's ability to comply with the required minimum log inactivation attributable to disinfection as listed in Table 2 of §1115.B.1 of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40: 4 (A)(8) and R.S. 40: 5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:2525 (December 2002), amended LR 35:

Subchapter E. Reporting

§1133. DHH Notification

A. The supplier shall notify DHH by telephone or other equally rapid means (see Subsection C of this Section) as soon as possible but no later than 24 hours whenever:

1. the turbidity of the combined filter effluent as monitored exceeds 1.0 NTU at any time for conventional filtration treatment or direct filtration treatment;

2. more than two (i.e., three) consecutive four hour monitoring periods of the combined filter effluent show an exceedance of 0.5 NTU for conventional filtration treatment or direct filtration treatment;

3. - 7. …

B. In accord with the requirement of §321 of this Part, the supplier shall notify DHH by telephone or other equally rapid means (see Subsection C of this Section) as soon as possible but no later than 48 hours whenever:

1. non-compliance with a combined filter effluent turbidity standard occurs during any one particular month, e.g., anytime a minimum number of individual turbidity measurements above the turbidity standard will cause the system to exceed its 5 percent monthly allowance. [For example, in a 30 calendar day month and a plant operating 24 hours per day a total of 180 combined filter effluent turbidity compliance measurements are to be taken per month. Whenever a total of 10 combined filter effluent compliance measurements have been found to exceed 0.3 NTUs, the system is in violation of its treatment technique requirement (10 ÷ 180 x 100 = 5.5 percent) and must notify DHH as soon as possible but not later than 48 hours of the violation.]

C. When the need arises to contact DHH during weekends, state holidays, and other times when DHH offices are closed, the public water system shall contact a DHH representative via Blackberry® (or equivalent smartphone) by e-mail communication to: "safe.water@la.gov". The e-mail message should provide the name of the public water system, the PWS ID # (for example, PWS ID # 1095009) which has been assigned to identify your water system, the name of the person sending the e-mail communication, and a telephone number (with area code) so that a DHH staff member can in turn speak with whoever sent the e-mail. [In most cases, it is expected that your own District or Regional Engineer will be returning the call (even when the office is closed) in order to consult directly with you on your problem or situation.]

AUTHORITY NOTE: Promulgated in accordance with R.S. 40: 4 (A)(8) and 40: 5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:2525 (December 2002), amended LR 35:

§1135. Monthly Report

A. - B.3. …

4. For public water systems using surface water or GWUDISW which utilize conventional or direct filtration treatment, the monthly report shall advise whether or not combined filter effluent turbidity monitoring has been conducted continuously and whether or not the measurements were recorded every 15 minutes. The monthly report shall also indicate the date and time when there is a failure in the continuous turbidity monitoring equipment or plant out of service as well as the date and time that such equipment/plant was placed back into service.

B.5. - D. …

E. Individual Filter Turbidity Results/Additional Actions—for Systems Serving at Least 10,000 Individuals

1. - 2.a. …

F. Individual Filter Turbidity Results/Additional Actions—for Systems Serving Less than 10,000 Individuals

1. For public water systems using surface water or GWUDISW which serve less than 10,000 individuals and utilizes conventional or direct filtration treatment, the monthly report shall advise whether or not individual filter turbidity monitoring has been conducted continuously and whether or not the measurements were recorded every 15 minutes. Such systems shall additionally report individual filter turbidity measurement results taken only if measurements demonstrate one or more of the following three exceedance conditions.

a. For any individual filter [or the turbidity of the combined filter effluent (CFE) for systems having only two filters and which monitor the CFE in lieu of monitoring each individual filter] that has a measured turbidity level of greater than 1.0 NTU in two consecutive measurements taken 15 minutes apart, the system shall report the filter number(s), the turbidity measurement(s), and the date(s) on which the exceedance occurred. In addition, the system shall report the cause or obvious reason (if known) for the exceedance.

b. For any individual filter [or the turbidity of the CFE for systems having only two filters and which monitor the CFE in lieu of monitoring each individual filter] that has a measured turbidity level of greater than 1.0 NTU in two consecutive measurements taken 15 minutes apart at any time in each of three consecutive months [unless a CPE as specified in Subparagraph c of this Paragraph was required], the system shall report the filter number(s), the turbidity measurement(s), and the dates on which the exceedances occurred. In addition, the system shall conduct a self-assessment of the filter within 14 days of the last exceedance date (the exceedance which occurred during the third straight month). The self-assessment shall consist of at least the following components: an in-depth evaluation of filter performance, including analysis of historical filtered water turbidity from the filter; development of a filter profile; identification and prioritization of factors limiting filter performance; evaluation of the applicability of corrections; and, preparation of a filter self-assessment report. The filter self-assessment report shall also include the date that the self-assessment was triggered and the date that the self-assessment was completed. Systems having only two filters and which monitor the CFE in lieu of monitoring each individual filter shall conduct a self- assessment on both filters.

c. For any individual filter [or the turbidity of the CFE for systems having only two filters and which monitor the CFE in lieu of monitoring each individual filter] that has a measured turbidity level of greater than 2.0 NTU in two consecutive measurements taken 15 minutes apart at any time in each of two consecutive months, the system shall arrange for the conduct of a comprehensive performance evaluation (CPE) by DHH or a third party approved by DHH no later than 60 days following the exceedance and have the evaluation completed and submitted to DHH no later than 120 days following the last exceedance date (the exceedance which occurred during the second straight month). For systems experiencing multiple exceedances, only one CPE is adequate until that CPE has been completed and the appropriate corrective actions taken. If a CPE has been completed by DHH or a third party approved by DHH within the 12 prior months or the system and DHH are jointly participating in an ongoing Comprehensive Technical Assistance (CTA) project at the system, a new CPE is not required.

i. This CPE shall be considered a compliance CPE; thus, either or both of the following shall be considered a violation(s) of this Chapter:

(a.) failure to respond in writing to performance-limiting factors identified in the CPE within 45 days after receipt of the report, indicating how and on what schedule the system will address performance-limiting factors noted in the report; or

(b.) failure to correct the performance-limiting factors identified in the CPE within a time schedule acceptable to DHH.

2. When the cause/obvious reason, self-assessment, or CPE has been triggered by the turbidity results of an individual filter [or the turbidity of the CFE for systems having only two filters and which monitor the CFE in lieu of monitoring each individual filter], the following additional information for such filter(s) shall be reported in the monthly report.

a. Data recorded relative to the occurrence of a failure in the continuous turbidity monitoring equipment for the affected individual filter(s) or filter out of service conditions, the identity of the individual filter(s), the date and time of such equipment failure or out of service conditions as well as the date and time that the equipment and/or filter(s) was placed back into service.

AUTHORITY NOTE: Promulgated in accordance with R.S 40: 4 (A)(8) and R.S. 40: 5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:2526 (December 2002), amended LR 35:

§1137. Disinfection Profiling Report

A. Public water systems subject to the requirements of §1127.A of this Chapter shall submit to DHH a printed report on the initial 12 consecutive months of disinfection profiling data [including daily or weekly (dependent upon system size, see §1127.A), individual spreadsheets containing the monitoring data, CT computation, and total log inactivation data] and in monthly/yearly graphical profile

form as required under §§1127 of this Chapter. For systems serving at least 10,000 individuals, this disinfection profiling report is due on no later than February 15, 2004. For systems serving less than 10,000 individuals which have not yet submitted a report to DHH, this disinfection profiling report is due on *final date of this rule*.

B. - C. …

AUTHORITY NOTE: Promulgated in accordance with R.S 40: 4 (A)(8) and R.S. 40: 5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:2527 (December 2002), amended LR 35:

Subchapter F. Public Notification

§1139. Consumer Notification

A. Treatment Technique/Performance Standard Violations. The supplier shall notify persons served by the system whenever there is a failure to comply with the treatment technique requirements specified in §§1113 or 1141 or the performance standards specified in §§1115, 1117, or 1119 of this Chapter. The notification shall be given in a manner approved by the DHH, and shall include the following mandatory language.

A.1. - E. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(8) and R.S. 40:5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:2527 (December 2002), amended LR 35:485 (March 2009), LR 35:

Subchapter G. Filter Backwash Recycling

§1141. Recycling Provisions

A. Applicability. All public water systems having treatment plants which utilize surface water or GWUDISW that employ conventional filtration treatment or direct filtration treatment and that recycle spent filter backwash water, thickener supernatant, or liquids from dewatering processes must meet the requirements in Subsections B through D of this Section.

B. Reporting. A system must notify the Department of Health and Hospitals (DHH) in writing if the system recycles spent filter backwash water, thickener supernatant, or liquids from dewatering processes. This notification must include, at a minimum, the following information:

1. a plant schematic showing the origin of all flows which are recycled (including, but not limited to, spent filter backwash water, thickener supernatant, and liquids from dewatering processes), the hydraulic conveyance used to transport them, and the location where they are re-introduced back into the treatment plant;

2. typical recycle flow in gallons per minute (gpm), the highest observed plant flow experienced in the previous year (gpm), design flow for the treatment plant (gpm), and the DHH-approved operating capacity for the plant where the DHH has made such determinations.

C. Treatment Technique Requirement. Any system that recycles spent filter backwash water, thickener supernatant, or liquids from dewatering processes must return these flows through the processes of a system's existing conventional or direct filtration system as defined in §1103.B or at an alternate location approved by the DHH.

D. Recordkeeping. The system must collect and retain on file recycle flow information for review and evaluation by DHH as follows:

1. copy of the recycle notification and information submitted to the DHH under Subsection B of Section;

2. list of all recycle flows and the frequency with which they are returned;

3. average and maximum backwash flow rate through the filters and the average and maximum duration of the filter backwash process in minutes;

4. typical filter run length and a written summary of how filter run length is determined;

5. the type of treatment provided for the recycle flow;

6. data on the physical dimensions of the equalization and/or treatment units, typical and maximum hydraulic loading rates, type of treatment chemicals used and average dose and frequency of use, and frequency at which solids are removed, if applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(8) and R.S. 40:5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 35:

Chapter 19. Public Notification Rule

§1903. Public Notification [formerly §313]

A. …

B. In addition, if a public water system fails to report required analytical data to the appropriate office designated by the state health officer within the applicable time limit(s) stipulated by the National Primary Drinking Water Regulations (as defined in this Part), the Louisiana Total Coliform Rule (Chapter 9 of this Part), the Long Term 1 Enhanced Surface Water Treatment Rule (Chapter 11 of this Part), the Stage I Disinfectants and Disinfection Byproducts Rule (Chapter 13 of this Part), or the Approved Chemical Laboratories/Drinking Water Rule (Chapter 15 of this Part), and such data (e.g., turbidity measurements, corrosion control chemical concentrations, etc.) is required to determine a maximum contaminant level or treatment technique requirement prescribed by this Code, the public water system shall be assessed a monitoring violation and must give appropriate public notification.

C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(8) and 40:5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 35:486 (March 2009), amended LR 35:

§1911. Public Notice for Certain Violations of Specific Drinking Water Rules

A. …

B. Long Term 1 Enhanced Surface Water Treatment Rule. Also refer to §1139 of this Part.

C. - D. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 35:487 (March 2009), amended LR 35:

Family Impact Statement

1. The Effect on the Stability of the Family. No effect on the stability of the family is anticipated as a result of this proposed rulemaking.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. No effect on the authority and rights of parents regarding the

education and supervision of their children is anticipated as a result of this proposed rulemaking.

3. The Effect on the Functioning of the Family. No effect on the functioning of the family is anticipated as a result of this proposed rulemaking.

4. The Effect on the Family Earnings and Family Budget. No effect on the family earnings and family budget is anticipated as a result of this proposed rulemaking.

5. The Effect on the Behavior and Personal Responsibility of Children. No effect on the behavior and personal responsibility of children is anticipated as a result of this proposed rulemaking.

6. The Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rule. The family has no function to perform under this Rule; therefore, the family's ability to perform a function under this rule is a non-issue. The local government's ability to perform the function as contained in the proposed Rule is anticipated to be good as local governments owning or operating a public water system have already been implementing the rule to comply with equivalent federal regulation deadline dates (which have now all passed).

DHH-OPH will conduct a public hearing at 10 a.m. on Friday, April 24, 2009, in Room 671/673 of the Bienville Building, 628 North Fourth Street, Baton Rouge, LA. Persons attending the hearing may have their parking ticket validated when one parks in the 7-story Galvez Parking Garage which is located between North Sixth and North Fifth/North and Main Sts. (catercorner and across the street from the Bienville Building). All interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing.

In addition, all interested persons are invited to submit written comments on the proposed Rule. Such comments must be received no later than Wednesday, April 29, 2009 at COB, 4:30 p.m., and should be addressed to Karen Irion, Chief, Engineering Services, Center for Environmental Health Services, Office of Public Health, CEHS Mail Bin #3, P.O. Box 4489, Baton Rouge, LA 70821-4489, or faxed to (225) 342-7303. If comments are to be shipped or hand-delivered, please deliver to the Bienville Building, 628 North Fourth Street, Room 134, Baton Rouge, LA 70802.

Alan Levine
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Safe Drinking Water Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The rule proposes to amend Part XII (Water Supplies) of the State Sanitary Code (LAC 51) to update the Department of Health and Hospital, Office of Public Health (DHH-OPH) regulations relative to Arsenic and Radionuclide Contaminants and to adopt the Filter Backwash Recycling Rule and Long Term 1 Enhanced Surface Water Treatment Rule (LT1ESWTR) to comply with certain United States Environmental Protection Agency (USEPA) regulations regarding drinking water. In order for DHH-OPH to maintain its primacy delegation from the USEPA, it must continue to adopt and/or amend its state regulations such that they continue to be equivalent to the federal regulations.

For FY 08-09, the proposed rule changes will result in an estimated cost to DHH-OPH of $2,460 to publish the notice of intent and the final rule in the *Louisiana Register*. No additional costs to DHH-OPH are estimated in FY 09-10 or FY 10-11. This cost is routinely covered in the agency's budget.

The arsenic rule changes the maximum contaminant level for arsenic from 50 mg/L to 10 mg/L. The radionuclide rule requires monitoring to be done at the source of the water supply instead of just anywhere in the distribution system. There are no anticipated costs for state or local governmental units that own or operate a public water system to comply with these changes because systems have already been required to comply with the equivalent federal provisions since January 23, 2006 and December 8, 2003 respectively.

The Filter Backwash Recycling rule requires surface water systems and ground water under the direction influence of surface water systems to notify DHH-OPH of any recycling of any liquids from dewatering processes, spent filter backwash water, or thickener supernatant. There is no cost associated with this requirement because these systems have been required to be in compliance with federal provisions since June 8, 2004, or if granted an extension, since June 8, 2006.

The LTIESWTR lowers turbidity standards for the 30 publicly-owned surface water systems serving less than 10,000 individuals. In addition, these systems will be required by DHH-OPH to perform a continuous weekly disinfection profiling to ensure that *Giardia lamblia* and viral contaminants are being adequately destroyed in the disinfection process. Federal regulations only required these systems to perform weekly disinfection profiling for one 12-month period. This change could result in an estimated cost of $312 per year for these water systems (based on 1/2 hour time required per week X $12 per hourly rate of pay for operator). However, performing the weekly profiling will let the operator know if there is any overfeeding of disinfectant chemicals, especially in warm and summer months. As a result, these water systems should be able to offset some or all of this cost by the savings it will generate from reducing the amount of disinfectant used in water treatment.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no effects on revenue collections of state or local governmental units anticipated as a result of promulgation of this regulation.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are 9 privately-owned surfaced water systems serving less than 10,000 individuals that will be required to comply with the same LT1ESWTR requirements as the publicly-owned water systems. These systems can also expect to generate the same potential cost and savings as the publicly-owned systems.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

M. Rony Francois, M.D., MSPH, Ph.D.
Assistant Secretary
0903#062

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Insurance
Office of the Commissioner

Regulation 33—Medicare Supplemental Insurance Minimum Standards (LAC 37:XIII.Chapter 5)

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 33 regarding Medicare Supplemental Insurance Minimum Standards.

The National Association for Insurance Commissioners (NAIC) recently amended the NAIC model regulation on Medicare Supplemental Insurance Minimum Standards to reflect changes made under the Genetic Information Nondiscrimination Act (GINA) and the Medicare Improvement for Patients and Providers Act (MIPPA), and the Louisiana Department of Insurance is adopting these changes which affect the following Sections: LAC 37:XIII §503, §505, §510, §515, §516, §520, §521, §525, §535, §560, and §591. Sections 516, 521, and 591 are additions to the proposed regulation. Section 507 is repealed in its entirety.

Title 37
INSURANCE
Part XIII. Regulations

Chapter 5. Regulation 33—Medicare Supplement Insurance Minimum Standards

§503. Definitions

A. …

* * *

Commissioner—the Commissioner of Insurance of the state of Louisiana.

* * *

Issuer—insurance companies, fraternal benefit societies, health care service plans, health maintenance organizations, and any other entity authorized to deliver or issue for delivery in this state Medicare supplement policies or certificates. For purposes of §591.A.10.a. of this regulation, the term shall also include third party administrators, or any other person acting for or on behalf of such issuer.

* * *

Pre-Standardized Medicare supplement benefit Plan, Pre-Standardized benefit Plan or Pre-Standardized Plan—a group or individual policy of Medicare supplement insurance issued prior to July 20, 1992.

1990 Standardized Medicare supplement benefit plan, 1990 Standardized benefit Plan or 1990 plan—a group or individual policy of Medicare supplement insurance issued on or after July 20, 1992 and prior to June 1, 2010 and includes Medicare supplement insurance policies and certificates renewed on or after that date which are not replaced by the issuer at the request of the insured.

2010 Standardized Medicare supplement benefit plan, 2010 Standardized benefit plan or 2010 plan—a group or individual policy of Medicare supplement insurance issued on or after June 1, 2010.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1111 (re-designated from LSA-R.S. 22:224 pursuant to Acts 2008, No. 415, effective January 1, 2009) and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1102 (June 1999), repromulgated LR 25:1481 (August 1999), amended LR 29:2435 (November 2003), LR 31:2902 (November 2005), amended LR 35:

§505. Policy Provisions

A. Except for permitted preexisting condition clauses as described in §510.A.1.a, §515.A.1.a, and §516.A.1.a of this regulation, no policy or certificate may be advertised, solicited or issued for delivery in this state as a Medicare supplement policy if the policy or certificate contains limitations or exclusions on coverage that are more restrictive than those of Medicare.

B. - C. …

D.1. Subject to §§510.A.1(d), (e), and (g), and 515.A.1(d) and (e) of this regulation, a Medicare supplement policy with benefits for outpatient prescription drugs in existence prior to January 1, 2006 shall be renewed for current policyholders who do not enroll in Part D at the option of the policyholder.

2. - 3.b. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1111 (re-designated from LSA-R.S. 22:224 pursuant to Acts 2008, No. 415, effective January 1, 2009) and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1102 (June 1999), repromulgated LR 25:1483 (August 1999), LR 29:2436 (November 2003), amended LR 31:2904 (November 2005), amended LR 35:

§506. Premium Increase Requirements

A. …

B. Medicare supplement policies and certificates shall have a notice prominently printed on the first page of the policy or certificate stating in substance that the policyholder or certificateholder will be notified at least 45 days before any premium increase.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1111 (re-designated from LSA-R.S. 22:224 pursuant to Acts 2008, No. 415, effective January 1, 2009) and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 29:2437 (November 2003), repromulgated LR 31:2904 (November 2005), LR 35:.

§507. Rate Increases Requirements

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1111 (re-designated from LSA-R.S. 22:224 pursuant to Acts 2008, No. 415, effective January 1, 2009) and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 29:2437 (November 2003), repromulgated LR 31:2904 (November 2005), repealed LR 35:

§510. Minimum Benefit Standards for Pre-Standardized Medicare Supplement Benefit Plan Policies or Certificates Issued for Delivery Prior to July 20, 1992

A. - A.1.b. …

c. A Medicare supplement policy or certificate shall provide that benefits designed to cover cost sharing amounts

under Medicare will be changed automatically to coincide with any changes in the applicable Medicare deductible, copayment, or coinsurance amounts. Premiums may be modified to correspond with such changes.

d. - e.ii.(a).…

(b). an individual Medicare supplement policy which provides only such benefits as are required to meet the minimum standards as defined in §516.A.2 of this regulation;

1.e.ii.(c). - 2.g. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1111 (re-designated from LSA-R.S. 22:224 pursuant to Acts 2008, No. 415, effective January 1, 2009) and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1103 (June 1999), repromulgated LR 25:1483 (August 1999), amended LR 29:2437 (November 2003), LR 31:2905 (November 2005), amended LR 35:

§515. Benefit Standards for 1990 Standardized Medicare Supplement Benefit Plan Policies or Certificates Issued or Delivered on or after July 20, 1992 and Prior to June 1, 2010

A. The following standards are applicable to all Medicare supplement policies or certificates delivered or issued for delivery in this state on or after July 20, 1992 and prior to June 1, 2010. No policy or certificate may be advertised, solicited, delivered or issued for delivery in this state as a Medicare supplement policy or certificate unless it complies with these benefit standards.

1.a.-1.b…

c. A Medicare supplement policy or certificate shall provide that benefits designed to cover cost sharing amounts under Medicare will be changed automatically to coincide with any changes in the applicable Medicare deductible, co-payment, or coinsurance amounts. Premiums may be modified to correspond with such changes.

d.-g.iv.(c). …

h.i. If an issuer makes a written offer to the Medicare Supplement policyholders or certificateholders of one or more of its plans, to exchange during a specified period from his or her 1990 Standardized plan (as described in §520 of this regulation) to a 2010 Standardized plan (as described in §521 of this regulation), the offer and subsequent exchange shall comply with the following requirements:

ii. An issuer need not provide justification to the commissioner if the insured replaces a 1990 Standardized policy or certificate with an issue age rated 2010 Standardized policy or certificate at the insured's original issue age and duration. If an insured's policy or certificate to be replaced is priced on an issue age rate schedule at the time of such offer, the rate charged to the insured for the new exchanged policy shall recognize the policy reserve buildup, due to the pre-funding inherent in the use of an issue age rate basis, for the benefit of the insured. The method proposed to be used by an issuer must be filed with the commissioner in accordance with rate filing procedures prescribed by the commissioner.

iii. The rating class of the new policy or certificate shall be the class closest to the insured's class of the replaced coverage.

iv. An issuer may not apply new pre-existing condition limitations or a new incontestability period to the new policy for those benefits contained in the exchanged 1990 Standardized policy or certificate of the insured, but may apply pre-existing condition limitations of no more than six months to any added benefits contained in the new 2010 Standardized policy or certificate not contained in the exchanged policy.

v. The new policy or certificate shall be offered to all policyholders or certificateholders within a given plan, except where the offer or issue would be in violation of state or federal law.

2. - 5. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1111 (re-designated from LSA-R.S. 22:224 pursuant to Acts 2008, No. 415, effective January 1, 2009) and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1104 (June 1999), repromulgated LR 25:1484 (August 1999), amended LR 29:2438 (November 2003), LR 31:2906 (November 2005), amended LR 35:

§516. Benefit Standards for 2010 Standardized Medicare Supplement Benefit Plan Policies or Certificates Issued for Delivery on or After June 1, 2010

A. The following standards are applicable to all Medicare supplement policies or certificates delivered or issued for delivery in this state on or after June 1, 2010. No policy or certificate may be advertised, solicited, delivered, or issued for delivery in this state as a Medicare supplement policy or certificate unless it complies with these benefit standards. No issuer may offer any 1990 Standardized Medicare supplement benefit plan for sale on or after June 1, 2010. Benefit standards applicable to Medicare supplement policies and certificates issued before June 1, 2010 remain subject to the requirements of §510, §515, §520, and §525.

1. General Standards. The following standards apply to Medicare supplement policies and certificates and are in addition to all other requirements of this regulation.

a. A Medicare supplement policy or certificate shall not exclude or limit benefits for losses incurred more than six months from the effective date of coverage because it involved a preexisting condition. The policy or certificate may not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within six months before the effective date of coverage.

b. A Medicare supplement policy or certificate shall not indemnify against losses resulting from sickness on a different basis than losses resulting from accidents.

c. A Medicare supplement policy or certificate shall provide that benefits designed to cover cost sharing amounts under Medicare will be changed automatically to coincide with any changes in the applicable Medicare deductible, co-payment, or coinsurance amounts. Premiums may be modified to correspond with such changes.

d. No Medicare supplement policy or certificate shall provide for termination of coverage of a spouse solely because of the occurrence of an event specified for termination of coverage of the insured, other than the nonpayment of premium.

e. Each Medicare supplement policy shall be guaranteed renewable.

i. The issuer shall not cancel or non-renew the policy solely on the ground of health status of the individual.

ii. The issuer shall not cancel or non-renew the policy for any reason other than nonpayment of premium or material misrepresentation.

iii. If the Medicare supplement policy is terminated by the group policyholder and is not replaced as provided under §516.A.1.e.v. of this regulation, the issuer shall offer certificateholders an individual Medicare supplement policy which (at the option of the certificateholder):

(a). provides for continuation of the benefits contained in the group policy; or

(b). provides for benefits that otherwise meet the requirements of this Subsection.

iv. If an individual is a certificateholder in a group Medicare supplement policy and the individual terminates membership in the group, the issuer shall:

(a). offer the certificateholder the conversion opportunity described in §516.A.1.e.iii. of this regulation; or

(b). at the option of the group policyholder, offer the certificateholder continuation of coverage under the group policy.

v. If a group Medicare supplement policy is replaced by another group Medicare supplement policy purchased by the same policyholder, the issuer of the replacement policy shall offer coverage to all persons covered under the old group policy on its date of termination. Coverage under the new policy shall not result in any exclusion for preexisting conditions that would have been covered under the group policy being replaced.

f. Termination of a Medicare supplement policy or certificate shall be without prejudice to any continuous loss which commenced while the policy was in force, but the extension of benefits beyond the period during which the policy was in force may be conditioned upon the continuous total disability of the insured, limited to the duration of the policy benefit period, if any, or payment of the maximum benefits. Receipt of Medicare Part D benefits will not be considered in determining a continuous loss.

g.i. A Medicare supplement policy or certificate shall provide that benefits and premiums under the policy or certificate shall be suspended at the request of the policyholder or certificateholder for the period (not to exceed 24 months) in which the policyholder or certificateholder has applied for and is determined to be entitled to medical assistance under Title XIX of the Social Security Act, but only if the policyholder or certificateholder notifies the issuer of the policy or certificate within 90 days after the date the individual becomes entitled to assistance.

ii. If suspension occurs and if the policyholder or certificateholder loses entitlement to medical assistance, the policy or certificate shall be automatically reinstituted (effective as of the date of termination of entitlement) as of the termination of entitlement if the policyholder or certificateholder provides notice of loss of entitlement within ninety (90) days after the date of loss and pays the premium attributable to the period, effective as of the date of termination of entitlement.

iii. Each Medicare supplement policy shall provide that benefits and premiums under the policy shall be suspended (for any period that may be provided by federal regulation) at the request of the policyholder if the policyholder is entitled to benefits under Section 226 (b) of the Social Security Act and is covered under a group health plan (as defined in Section 1862 (b)(1)(A)(v) of the Social Security Act). If suspension occurs and if the policyholder or certificateholder loses coverage under the group health plan, the policy shall be automatically reinstituted (effective as of the date of loss of coverage) if the policyholder provides notice of loss of coverage within 90 days after the date of the loss.

iv. Reinstitution of coverages as described in Subparagraphs (ii) and (iii):

(a). shall not provide for any waiting period with respect to treatment of preexisting conditions;

(b). shall provide for resumption of coverage that is substantially equivalent to coverage in effect before the date of suspension; and

(c). shall provide for classification of premiums on terms at least as favorable to the policyholder or certificateholder as the premium classification terms that would have applied to the policyholder or certificateholder had the coverage not been suspended.

2. Standards for Basic (Core) Benefits Common to Medicare Supplement Insurance Benefit Plans A, B, C, D, F, F with High Deductible, G, M and N. Every issuer of Medicare supplement insurance benefit plans shall make available a policy or certificate including only the following basic "core" package of benefits to each prospective insured. An issuer may make available to prospective insureds any of the other Medicare Supplement Insurance Benefit Plans in addition to the basic core package, but not in lieu of it.

a. Coverage of Part A Medicare eligible expenses for hospitalization to the extent not covered by Medicare from the sixty-first through the ninetieth day in any Medicare benefit period;

b. Coverage of Part A Medicare eligible expenses incurred for hospitalization to the extent not covered by Medicare for each Medicare lifetime inpatient reserve day used;

c. Upon exhaustion of the Medicare hospital inpatient coverage, including the lifetime reserve days, coverage of 100 percent of the Medicare Part A eligible expenses for hospitalization paid at the applicable prospective payment system (PPS) rate, or other appropriate Medicare standard of payment, subject to a lifetime maximum benefit of an additional 365 days. The provider shall accept the issuer's payment as payment in full and may not bill the insured for any balance;

d. Coverage under Medicare Parts A and B for the reasonable cost of the first 3 pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations) unless replaced in accordance with federal regulations;

e. Coverage for the coinsurance amount, or in the case of hospital outpatient department services paid under a prospective payment system, the copayment amount, of Medicare eligible expenses under Part B regardless of hospital confinement, subject to the Medicare Part B deductible;

f. Hospice Care: Coverage of cost sharing for all Part A Medicare eligible hospice care and respite care expenses.

3. Standards for Additional Benefits. The following additional benefits shall be included in Medicare supplement

benefit Plans B, C, D, F, F with High Deductible, G, M, and N as provided by §521 of this regulation.

a. Medicare Part A Deductible: Coverage for 100 percent of the Medicare Part A inpatient hospital deductible amount per benefit period.

b. Medicare Part A Deductible: Coverage for 50 percent of the Medicare Part A inpatient hospital deductible amount per benefit period.

c. Skilled Nursing Facility Care: Coverage for the actual billed charges up to the coinsurance amount from the twenty-first day through the one hundredth day in a Medicare benefit period for post-hospital skilled nursing facility care eligible under Medicare Part A.

d. Medicare Part B Deductible: Coverage for 100 percent of the Medicare Part B deductible amount per calendar year regardless of hospital confinement.

e. One Hundred Percent of the Medicare Part B Excess Charges: Coverage for all of the difference between the actual Medicare Part B charges as billed, not to exceed any charge limitation established by the Medicare program or state law, and the Medicare-approved Part B charge.

f. Medically Necessary Emergency Care in a Foreign Country: Coverage to the extent not covered by Medicare for 80 percent of the billed charges for Medicare-eligible expenses for medically necessary emergency hospital, physician and medical care received in a foreign country, which care would have been covered by Medicare if provided in the United States and which care began during the first 60 consecutive days of each trip outside the United States, subject to a calendar year deductible of $250, and a lifetime maximum benefit of $50,000. For purposes of this benefit, *emergency care* shall mean care needed immediately because of an injury or an illness of sudden and unexpected onset.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1111 (re-designated from LSA-R.S. 22:224 pursuant to Acts 2008, No. 415, effective January 1, 2009) and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 35:

§520. Standard Medicare Supplement Benefit Plans for 1990 Standardized Medicare Supplement Benefit Plan Policies or Certificates Issued for Delivery on or After July 20, 1992 and Prior to June 1, 2010

Editor's Note: This Section is being repromulgated to change the Section name only.

A. - G. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:224 and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1106 (June 1999), repromulgated LR 25:1487 (August 1999), LR 29:2440 (November 2003), amended LR 31:2909 (November 2005), repromulgated LR 35:

§521. Standard Medicare Supplement Benefit Plans for 2010 Standardized Medicare Supplement Benefit Plan Policies or Certificates Issued for Delivery on or After June 1, 2010

A. The following standards are applicable to all Medicare supplement policies or certificates delivered or issued for delivery in this state on or after June 1, 2010. No policy or certificate may be advertised, solicited, delivered or issued for delivery in this state as a Medicare supplement policy or certificate unless it complies with these benefit plan standards. Benefit plan standards applicable to Medicare supplement policies and certificates issued before June 1, 2010 remain subject to the requirements of §510, §515, §520, and §525.

1.a. An issuer shall make available to each prospective policyholder and certificateholder a policy form or certificate form containing only the basic (core) benefits, as defined in §516.A.2 of this regulation.

b. If an issuer makes available any of the additional benefits described in §516.A.3, or offers standardized benefit Plans K or L (as described §521.A.5.h and i of this regulation), then the issuer shall make available to each prospective policyholder and certificateholder, in addition to a policy form or certificate form with only the basic (core) benefits as described in Subsection A.1.a. above, a policy form or certificate form containing either standardized benefit Plan C (as described in §521.A.5.c. of this regulation) or standardized benefit Plan F (as described in §521.A.5.e. of this regulation).

2. No groups, packages or combinations of Medicare supplement benefits other than those listed in this Section shall be offered for sale in this state, except as may be permitted in §521.A.6. and in §525 of this regulation.

3. Benefit plans shall be uniform in structure, language, designation and format to the standard benefit plans listed in this Subsection and conform to the definitions in §503 of this regulation. Each benefit shall be structured in accordance with the format provided in §516.A.2 and §516.A.3 of this regulation; or, in the case of plans K or L, in §521.A.5.h or i of this regulation and list the benefits in the order shown. For purposes of this Section, "structure, language, and format" means style, arrangement and overall content of a benefit.

4. In addition to the benefit plan designations required in §521.A.3 of this Section, an issuer may use other designations to the extent permitted by law.

5. Make-up of 2010 Standardized Benefit Plans:

a. Standardized Medicare supplement benefit Plan A shall include only the following: The basic (core) benefits as defined in §516.A.2. of this regulation.

b. Standardized Medicare supplement benefit Plan B shall include only the following: The basic (core) benefit as defined in §516.A.2. of this regulation, plus 100 percent of the Medicare Part A deductible as defined in §516.A.3.a. of this regulation.

c. Standardized Medicare supplement benefit Plan C shall include only the following: The basic (core) benefit as defined in §516.A.2. of this regulation, plus 100 percent of the Medicare Part A deductible, skilled nursing facility care, 100 percent of the Medicare Part B deductible, and medically necessary emergency care in a foreign country as defined in §516.A.3.a, c, d, and f of this regulation, respectively.

d. Standardized Medicare supplement benefit Plan D shall include only the following: The basic (core) benefit (as defined in §516.A.2 of this regulation), plus 100 percent

of the Medicare Part A deductible, skilled nursing facility care, and medically necessary emergency care in a foreign country as defined in §516.A.3.a, c, and f of this regulation, respectively.

e. Standardized Medicare supplement regular Plan F shall include only the following: The basic (core) benefit as defined in §516.A.2 of this regulation, plus 100 percent of the Medicare Part A deductible, the skilled nursing facility care, 100 percent of the Medicare Part B deductible, 100 percent of the Medicare Part B excess charges, and medically necessary emergency care in a foreign country as defined in §516.A.3.a, c, d, e, and f, respectively.

f. Standardized Medicare supplement Plan F With High Deductible shall include only the following: 100 percent of covered expenses following the payment of the annual deductible set forth in Subparagraph ii.

i. The basic (core) benefit as defined in §516.A.2 of this regulation, plus 100 percent of the Medicare Part A deductible, skilled nursing facility care, 100 percent of the Medicare Part B deductible, 100 percent of the Medicare Part B excess charges, and medically necessary emergency care in a foreign country as defined in §516.A.3.a, c, d, e, and f of this regulation, respectively.

ii. The annual deductible in Plan F With High Deductible shall consist of out-of-pocket expenses, other than premiums, for services covered by regular Plan F, and shall be in addition to any other specific benefit deductibles. The basis for the deductible shall be $1,500 and shall be adjusted annually from 1999 by the Secretary of the U.S. Department of Health and Human Services to reflect the change in the Consumer Price Index for all urban consumers for the 12-month period ending with August of the preceding year, and rounded to the nearest multiple of $10.

g. Standardized Medicare supplement benefit Plan G shall include only the following: The basic (core) benefit as defined in §516.A.2 of this regulation, plus 100 percent of the Medicare Part A deductible, skilled nursing facility care, 100 percent of the Medicare Part B excess charges, and medically necessary emergency care in a foreign country as defined in §516.A.3.a, c, e, and f, respectively.

h. Standardized Medicare supplement Plan K is mandated by The Medicare Prescription Drug, Improvement and Modernization Act of 2003, and shall include only the following:

i. Part A Hospital Coinsurance Sixty-first through the Ninetieth Day: Coverage of 100 percent of the Part A hospital coinsurance amount for each day used from the sixty-first through the ninetieth day in any Medicare benefit period;

ii. Part A Hospital Coinsurance, Ninety-first through the One Hundredth Fiftieth Day: Coverage of 100 percent of the Part A hospital coinsurance amount for each Medicare lifetime inpatient reserve day used from the ninety-first through the one hundred fiftieth day in any Medicare benefit period;

iii. Part A Hospitalization After One Hundred Fifty Days: Upon exhaustion of the Medicare hospital inpatient coverage, including the lifetime reserve days, coverage of 100 percent of the Medicare Part A eligible expenses for hospitalization paid at the applicable prospective payment system (PPS) rate, or other appropriate Medicare standard of payment, subject to a lifetime maximum benefit of an additional 365 days. The provider shall accept the issuer's payment as payment in full and may not bill the insured for any balance;

iv. Medicare Part A Deductible: Coverage for 50 percent of the Medicare Part A inpatient hospital deductible amount per benefit period until the out-of-pocket limitation is met as described in Subparagraph x.;

v. Skilled Nursing Facility Care: Coverage for 50 percent of the coinsurance amount for each day used from the twenty-first day through the one hundredth day in a Medicare benefit period for post-hospital skilled nursing facility care eligible under Medicare Part A until the out-of-pocket limitation is met as described in Subparagraph x.;

vi. Hospice Care: Coverage for 50 percent of cost sharing for all Part A Medicare eligible expenses and respite care until the out-of-pocket limitation is met as described in Subparagraph x.;

vii. Blood: Coverage for 50 percent, under Medicare Part A or B, of the reasonable cost of the first 3 pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations) unless replaced in accordance with federal regulations until the out-of-pocket limitation is met as described in Subparagraph x.;

viii. Part B Cost Sharing: Except for coverage provided in Subparagraph (ix), coverage for 50 percent of the cost sharing otherwise applicable under Medicare Part B after the policyholder pays the Part B deductible until the out-of-pocket limitation is met as described in Subparagraph x.;

ix. Part B Preventive Services: Coverage of 100 percent of the cost sharing for Medicare Part B preventive services after the policyholder pays the Part B deductible; and

x. Cost Sharing After Out-of-Pocket Limits: Coverage of 100 percent of all cost sharing under Medicare Parts A and B for the balance of the calendar year after the individual has reached the out-of-pocket limitation on annual expenditures under Medicare Parts A and B of $4000 in 2006, indexed each year by the appropriate inflation adjustment specified by the Secretary of the U.S. Department of Health and Human Services.

i. Standardized Medicare supplement Plan L is mandated by The Medicare Prescription Drug, Improvement and Modernization Act of 2003, and shall include only the following:

i. the benefits described in Paragraphs §521.A.5.h.i., ii, iii and ix;

ii. the benefits described in Paragraphs §521.A.5.h.iv., v, vi, vii and viii, but substituting 75 percent for 50 percent; and

iii. the benefit described in Paragraph §521.A.5.h.x, but substituting $2000 for $4000.

j. Standardized Medicare supplement Plan M shall include only the following: The basic (core) benefit as defined in §516.A.2 of this regulation, plus 50 percent of the Medicare Part A deductible, skilled nursing facility care, and medically necessary emergency care in a foreign country as defined in §516.A.3.b, c and f of this regulation, respectively.

k. Standardized Medicare supplement Plan N shall include only the following: The basic (core) benefit as defined in §516.A.2 of this regulation, plus 100 percent of

the Medicare Part A deductible, skilled nursing facility care, and medically necessary emergency care in a foreign country as defined in §516.A.3.a, c and f. of this regulation, respectively, with co-payments in the following amounts:

i. the lesser of $20 or the Medicare Part B coinsurance or co-payment for each covered health care provider office visit (including visits to medical specialists); and

ii. the lesser of $50 or the Medicare Part B coinsurance or co-payment for each covered emergency room visit, however, this copayment shall be waived if the insured is admitted to any hospital and the emergency visit is subsequently covered as a Medicare Part A expense.

6. New or Innovative Benefits: An issuer may, with the prior approval of the commissioner, offer policies or certificates with new or innovative benefits, in addition to the standardized benefits provided in a policy or certificate that otherwise complies with the applicable standards. The new or innovative benefits shall include only benefits that are appropriate to Medicare supplement insurance, are new or innovative, are not otherwise available, and are cost-effective. Approval of new or innovative benefits must not adversely impact the goal of Medicare supplement simplification. New or innovative benefits shall not include an outpatient prescription drug benefit. New or innovative benefits shall not be used to change or reduce benefits, including a change of any cost-sharing provision, in any standardized plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1111 (re-designated from LSA-R.S. 22:224 pursuant to Acts 2008, No. 415, effective January 1, 2009) and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR:35:

§525. Medicare Select Policies and Certificates

A.1. - E.1.b.ii. …

c. there are written agreements and/or contracts with network providers describing specific responsibilities;

d. …

e. in the case of covered services that are subject to a restricted network provision and are provided on a prepaid basis, there are written agreements and/or contracts with network providers prohibiting the providers from billing or otherwise seeking reimbursement from or recourse against any individual insured under a Medicare select policy or certificate. This Paragraph shall not apply to supplemental charges or coinsurance amounts as stated in the Medicare select policy or certificate;

2. …

3. a detailed description and the method utilized by the Medicare select insurer of informing policyholders of the plan's service and features, including but not limited to, the plan's grievance procedures, its process for choosing and changing in-network providers, and the procedures for providing and approving emergency and specialty care;

4. - 4.c. …

5. a list and description, by specialty, of the network providers, including the Medicare select issuer's procedures for making referrals within and outside its network;

6. …

7. the listing of hospitals and the number of hospital beds available for the policyholders at an in-network hospital;

8. for each network provider, a list of in-network hospitals at which the network provider has privileges to admit policyholders;

9. any other information requested by the commissioner.

F.1. A Medicare select issuer shall file any proposed changes, material or otherwise, to the plan of operation or contracts, except for changes to the listing of network providers, with the commissioner prior to implementation of any changes. The removal or withdrawal of any hospital from a Medicare select issuer's network shall constitute a material change to the plan of operation or contract and shall be filed with the commissioner in accordance with the provisions of this Subsection. Changes shall be considered approved by the commissioner after 30 days unless specifically disapproved.

2. All filings of proposed changes, material or otherwise, to the plan of operation or contracts as required by this Section shall include, but not be limited to the following:

a. the listing of hospitals and the number of hospital beds available for the policyholders at an in-network hospital;

b. geographic distance from an in-network hospital to each policyholder's primary residence;

c. for each network provider, a list of in-network hospitals at which the network provider has privileges to admit policyholders;

d. a ratio of network providers to current policyholders; and

e. any other information requested by the commissioner.

3. An updated list of network providers shall be filed with the commissioner at least quarterly.

G. - O. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1111 (re-designated from LSA-R.S. 22:224 pursuant to Acts 2008, No. 415, effective January 1, 2009) and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1108 (June 1999), repromulgated LR 25:1488 (August 1999), amended LR 29:2442 (November 2003), LR 31:2910 (November 2005), LR 32:1462 (August 2006), amended LR:35:

§535. Guaranteed Issue for Eligible Persons

A. - B.3.a.iv. …

b. pursuant to Subsection B.3.a.i, B.3.a.ii, and B.3.a.iii, the enrollment ceases under the same circumstances that would permit discontinuance of an individual's election of coverage under §535.B.2; or pursuant to Subsection B.3.a.iv, the enrollment ceases and discontinuance of an individual's election of coverage occurs due to one of the following:

i. the certification of the organization or plan has been terminated, or the organization has terminated or otherwise discontinued providing the plan in the area in which the individual resides;

ii. the individual is no longer eligible to elect the plan because of a change in the individual's place of residence or other change in circumstances specified by the commissioner, but not including termination of the individual's enrollment on the basis described in Section 1851(g)(3)(B) of the federal Social Security Act (where the

individual has not paid premiums on a timely basis or has engaged in disruptive behavior as specified in standards under Section 1856), or the plan is terminated for all individuals within a residence area;

iii. the individual demonstrates, in accordance with guidelines established by the commissioner, that:

(a). the organization offering the plan substantially violated a material provision of the organization's contract(s) or plan of operation or the organization offering the plan made a material change or altered the organization's contract(s) or plan of operation that potentially impacts the individual under this Part or Regulation 33, including the failure to provide an enrollee on a timely basis medically necessary care for which benefits are available under the plan or the failure to provide such covered care in accordance with applicable quality or adequacy standards or failure to provide covered services in accordance with the plan of operation, including but not limited to the adequacy of a organization's provider network(s); or

(b). the organization, or agent or other entity acting on the organization's behalf, materially misrepresented the plan's provisions in marketing the plan to the individual; or

(c). any circumstance or act the commissioner in his discretion deems to not be in the public interest.

B.4. - F.2. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1111 (re-designated from LSA-R.S. 22:224 pursuant to Acts 2008, No. 415, effective January 1, 2009) and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1110 (June 1999), repromulgated LR 25:1490 (August 1999), amended LR 29:2444 (November 2003), LR 31:2912 (November 2005), amended LR 35:

§560. Required Disclosure Provisions

A. - D.3.b. …

4. the following items shall be included in the outline of coverage in the order prescribed below:

Benefit Chart of Medicare Supplement Plans Sold on or After June 1, 2010

This chart shows the benefits included in each of the standard Medicare supplement plans. Every company must make Plan "A" available. Some plans may not be available in Louisiana.

Plans E, H, I, and J are no longer available for sale. [This sentence shall not appear after June 1, 2011.]

Basic Benefits:

• Hospitalization – Part A coinsurance plus coverage for 365 additional days after Medicare benefits end.
• Medical Expenses – Part B coinsurance (generally 20% of Medicare-approved expenses) or copayments for hospital outpatient services. Plans K, L and N require insureds to pay a portion of Part B coinsurance or co-payments.
• Blood – First three pints of blood each year.
• Hospice – Part A coinsurance

A	B	C	D	F	F*	G
Basic, including 100% Part B coinsurance	Basic, including 100% Part B coinsurance	Basic, including 100% Part B coinsurance	Basic, including 100% Part B coinsurance	Basic, including 100% Part B coinsurance*		Basic, including 100% Part B coinsurance
		Skilled Nursing Facility Coinsurance	Skilled Nursing Facility Coinsurance	Skilled Nursing Facility Coinsurance		Skilled Nursing Facility Coinsurance
	Part A Deductible	Part A Deductible	Part A Deductible	Part A Deductible		Part A Deductible
		Part B Deductible		Part B Deductible		
				Part B Excess (100%)		Part B Excess (100%)
		Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency		Foreign Travel Emergency

K	L	M	N
Hospitalization and preventive care paid at 100%; other basic benefits paid at 50%	Hospitalization and preventive care paid at 100%; other basic benefits paid at 75%	Basic, including 100% Part B coinsurance	Basic, including 100% Part B coinsurance, except up to $20 copayment for office visit, and up to $50 copayment for ER
50% Skilled Nursing Facility Coinsurance	75% Skilled Nursing Facility Coinsurance	Skilled Nursing Facility Coinsurance	Skilled Nursing Facility Coinsurance
50% Part A Deductible	75% Part A Deductible	50% Part A Deductible	Part A Deductible
		Foreign Travel Emergency	Foreign Travel Emergency
Out-of-pocket limit $[4620]; paid at 100% after limit reached	Out-of-pocket limit $[2310]; paid at 100% after limit reached		

* Plan F also has an option called a high deductible Plan F. This high deductible plan pays the same benefits as Plan F after one has paid a calendar year $[2000] deductible. Benefits from high deductible plan F will not begin until out-of-pocket expenses exceed $[2000]. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. These expenses include the Medicare deductibles for Part A and Part B, but do not include the plan's separate foreign travel emergency deductible.

PREMIUM INFORMATION [Boldface Type]

We [insert issuer's name] can only raise your premium if we raise the premium for all policies like yours in this state. [If the premium is based on the increasing age of the insured, include information specifying when premiums will change.]

DISCLOSURES [Boldface Type]

Use this outline to compare benefits and premiums among policies.

This outline shows benefits and premiums of policies sold for effective dates on or after June 1, 2010. Policies sold for effective dates prior to June 1, 2010 have different benefits and premiums. Plans E, H, I, and J are no longer available for sale. [This paragraph shall not appear after June 1, 2011].

READ YOUR POLICY VERY CAREFULLY [Boldface Type]

This is only an outline describing your policy's most important features. The policy is your insurance contract. You must read the policy itself to understand all of the rights and duties of both you and your insurance company.

RIGHT TO RETURN POLICY [Boldface Type]

If you find that you are not satisfied with your policy, you may return it to [insert issuer's address]. If you send the policy back to us within 30 days after you receive it, we will treat the policy as if it had never been issued and return all of your payments.

POLICY REPLACEMENT [Boldface Type]

If you are replacing another health insurance policy, do NOT cancel it until you have actually received your new policy and are sure you want to keep it.

NOTICE [Boldface Type]

This policy may not fully cover all of your medical costs.

[for agents:]
Neither [insert company's name] nor its agents are connected with Medicare.

[for direct response:]
[insert company's name] is not connected with Medicare.

This outline of coverage does not give all the details of Medicare coverage. Contact your local Social Security Office or consult The Medicare Handbook for more details.

COMPLETE ANSWERS ARE VERY IMPORTANT [Boldface Type]

When you fill out the application for the new policy, be sure to answer truthfully and completely all questions about your medical and health history. The company may cancel your policy and refuse to pay any claims if you leave out or falsify important medical information. [If the policy or certificate is guaranteed issue, this paragraph need not appear.]

Review the application carefully before you sign it. Be certain that all information has been properly recorded.

[Include for each plan prominently identified in the cover page, a chart showing the services, Medicare payments, plan payments and insured payments for each plan, using the same language, in the same order, using uniform layout and format as shown in the charts below. No more than four plans may be shown on one chart. For purposes of illustration, charts for each plan are included in this regulation. An issuer may use additional benefit plan designations on these charts pursuant to §521.D of this regulation.] [Include an explanation of any innovative benefits on the cover page and in the chart, in a manner approved by the commissioner.]

Plan A
Medicare (Part A)—Hospital Services—Per Benefit Period

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

Services	Medicare Pays	Plan Pays	You Pay
Hospitalization*			
Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but $[1068]	$0	$[1068](Part A deductible)
61st thru 90th day	All but $[267] a day	$[267] a day	$0
91st day and after:			
--While using 60 lifetime reserve days	All but $[534] a day	$[534] a day	$0
--Once lifetime reserve days are used:			
--Additional 365 days	$0	100% of Medicare Eligible Expenses	$0**
--Beyond the additional 365 days	$0	$0	All Costs
Skilled Nursing Facility Care*			
You must meet Medicare's requirements including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	$0	$0
21st thru 100th day	All but $[133.50] a day	$0	Up to $[133.50] a day
101st day and after	$0	$0	All costs
Blood			
First 3 pints	$0	3 pints	$0
Additional amounts	100%	$0	$0
Hospice Care			
You must meet Medicare's requirements, including a doctor's certification of terminal illness.	All but very limited copayment/coinsurance for out-patient drugs and inpatient respite Care	Medicare copayment/ Coinsurance	$0

**NOTE: When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

Plan A
Medicare (Part B)—Medical Services—Per Calendar Year

*Once you have been billed $[135] of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

Services	Medicare Pays	Plan Pays	You Pay
Medical Expenses—In or Out of the Hospital and Outpatient Hospital Treatment, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment,			
First $[135] of Medicare Approved Amounts*	$0	$0	$[135](Part B Deductible)
Remainder of Medicare Approved Amounts	Generally, 80%	Generally, 20%	$0
Part B Excess Charges (Above Medicare Approved Amounts)	$0	$0	All Costs
Blood			
First 3 pints	$0	All Costs	$0
Next $[135] of Medicare Approved Amounts*	$0	$0	$[135](Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	$0
Clinical Laboratory Services—Tests for Diagnostic Services	100%	$0	$0

Parts A and B

Home Health Care			
Medicare Approved Services			
--Medically necessary skilled care services and medical supplies	100%	$0	$0
--Durable medical equipment			
First $[135] of Medicare Approved Amounts*	$0	$0	$[135](Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	$0

Plan B
Medicare (Part A)—Hospital Services—Per Benefit Period

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

Services	Medicare Pays	Plan Pays	You Pay
Hospitalization*			
Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but $[1068]	$[1068](Part A Deductible)	$0
61st thru 90th day	All but $[267] a day	$[267] a day	$0
91st day and after:			
--While using 60 lifetime reserve days	All but $[534] a day	$[534] a day	$0
--Once lifetime reserve days are used:			
--Additional 365 days	$0	100% of Medicare Eligible Expenses	$0**
--Beyond the additional 365 days	$0	$0	All Costs
Skilled Nursing Facility Care*			
You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	$0	$0
21st thru 100th day	All but $[133.50] a day	$0	Up to $[133.50] a day
101st day and after	$0	$0	All costs
Blood			
First 3 pints	$0	3 pints	$0
Additional amounts	100%	$0	$0
Hospice Care			
You must meet Medicare's requirements, including a doctor's certification of terminal illness	All but very limited copayment/coinsurance for outpatient drugs and inpatient respite care	Medicare copayment/coinsurance	$0

**NOTE: When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

Plan B
Medicare (Part B)—Medical Services—Per Calendar Year

*Once you have been billed $[135] of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

Services	Medicare Pays	Plan Pays	You Pay
Medical Expenses—In or Out of the Hospital and Outpatient Hospital Treatment, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment,			
First $[135] of Medicare-Approved Amounts*	$0	$0	$[135] (Part B Deductible)
Remainder of Medicare- Approved Amounts	Generally, 80%	Generally, 20%	$0
Part B Excess Charges			
(Above Medicare Approved Amounts)	$0	$0	All Costs
Blood			
First 3 pints	$0	All Costs	$0
Next $[135] of Medicare-Approved Amounts*	$0	$0	$[135] (Part B Deductible)
Remainder of Medicare-Approved Amounts	80%	20%	$0
Clinical Laboratory Services--			
Tests for Diagnostic Services	100%	$0	$0

Parts A and B

Home Health Care			
Medicare Approved Services			
--Medically necessary skilled care services and medical supplies	100%	$0	$0
--Durable medical equipment			
First $[135] of Medicare-Approved Amounts*	$0	$0	$[135] (Part B Deductible)
Remainder of Medicare-Approved Amounts	80%	20%	$0

Plan C
Medicare (Part A)—Hospital Services—Per Benefit Period

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

Services	Medicare Pays	Plan Pays	You Pay
Hospitalization*			
Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but $[1068]	$[1068](Part A Deductible)	$0
61st thru 90th day	All but $[267] a day	$[267] a day	$0
91st day and after:			
--While using 60 lifetime reserve days	All but $[534] a day	$[534] a day	$0
--Once lifetime reserve days are used:			
Additional 365 days	$0	100% of Medicare Eligible Expenses	$0**
Beyond the additional 365 days	$0	$0	All Costs
Skilled Nursing Facility Care*			
You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	$0	$0
21st thru 100th day	All but $[133.50] a day	Up to $[133.50] a day	$0
101st day and after	$0	$0	All costs
Blood			
First 3 pints	$0	3 pints	$0
Additional amounts	100%	$0	$0
Hospice Care			
You must meet Medicare's requirements, including a doctor's certification of terminal illness.	All but very limited co-payment/coinsurance for out-patient drugs and inpatient respite Care	Medicare co-payment/ coinsurance	$0

**NOTE: When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

Plan C
Medicare (Part B)—Medical Services—Per Calendar Year

*Once you have been billed $[135] of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

Services	Medicare Pays	Plan Pays	You Pay
Medical Expenses—In or Out of the Hospital and Outpatient Hospital Treatment, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment,			
First $[135] of Medicare-Approved Amounts*	$0	$[135] (Part B Deductible)	$0
Remainder of Medicare-Approved Amounts	Generally, 80%	Generally, 20%	$0
Part B Excess Charges (Above Medicare Approved Amounts)	$0	$0	All Costs
Blood			
First 3 pints	$0	All Costs	$0
Next $[135] of Medicare-Approved Amounts*	$0	$[135] (Part B Deductible)	$0
Remainder of Medicare-Approved Amounts	80%	20%	$0
Clinical Laboratory Services— Tests for Diagnostic Services	100%	$0	$0

Parts A and B

Home Health Care			
Medicare Approved Services			
--Medically necessary skilled care services and medical supplies	100%	$0	$0
--Durable medical equipment			
First $[135] of Medicare-Approved Amounts*	$0	$[135] (Part B Deductible)	$0
Remainder of Medicare-Approved Amounts	80%	20%	$0

Other Benefits—Not Covered by Medicare

Foreign Travel—Not Covered By Medicare Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA First $250 each calendar year Remainder of Charges	 $0 $0	 $0 80% to a lifetime maximum benefit of $50,000	 $250 20% and amounts over the $50,000 lifetime maximum

Plan D
Medicare (Part A)—Hospital Services—Per Benefit Period

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

Services	Medicare Pays	Plan Pays	You Pay
Hospitalization* Semiprivate room and board, general nursing and miscellaneous services and supplies First 60 days 61st thru 90th day 91st day and after: --While using 60 lifetime reserve days --Once lifetime reserve days are used: --Additional 365 days --Beyond the additional 365 days	 All but $[1068] All but $[267] a day All but $[534] a day $0 $0	 $[1068](Part A Deductible) $[267] a day $[534] a day 100% of Medicare Eligible Expenses $0	 $0 $0 $0 $0** All Costs
Skilled Nursing Facility Care* You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital First 20 days 21st thru 100th day 101st day and after	 All approved amounts All but $[133.50] a day $0	 $0 Up to $[133.50] a day $0	 $0 $0 All costs
Blood First 3 pints Additional amounts	 $0 100%	 3 pints $0	 $0 $0
Hospice Care You must meet Medicare's requirements, including a doctor's certification of terminal illness.	All but very limited co-payment/coinsurance for out-patient drugs and inpatient respite care	Medicare copayment/coinsurance	$0

**NOTE: When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

Plan D
Medicare (Part B)—Medical Services—Per Calendar Year

*Once you have been billed $[135] of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

Services	Medicare Pays	Plan Pays	You Pay
Medical Expenses—In or Out of the Hospital and Outpatient Hospital Treatment, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment, First $[135] of Medicare-Approved Amounts* Remainder of Medicare-Approved Amounts	 $0 Generally, 80%	 $0 Generally, 20%	 $[135] (Part B Deductible) $0
Part B Excess Charges (Above Medicare Approved Amounts)	 $0	 $0	 All Costs
Blood First 3 pints Next $[135] of Medicare-Approved Amounts* Remainder of Medicare-Approved Amounts	 $0 $0 80%	 All Costs $0 20%	 $0 $[135] (Part B Deductible) $0
Clinical Laboratory Services— Tests For Diagnostic Services	 100%	 $0	 $0

Plan D (continued)
Parts A and B

Services	Medicare Pays	Plan Pays	You Pay
Home Health Care			
Medicare Approved Services			
--Medically necessary skilled care services and medical supplies	100%	$0	$0
--Durable medical equipment			
First $[135] of Medicare-Approved Amounts*	$0	$0	$[135] (Part B Deductible)
Remainder of Medicare-Approved Amounts	80%	20%	$0

Other Benefits—Not Covered by Medicare

Foreign Travel—Not Covered by Medicare			
Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First $250 each calendar year	$0	$0	$250
Remainder of Charges	$0	80% to a lifetime maximum benefit of $50,000	20% and amounts over the $50,000 lifetime maximum

Plan F or High Deductible Plan F
Medicare (Part A)—Hospital Services—Per Benefit Period

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

[**This high deductible plan pays the same or offers the same benefits as Plan F after one has paid a calendar year [$2000] deductible. Benefits from the high deductible Plan F will not begin until out-of-pocket expenses are [$2000]. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. This includes the Medicare deductibles for Part A and Part B, but does not include the plan's separate foreign travel emergency deductible.]

Services	Medicare Pays	[After You Pay [$2000] Deductible,** Plan Pays]	[In Addition to [$2000] Deductible,** You Pay]
Hospitalization*			
Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but $[1068]	$[1068](Part A Deductible)	$0
61st thru 90th day	All but $ [267] a day	$[267]a day	$0
91st day and after:			
--While using 60 lifetime reserve days	All but $[534] a day	$[534] a day	$0
--Once lifetime reserve days are used:			
Additional 365 days	$0	100% of Medicare Eligible Expenses	$0
Beyond the additional 365 days	$0	$0	All Costs
Skilled Nursing Facility Care*			
You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	$0	$0
21st thru 100th day	All but $[133.50] a day	Up to $[133.50] a day	$0
101st day and after	$0	$0	All costs
Blood			
First 3 pints	$0	3 pints	$0
Additional amounts	100%	$0	$0
Hospice Care			
You must meet Medicare's requirements, including a doctor's certification of terminal illness.	All but very limited co-payment/coinsurance for out-patient drugs and inpatient respite care	Medicare co-payment/coinsurance	$0

***NOTE: When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance on any difference between its billed charges and the amount Medicare would have paid.

Plan F or High Deductible Plan F (Continued)
Medicare (Part B)—Medical Services—Per Calendar Year

*Once you have been billed $[135] of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

[**This high deductible plan pays the same or offers the same benefits as Plan F after one has paid a calendar year [$2000] deductible. Benefits from the high deductible Plan F will not begin until out-of-pocket expenses are [$2000]. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. This includes the Medicare deductibles for Part A and Part B, but does not include the plan's separate foreign travel emergency deductible.]

Services	Medicare Pays	[After You Pay $2000 Deductible,** Plan Pays]	[In Addition to $2000 Deductible,** You Pay]
Medical Expenses—In or Out of the Hospital and Outpatient Hospital Treatment, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment,			
First $[135] of Medicare-Approved Amounts*	$0	$[135] (Part B Deductible)	$0
Remainder of Medicare-Approved Amounts	Generally, 80%	Generally, 20%	$0
Part B Excess Charges (Above Medicare Approved Amounts)	$0	100%	$0
Blood			
First 3 pints	$0	All Costs	$0
Next $[135] of Medicare-Approved Amounts*	$0	$[135] (Part B Deductible)	$0
Remainder of Medicare-Approved Amounts	80%	20%	$0
Clinical Laboratory Services— Tests For Diagnostic Services	100%	$0	$0

Parts A and B

Home Health Care			
Medicare Approved Services			
--Medically necessary skilled care services and medical supplies	100%	$0	$0
--Durable medical equipment			
First $[135] of Medicare-Approved Amounts*	$0	$[135] (Part B Deductible)	$0
Remainder of Medicare-Approved Amounts	80%	20%	$0

Plan F or High Deductible Plan F (Continued)

Other Benefits—Not Covered by Medicare

Services	Medicare Pays	After You Pay $2000 Deductible,** Plan Pays	In Addition to $2000 Deductible,** You Pay
Foreign Travel—Not Covered by Medicare Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First $250 each calendar year	$0	$0	$250
Remainder of Charges	$0	80% to a lifetime maximum benefit of $50,000	20% and amounts over the $50,000 lifetime maximum

Plan G
Medicare (Part A)—Hospital Services—Per Benefit Period

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

Services	Medicare Pays	Plan Pays	You Pay
Hospitalization* Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but $[1068]	$[1068] (Part A Deductible)	$0
61st thru 90th day	All but $[267] a day	$[267] a day	$0
91st day and after:			
--While using 60 lifetime reserve days	All but $[534] a day	$[534] a day	$0
--Once lifetime reserve days are used:			
Additional 365 days	$0	100% of Medicare Eligible Expenses	$0
Beyond the additional 365 days	$0	$0	All Costs

Services	Medicare Pays	Plan Pays	You Pay
Skilled Nursing Facility Care* You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	$0	$0
21st thru 100th day	All but $[133.50] a day	Up to $[133.50] a day	$0
101st day and after	$0	$0	All costs
Blood			
First 3 pints	$0	3 pints	$0
Additional amounts	100%	$0	$0
Hospice Care You must meet Medicare's requirements, including a doctor's certification of terminal illness.	All but very limited copayment/coinsurance for out-patient drugs and inpatient respite care	Medicare co-payment/coinsurance	$0

**NOTE: When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

Plan G
Medicare (Part B)—Medical Services—Per Calendar Year

*Once you have been billed $[135] of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

Services	Medicare Pays	Plan Pays	You Pay
Medical Expenses—In or Out of the Hospital and Outpatient Hospital Treatment, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment,			
First $[135] of Medicare-Approved Amounts*	$0	$0	$[135 (Part B Deductible)]
Remainder of Medicare-Approved Amounts	Generally, 80%	Generally, 20%	$0
Part B Excess Charges (Above Medicare Approved Amounts)	$0	100%	$0
Blood			
First 3 pints	$0	All Costs	$0
Next $[135] of Medicare-Approved Amounts*	$0	$0	$[135] (Part B Deductible)
Remainder of Medicare-Approved Amounts	80%	20%	$0
Clinical Laboratory Services— Blood Tests For Diagnostic Services	100%	$0	$0

Plan G (Continued)
Parts A and B

Services	Medicare Pays	Plan Pays	You Pay
Home Health Care Medicare Approved Services			
--Medically necessary skilled care services and medical supplies	100%	$0	$0
--Durable medical equipment			
First $[135] of Medicare-Approved Amounts*	$0	$0	$[135] (Part B Deductible)
Remainder of Medicare-Approved Amounts	80%	20%	$0

Other Benefits—Not Covered by Medicare

Foreign Travel--Not Covered by Medicare Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First $250 each calendar year	$0	$0	$250
Remainder of Charges	$0	80% to a lifetime maximum benefit of $50,000	20% and amounts over the $50,000 lifetime maximum

Plan K

*You will pay half the cost-sharing of some covered services until you reach the annual out-of-pocket limit of $[4620] each calendar year. The amounts that count toward your annual limit are noted with diamonds (♦) in the chart below. Once you reach the annual limit, the plan pays 100% of your Medicare co-payment and coinsurance for the rest of the calendar year. However, this limit does NOT include charges from your provider that exceed Medicare-approved amounts (these are called "Excess Charges") and you will be responsible for paying this difference in the amount charged by your provider and the amount paid by Medicare for the item or service.

Medicare (Part A)—Hospital Services—Per Benefit Period

**A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

Services	Medicare Pays	Plan Pays	You Pay*
Hospitalization** Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but $[1068]	$[534](50% of Part A deductible)	$[534](50% of Part A deductible)♦
61st thru 90th day	All but $[267] a day	$[267] a day	$0
91st day and after:			
--While using 60 lifetime reserve days	All but $[534] a day	$[534] a day	$0
--Once lifetime reserve days are used:			
--Additional 365 days	$0	100% of Medicare eligible expenses	$0***
--Beyond the additional 365 days	$0	$0	All costs
Skilled Nursing Facility Care** You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	$0	$0
21st thru 100th day	All but $[133.50] a day	Up to $[66.75] a day	Up to $[66.75] a day ♦
101st day and after	$0	$0	All costs
Blood			
First 3 pints	$0	50%	50%♦
Additional amounts	100%	$0	$0
Hospice Care You must meet Medicare's requirements, including a doctor's certification of terminal illness.	All but very limited copayment/coinsurance for outpatient drugs and inpatient respite care	50% of co-payment/coinsurance	50% of Medicare co-payment/coinsurance♦

***NOTE: When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

Plan K

Medicare (Part B)—Medical Services—Per Calendar Year

****Once you have been billed $[135] of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

Services	Medicare Pays	Plan Pays	You Pay*
Medical Expenses—In or Out of the Hospital and Outpatient Hospital Treatment, such as Physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment,			
First $[135] of Medicare Approved Amounts****	$0	$0	$[135] (Part B deductible)**** ♦
Preventive Benefits for Medicare covered services	Generally 75% or more of Medicare approved amounts	Remainder of Medicare approved amounts	All costs above Medicare approved amounts
Remainder of Medicare Approved Amounts	Generally 80%	Generally 10%	Generally 10% ♦
Part B Excess Charges (Above Medicare Approved Amounts)	$0	$0	All costs (and they do not count toward annual out-of-pocket limit of $[4620])*
Blood			
First 3 pints	$0	50%	50%♦
Next $[135] of Medicare Approved Amounts****	$0	$0	$[135] (Part B deductible)**** ♦
Remainder of Medicare Approved Amounts	Generally 80%	Generally 10%	Generally 10% ♦
Clinical Laboratory Services— Tests For Diagnostic Services	100%	$0	$0

*This plan limits your annual out-of-pocket payments for Medicare-approved amounts to $[4620] per year. However, this limit does NOT include charges from your provider that exceed Medicare-approved amounts (these are called "Excess Charges") and you will be responsible for paying this difference in the amount charged by your provider and the amount paid by Medicare for the item or service.

Plan K
Parts A and B

Services	Medicare Pays	Plan Pays	You Pay*
Home Health Care Medicare Approved Services --Medically necessary skilled care services and medical supplies	100%	$0	$0
--Durable medical equipment First $[135] of Medicare Approved Amounts*****	$0	$0	$[135] (Part B deductible) ♦
Remainder of Medicare Approved Amounts	80%	10%	10%♦

*****Medicare benefits are subject to change. Please consult the latest *Guide to Health Insurance for People with Medicare*.

Plan L

*You will pay one-fourth of the cost-sharing of some covered services until you reach the annual out-of-pocket limit of $[2310] each calendar year. The amounts that count toward your annual limit are noted with diamonds♦ in the chart below. Once you reach the annual lim it, the plan pays 100% of your Medicare co-payment and coinsurance for the rest of the calendar year. However, this limit does NOT include charges from your provider that exceed Medicare-approved amounts (these are called "Excess Charges") and you will be responsible for paying this difference in the amount charged by your provider and the amount paid by Medicare for the item or service.

Medicare (Part A)—Hospital Services—Per Benefit Period

**A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

Services	Medicare Pays	Plan Pays	You Pay*
Hospitalization** Semiprivate room and board, general nursing and miscellaneous services and supplies First 60 days 61st thru 90th day 91st day and after: --While using 60 lifetime reserve days --Once lifetime reserve days are used: --Additional 365 days --Beyond the additional 365 days	 All but $[1068] All but $[267] a day All but $[534] a day $0 $0	 $[808.50] (75% of Part A deductible) $[267] a day $[534] a day 100% of Medicare eligible expenses $0	 $[267] (25% of Part A deductible)♦ $0 $0 $0*** All costs
Skilled Nursing Facility Care** You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility Within 30 days after leaving the hospital First 20 days 21st thru 100th day 101st day and after	 All approved amounts All but $[133.50] a day $0	 $0 Up to $[100.13] a day $0	 $0 Up to $[33.38] a day♦ All costs
Blood First 3 pints Additional amounts	$0 100%	75% $0	25%♦ $0
Hospice Care You must meet Medicare's requirements, including a doctor's certification of terminal illness.	All but very limited copayment/coinsurance for outpatient drugs and inpatient respite care	75% of co-payment/coinsurance	25% of co-payment/coinsurance♦

***NOTE: When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

Plan L
Medicare (Part B)—Medical Services—Per Calendar Year

****Once you have been billed $[135] of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

Services	Medicare Pays	Plan Pays	You Pay*
Medical Expenses—In or Out of the Hospital and Outpatient Hospital Treatment, such as Physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment, First $[135] of Medicare Approved Amounts**** Preventive Benefits for Medicare covered services Remainder of Medicare Approved Amounts	 $0 Generally 75% or more of Medicare approved amounts Generally 80%	 $0 Remainder of Medicare approved amounts Generally 15%	 $[135] (Part B deductible)**** ♦ All costs above Medicare approved amounts Generally 5% ♦
Part B Excess Charges (Above Medicare Approved Amounts)	$0	$0	All costs (and they do not count toward annual out-of-pocket limit of $[2310])*

Services	Medicare Pays	Plan Pays	You Pay*
Blood			
First 3 pints	$0	75%	25%♦
Next $[135] of Medicare Approved Amounts****	$0	$0	$[135] (Part B deductible) ♦
Remainder of Medicare Approved Amounts	Generally 80%	Generally 15%	Generally 5%♦
Clinical Laboratory Services—			
Tests For Diagnostic Services	100%	$0	$0

*This plan limits your annual out-of-pocket payments for Medicare-approved amounts to $[2310] per year. However, this limit does NOT include charges from your provider that exceed Medicare-approved amounts (these are called "Excess Charges") and you will be responsible for paying this difference in the amount charged by your provider and the amount paid by Medicare for the item or service.

Plan L
Parts A and B

Services	Medicare Pays	Plan Pays	You Pay*
Home Health Care			
Medicare Approved Services			
--Medically necessary skilled care services and medical supplies	100%	$0	$0
--Durable medical equipment First $[135] of Medicare Approved Amounts*****	$0	$0	$[135] (Part B deductible) ♦
Remainder of Medicare Approved Amounts	80%	15%	5% ♦

*****Medicare benefits are subject to change. Please consult the latest *Guide to Health Insurance for People with Medicare.*

Plan M
Medicare (Part A)—Hospital Services—Per Benefit Period

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

Services	Medicare Pays	Plan Pays	You Pay
Hospitalization*			
Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but $[1068]	$[534] (50% of Part A deductible)	$[534] (50% of Part A deductible)
61st thru 90th day	All but $[267] a day	$[267] a day	$0
91st day and after:			
--While using 60 lifetime reserve days	All but $[534] a day	$[534] a day	$0
Once lifetime reserve days are used:			
--Additional 365 days	$0	100% of Medicare Eligible Expenses	$0**
--Beyond the additional 365 days	$0	$0	All Costs
Skilled Nursing Facility Care*			
You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	$0	$0
21st thru 100th day	All but $[133.50] a day	Up to $[133.50] a day	$0
101st day and after	$0	$0	All costs
Blood			
First 3 pints	$0	3 pints	$0
Additional amounts	100%	$0	$0
Hospice care			
You must meet Medicare's requirements, including a doctor's certification of terminal illness.	All but very limited co-payment/coinsurance for outpatient drugs and inpatient respite care	Medicare co-payment/coinsurance	$0

**NOTE: When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time, the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

Plan M
Medicare (Part B)—Medical Services—Per Calendar Year

*Once you have been billed $[135] of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

Services	Medicare Pays	Plan Pays	You Pay
Medical Expenses—In or Out of the Hospital and Outpatient Hospital Treatment, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment			
First $[135] of Medicare-Approved Amounts*	$0	$0	$[135] (Part B deductible)
Remainder of Medicare-Approved Amounts	Generally 80%	Generally 20%	$0
Part B Excess Charges (Above Medicare-Approved Amounts)	$0	$0	All Costs
Blood			
First 3 pints	$0	All Costs	$0
Next $[135] of Medicare-Approved Amounts*	$0	$0	$[135] (Part B deductible)
Remainder of Medicare-Approved Amounts	80%	20%	$0
Clinical Laboratory Services—Tests For Diagnostic Services	100%	$0	$0

Parts A and B

Services	Medicare Pays	Plan Pays	You Pay
Home Health Care			
Medicare Approved Services			
Medically necessary skilled care services and medical supplies			
--Durable medical equipment	100%	$0	$0
First $[135] of Medicare-Approved Amounts*	$0	$0	$[135] (Part B deductible)
Remainder of Medicare-Approved Amounts	80%	20%	$0

Other Benefits—Not Covered by Medicare

Foreign Travel--Not Covered by Medicare			
Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First $250 each calendar year	$0	$0	$250
Remainder of Charges	$0	80% to a lifetime maximum benefit of $50,000	20% and amounts over the $50,000 lifetime maximum

Plan N
Medicare (Part A)—Hospital Services—Per Benefit Period

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

Services	Medicare Pays	Plan Pays	You Pay
Hospitalization*			
Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but $[1068]	$[1068] (Part A deductible)	$0
61st thru 90th day	All but $[267] a day	$[267] a day	$0
91st day and after:			
--While using 60 lifetime reserve days	All but $[534] a day	$[534] a day	$0
Once lifetime reserve days are used:			
--Additional 365 days	$0	100% of Medicare Eligible Expenses	$0**
--Beyond the additional 365 days	$0	$0	All Costs

Services	Medicare Pays	Plan Pays	You Pay
Skilled Nursing Facility Care* You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	$0	$0
21st thru 100th day	All but $[133.50] a day	Up to $[133.50] a day	$0
101st day and after	$0	$0	All costs
Blood			
First 3 pints	$0	3 pints	$0
Additional amounts	100%	$0	$0
Hospice Care You must meet Medicare's requirements, including a doctor's certification of terminal illness.	All but very limited co-payment/coinsurance for outpatient drugs and inpatient respite care	Medicare co-payment/coinsurance	$0

**NOTE: When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time, the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

Plan N (continued)
Medicare (Part B)—Medical Services—Per Calendar Year

*Once you have been billed $[135] of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

Services	Medicare Pays	Plan Pays	You Pay
Medical Expenses—In or Out of the Hospital and Outpatient Hospital Treatment, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment			
First $[135] of Medicare-Approved Amounts*	$0	$0	$[135] (Part B deductible)
Remainder of Medicare-Approved Amounts	Generally 80%	Balance, other than up to $20 per office visit and up to $50 per emergency room visit. The co-payment of up to $50 is waived if the insured is admitted to any hospital and the emergency visit is covered as a Medicare Part A expense.	Up to $20 per office visit and up to $50 per emergency room visit. The co-payment of up to $50 is waived if the insured is admitted to any hospital and the emergency visit is covered as a Medicare Part A expense.
Part B Excess Charges (Above Medicare Approved Amounts)	$0	$0	All Costs
Blood			
First 3 pints	$0	All Costs	$0
Next $[135] of Medicare-Approved Amounts*	$0	$0	$[135] (Part B deductible)
Remainder of Medicare-Approved Amounts	80%	20%	$0
Clinical Laboratory Services—Tests for Diagnostic Services	100%	$0	$0

Parts A and B

Services	Medicare Pays	Plan Pays	You Pay
Home Health Care Medicare Approved Services Medically necessary skilled care services and medical supplies			
--Durable medical equipment	100%	$0	$0
First $[135] of Medicare-Approved Amounts*	$0	$0	$[135] (Part B deductible)
Remainder of Medicare-Approved Amounts	80%	20%	$0

Plan N (continued)
Other Benefits—Not Covered by Medicare

Foreign Travel – Not Covered By Medicare Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First $250 each calendar year	$0	$0	$250
Remainder of Charges	$0	80% to a lifetime maximum benefit of $50,000	20% and amounts over the $50,000 lifetime maximum

E. - E.2. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1111 (re-designated from LSA-R.S. 22:224 pursuant to Acts 2008, No. 415, effective January 1, 2009) and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1114 (June 1999), repromulgated LR 25:1495 (August 1999), amended LR 29:2449 (November 2003), LR 31:2918 (November 2005), amended LR:35:

§565. Requirements for Application Forms and Replacement Coverage

A. Application forms shall include the following questions designed to elicit information as to whether, as of the date of the application, the applicant currently has Medicare supplement, Medicare Advantage, Medicaid coverage, or any other health insurance policy or certificate in force or whether a Medicare supplement policy or certificate is intended to replace any other accident and sickness policy or certificate presently in force. A supplementary application or other form to be signed by the applicant and agent containing such questions and statements may be used.

B. - G. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1111 (re-designated from LSA-R.S. 22:224 pursuant to Acts 2008, No. 415, effective January 1, 2009) and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1130 (June 1999). repromulgated LR 25:1510 (August 1999), LR 29:2474 (November 2003), amended LR 31:2937 (November 2005), amended LR:35:

§591. Prohibition Against Use of Genetic Information and Requests for Genetic Testing

A. This Section applies to all policies with policy years beginning on or after May 21, 2009.

1. An issuer of a Medicare supplement policy or certificate;

a. shall not deny or condition the issuance or effectiveness of the policy or certificate (including the imposition of any exclusion of benefits under the policy based on a pre-existing condition) on the basis of the genetic information with respect to such individual; and

b. shall not discriminate in the pricing of the policy or certificate (including the adjustment of premium rates) of an individual on the basis of the genetic information with respect to such individual.

2. Nothing in Subsection A.1 shall be construed to limit the ability of an issuer, to the extent otherwise permitted by law, from

a. denying or conditioning the issuance or effectiveness of the policy or certificate or increasing the premium for a group based on the manifestation of a disease or disorder of an insured or applicant; or

b. increasing the premium for any policy issued to an individual based on the manifestation of a disease or disorder of an individual who is covered under the policy (in such case, the manifestation of a disease or disorder in one individual cannot also be used as genetic information about other group members and to further increase the premium for the group).

3. An issuer of a Medicare supplement policy or certificate shall not request or require an individual or a family member of such individual to undergo a genetic test.

4. Subsection A.3 shall not be construed to preclude an issuer of a Medicare supplement policy or certificate from obtaining and using the results of a genetic test in making a determination regarding payment (as defined for the purposes of applying the regulations promulgated under Part C of Title XI and Section 264 of the Health Insurance Portability and Accountability Act of 1996, as may be revised from time to time) and consistent with Subsection A.1.

5. For purposes of carrying out Subsection A.4, an issuer of a Medicare supplement policy or certificate may request only the minimum amount of information necessary to accomplish the intended purpose.

6. Notwithstanding Subsection A.3, an issuer of a Medicare supplement policy may request, but not require, that an individual or a family member of such individual undergo a genetic test if each of the following conditions is met:

a. The request is made pursuant to research that complies with Part 46 of Title 45, Code of Federal Regulations, or equivalent federal regulations, and any applicable state or local law or regulations for the protection of human subjects in research.

b. The issuer clearly indicates to each individual, or in the case of a minor child, to the legal guardian of such child, to whom the request is made that:

i. compliance with the request is voluntary; and

ii. non-compliance will have no effect on enrollment status or premium or contribution amounts.

c. No genetic information collected or acquired under this Subsection shall be used for underwriting, determination of eligibility to enroll or maintain enrollment status, premium rates, or the issuance, renewal, or replacement of a policy or certificate.

d. The issuer notifies the secretary in writing that the issuer is conducting activities pursuant to the exception provided for under this Subsection, including a description of the activities conducted.

e. The issuer complies with such other conditions as the secretary may by regulation require for activities conducted under this Subsection.

7. An issuer of a Medicare supplement policy or certificate shall not request, require, or purchase genetic information for underwriting purposes.

8. An issuer of a Medicare supplement policy or certificate shall not request, require, or purchase genetic information with respect to any individual prior to such individual's enrollment under the policy in connection with such enrollment.

9. If an issuer of a Medicare supplement policy or certificate obtains genetic information incidental to the requesting, requiring, or purchasing of other information concerning any individual, such request, requirement, or purchase shall not be considered a violation of Subsection A.8 if such request, requirement, or purchase is not in violation of Subsection A.7.

10. For the purposes of this Section only:

a. *Issuer of a Medicare Supplement Policy or Certificate*—includes third-party administrator, or other person acting for or on behalf of such issuer.

b. *Family Member*—with respect to an individual, any other individual who is a first-degree, second-degree, third-degree, or fourth-degree relative of such individual.

c. *Genetic Information*—with respect to any individual, information about such individual's genetic tests, the genetic tests of family members of such individual, and the manifestation of a disease or disorder in family members of such individual. Such term includes, with respect to any individual, any request for, or receipt of, genetic services, or participation in clinical research which includes genetic services, by such individual or any family member of such individual. Any reference to genetic information concerning an individual or family member of an individual, who is a pregnant woman, includes genetic information of any fetus carried by such pregnant woman, or with respect to an individual or family member utilizing reproductive technology, includes genetic information of any embryo legally held by an individual or family member. The term *genetic information* does not include information about the sex or age of any individual.

d. *Genetic Services*—a genetic test, genetic counseling (including obtaining, interpreting, or assessing genetic information), or genetic education.

e. *Genetic Test*—an analysis of human DNA, RNA, chromosomes, proteins, or metabolites, that detect genotypes, mutations, or chromosomal changes. The term "genetic test" does not mean an analysis of proteins or metabolites that does not detect genotypes, mutations, or chromosomal changes; or an analysis of proteins or metabolites that is directly related to a manifested disease, disorder, or pathological condition that could reasonably be detected by a health care professional with appropriate training and expertise in the field of medicine involved.

f. *Underwriting Purposes*—

i. rules for, or determination of, eligibility (including enrollment and continued eligibility) for benefits under the policy;

ii. the computation of premium or contribution amounts under the policy;

iii. the application of any pre-existing condition exclusion under the policy; and

iv. other activities related to the creation, renewal, or replacement of a contract of health insurance or health benefits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1111 (re-designated from LSA-R.S. 22:224 pursuant to Acts 2008, No. 415, effective January 1, 2009) and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 35:

§599. Effective Date

A. This regulation shall become effective upon publication in the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1111 (re-designated from LSA-R.S. 22:224 pursuant to Acts 2008, No. 415, effective January 1, 2009) and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1142 (June 1999), repromulgated LR 25:1522 (August 1999), amended LR 29:2497 (November 2003), LR 31:2948 (November 2005), LR 35:

Family Impact Statement

1. Describe the effect of the proposed Rule on the stability of the family. The proposed Regulation 33 should have no measurable impact upon the stability of the family.

2. Describe the effect of the proposed Rule on the authority and rights of parents regarding the education and supervision of their children. The proposed Regulation 33 should have no impact upon the rights and authority of parents regarding the education and supervision of their children.

3. Describe the effect of the proposed Rule on the functioning of the family. The proposed Regulation 33 should have no direct impact upon the functioning of the family.

4. Describe the effect of the proposed Rule on family earnings and budget. The proposed Regulation 33 may have a potential impact on the family. The new plans offered through the federal MIPPA legislation are not mandatory on the family. MIPPA allows new "plans" for Medicare Supplement Policies and eliminates current plans that are no longer necessary due to implementation of the new plans. The new plans are a part of a variety of plans that must be offered to the family. The new plans do include higher deductibles with lower premiums and higher co-pays with lower premiums, but the family is not required to choose any of the new or existing plans. The family has the option to choose which plan they would like to purchase. So, this proposed rule should not affect the function of the family.

5. Describe the effect of the proposed rule on the behavior and personal responsibility of children. The proposed Regulation 33 should have no impact upon the behavior and personal responsibility of children.

6. Describe the effect of the proposed Rule on the ability of the family or a local government to perform the function as contained in the Rule. The proposed Regulation 33 should have no impact upon the ability of the family or a local governmental unit to perform the function as contained in the Rule.

A public hearing on this proposed regulation will be held on April 27, 2009, at 9:00 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, Staff Attorney, 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., April 27, 2009. No preamble concerning the proposed regulation is available.

James J. Donelon
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Regulation 33—Medicare Supplemental Insurance Minimum Standards

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Louisiana Department of Insurance (DOI) does not anticipate any implementation costs (savings) as a result of the proposed administrative rules. The regulation brings Louisiana into line with the latest federal guidelines related to Medicare supplement insurance minimum standards. The Department of Insurance routinely reviews and approves/disapproves policy forms for sale in the state and handles consumer complains; therefore, no implementation costs or savings are expected.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Proposed Regulation 33 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 adoption of Regulation 33 is expected to benefit consumers by offering them greater options in purchasing Medicare supplement insurance policies and simplifies the options available. The new plan options offer higher deductibles and higher co-payments, which typically results in lower insurance premiums. However, these plan changes are too new to determine whether these changes will result in lower insurance premiums to the insured. Thus, it is impossible to affix a monetary impact to this benefit.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Implementation of proposed Regulation 33 should have no significant impact upon competition and employment in the state.

Shirley D. Bowler	Robert E. Hosse
Deputy Commissioner	Staff Director
0903#036	Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections
Office of the Fire Marshal
Code Enforcement and Building Safety

Emergency Elevator Access (LAC 55:V.Chapter 29)

In accordance with the provisions of R.S. 40:1582, relative to the authority of the Office of State Fire Marshal to promulgate and enforce rules, the Office of State Fire Marshal hereby proposes to adopt the following Rule regarding the regulation of emergency elevator access.

Title 55
PUBLIC SAFETY
Part V. Fire Protection
Chapter 29. Emergency Elevator Access

§2901. Master Elevator Keys

A. Each lock for all elevators in this state that permits public access must be keyed for operation by one master elevator key as required in these rules. The purpose of these rules is to allow all elevators within the state to be operated by firefighters and emergency responders in the event of an emergency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1582.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal Code Enforcement and Building Safety, LR 35:

§2903. Statewide Access

A. Emergency elevator access shall be provided for each elevator that allows public access including, but not limited to, public elevators, service elevators, and freight elevators, in each of the following buildings in this state:

1 each building which is six or more stories in height, including, but not limited to, hotels and condominiums;

2. any building in this state which is six or more stories in height that has undergone substantial renovation after January 1, 2009.

AUTHORITY NOTE; Promulgated in accordance with R.S. 40:1582.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal Code Enforcement and Building Safety, LR 35:

§2905. Requirements for Master Elevator Keys

A. All elevator keys within the state as set forth in these rules shall be uniform and specific for the state of Louisiana. All elevator keys will be cut to a uniform key code, specified as "LA-UEK".

B. Master elevator keys must be a patent protected design to prevent unauthorized duplication.

C. All elevator keys will be factory restricted (no uncut key blanks are to leave the factory) by the manufacturer to prevent the unauthorized distribution of key blanks.

D. Keys will feature angled cuts at varying depths to work in conjunction with elevating and rotating security pins in the corresponding locking device. Keys will also incorporate an additional side cut to operate a corresponding sliding element in the locking device.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1582.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal Code Enforcement and Building Safety, LR 35:

§2907 Access to Master Elevator Keys

A. Master elevator keys shall be made available only to:

1. elevator owners or their authorized agents;

2. elevator contractors licensed by the state of Louisiana;

3. Louisiana state certified inspectors;

4. state agency representatives authorized by the Office of the State Fire Marshal;

5 the fire chief or his designee of the fire department in whose jurisdiction the building is located.

B. Information pertaining to obtaining elevator keys is available at www.lasfm.org

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1582.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal Code Enforcement and Building Safety, LR 35:

§2909. Duplication of Elevator Keys Prohibited

A. No person may duplicate a Master Elevator Key.

B. All elevator keys subject to these rules are to be coined with "RESTRICTED—DO NOT DUPLICATE".

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1582.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal Code Enforcement and Building Safety, LR 35:

§2911. Obtaining Elevator Keys

A. Persons authorized under this rule to possess a master elevator key shall apply to an authorized vendor using a master elevator key order form for the issuance of such key. The master elevator key order form may be obtained by visiting the Office of the State Fire Marshal website located at www.lasfm.org.

B. Applicants must send the completed form to the authorized vendor or vendors by mail, fax, or email. Once the authorized vendor or vendors receives the completed form, keys will be provided.

C. Authorized vendors will maintain copies of master elevator key order forms for verification on all subsequent orders. Applicants only need to submit forms on the first order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1582.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal Code Enforcement and Building Safety, LR 35:

§2913. Equivalency for Existing Buildings; Locking Cabinets; Lock Boxes.

A. The following equivalency applies only to existing buildings constructed before January 1, 2009.

B. If the local certified fire prevention bureau determines that it is technically, financially, or physically impossible to bring a building's elevators into compliance with this rule, the local certified fire prevention bureau may accept as an alternative the installation of an approved high security locking cabinet. The locking cabinet must be keyed with a single, jurisdiction specific, non-duplicable keyed rapid entry system and be UL 1037 listed. The locking cabinet shall be installed in accordance with this section.

C. The local certified fire prevention bureau's decision regarding the alternative measure may be appealed by the building owner to the State Fire Marshal whose decision shall constitute final agency action for purposes of Louisiana Statutes. An appeal may be instituted by the appellant writing a letter to the Office of State Fire Marshal, 8181 Independence Blvd., Baton Rouge, LA 70806.

D. Installation of Locking Cabinets

1. The locking cabinet is permitted to be installed surface or recess-mounted.

2. The locking cabinet's front cover shall be hinged on the right side and shall be permanently labeled with the words "Fire Department Use Only—Elevator keys."

3. The locking cabinet shall be mounted at each elevator bank at the lobby nearest to the lowest level of fire department access.

4. Locking cabinets are required to be mounted 5'6" above the finished floor to the right side of the elevator bank.

5. Contents of the locking cabinet are limited to the master elevator key, additional elevator access tools and/or keys and information pertinent to emergency planning or elevator access as deemed necessary by the local fire department having jurisdiction.

E. Multiple Elevator Banks

1. In buildings subject to these alternative provisions which house two or more different elevator banks, a single, approved locking cabinet may be used when such banks are separated by not more than 30 feet.

2. In the buildings specified in Subsection A with elevators or elevator banks separated by more than 30 feet, separate approved locking cabinets must be used for each individual elevator or elevator bank so separated.

3. In situations of multiple elevators or elevator banks or in situations of space constrictions or content needs, the local certified fire prevention bureau may approve use of a high security, lock box or cabinet where it is deemed necessary. The approved lock box or cabinet must utilize the same single, jurisdiction specific, non-duplicable keyed rapid entry system as the locking cabinet and be UL 1037 listed. Lock boxes or cabinets are to be mounted in accordance with the above outlined specifications for locking cabinets.

F. Owner shall provide one key for the lock box or cabinet if it exists and provide up to two keys to the local fire department.

Comment [f1]:

Comment [f2]:

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1582.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal Code Enforcement and Building Safety, LR 35:

§2915 Administrative Fine; Penalty.

A. Any person, business, or entity failing to comply with any provision of these rules shall be subject to an administrative fine of not more than one thousand dollars, in addition to any other penalty provided by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1582.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal Code Enforcement and Building Safety, LR 35:

Family Impact Statement

The 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. 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.

Local governmental entities, in particular, local certified fire prevention bureaus and fire departments, will have to become knowledgeable of the requirements of Act 749 of the 2008 Regular Session. This Rule will provide local governmental entities a means for accepting an alternative means of compliance as prescribed by law.

All interested persons are invited to submit written comments on the proposed regulation. Such comments should be submitted no later than April 13, 2009, at 4:30 p.m. to Felicia Cooper, Office of State Fire Marshal, 8181 Independence Blvd., Baton Rouge, LA 70806.

Jill P. Boudreaux
Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Emergency Elevator Access

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed administrative rules, which are associated with Act 749 of the 2008 Regular Legislative Session, are relative to emergency elevator access. These rules clarify the law by specifying how the law will be implemented, which could cost the Office of State Fire Marshal approximately $43,869 in FY 09 and increase the personal services amount approximately 4% in subsequent fiscal years. The Office of State Fire Marshal's costs are anticipated to be administrative, associated with the coordination between business owners, elevator contractors, local fire jurisdictions and certified fire prevention bureaus and working with local jurisdictions, tracking compliance of buildings subject to the law. The Office of the State Fire Marshal will likely accomplish the requirements of these administrative rules with its current resources by reducing expenditures from its current services provided.

It is anticipated that there will be minimal implementation costs to local fire jurisdictions and certified fire prevention bureaus. Local fire jurisdictions and certified fire prevention bureaus will assist the Fire Marshal in determining the high rise buildings subject to the law, in providing notice of the law to owners of subject buildings and in inspecting and tracking compliance. Some local fire jurisdictions charge fees for their inspections (by ordinance or other local authorization) and may recoup costs by means of their own inspection fees.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the proposed rules would not significantly affect the revenue collections of the state. In accordance with Act 749 of 2008, the Fire Marshal is able to administer a fine of up to $1,000 for any person who fails to comply with the requirements of Act. This office estimates that approximately 800 buildings in the state are subject to this law. In order to estimate the amount of fines that may potentially be levied, the number of buildings not in compliance is estimated to be an average of 4%, based on the State Fire Marshal's annual reports of buildings not in compliance with the high rise sprinkler law. However, it is important to note that fines, if any, cannot be levied until after the deadline for compliance of January 1, 2012 for existing buildings. Therefore, no self-generated funds are indicated in the sources of funding for Fiscal Years 2008-2009 through 2010-2011. It is also important to note that the State Fire Marshal's office exhausts all attempts to obtain compliance through inspections and education (and is usually successful) before levying fines.

Revenue collections of local governmental units may be affected if those units charge fees for inspections associated with implementation of the law and these rules, in addition to fees that might already be collected for routine inspections, if any.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule is intended to parallel and clarify the implementation of Act 749 of the 2008 Regular Legislative Session. The benefit of this law and, therefore, the proposed rule is to provide for all elevators in buildings six or more stories in height to operation in fire emergency situations with one elevator master key. This permits fire emergency personnel to access elevators with minimal obstruction of time.

For new buildings subject to the law, it is anticipated that costs to the owners will be negligible, as owners currently incur costs for the new elevators and associated keys. In accordance with Act 749 of the 2008, there will be an additional requirement for elevators to have a master key.

Owners of existing buildings subject to the law may experience the cost of providing the master key for their elevators or the cost of providing a locking cabinet or key box (ranging from $215 to $675 per box or cabinet), or more than one if multiple elevators are involved.

Owners of all buildings subject to the law may experience benefits in relation to the law and rule in that emergency personnel may gain access to their facilities in a more timely manner with a master key to the elevator(s). This may significantly reduce loss of life and property in times of emergency.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated impact on competition and employment associated with this proposed rule, as the rule is a clarification of the law.

Jill P. Boudreaux
Undersecretary
0903#057

Robert E. Hosse
Staff Director
Legislative Fiscal Office

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NOTICE OF INTENT

Department of Public Safety and Corrections
Office of the Fire Marshal
Code Enforcement and Building Safety

Industrialized Buildings (LAC 55:V.Chapter 27)

In accordance with the provisions of R.S. 40:1730.51 through 1730.66, relative to the authority of the Office of State Fire Marshal to promulgate and enforce rules, the Office of State Fire Marshal hereby proposes to adopt the following Rule regarding the regulation of industrialized buildings.

Title 55
PUBLIC SAFETY
Part V. Fire Protection

Chapter 27. Industrialized Buildings

§2701. Definitions

A. For the purpose of this Chapter, the following words, unless the context does not permit, shall have the meanings indicated.

Agency—an individual or entity, which may be a private sector entity, a state department or a local government determined by the state fire marshal to be qualified pursuant to this chapter to inspect the construction of industrialized building units, systems, or the component parts thereof together with the pre-approved plans, specifications, and quality control procedures to ensure that such units, systems, or component parts are in full compliance with the codes and standards herein adopted and to assign and attach the decal of the State Fire Marshal to such units complying with those standards.

Building Code—the Louisiana State Uniform Construction Code provided for in R.S. 40:1730.21 et seq.

Building Official—the officer or other designated authority or their duly authorized representative charged with the administration of the applicable technical codes in the subject jurisdiction.

Closed Construction—a building, component, assembly, subassembly, or system manufactured in such a manner that all portions cannot be readily inspected at the installation site without disassembly or destruction thereof.

Construction Site Building—a commercial structure that is not open to the public and is used for any purpose at a commercial site by a person constructing a building, road, bridge, utility, or other infrastructure or improvement to real property.

Council—the Louisiana State Uniform Construction Code Council.

Data Plate—a plate which is permanently mounted on an industrialized building or component which contains design information as noted in §2715 herein.

Dealer—any person, corporation or business which has been registered to engage in leasing, selling or distribution of industrialized buildings for placement in the state of Louisiana.

Decal—the approved form of label issued by the Office of State Fire Marshal to be permanently affixed to the building or module indicating that it has been constructed to meet or exceed the code requirements and in compliance with the provisions of this part.

Enforcement Agency—an agency of state or local government with authority to make inspections of buildings and to enforce the codes which establish standards for design, construction, erection, alteration, repair, modification, or demolition of public or private buildings, structures or facilities.

Equipment—all equipment, material, appliances, devices, fixtures, fittings or accessories installed in, or used in, the manufacture and assembly of an industrialized building.

Facility—the physical location of a manufacturing plant where buildings or components are constructed, or the physical location of a dealer where buildings or components are stored.

Industrialized Building—a commercial structure that is constructed in one or more modules or constructed using one or more modular components built at a location other than the commercial site; is designed to be used as a commercial building when the module or the modular component is transported to the commercial site and erected or installed; includes the structure's plumbing, heating, air conditioning, and electrical systems; includes a permanent commercial structure and a commercial structure designed to be transported from one commercial site to another commercial site. An *industrialized building* does not include a commercial structure that exceeds three stories or 49 feet in height as measured from the finished grade elevation at the building entrance to the peak of the roof. It does not include a commercial building or structure that is installed in a manner other than on a permanent foundation and is either not open to the public or less than 1,500 square feet in total area and used other than as a school or a place of religious worship.

Installation—the assembly of an industrialized building component or system on site and the process of affixing an industrialized building component or system to land, a foundation, or an existing building, or service connections which are part thereof.

Labeled—affixed with a decal or data plate.

Manufacture—the process of making, modifying, fabricating, constructing, forming or assembling or reassembling a product from raw, unfinished, semifinished, or finished materials.

Manufacturer—any person who, or entity which, has been registered to produce or modify industrialized buildings for placement in the state of Louisiana.

Model—a specific design of industrialized buildings which is based on size, room arrangement, method of construction, location, arrangement or size of plumbing, mechanical or electrical equipment and systems therein in accordance with plans submitted to the Office of State Fire Marshal.

Modification—any change to an industrialized building which affects the structural, electrical, thermal, mechanical, plumbing systems, life safety, means of egress, material flammability/flame spread or accessibility of the building to persons with disabilities.

Modular Component—a structural part of a building constructed at a location other than the building site in a manner that prevents the construction from being adequately inspected for building code compliance at the building site

without damage or removal and reconstruction of a part of the building.

Modular Section—see *module*.

Module—a three dimensional section of industrialized building designed and approved to be transported as a single section independent of other sections, with or without other modules or modular components, that prevents the construction from being adequately inspected for building code compliance without damage or removal and reconstruction of a part of the building.

Occupancy Classification—the purpose for which a building, or part thereof, is used or intended to be used as defined in the codes and standards adopted herein.

Open Construction—any industrialized building, building component, assembly or system manufactured in such a manner that all parts or processes of manufacture can be readily inspected at the installation site without disassembly, damage to or destruction thereof.

Quality Control Manual—a manual which contains all aspects of quality control procedures to be utilized by an entity or individual performing a function regulated hereby.

Standard Design—any building system, model, series or component intended for duplication or repetitive manufacture.

State Fire Marshal—the Louisiana Office of State Fire Marshal Code Enforcement and Building Safety.

Third-Party—an individual or individuals registered with the council as a code enforcement officer in accordance with R.S. 40:1730.34 through 1730.38 and LAC 55:VI:7.

Traveler—a form utilized in a manufacturing facility in conjunction with the manufacturer's quality control program to indicate that all quality control inspections are conducted during the manufacturing process and that all inspections indicate compliance with the approved plans.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.51 through 1730.66.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal Code Enforcement and Building Safety, LR 35:

§2703. Administration and State Fire Marshal Authority

A. Forms. A manufacturer's application for registration, a dealer's application for registration, a plan review application, a decal request form, and a decal disposition report per §2727 herein shall be submitted on forms provided by the state fire marshal.

B. Registration. The state fire marshal shall register manufacturers and dealers in accordance with this Chapter. All registrations and approvals granted by the state fire marshal pursuant to §2705 and §2707 herein are subject to revocation for failure to adhere to these rules, as provided for in §2729 herein.

C. Third-Parties. Third-parties shall be properly registered with the council for the type of project he or she will inspect.

D. Monitoring. The state fire marshal, through his employees or his designated performance auditors, shall monitor the performance of manufacturers, dealers, and third-parties.

E. Auditing. Each registered manufacturer shall be subject to a performance audit at a minimum of once every three years. Unannounced visits to manufacturing facilities may be utilized unless impractical. Information obtained through monitoring shall remain confidential to the extent permitted by law. Manufacturers shall provide the auditor access to records, facilities and personnel as requested by the auditor. The auditor shall collect information through interviews, examination of documents and observation of activity to determine whether the manufacturer complies with the applicable codes and standards. Any determination of nonconformance with any applicable provision shall be reported to the manufacturer. The report shall identify the facts that support the finding of nonconformity and recommend corrective action. The state fire marshal shall determine the appropriate corrective action subject to the requirements of §2729 herein.

F. Oversight. The manufacturer shall be responsible for correcting code violations. The state fire marshal shall make an independent determination regarding the existence of a violation. The state fire marshal may allow a third-party to investigate complaints and notify the state fire marshal regarding the existence of a code violation and disposition thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.51 through 1730.66.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal Code Enforcement and Building Safety, LR 35:

§2705. Manufacturer Registration

A. General. All individuals or entities manufacturing buildings or components intended for installation in Louisiana must be registered with the state fire marshal. In the event that a manufacturer has more than one facility producing industrialized buildings, the manufacturer shall obtain registration for each such facility individually.

B. Initial Registration Requirements. A manufacturer must submit the following to the state fire marshal for registration:

1. a completed application for registration and a copy of a current valid contract with a third-party for inspection services;

2. description of manufacturing facility including at a minimum the size of shed(s) for weather protection of building materials and buildings under construction or repair, the size of yard at the facility for storing buildings, a site plan of the facility and a location map of the facility;

3. a quality assurance control manual in accordance with §2721.

C. Multiple Facilities. The manufacturer shall submit a separate application for each of its facility locations. A Quality Assurance Control Manual shall be kept at each location.

D. Renewal. The manufacturer shall renew its registration every 12 months and shall update the information required by §2705.B and submit to the state fire marshal. If the manufacturer does not complete the renewal information by the registration expiration date, registration becomes expired. The manufacturer must meet the qualifications in effect upon the date of renewal to have its registration renewed.

E. Change of Ownership. When the ownership of a manufacturer changes, the new owner shall within 21 days:

1. inform the state fire marshal in writing of such change of ownership with an effective date;

2. submit a completed manufacturer's application to the state fire marshal in accordance with §2705.

F. Change of Name and Address. In the event of a change in the name or mailing address of any manufacturer or inspection agency, the state fire marshal shall be notified in writing within 10 days.

G. Change or Additions to a Facility. In the event of a change or an addition to a facility, the manufacturer shall revise and resubmit all items as required by §2705.B to the state fire marshal prior to production of any buildings, modules, or components intended for sale in Louisiana.

H. Change of Manufacturer's Third-Party Inspection Agency

1. The manufacturer shall immediately inform the state fire marshal in writing of any change of third-party provider. No manufacturing shall be performed and no decals shall be placed on any industrialized building, module, or modular component until an approved third-party has been retained.

2. The manufacturer shall submit to the state fire marshal a copy of the service agreement with the new third-party agency reflecting the effective date.

3. The new third-party agency shall review the quality control manual of the manufacturer, perform an initial plant certification inspection, and provide a plant certification report to the state fire marshal in accordance with §2735 of this part.

I. Termination of State Registration. In the event that a manufacturer chooses to discontinue business in Louisiana, the state fire marshal shall be notified in writing at least 30 days prior to the effective date. Such notice shall serve as a resignation of the registration and any subsequent resumption of business activities will require a new submittal in accordance with §2735.B of this Section.

J. Transportation and Installation Booklet. Manufacturer shall provide a transportation and installation booklet with each new building and component package. It shall include:

1. precautions and instructions for transportation of buildings and modules;

2. installation instructions;

3. notice that a site-specific plan review submittal is required to be submitted to the state fire marshal in accordance with §2713.H of this Part prior to obtaining a building permit from the applicable jurisdiction;

4. notice that inspections by the state fire marshal are required prior to occupancy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.51 through 1730.66.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal Code Enforcement and Building Safety, LR 35:

§2707. Dealer Registration

A. All individuals or entities engaged in leasing or selling industrialized buildings or components for installation in Louisiana must be registered with the state fire marshal.

B. Initial Registration Requirements. A dealer must submit the following to the state fire marshal for registration:

1. a completed application for registration;

2. identification of principals which shall at a minimum include the positions of partners if the dealer is a partnership or its officers, directors, controlling owners and registered agent if the dealer is a corporation;

3. description of dealer's facility including at a minimum the size of shed(s) for weather protection of building materials and buildings under repair, the size of yard at the facility for storing buildings, a site plan of the facility and a location plan of the facility.

C. The dealer shall submit a separate application for each separate facility location.

D. Renewal. The dealer shall renew its registration every 12 months and shall update the information provided in §2735 of this part and submit to the state fire marshal. If the dealer does not complete the renewal information by the registration expiration date, registration becomes expired. The dealer must meet the qualifications in effect upon the date of renewal to have its registration renewed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.51 through 1730.66.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal Code Enforcement and Building Safety, LR 35:

§2709. Reserved

§2711. Reserved

§2713. Design and Component Review

A. General. A plan approval of each building and modular component design shall be contingent upon compliance with the requirements of the state fire marshal, these rules, and the codes and standards referenced in R.S. 40:1730.56. The applicant shall submit plans for approval by the Office of State Fire Marshal in accordance with R. S. 40:1730.59 and R. S. 40:1730.66. The Office of State Fire Marshal, upon review of the plans, may request any additional information necessary to evaluate the plans submitted and shall notify the applicant of any apparent errors or omissions. Manufacturing shall not commence until a complete plan review has been performed by either an approved third-party or the state fire marshal. Plan approvals are valid for 180 days from the date of the review, or until notification that the applicable standards referenced in R.S. 40:1730.56 are to be updated, modified, or changed, whichever is later.

B. Third-Party Plan Review

1. All building code plan reviews performed by a third-party must be documented in writing to the state fire marshal. The plan review report, as a minimum, shall contain the following information:

a. name of registered third-party inspector and council issued registration number;

b. name of manufacturer and state fire marshal issued registration number;

c. date of plan review;

d. the identification number or serial number of the building or component reviewed;

e. a list of all applicable codes and editions reviewed for compliance;

f. a statement indicating that information contained in the design plan submittal (pursuant to §2713.C) has been reviewed for compliance with the applicable codes;

g. a full report indicating any nonconformities observed and corrective actions required.

2. A copy of the reviewed and approved plans shall be submitted with the plan review report to the state fire marshal for oversight along with any additional information required with the design plan submittal pursuant to §2713.C. Manufacturing may commence upon approval from the registered third-party; however, any additional deficiencies detected by the state fire marshal during the design plan

submittal review shall be corrected. Decals shall not be affixed to the building or component until oversight has been performed by the state fire marshal.

C. Design Plan Submittal. Complete sets of design plans and specifications shall be prepared and sealed by an architect or engineer licensed to practice in the state of Louisiana when required by Louisiana law or by the state fire marshal. Plans shall be drawn to scale and shall be legible for reproduction purposes. Supporting calculations and any required test results shall also be provided for each building design to be reviewed. Information required with each design plan submittal shall be as indicated on the Industrialized Buildings Plan Review Checklist as provided by the state fire marshal. A computerized version in an acceptable electronic format shall also be provided for each standard design. The required information for each design shall be submitted with an industrialized building plan review application, a decal request form as provided by the state fire marshal, and the appropriate fees. The state fire marshal shall review the applicant's submittal and, if deficiencies are detected during the review, shall issue a plan review letter identifying the deficiencies. A revised submittal indicating corrections to these deficiencies shall be resubmitted to the state fire marshal within 21 days of the date of the letter for further review. Once the submittal has been determined to have no deficiencies, the state fire marshal shall affix a stamp to each page of the plans and the specifications cover pages reviewed. The submittal package shall be returned with a review letter indicating the limitations of the review along with the requested decals. If corrections to deficiencies are not received within 21 days of the date of the letter, the project will be found to be "not in compliance." Plan review fees for submittals found "not in compliance" are not refundable.

D. Modular Component and Modular Section Review. The applicant shall submit to the state fire marshal for review a modular component or modular section which may include any or all elements for use as part of a building, such as structural, mechanical, plumbing, electrical components and/or fire protection systems. Submission shall include all applicable documents and data as indicated in the design plan submittal above, providing complete information necessary for evaluation of the component's performance and capabilities for its intended use.

E. Fire Protection Systems Review. Life safety and property protection systems must be submitted to the state fire marshal for review by a life safety and property protection contractor licensed by the state fire marshal pursuant to §2719 herein.

F. Equivalent Methods of Compliance. In accordance with R.S. 40:1730.61, any proposed equivalent or alternative materials or methods of compliance with the referenced codes and standards, except for the Louisiana State Plumbing Code, that are not expressly prescribed therein may be submitted to the state fire marshal for review. Justification for the request and supporting data shall be submitted with a proposed equivalency to code—request for appeal application provided by the state fire marshal and the appropriate review fee. If the state fire marshal determines, from an engineering performance standpoint, that sufficient evidence has been provided to substantiate that the proposed alternative is at least the equivalent of that prescribed by the referenced codes and standards, the state fire marshal may approve the use of such material or method. Such approval shall not be construed as an amendment to the technical codes and standards and shall only apply to the specific scope of work identified by a state fire marshal issued project number.

G. Scope of Plan Review. The scope of an industrialized building, modular component, or modular section plan review is limited to aspects of construction performed at the place of manufacture. The industrialized building plan review letter shall not be used to obtain a permit for site installation.

H. Site-Specific Plan Review Submittal. Industrialized buildings manufactured and decaled pursuant to §2723 herein, purchased and ready for site-specific installation, shall be submitted to the state fire marshal by the owner or his authorized agent for review and approval in accordance with R. S. 40:1730.66 and R.S. 40:1574, prior to obtaining a building permit from the applicable jurisdiction. The industrialized building decal number shall be provided by the owner upon submittal to the state fire marshal for this site-specific review.

I. Manufacturer's Modular Data Plate. The manufacturer shall install on all industrialized (modular) buildings and components, prior to leaving the manufacturing plant, a data plate which shall be permanently mounted on or about the electrical panel, if provided, or as documented on approved plans, and which shall contain, but not be limited to, the following design information when applicable:

1. manufacturer;
2. manufacturer registration number;
3. date of manufacture;
4. date of alteration, if any;
5. number of modules (decal and data plate must be installed on each module);
6. construction type;
7. occupancy use classification;
8. serial number;
9. fire marshal plan review number(s);
10. maximum floor load(s) (pounds per square foot, first floor and upper floors), live load and concentrated load;
11. roof load; live load and snow load;
12. wind velocity rating;
13. "R" value of floor, wall, and roof;
14. approved for flood zone usage (yes/no).

J. Plan Review Fee Schedule. Pursuant to R.S. 40:1730.60 and §2715 herein, the fee for review of plans and specifications of industrialized buildings, modules and modular components by the Office of State Fire Marshal shall be in accordance with the following schedule. The fee applies to the primary occupancy class of the building, but includes square footage for the total building, even where composed of separate occupancy classes, incidental uses or accessory uses. For each standard design, a separate fee will be applied to each primary occupancy class utilizing that design. Review fees for fire protection and all other systems are separate and shall be as indicated on the plan review fee computation schedule as provided by the state fire marshal.

Occupancy	Square Footage	Review Fee
Assembly Groups A-1, A-2, A-3, A-4, A-5	0 - 2500	= $335.00
	2,501 - 4,500	= $505.00
	4,501 - 10,000	= $1,220.00
	10,001 - 50,000	= $1,806.00
	50,001 - 100,000	= $2,365.00
	100,001 and over	= $2,515.00 + .01/sqft over 100,000sqft
Educational or Daycare Groups E, I-4	0 - 5,000	= $335.00
	5,001 - 10,000	= $505.00
	10,001 - 30,000	= $740.00
	30,001 - 80,000	= $1,330.00
	80,001 - 150,000	= $1,920.00
	150,001 and over	= $2,020.00 + .01/sqft over 150,000sqft
Health Care, Institutional, or Detention (Includes Limited Care/Assisted Living facilities) Groups I-2, I-3	0-2,000	= $485.00
	2,001-5,000	= $715.00
	5,001-10,000	= $970.00
	10,001-20,000	= $1,320.00
	20,001-30,000	= $1,420.00
	30,001-50,000	= $2,400.00
	50,001-100,000	= $2,990.00
	100,001 and over	= $3,190.00 + .02/sqft over 100,000sqft
Hotels, Dormitories, Apartments, Lodging or Rooming Houses, Residential Board and Care Facilities Groups R-1, R-2, R-3, R-4, I-1	0-2,500	= $335.00
	2,501-10,000	= $505.00
	10,001-30,000	= $1,220.00
	30,001-80,000	= $1,810.00
	80,001-150,000	= $2,400.00
	150,001 and over	= $2,500.00 + .01/sqft over 150,000sqft
Business or Mercantile Groups M, B	0-3,000	= $335.00
	3,001-10,000	= $505.00
	10,001-30,000	= $695.00
	30,001-50,000	= $1,035.00
	50,001-150,000	= $1,330.00
	150,001 and over	= $1,430.00 + .01/sqft over 150,000sqft
Industrial or Storage Groups F-1, F-2, S-1, S-2, U	0-10,000	= $335.00
	10,001-20,000	= $505.00
	20,001-50,000	= $695.00
	50,001-100,000	= $865.00
	100,001 and over	= $945.00 + .01/sqft over 100,000sqft
High Hazard Groups H-1, H-2, H-3, H-4, H-5	0-2,000	= $495.00
	2,001 and over	= $495.00 + .30/sqft over 2,000sqft

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.51 through 1730.66.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal Code Enforcement and Building Safety, LR 35:

§2715. Modifications or Alterations to Decaled Buildings

A. Any unauthorized modification, alteration, or conversion made to an industrialized building, modular component, or modular section previously approved by the state fire marshal shall void the decal of approval. The decal affixed to the building shall be removed in accordance with §2729 herein.

B. Pursuant to R.S. 40:1730.56.B, a change in the use of an industrialized building shall be subject to the requirements established for renovations. As such, the provisions of this section shall apply to such buildings. The provisions of this section shall not apply to a change in use of an industrialized building which is not accessible by the public.

C. Minor modifications to approved designs during the manufacturing process shall be submitted to the state fire marshal for further review and approval prior to decal placement. Major modifications shall be resubmitted for review with information as required by §2713 herein. The classification of scopes of work as minor or major modifications shall be subject to the discretion of the state fire marshal.

D. Modifications to existing industrialized buildings bearing a decal that are made other than at the initial manufacturing site shall be approved by the state fire marshal.

1. The manufacturer or dealer must provide the state fire marshal with a set of the original approved plans of the building, revised plans reflecting the proposed modifications, a decal request form, and any additional information as required in §2713 herein. No work shall begin until the plans have been approved by the state fire marshal.

2. The state fire marshal, a third-party, or the building official for the jurisdiction in which the building is located shall be retained by the manufacturer or dealer in order to provide complete inspections during every stage of construction. Once the agency has tested and/or evaluated each system in the building and certifies to the Office of State Fire Marshal that the building is in compliance with the applicable codes, the Office of State Fire Marshal will authorize placement of an additional decal to be affixed to the building beside the original decal.

3. Pursuant to R.S. 40:1730.58.C, where the cost of the modification or alteration exceeds 50 percent of the value of the modules or modular components, the entire building shall be made to comply with the current adopted edition of the codes. Where the cost of the modification or alteration is less than 50 percent of the value of the modules or modular components, only portions of the building

affected by the modification shall be required to comply with the current adopted edition of the codes.

4. A building bearing an approved decal for the recertification shall be deemed to comply with the requirements of all state adopted codes and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.51 through 1730.66.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal Code Enforcement and Building Safety, LR 35:

§2717. Industrialized Buildings Constructed Prior to January 1, 2007

A. Pursuant to R.S. 40:1730.56.B, industrialized buildings constructed prior to January 1, 2007 shall meet or exceed the requirements established by the parish or municipality in which the building is to be located at the time of construction of the industrialized building. If the parish or municipality has not established requirements, compliance with the wind and flood provisions as adopted by the Louisiana State Uniform Construction Code Council shall be required as a minimum standard. Pursuant to R.S. 40:1730.64.D, the state fire marshal may approve previously manufactured industrialized buildings when the state fire marshal determines that the adopted standards of other states are reasonably consistent with those of the building code in effect at the time of unit manufacture. The previously manufactured industrialized building shall be required to bear a data plate indicating the codes in effect at the time of unit manufacture and any other state labels that are applicable. As such, manufacturers or dealers may apply to the state fire marshal for decal placement on buildings that were constructed prior to January 1, 2007. Decals will indicate

B. The following shall be required to be submitted to the state fire marshal for review when decals are requested:

1. a complete design plan submittal as indicated in §2713 herein;

2. documentation indicating the date of manufacture, serial number of the building, and the applicable codes and editions to which the building was manufactured;

3. documentation indicating approval under an industrialized building program of another state, if applicable;

4. data plate information;

5. the original third-party plan review letter and inspection reports documenting compliance with the codes indicated.

C. The state fire marshal shall review the documentation and issue a letter indicating the findings.

1. If found to comply with, as a minimum, the adopted wind and flood provisions, a unique identifiable decal as described in §2723.K herein will be issued to be affixed to the building.

2. If deficiencies are discovered during the review, the procedures indicated in §2713.C herein shall apply.

3. Any required corrections shall be inspected at the place of manufacture in accordance with §2735 herein, or shall be completely inspected by the state fire marshal, a third-party, or the building official for the jurisdiction in which the building is located during every stage of modification.

4. A decal disposition report shall be submitted to the state fire marshal per §2723 herein.

5. Where modifications are required, all inspection reports shall be submitted to the state fire marshal with the disposition report.

D. Site-specific installation of buildings constructed prior to January 1, 2007 that bear a decal are subject to verification by the building official for the jurisdiction in which the building is to be located that the building meets or exceeds the requirements established by the jurisdiction at the time of construction of the industrialized building, in accordance with R.S. 40:1730.56.B.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.51 through 1730.66.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal Code Enforcement and Building Safety, LR 35:

§2719. Manufacture and Installation of Life Safety and Property Protection Systems

A. All life safety and property protection systems, including but not limited to, fire sprinkler, fire alarm, fire suppression, electronic locking, closed circuit television, and security systems, must be integrated, installed, certified and serviced by a life safety and property protection contractor properly licensed by the state fire marshal pursuant to R.S. 40:1664.1 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.51 through 1730.66.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal Code Enforcement and Building Safety, LR 35:

§2721. Manufacturer's Quality Assurance Control Manual

A. The manufacturer shall maintain, at each site of manufacture of industrialized buildings, a quality assurance control manual. The manufacturer's quality control manual shall at a minimum contain the following information.

1. Organizational element:

a. introduction of the manufacturer—a brief history which shall, at a minimum, include the length of time that the manufacturer has been in the industrialized buildings industry, where it is incorporated, whether it is a division of any parent organization, the identity of products it manufactures, and the location of the facility;

b. identification of principals and the positions of partners if the manufacturer is a partnership or its officers, directors, controlling owners and registered agent if the manufacturer is a corporation;

c. an organizational chart showing responsible management and supervisory positions by title. A job description for each of the positions shall be provided;

d. brief qualifications of all personnel in management and supervisory positions including the quality control manager;

e. administrative procedure for revision of quality control procedure and quality control manual;

f. procedure for retaining permanent records of plans, travelers, inspection reports, serial numbers of buildings, decals used, first destination of labeled buildings or components;

g. method and frequency for training of quality control and production personnel.

2. Design and specification control:

a. procedures for revisions to plans;

b. recording system of drawings and specifications.

3. Material control:

a. inspection procedure of materials, equipment and supplies when received;

b. method of storing and protection of building materials and equipment against damage;

c. provision for disposal of rejected materials, equipment and supplies;

d. forms used.

4. Production control:

a. a description of manufacturing process—method and sequence of construction;

b. check lists of material specifications and workmanship inspections performed at each stage of production by supervisors, corrective actions taken, use of traveler;

c. frequency of quality control inspections;

d. list of tests to be performed, testing equipment, results and technical data acceptable;

e. procedures for timely preventive and remedial measures;

f. assignment of authority to accept or reject work;

g. provision for disposition of rejected items;

h. forms used.

5. Finished product control and identification of products:

a. procedure for handling and storage of finished buildings/modules and components;

b. preparation for shipping, transportation, and delivery;

c. serial numbering system of buildings or components and location of the serial number not readily removable;

d. location of manufacturer's data plate. Information to contain in the data plate;

e. location of Louisiana State decal;

f. forms used.

6. A copy of the initial plant certification report in accordance with §2735 herein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.51 through 1730.66.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal Code Enforcement and Building Safety, LR 35:

§2723. Decal Application and Issuance

A. Each industrialized building, modular section and modular component approved by the state fire marshal shall be affixed with a Louisiana State Fire Marshal Industrialized Building Decal after favorable plan review and inspection in accordance with §2713 and §2735 herein. The decal shall indicate acceptance of construction approved by the design plan review and inspected at a place other than at the site of installation.

B. The manufacturer or dealer shall file with the state fire marshal a decal disposition report no later than the tenth day of the following month for the preceding month's activity, until all decals in the possession of the manufacturer or dealer have been affixed and are accounted for.

1. The disposition report shall be filed on a form provided by the state fire marshal and shall contain, as a minimum, the following information:

a. the state fire marshal issued decal number for each unit manufactured or modified;

b. the state fire marshal issued plan review number for the building or component;

c. the identification number or serial number of the building or component;

d. the date(s) of inspection and;

e. the date of decal placement.

2. Inspection reports as required by §2715, §2717, or §2735 herein shall accompany each disposition report.

C. The control of the decals shall remain with the Office of State Fire Marshal and will be revoked by the state fire marshal in the event of violation of the conditions of approval. All such voided decals shall be returned to the Office of State Fire Marshal.

D. Decals shall be obtained utilizing a request form provided by the state fire marshal. One request form shall accompany each industrialized building plan review application required with each design submitted for review in accordance with §2713 herein and shall indicate the number of modules intended to be manufactured for the design submitted.

E. Upon design plan submittal approval, decals shall be provided as requested to the manufacturer or dealer. Additional decals may be ordered at any time after the initial plan review and approval has been completed. The plan review project number issued by the state fire marshal for a specific design shall be indicated on the decal(s) issued.

F. The third-party, the manufacturer's quality assurance person, or the state fire marshal shall affix the decals to the corresponding approved buildings only after inspection in accordance with §2715, §2717, or §2735 herein and determination that the building or component is in compliance with the approved design plan submittal and state fire marshal requirements.

G. Assigned decals are not transferable from one building to another or from one manufacturer or dealer to another manufacturer or dealer. Decals issued with each design plan submittal approval shall only be placed on the corresponding approved building or component. Decals not used within three years of issuance shall be returned to the state fire marshal.

H. After a decal has been affixed to a building or component, alterations may be made only in accordance with §2715 herein.

I. Decals shall not be affixed to an industrialized building, modular section or modular component which has deficiencies or does not conform to the approved plans. Violation of this section shall be subject to the penalties and fines indicated in §2729 herein.

J. Construction Site Buildings. Pursuant to R.S. 40:1730.63.B, buildings that are manufactured only for use as temporary construction site buildings shall be exempt from these decal provisions.

K. Industrialized Buildings Constructed Prior to January 1, 2007. Decals issued pursuant to §2715 herein shall have a unique color, shape, or markings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.51 through 1730.66.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal Code Enforcement and Building Safety, LR 35:

§2725. Reserved

§2727. Reserved

§2729. Removal of Decals, Penalties and Fines Imposed

A. The state fire marshal, upon notice that a building, module, or modular component bearing a decal is in violation, shall furnish the building manufacturer or dealer in possession of the decal with a written notice of such violations.

B. The manufacturer or dealer shall respond within 21 days of such notice with a plan of correction. If modifications are required to bring the building or component into compliance, the provisions of §2715 herein shall apply.

C. The state fire marshal or his authorized agent, the manufacturer, or the dealer shall remove the decal from the building, module, or modular component found to be in violation within 21 days of the notice and shall return the decal to the state fire marshal.

D. Decals for previously issued units of the same design also determined to be in violation shall be deemed void and shall also be returned to the state fire marshal.

E. Applications for decals for new units by a manufacturer previously determined to be in violation will be denied until the plan of correction has been approved and compliance has been verified.

F. A fine not to exceed $200 per day for each day over 21 days may be levied until such decals has been returned to the state fire marshal, pursuant to 40:1563.4.

G. Any manufacturer, dealer, or third-party found to repetitively violate these rules, applicable laws or codes of the state of Louisiana shall be grounds for revoking registration of the manufacturer or dealer and recommendation to revoke registration of the responsible third-party. Three written notices of violations issued within a three year period to a manufacturer, dealer, or third-party shall be considered repetitive.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.51 through 1730.66.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal Code Enforcement and Building Safety, LR 35:

§2731. Reserved

§2733. Reserved

§2735. Inspections; Inspection Reports

A. Responsibilities of Third-Party Inspectors. Each third-party inspector retained by a registered manufacturer shall discharge the following responsibilities:

1. performing an initial plant certification inspection;

2. monitoring of the quality assurance procedures at the site of manufacture;

3. verifying that industrialized buildings, modules and modular components have been manufactured pursuant to state fire marshal approved building system documentation and in accordance with the approved quality assurance procedures;

4. authorizing the attachment of decals to such industrialized buildings, modules and modular components;

5. preparation of all reports as may be required by this Chapter.

B. Initial Plant Certification Inspection

1. No decal shall be affixed to any industrialized building, module or modular component until the third-party inspector has completed an initial plant certification inspection of the manufacturer's facility, unless in accordance with §2735.F herein.

2. The initial plant certification inspection shall consist of a complete evaluation of the manufacturer's adherence to its quality assurance procedures and capability of producing an industrialized building, module or modular component, in accordance with the approved building system.

3. The third-party shall become familiar with every aspect of the manufacturer's approved building system and quality assurance procedures.

4. The third-party shall make a complete inspection of the manufacture of at least one industrialized building and any module or modular component pertaining to that particular building throughout all of the operation in the facility. If the first building inspected or any component pertaining to that particular unit fails to conform to the standards, additional buildings and component shall be similarly inspected until the inspector is satisfied that the manufacturer is complying with the approved building system and the building code.

C. Plant Certification Report. If, on the basis of the initial plant certification inspection, the third-party determines that the manufacturer is in compliance with its approved quality assurance procedures, the third-party shall prepare and forward to the state fire marshal a certification report. The certification report shall include:

1. the name, address, and state fire marshal registration number of the manufacturing facility;

2. the name(s) of the third-party inspector(s) that approved the manufacturer's building system and quality assurance procedures, and the dates of approval;

3. the name(s) of the third-party inspector(s) that performed the initial plant certification inspection;

4. the serial numbers and the state fire marshal project number(s) assigned to the industrialized buildings, modules or modular components inspected;

5. a full report of all inspections conducted, any nonconformity observed, and corrective actions taken;

6. the date of certification.

D. Inspection Reports. Third-party inspectors shall inspect construction throughout the manufacturing process and shall document their findings in writing to the state fire marshal.

1. The inspection report, as a minimum, shall contain the following information:

a. name of registered third-party inspector and council issued registration number;

b. name of manufacturer and state fire marshal issued registration number;

c. date of inspection;

d. the state fire marshal issued plan review number of each building or component inspected;

e. the identification number or serial number of each building or component inspected;

f. a full report of all inspections conducted, any nonconformity observed, and corrective actions taken;

g. a statement indicating that the construction is in accordance with the stamped set of state fire marshal approved plans;

h. a statement indicating that the actual inspection was performed at the manufacturer's facility as registered with the state fire marshal.

2. The inspecting agency shall keep a copy of all inspection reports for a minimum of five years.

E. Frequency of Inspections

1. After initial plant certification, the third-party inspector shall inspect:

a. each industrialized building, module, or modular component in at least one stage of construction;

b. every stage of construction during the course of each inspection visit to a manufacturing facility.

2. The third-party shall conduct unannounced inspections at the manufacturing site to review any aspects of the manufacturing process.

3. Nothing in this paragraph shall preclude a third-party from conducting inspections at a greater frequency than the minimum prescribed herein if, in the inspector's professional judgment, such action is necessary to discharge its responsibilities properly.

F. The state fire marshal may temporarily waive compliance with the quality assurance manual at the request of the manufacturer. Upon the grant of such waiver, the manufacturer shall have each industrialized building and any module or modular component which it produces completely inspected during every stage of construction by a third-party inspector.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.51 through 1730.66.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal Code Enforcement and Building Safety, LR 35:

§2737. Reserved.

§2739. Reserved.

Family Impact Statement

The proposed Rule will not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;

2. the authority and rights of parents regarding the education and supervision of their children;

3. the functioning of the family;

4. family earnings and family budget;

5. the behavior and personal responsibility of the children;

6. local governmental entities are not able to perform this function, as the action proposed is strictly a state enforcement function.

All interested persons are invited to submit written comments on the proposed regulation. Such comments should be submitted no later than April 13, 2009, at 4:30 p.m. to Joe Delaune, Office of State Fire Marshal, Plan Review Section, 8181 Independence Blvd., Baton Rouge, LA 70806.

Jill P. Boudreaux
Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Industrialized Buildings

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed administrative rules associated with Act 364 of the 2007 Regular Legislative Session, which is the Industrialized Building Act, clarify how the law will be implemented. These rules could cost the Office of State Fire Marshal approximately $382,039 and 4 T.O. positions. The majority of the state costs are associated with the registration and regulation of manufacturers and dealers, the review of designs, and the inspection of manufacturing facilities, industrialized buildings and components for compliance with the building code. These expenditures and 4 T.O. positions were initially funded in FY 08. However, within the FY 09 Deficit Reduction Plan the Office of State Fire Marshal was reduced $585,319 statutory dedications and 12 T.O. positions. According to the Department, 3 T.O. positions of the 4 T.O. positions were included in the 12 T.O. positions reduced within the FY 09 Deficit Reduction Plan. These reduced positions could impact the implementation of proposed administrative rules as the Office of State Fire Marshal has indicated that 4 T.O. positions are needed for rule implementation. To the extent that the Office of State Fire Marshal is not appropriated the 3 T.O. positions and the associated funding during the FY 10 budget development process, the agency will likely reduce from other line items and assign current employees, these duties for full administrative rule implementation.

A savings to local governmental units is expected without any loss to their revenue. Approved industrialized buildings that are installed within a local jurisdiction will already have been evaluated and inspected for compliance with the building code, reducing the man hours spent by the local official during plan review and inspection. A reduction of permit fees charged by local jurisdictions is not mandated by the law or by these proposed rules.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Proposed rules could increase state revenues in the amount of approximately $174,700 from fee collections for plan reviews of building designs, which are approximately $335 per review, decal charges, which are $5, and from penalties and fines imposed, which total $20,000. The agency is projected to review approximately 420 industrialized building designs at an estimated cost per review of $335, which equates to $140,700, issue approximately 2,800 decals at a per decal cost of $5, and issue approximately 100 fines at $200 per violation. Even though the fiscal note attached to Act 364 of the 2007 Regular Legislative Session projects the collection of $355,000 in fees and self-generated revenues, further interpretation of Act 364 only allows the State Fire Marshal to collect fees for plan review services only and not decals. The proposed $5 per decal is the dollar-for-dollar cost of the sticker, while the fiscal note projected a $75 fee required for each decal based upon the initial interpretation of the proposed law. Civil penalties for violations may be assessed pursuant to Act 789 of the 1997 Legislative Session. The revenues generated by fees within this proposed rule will be used in conjunction with existing funds available in the Louisiana State Fire Marshal Fund to cover the expenditures incurred in this program.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

These proposed rules are intended to parallel and clarify the implementation of Act 364 of the 2007 Regular Legislative Session. The mass production of buildings ("industrialized

buildings") has been found by the Louisiana State Legislature to substantially reduce construction costs and is a means to meet certain building needs within the state. The benefit of this law and, therefore, the proposed rule is to provide for the establishment of uniform health and safety standards and inspection procedures, to provide for the inspection of modular building units for compliance with the building code at the place of manufacture. This permits the manufacturer to invest in buildings intended for sale in Louisiana without the additional burden of disassembly or destruction for inspections once installed within a particular jurisdiction. Industrialized building manufacturers and dealers will incur the cost of a plan review, third-party inspections, and printing cost for decals ordered.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated impact on competition and employment upon properly registered manufacturers and dealers associated with this proposed rule.

Jill P. Boudreaux	Robert E. Hosse
Undersecretary	Staff Director
0903#056	Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue
Office of Alcohol and Tobacco Control

Regulation V—Solicitors
(LAC 55:VII.309)

Under the authority of R.S. 26:793, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Office of Alcohol and Tobacco Control, proposes to amend LAC 55:VII.309 relative to the minimum qualifications for successful applicants for Solicitors Permits.

This proposed amendment to the above-referenced Rule is offered under authority delegated by and at the direction of the Louisiana Legislature in its amendment and re-enactment of R.S. 26:793 granting rule promulgation authority to the commissioner.

Title 55
PUBLIC SAFETY
Part VII. Alcohol and Tobacco Control
Subpart 1. Beer and Liquor
Chapter 3. Liquor Credit Regulations
§309. Regulation V—Solicitors

A. Applicants for state permits as solicitors shall meet the following qualifications in addition to those provided in R.S. 26:79:

1. is not the owner or manager required to file a Schedule A as the decision maker of a business having Class A, Class B or Class C Retail Liquor Permit;

2. if the spouse of a person who is the owner or manager of a business having a Class A, Class B or Class C Retail Liquor Permit, the solicitor-spouse cannot be the solicitor who calls on the spouse's business, and whatever supplier or wholesale license the solicitor's license is representing must not maintain any tied house or fair trade issues with the permitee;

3. these restrictions shall not apply to persons lawfully holding both retail and wholesale permits under the provisions of R.S. 26:83 (1950).

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:793.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Office of Alcoholic Beverage Control, 1950, filed at the Office of the State Register, 1974, amended by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 35:

Interested persons may submit data, views, or arguments, in writing to Commissioner Murphy J. Painter, Office of Alcohol and Tobacco Control, 8585 Archives Avenue, Suite 220, Baton Rouge, LA 70809; P.O. Box 66404, Baton Rouge, LA 70896-6404; or via facsimile to (225) 925-3975. All comments must be submitted by 4:30 p.m. on Thursday, April 30, 2009. A public hearing will be held on Monday, April 27, 2009 at 3:30 p.m. in the Office of Alcohol and Tobacco Control Hearing Room at 8549 United Plaza Boulevard, Second Floor in Baton Rouge, LA.

Murphy J. Painter
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Regulation V—Solicitors

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Promulgation of this amendment will not result in any costs to state or local governmental units. Nor is it likely to result in any savings to any such units. Rather, this proposed amendment seeks to open job opportunities for spouses of employees of alcoholic beverage outlets (ABO) when the spouse employed by an ABO is not authorized to decide which brands of alcoholic beverages the ABO will purchase for resale. Likewise, employees of an ABO who lack such decision-making authority may seek additional employment as a solicitor for purposes of soliciting sales from other ABO's by which he/she is not employed.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Promulgation of this proposed rule will not affect revenue collections of state or local governmental units whatsoever.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Promulgation of this proposed rule will not result in any costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed amendment will have the effect of allowing spouses of employees of alcoholic beverage outlets (ABO) to seek employment as solicitors when the spouse employed by an ABO is not authorized to decide which brands of alcoholic beverages the ABO will purchase for resale.

Murphy J. Painter	Robert E. Hosse
Commissioner	Staff Director
0903#034	Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue
Policy Services Division

Interest Waiver and Filing Extensions Following Disasters
(LAC 61:III.2111 and 2116)

Under authority of R.S. 47:1601(A)(2)(d) and 1511 and in accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, is repealing LAC 61:III.2111 in its entirety and enacting LAC 61:III.2116 to provide for the waiver and compromise of interest following a disaster.

Title 61
REVENUE AND TAXATION
Part III. Department of Revenue—Administrative Provisions and Miscellaneous
Chapter 21. Interest and Penalties

§2111. Interest Waiver and Filing Extensions Following Disasters

Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 47:1601(A)(2)(c) and (d) and 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 32:261 (February 2006), repealed LR 35:

§ 2116. Interest Waiver and Filing Extensions Following Disasters

A. Following a federally declared disaster, if the Secretary of Revenue authorizes extensions of time to pay for taxpayers whose residence, business or tax preparer is located in the disaster area, the secretary may allow for the compromise of all or part of the interest related to the payments for which an extension has been granted. The Secretary of Revenue has the discretion to compromise interest in any part or all of a disaster area. The secretary or designee shall authorize any compromise of interest under this Section by issuance of a Revenue Information Bulletin (RIB). Any communication from the Department of Revenue other than a RIB specifically citing this regulation should not be relied upon for the authorization for the compromise of interest.

1. A compromise of interest may be made retroactive to date of the federally declared disaster.

2. A compromise of interest under this Section may be made automatic only for individual income tax and estimated payments. All other taxes will require a written request to compromise interest.

3. Any compromise granted under this Section shall be applicable to all similarly situated taxpayers whose primary residence, business or tax preparer is located in the disaster area or portion of the disaster area in which the Secretary of Revenue has authorized the compromise of interest.

B. Any amount upon which interest began to accrue before the federally declared disaster will not be eligible for an interest compromise under this Section.

C. Business Taxpayers Located in the Disaster Area

1. A business will be considered to be located in the disaster area if the location at which it routinely does its tax preparation is in the disaster area or if it has significant accounting records necessary for tax preparation located in the disaster area.

2. Taxpayers whose tax preparation is routinely performed at a location within the disaster area will be eligible to have interest from all business locations compromised because the taxpayer could not file the return or pay taxes timely due to the disaster.

3. Taxpayers filing consolidated sales tax returns that include locations within and without the disaster areas and whose tax preparation is performed outside the disaster area should file returns using the information available from the disaster area at the time the return is due. When the amended return is filed that accurately reflects taxes owed from the disaster area, the taxpayer should attach a written request to waive any interest resulting from inaccuracies from locations within the disaster area.

D. Annual report requirement following federally declared disasters. The annual reporting requirement for interest compromised under R.S. 47:1601(A)(2)(d) will be met by reporting the total interest compromised for all taxpayers attributable to the federally declared disaster. In the event that there is more than one federally declared disaster declared during a year, total interest compromised under each disaster will be reported separately.

E. Definitions

Federally Declared Disaster—a disaster for which the President of the United States has made a presidential major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

Disaster Area—a parish or location that has been declared a disaster area by the President of the United States.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1601(A)(2)(d) and 1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 35:

Family Impact Statement

The proposed repeal of LAC 61:I.2111 and adoption of LAC 61:I.2116, regarding interest waivers and filing extensions 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.

Any interested person may submit written data, views, arguments or comments regarding this proposed Rule to

Leonore Heavey, Senior Policy Consultant, Policy Services Division, Office of Legal Affairs by mail to P.O. Box 44098, Baton Rouge, LA 70804-4098. All comments must be submitted no later than 4:30 p.m., Wednesday, April 22, 2009. A public hearing will be held on Thursday, April 23, 2009, at 10 a.m. in the River Room located 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: Interest Waiver and Filing Extensions Following Disasters

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This proposed amendment to this rule will have no cost or savings impact to state or local governments. This proposed amended rule is necessary to provide more discretion to the Secretary of Revenue in authorizing extensions of time to pay taxes and waiving interest thereon for affected taxpayers following federally declared disasters. It is expected that there will be no change in the amount of resources needed to apply the proposed amended rule versus the current rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Any potential effect on revenue collections is indeterminable in this fiscal year or any subsequent years because there is no way to predict a pattern of federally declared disasters or disaster areas. However, the current rule may result in reduced revenue collections to the extent non-disaster related interest was automatically waived. In normal (non-disaster) circumstances, interest is accrued and paid on late payments. Some of this normally accrued interest would be waived because the late taxpayers happen to be in disaster areas. The revenue loss of the current rule should be reduced because of the added discretion of the proposed amended rule. As a reference point - total interest received by the state in fiscal year ended June 30, 2008 was approximately 117 million dollars. Of that amount, approximately 54 million was collected on corporation income and franchise taxes, 36 million was collected on sales tax, and 19.5 million was collected on individual income tax. This proposed amended rule will have no impact on local revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed amended rule may require more taxpayers to request interest compromises than the current rule. Any additional costs of requesting interest compromises should be negligible.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed amended rule should not affect competition or employment.

Cynthia Bridges	Robert E. Hosse
Secretary	Staff Director
0903#054	Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue
Policy Services Division

Policy Statements (LAC 61:III.101)

Under the authority of 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.III.101 relative to Revenue Information Bulletins.

The Secretary of Revenue is authorized by R.S. 47:1511 to adopt reasonable rules and regulations to enforce the provisions relating to the taxes collected and administered by the department. LAC 61:III.101 establishes the types of policy statements to be issued for the proper administration and enforcement of the tax laws and the collection of revenues.

The purpose of this amendment is to provide more flexibility to the use of Revenue Information Bulletins to include purposes not specifically listed in LAC 61:III.101. This will allow the department to be more responsive to requests for guidance by taxpayers.

Title 61
REVENUE AND TAXATION
Part III. Department of Revenue; Administrative Provisions and Miscellaneous
Chapter 1. Agency Guidelines
§101. Policy Statements

A. - C.2.c.iv(c)(ix). …

D. Other Types of Policy Guidance

1. Policy and Procedure Memoranda

a. A Policy and Procedure Memorandum (PPM) is an internal document providing internal administrative or management guidance to employees. A PPM does not have the force and effect of law and is not binding on the public. It does not focus on taxpayers' substantive or procedural rights or obligations. It is binding on employees.

b. A PPM may be issued for any of the following reasons:

i. to notify employees of internal policies that apply only to employees and do not apply to taxpayers;

ii. to notify employees of internal procedures and instructions that do not apply to taxpayers; or

iii. to inform employees of internal programs that affect only employees.

c. A PPM may not be the appropriate policy statement if:

i. a taxpayer's substantive or procedural rights or obligations would be affected; or

ii. a rule would be more appropriate under the APA.

2. Revenue Information Bulletin

a. A Revenue Information Bulletin (RIB) is an informal statement of information issued for the public and employees that is general in nature. A RIB does not have the force and effect of law and is not binding on the public or

the department. RIBs will be established in a standard format and issued in sequence.

b. A RIB announces general information useful in complying with the laws administered by the department and may be issued under any circumstance deemed necessary by the secretary including:

i. to inform the public and employees that a statute or regulation has been added, amended, or rescinded;

ii. to inform the public and employees that a case has been decided;

iii. to publish information to employees and the public that is based on data supplied by other agencies, such as per capita income figures or comparative tax collections by parish;

iv. to publish IRS information;

v. to publish information such as deadlines;

vi. to inform the public of services offered by the department, such as regional office hours, website features, and like information; or

vii. to revise a previous Revenue Information Bulletin, Tax Topics, or other similar publication.

3. Informal Advice

a. In addition to rules, Declaratory Rulings, Policy and Procedure Memoranda, and Revenue Information Bulletins, taxpayers and employees may still seek advice on tax questions. To assist customers, the department will provide informal advice. Informal advice does not have the force and effect of law and is not binding on the department, the public, or the person who asked for the advice. Informal advice will have no effect on an audit.

b. Any of the following types of informal advice may be provided.

i. Informal Oral Advice. There is no formal procedure for requesting informal oral advice. Employees will answer questions by telephone or in person as requested, within resource and appropriateness constraints. Advice given at audit meetings, protest conferences, and the like is considered informal oral advice.

ii. Informal E-Mail Advice. Has the same status as informal oral advice.

iii. Informal Written Advice. Requests for informal written advice should be in writing. Informal written advice is not a declaratory ruling.

iv. Newsletters, Pamphlets, and Informational Publications. The department may publish informational newsletters, pamphlets, and publications at regular intervals. Statements contained in these publications do not have the force and effect of law and they are not binding on the public or the department. They are merely helpful tools for disseminating information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of the Secretary, LR 27:207 (February 2001), amended by the Department of Revenue, Policey Services Division, LR 35:

Family Impact Statement

The proposed amendment of LAC 61:III.101 regarding policy statements, 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, 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 budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform this function.

Any interested person may submit written data, views, arguments or comments regarding this proposed Rule to Leonore Heavey, Senior Policy Consultant, Policy Services Division, Office of the Secretary by mail to P.O. Box 44098, Baton Rouge, LA 70804-4098. All comments must be received no later than 5 p.m., Tuesday, April 21, 2009. A public hearing will be held on Wednesday, April 22, 2009, at 10 a.m. in the River Room, on the second floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA.

Cynthia Bridges
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Policy Statements

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no implementation cost to the state to amend this rule. There is the possibility of workload reductions as certain solutions are provided more efficiently. Implementation of the amendments to this rule will have no cost or savings to local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

State general funds revenues will not increase or decline in Fiscal Year 2008-2009 or thereafter due to the amendment of this rule. There should be no effect on revenue collections of local governmental units as a result of the amendment of this rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The amendment of this rule will not result in any cost to directly affected persons or non-governmental groups. However, they should benefit from improved accessibility to information pertinent to tax preparation.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The amendment of this rule should not affect competition or employment.

Cynthia Bridges	Robert E. Hosse
Secretary	Staff Director
0903#055	Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue
Policy Services Division

Sales and Use Tax Exemptions (LAC 61:I.4405)

Under the authority of R.S. 47:305.5 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.4405 by repealing the Section in its entirety. R.S. 47:305.5, the sales tax exemption statute, was repealed by Act 352 of the 2005 Regular Session of the Legislature. R.S. 47:305.5 had provided a sales tax exemption from the imposition of state and local sales and use taxes for materials, supplies or products for use in connection with any phase of the construction of the Toledo Bend Dam Project. By the time of the repeal of R.S. 47:305.5, the Toledo Bend Dam Project had been completed for some time, and the exemption contained in the statute had become obsolete.

Title 61
REVENUE AND TAXATION
Part I. Taxes Collected and Administered by the Secretary of Revenue
Chapter 44. Sales and Use Tax Exemptions
§4405. Materials and Supplies Used in the Construction of the Toledo Bend Dam Project

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:305.5.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 13:107 (February 1987), repealed LR 35:

Family Impact Statement

This proposed repeal of the Rule, LAC 61:I.4405 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 the proposed repeal of this 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 data, views, or arguments, in writing to Emily Toler, Attorney, Policy Services Division, P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All comments must be submitted by 4:30 p.m., April 27, 2009. A public hearing will be held on April 28, 2009 at 2 p.m. in the River Conference Room on the Seventh Floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA 70802-5428.

Cynthia Bridges
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Sales and Use Tax Exemptions

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed repeal of this regulation LAC 61:I.4405 will have no impact on state or local governmental units' cost. R.S. 47:305.5 had provided a sales tax exemption from the imposition of state and local sales and use taxes for materials, supplies or products for use in connection with the any phase of the construction of the Toledo Bend Dam Project. This statute was repealed by Act 352 during the 2005 Regular Session. As per the Fiscal Note for Act 352, the Toledo Bend Dam Project had been completed for some time, and R.S. 47:305.5, which had provided the sales and use tax exemption, had become obsolete.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be no effect on the revenue collections of state or local government units, as a result of the repeal of LAC 61:I.4405. R.S. 47:305.5, the underlying statute, was repealed by Act 352 of the 2005 Regular Session of the Legislature.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The repeal of LAC 61:I.4405 would not result in any estimated costs or economic benefits to businesses. The underlying statute, R.S. 47:305.5, was repealed by Act 352 of the 2005 Regular Session. Thus, the sales and use tax exemption is no longer in effect.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed repeal of LAC 61:I.4405 should have no affect on competition or employment.

Cynthia Bridges	Robert E. Hosse
Secretary	Staff Director
0903#050	Legislative Fiscal Office

NOTICE OF INTENT

Department of Social Services
Office of Community Services

Daycare Services (LAC 67:V.2301 and 2303)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Social Services (DSS), Office of Community Services (OCS), gives notice that rulemaking procedures have been initiated to amend the LAC 67, Part V., Subpart 4, Daycare Services, Chapter 23, Daycare, §§2301 and 2303.

This action is necessary to allow the transfer of funds within the DSS from the Office of Family Support (OFS) to the OCS for the payment of daycare services delivered to a non-custody child of a minor child in foster care. The OFS provides OCS with the majority of funds utilized to support the agency's daycare services program of which this service is a part.

Further, DSS/OCS announces its intention to repeal LAC 67, Part V, Subpart 4, Chapter 23, §2303, Criminal Record Checks, in its entirety. This function is no longer performed by the Office of Community Services.

Title 67
SOCIAL SERVICES
Part V. Community Services
Subpart 4. Daycare Services

Chapter 23. Daycare

§2301. Daycare Services

A. - D. ...

E. The non-custody child of a minor child in foster care is upon birth at risk for abuse and or neglect due to: the abuse/neglect history of the parent, the legal status of the parent as a minor and a ward of the state, the lack of financial or other support resources of the minor parent, and, the competency level of the minor parent to provide care for a child. Protective services provided to insure the safety and well-being of a non-custody child of minor child in foster care shall include child care assistance.

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Administrative Code Title 67, Part 3, Subpart 12.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 35:

§2303. Criminal Record Checks

Repealed.

AUTHORITY NOTE: Promulgated in Accordance with R.S.15:587.1

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 17:1225 (December 1991), repealed LR 35:

Family Impact Statement

1. The Effect on the Stability of the Family. This Rule will improve the stability of the family in that the minor child/parent will be provided the supportive resources necessary to care for the non-custody child while continuing the minor child/parent's own educational/vocational development.

2. The Effect on the Authority and Rights of Parents Regarding Education and Supervision of Their Children. The authority and rights of the minor child/parent will be strengthened through this supportive service to protect their non-custody child and prevent abuse/neglect or removal of that non-custody child.

3. The Effect on the Functioning of the Family. This Rule will improve the functioning of the family as the minor child parent will have relief from the responsibility of child care during a time when that minor child/parent is required to focus on their own educational/vocational development.

4. The Effect on Family Earnings and Family Budget. This Rule will increase the potential of the minor child/parent to become self-sufficient.

5. The Effect on the Behavior and Personal Responsibility of Children. The Rule will provide a minor child/parent the opportunity to provide responsible care to that child/parent's own child while continuing their own educational/vocational development.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. DSS has the financial resources to support this service through the CCAP program. The minor child/parent in the custody of the state has no financial resources and is unable to fund this service for their child without assistance.

All interested persons may submit written comments through March 30, 2009, to Karen Hebert, Interim Assistant Secretary, Office of Community Services, P.O. Box 3318, Baton Rouge, LA 70821.

Kristy N. Nichols
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Daycare Services

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The purpose of this Rule is to amend the Louisiana Administrative Code (LAC), Title 67, Part V, Subpart 4, Daycare Services, to provide daycare services for the non-custody child of a minor child parent who is upon birth at risk for abuse and/or neglect. In addition, this Rule repeals LAC Title 67, Part V, Subpart 4, Chapter 23, Criminal Record Checks in its entirety because this function is no longer performed by the Office of Community Services as a part of the Vendor Day Program which was discontinued.

There is no additional cost anticipated as a result of this Rule change because these services are already provided by OCS utilizing Interagency Transfer (IAT) funding from the Office of Family Support Child Care Block Grant. This Rule is necessary to comply with language in federal guidelines to continue receiving this funding.

There is no savings anticipated from the repeal of the criminal record checks provision because the Vendor Day Program was discontinued years ago.

The cost of publishing rulemaking is estimated to be $164 ($82 state general funds and $82 federal funds). This one-time cost is included in the agency's budget.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This Rule will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule will have no impact as the funds are currently appropriated in the OCS budget.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed Rule should have no impact on competition and employment.

Kaaren Hebert	Robert E. Hosse
Interim Assistant Secretary	Staff Director
0903#064	Legislative Fiscal Office

NOTICE OF INTENT

Department of Social Services
Office of Community Services

Developmental and Socialization Activities
Program for Foster Children (LAC 67:V.3507)

In accordance with the provision of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Social Services, Office of Community Services, proposes to repeal the LAC 67:V, Subpart 5, Foster Care, Chapter 35, Payments, Reimbursements, and Expenditures, §3507, Developmental and Socialization Activities for Foster Children. This Rule became effective on December 1, 2005, by a Declaration of Emergency, which was published in the December 2005 issue of the *Louisiana Register.* The final Rule was published in the April 2006 issue of the *Louisiana Register.* TANF funds previously available through the Office of Family Support are no longer available to the Office of Community Services for this program.

Title 67
SOCIAL SERVICES
Part V. Office of Community Services
Subpart 5. Foster Care
Chapter 35. Payments, Reimbursables, and Expenditures
§3507. Developmental and Socialization Activities for Foster Children Program

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231, R.S. 36:474, R.S. 36:476 and 477, and R.S. 46:51.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 31:484 (February 2005), amended LR 32:644 (April 2006), repealed LR 35:

Family Impact Statement

1. The Effect on the Stability of the Family. Foster children from 6 years through 17 years of age will no longer be eligible to receive TANF funded developmental and socialization activities and items.

2. The Effect on the Authority and Rights of Parents Regarding Education and Supervision of Their Children. The Developmental and Socialization Activities Program services have been provided only to children who have been removed by court order from their parent's custody to protect the safety and well being of the child. If the court has not terminated parental rights, the parents, as well as the foster parents, participate in case planning for services needed by the child.

3. The Effect on the Functioning of the Family. The provision of other support and respite services for foster children ages 6 to 17 placed in family homes will continue to be directed towards enhancing the functioning of the family unit and promote stable family life.

4. The Effect on Family Earnings and Family Budget. The provision of developmental and socialization activities for children in foster care neither increases nor diminishes a foster family's earnings or budget. Therefore, neither area should be impacted by ending the provision of these activities.

5. The Effect on the Behavior and Personal Responsibility of Children. Other services provided to children in foster care can be used address specific areas of need such as building self-confidence and improving peer interactions.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. For some traditional developmental and socialization activities such as summer camps there may be community resources available to support the service.

All interested persons may submit written comments through March 30, 2009, to Kaaren Hebert, Interim Assistant Secretary, Office of Community Services, P.O. Box 3318, Baton Rouge, LA 70821.

Kristy N. Nichols
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Developmental and Socialization Activities Program for Foster Children

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This rule proposes to repeal, in its entirety, the Louisiana Administrative Code Title 67, Part 5, Subpart 5, Foster Care, Chapter 35, Section 3507 Developmental and Socialization Activities for Foster Children. The rule was established when the agency was utilizing non-recurring TANF funds in an effort to decrease out of wedlock pregnancies by supporting developmental and socialization activities for children in foster care.

There is no net savings anticipated as a result of this rule change since the agency has not funded this program in over two years because the TANF funds that were previously available through the Office of Family Support are no longer available.

The cost of publishing rulemaking is estimated to be $164 ($82 state general funds and $82 federal funds). This one-time cost is included in the agency's budget.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This rule will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is no cost and/or economic benefits to directly affected persons or non-governmental groups as this agency discontinued funding this program over two years ago.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule should have no impact on completion and employment.

Karen Hebert
Interim Assistant Secretary
0903#059

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of State
Elections Division

Polling Place Accessibility for the
Elderly and Individuals with Disabilities
(LAC 31:I.Chapter 1)

Under the provisions of the R.S. 18:533 and R.S. 36:742, the Administrative Procedures Act (R.S. 49:950 et seq.), the "Voting Accessibility for the Elderly and Handicapped Act" (42 U.S.C. §1973ee et seq.), and the "Help America Vote Act of 2002" (Public Law 107-252), the Secretary of State hereby gives notice of his intent to establish guidelines for parish governing authorities to utilize to determine if a polling place is accessible for the elderly and individuals with disabilities. In addition, the guidelines offer parish governing authorities examples of temporary solutions which can be utilized to make a polling place accessible.

Title 31
ELECTIONS
Part I. Election Process
Chapter 1. Polling Place Accessibility for the Elderly and Individuals with Disabilities

§101. Definitions

A. For the purpose of this rule, the definitions detailed below shall apply.

Accessible—the combination of the various elements of the built environment that is free of physical barriers, as prescribed herein, which allows parking, entrance to, egress from, and use of polling place facilities by the elderly and individuals with disabilities for the purpose of voting and registration.

Accessible Parking—a place specially designated by the International Symbol for Accessibility and other markings with dimensions as specified in LAC 31:I.105.A.1.a.i.

Blend to a Common Level—the meeting of two or more surfaces free from abrupt level changes over 1/2 inch. Level changes between 1/4 and 1/2 inch must be beveled with a slope no greater than 1:2. Level changes up to 1/4 inch require no change.

Circulation Route—a continuous path of travel from the curb or parking area to the polling place building, into and through the polling place building to the voting area, and includes both horizontal and vertical travel.

Curb—the inside boundary of the street, driveway, or parking lot.

Elderly—any person who is 65 years of age or older.

Exterior Circulation Route—that part of a circulation route from the curb or parking area to the point of entry to the polling place building or facility.

Individual with Disabilities—any person who has a temporary or permanent physical disability.

Interior Circulation Route—that part of a circulation route from the point of entry to the polling place building through the polling place building to the voting area.

Passenger Loading Zone—a place specially provided outside of the vehicular traffic flow designed for the drop-off or pick-up of passengers from vehicles.

Temporarily Accessible—modifications or improvements that are not permanent to various elements of the existing built environment as prescribed herein which allow parking, entrance to, egress from, and use of polling place facilities by the elderly and individuals with disabilities for the purpose of voting and registration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:533, R.S. 36:742, 42 U.S.C. §1973ee et seq., and Public Law 107-252.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 35:

§103. Determination of Accessibility

A. It is the responsibility of the parish governing authority to select an accessible building or facility to be used as a polling place.

B. The parish governing authority shall visit each polling place to be used on election day and for early voting. The parish governing authority must complete an accessibility survey on an official form provided by the Department of State for every polling place building or facility to determine whether the polling place is accessible, temporarily accessible, or inaccessible based on the accessibility criteria set forth herein. At the end of the survey form, the parish governing authority shall certify that the polling place is accessible or has been made temporarily accessible prior to the use of the polling place for an election.

C. The original completed survey shall be filed with the Department of State. A copy of the survey shall be retained by the parish governing authority for the period the site is used as a polling place.

D. The Secretary of State or designee reserves the right to conduct on-site inspections of polling places.

E. If an existing polling place fails to satisfy the accessibility criteria set forth herein and cannot be temporarily modified in a reasonable manner, it shall be deemed inaccessible by the parish governing authority and shall not be used unless an exemption is granted by the secretary of state pursuant to §109 of this Chapter.

F. When a proclamation has been adopted to move a polling place, the parish governing authority shall provide the department with a completed accessibility survey form and certification that the new polling place location is accessible. The Secretary of State will not accept the polling place change without a completed accessibility survey and certification.

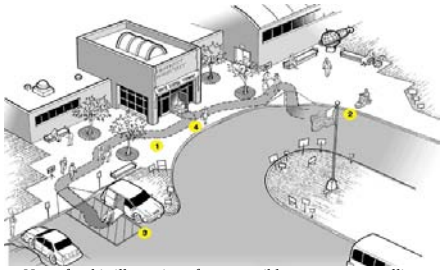
AUTHORITY NOTE: Promulgated in accordance with R.S. 18:533, R.S. 18:534, R.S. 18:535, R.S. 18:536, R.S. 36:742, 42 U.S.C. §1973ee et seq., and Public Law 107-252.

HISTORICAL NOTE: Promulgated by the Department of State, Election Division, LR 35:

§105. Guidelines for Accessibility

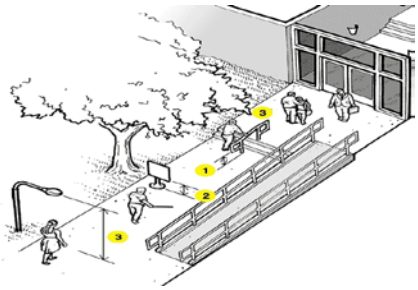
A. To be accessible to the elderly and individuals with disabilities, the polling place must have at least one circulation route that encompasses an exterior circulation route, ramps, entrances, doors, doorways, an interior circulation route, and may include elevators which meet the following criteria.

1. Exterior Circulation Routes. There shall be at least one path of travel at least 36 inches wide within the boundary of the site that shall have no steps, abrupt changes or slopes greater than 1:12 from the public transportation stops, accessible parking areas, accessible passenger loading zones, and public streets and sidewalks to an accessible entrance of the polling place building or facility. The accessible route shall, to the maximum extent feasible, coincide with the route for the general public.



Notes for this illustration of an accessible entrance to a polling place with accessible parking and an accessible drop-off area:

1. Accessible route.
2. Accessible drop-off area.
3. Accessible parking with van accessible parking space.
4. Accessible entrance to polling places.



Notes for this illustration of an accessible entrance for individuals who are visually impaired or blind:

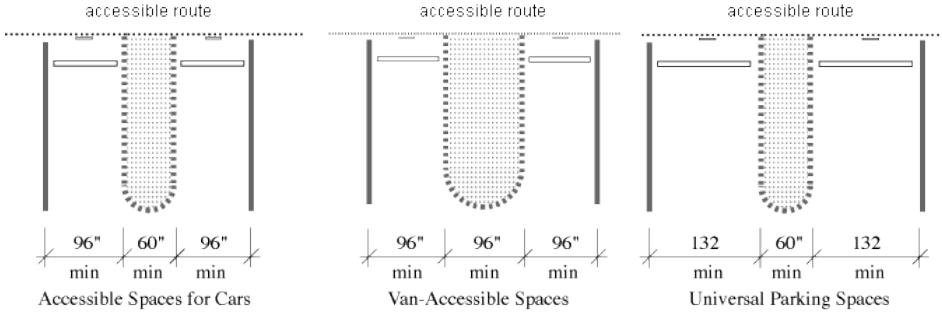
1. The bottom of the handrail extensions turn down so a person who is visually impaired or blind can detect the hazard before running into it.
2. Signs or other objects in the pedestrian route can be a hazard if the bottom is more than 27 inches but less than 80 inches above the route.
3. Objects that overhang the pedestrian route must be at least 80 inches above the route.

a. Accessible Parking

i. If parking areas are provided as part of the premises used as a polling place by voters, the polling place shall have accessible parking spaces specifically designated for individuals with disabilities located as close as possible to an accessible entrance, as described below, an access aisle located parallel and adjacent to the accessible parking space, and an accessible path of travel to the polling place building or facility. An accessible parking space must be signed with the International Symbol for Accessibility that is clearly visible over the hood of a vehicle.

Total Spaces for Polling Place	Required Minimum Number of Accessible Spaces
1 - 25	One 96 inch wide van accessible space w/min. 96 inch wide access aisle
26 - 50	One 96 inch wide van accessible space w/min. 96 inch wide access aisle + one 96 inch wide accessible space w/min. 60 inch wide access aisle
51 - 75	One 96 inch wide van accessible space w/min. 96 inch wide access aisle + two 96 inch wide accessible spaces w/min. 60 inch wide access aisle
76 - 100	One 96 inch wide van accessible space w/min. 96 inch wide access aisle + three 96 inch wide accessible spaces w/min. 60 inch wide access aisle
101 - 150	One 96 inch wide van accessible space w/min. 96 inch wide access aisle + four 96 inch wide accessible spaces w/min. 60 inch wide access aisle
151 - 200	One 96 inch wide van accessible space w/min. 96 inch wide access aisle + five 96 inch wide accessible spaces w/min. 60 inch wide access aisle
201 - 300	One 96 inch wide van accessible space w/min. 96 inch wide access aisle + six 96 inch wide accessible spaces w/min. 60 inch wide access aisle
301 - 400	One 96 inch wide van accessible space w/min. 96 inch wide access aisle + seven 96 inch wide accessible spaces w/min. 60 inch wide access aisle
401 - 500	Two 96 inch wide van accessible spaces w/min. 96 inch wide access aisle + seven 96 inch wide accessible spaces w/min. 60 inch wide access aisle
501 - 1000	2% of total shall be accessible spaces, with 1 van accessible space for every 8 accessible spaces

The examples illustrated below show two accessible spaces with an accessible aisle and route.



ii. The accessible parking and access aisle should be relatively level with no more than a 1:50 slope.

iii. At least one van accessible or universal parking space with an adjacent access aisle must be provided. The access aisle should connect directly to an accessible route that leads to an accessible entrance. The accessible aisle must be relatively level, clear of gravel or mud, and the surface must be in good condition without wide cracks or broken pavement. If an accessible route crosses a curb, a curb ramp must be provided.

iv. If the total number of parking spaces for a polling place requires only one accessible parking space, it must be either a van-accessible parking space or a universal parking space.

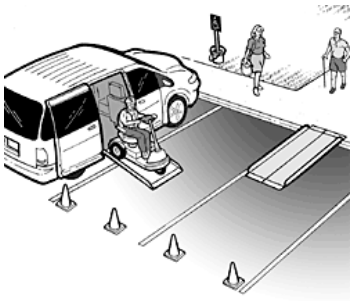
v. A van-accessible space shall be at least 96 inches wide with an adjacent access aisle that shall also be at least 96 inches wide.

vi. A universal parking space shall be at least 132 inches wide with an adjacent access aisle that shall be at least 60 inches wide.

vii. The vertical clearance for the vehicle route to the van-accessible or universal parking space, the parking space, access aisle and exit route shall be at least 98 inches in height.

viii. If the total number of parking spaces for a polling place require more than one accessible parking space, then one parking space must be a van-accessible or universal parking space and the other may be a van-accessible, universal, or car accessible parking space. A car accessible parking space shall be at least 96 inches wide with an adjacent access aisle that shall also be at least 60 inches wide. Accessible parking spaces may share an adjacent access aisle provided that the access aisle is at least 60 inches wide.

ix. If general parking is provided on the premises, but no spaces are designated as accessible parking, then a temporary accessible parking space must be created by combining existing adjoining parking spaces to make an accessible parking space and access aisle subject to the provisions set forth above in Clauses i-viii. The temporary accessible parking shall be marked off with cones or other temporary elements.



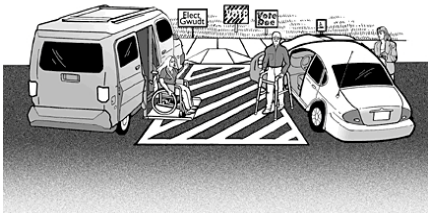
Three standard parking spaces are converted into an accessible parking space with an access aisle. Cones mark the access aisle and a temporary curb ramp with edge protection connects to an accessible route to the polling place.

x. Polling places that only provide street parking must clearly mark and sign an accessible parking space located as close as possible to an accessible route and polling place entrance. Either a curb-cut or ramp which connects directly to an accessible route must be provided.

xi. An accessible parking area which uses a portion of the general parking area as part of the exterior circulation accessible route that connects the accessible aisle to the accessible entrance must clearly delineate the access route which traverses the parking lot as a crosswalk.

xii. Accessible polling places can sometimes only be reached by traveling on gravel or other surfaces that are inhospitable to wheelchairs, walkers, and cane users. In these situations, an access aisle must be made accessible through the use of securely placed non-slip plywood, decking, or matting of sufficient thickness, which smoothes out the surface of the access aisle.

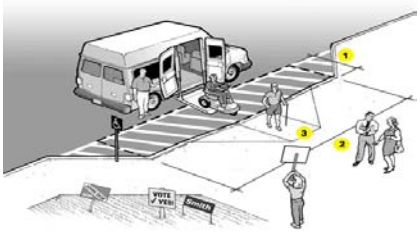
xiii. If general parking is not provided, every effort shall be made to set aside and/or reserve a temporary parking area for voters with disabilities.



Notes for this illustration: Van-accessible parking spaces serve both cars and vans. A 96" access aisle is needed so a wheelchair lift may be lowered from the van onto the level surface.

b. Accessible Passenger Loading Zones

i. A passenger loading zone is not required, but if one is provided, it must be an accessible loading zone that is located parallel and adjacent to an access aisle. The loading zone may be located at street level or on the sidewalk. The loading zone accessible aisle must be relatively level, clear of gravel or mud, and the surface must be in good condition without wide cracks or broken pavement. The loading zone access aisle shall connect directly to an accessible route either by a curb ramp or temporary curb ramp.



Accessible Passenger Drop-off and Loading Area

1. Access aisle depth at least 5 feet.
2. Access aisle length is at least 20 feet.
3. Curb ramp connects access aisle to the accessible entrance to the polling place.

ii. An accessible passenger loading zone which uses a portion of the general parking area as part of the exterior circulation accessible route that connects the accessible aisle to the accessible entrance must clearly delineate the access route which traverses the parking lot as a crosswalk.

iii. The accessible parking and access aisle should be relatively level with no more than a 1:50 slope.

iv. A loading zone access aisle must be at least 60 inches deep and 20 feet in length.

v. Accessible polling places can sometimes only be reached by traveling on gravel or other surfaces that are inhospitable to wheelchairs, walkers, and cane users. An access aisle may be made accessible through the use of securely placed non-slip plywood, decking, or matting of sufficient thickness, which smoothes out the surface of the access aisle.

vi. The vertical clearance for the vehicle route to the loading zone area, the drop off area, access aisle, and exit route shall be at least 114 inches in height.

c. Walkways and Sidewalks

i. The minimum clear width of walkways and sidewalks shall be at least 36 inches and may narrow briefly to 32 inches wide for up to 2 feet in length where utility poles, post-mounted signs, furniture, and doorways are located along an accessible route.

ii. Walkways and sidewalks shall be of a continuing common surface, not interrupted by changes in level of more than 1/4 inch, unless the changes are beveled; but not more than 1/2 inch, even if beveled and shall be beveled with a slope no greater than 1:12. All surfaces shall be firm and stable.

iii. Walkways with gradients steeper than 1:20 shall be considered as a ramp and must conform to the requirements of LAC 31:I.105(A)(2). Ramps on walkways shall not be steeper than 1:12.

iv. Walkways with sustained gradients of no greater than 1:20 shall have level areas of at least 60 inches long at 50 foot intervals for the purpose of rest.

v. All walkways, sidewalks, and accessible routes from a polling place drop-off place or parking area must be cleared of any object which protrudes more than 4 inches from the side and which is greater than 27 inches but less than 80 inches off of the ground. If an object cannot be moved, then a cane detectable barrier must be placed below the object within the detectable range of 27 inches or less.

vi. The undersides of exterior stairs must be enclosed or protected with a temporary or permanent cane-detectable barrier.

vii. Wherever walkways and sidewalks intersect with other walkways and sidewalks, parking lots, driveways, or streets, the surfaces shall blend to a common level.

viii. Accessible polling places can sometimes only be reached by traveling on gravel or other surfaces that are inhospitable to wheelchairs, walkers, and cane users. In these situation, walkways and sidewalks must be made accessible through the use of securely placed non-slip plywood, decking, or matting of sufficient thickness, which smoothes out the surface of the walkways or sidewalks.

2. Accessible Ramps and Temporary Accessible Ramps

a. All ramps constructed or temporarily installed in a polling place building or facility shall meet the requirements of this standard. If possible, alternative design solutions to ramps should be provided because of the substantial energy demands required to negotiate them by those in wheelchairs, plus the difficulties encountered by amputees and others with gout problems on ascent and descent ramps shall allow unrestricted traffic flow and be free of hazards.

b. Any part of a circulation path shall be considered a ramp if it has a slope that is greater than 1:20 and the rise for any run shall not exceed 30 feet long regardless of the slope. The following table gives allowable slopes and maximum lengths.

Allowable Slope	Maximum Rise in a Single Ramp	Maximum Length of a Single Ramp Segment
1:12	2' - 6"	30' - 0"
1:16	2' - 6"	40' - 0"
1:20	2' - 6"	50' - 0"

c. A level landing area that is at least 60 inches by 60 inches must be provided where a ramp changes directions.

d. All portions of a ramp way shall have identical slopes except for the level landing areas.

e. No ramp shall exceed a slope of 1:12. However, for ramps to be constructed on existing interior or exterior areas or buildings or facilities where space limitations prohibit the use of a 1:12 slope, the slope may be 1:10 for a 6 inch rise or 1:8 for a 3 inch rise.

f. If there is a vertical drop off of greater than 6 inches, an edge protection will be required to stop wheelchairs from falling off the side.

g. All ramps with a rise greater than 6 inches shall have handrails mounted between 34 and 38 inches above the ramp surface on both sides. Handrails shall be continuous along the ramp segment. If the ramp has a second lower rail, no edge protection is needed for the ramp.

h. Ramps shall have a minimum clear width measured between the handrails of 36 inches.

i. Ramps shall have level platforms at the bottom and the top of each run that are at least 60 inches long and at least as wide as the ramp. Intermediate platforms between each ramp segment shall be at least 60 inches in length. See above Table (LAC 31:105.A.2.b) for the maximum allowable lengths of ramp segments.

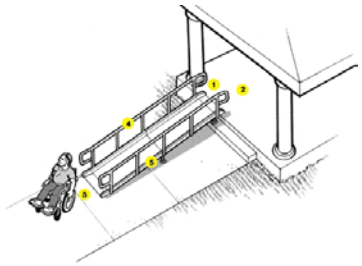
j. Intermediate turning platforms shall be a minimum of 60 inches in length and 60 inches wide to allow wheelchair maneuvering through 180 degrees.

k. If doors open out onto the ramp platform, a level area at least 5 feet deep and 5 feet wide shall be provided.

l. The ramp surface shall be slip resistant.

m. No objects shall be hung from above or the sides of a ramp way that project~~s~~ lower than 90 inches from the surface of the ramp or landing. Below this height, no object shall project into a ramp way other than the handrails.

n. A portable temporary ramp may be used if steps are higher than 1/2 inch and are not accessible to wheelchair users.



Notes for this illustration of a ramp:

1. At least 36 inches between handrails.
2. Top landing part of walk.
3. Bottom landing part of walk.
4. Handrail height 34 to 38 inches.
5. Edge protection.

3. Entrances, Doors, and Doorways

a. At least one entrance and exit to the polling place building and its interior rooms shall be accessible, and shall be located on an accessible route as described above. The accessible entrance to the polling place should be identified and marked using the International Symbol for Accessibility. Accessible entrance signs are included in the precinct supply packages on election day for the election to be posted at the accessible entrance on election day. Inaccessible entrances shall be marked with the same signs indicating the direction to the nearest accessible entrance.

b. The floor on the inside and outside of each doorway shall preferably be level, but may slope no more than 1:50.

c. Entrances shall have a minimum clear width of 32 inches. This dimension shall be measured from the face of the door to the face of the door stop. Where double doors are used, at least one leaf shall allow a 32 inches clear opening.

d. The minimum space between two hinged doors in a series shall be the width of the door swinging into the space plus 48 inches. Door swings of doors in series shall open in the same direction. Single doors hung in series shall be hinged at the same side.

e. At vestibules where doors are at right angles to each other, the dimension between the wall with the in swinging door and the facing wall shall be 78 inches. The minimum dimension in the other direction shall be 60 inches.

f. If the above specification cannot be satisfied, then one of the two doors shall be securely fastened in an open position during the hours when the polling place is open.

g. If there are security reasons why the accessible entrance door must remain closed or locked, a wireless doorbell system can be used notifying the poll worker to open the door for the elderly or individual with disabilities. If a wireless doorbell system is used, a sign should be posted instructing the voter to ring for immediate assistance and access.

h. The maximum height of thresholds at exterior and interior doors shall not be more than 1/4 inch, unless beveled. Thresholds which are greater than 1/4 inch but not more than 1/2 inch high must be beveled or replaced with a new beveled threshold that is not more than 1/2 inch high.

i. Doors should be operable without movements requiring a tight grasp, complex hand movements, or the exertion of great force. In addition, for doors that have hardware that cannot be manipulated by a closed fist, retrofit kits may be used to render the door accessible.

j. To be accessible, the width of a door should be at least 32 inches. If the width of a doorway is affected by its hinges, door widening hinges can be used to widen a door up to 2 inches.

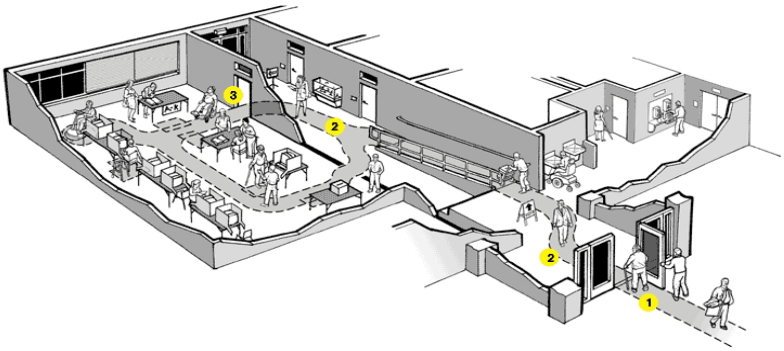
4. Interior Circulation Routes

a. There shall be an accessible, convenient, and clear path of travel from an accessible entrance to the voting area within the polling place.

b. The voting area in the polling place building or facility shall be served from an accessible entrance by at least one path of travel that does not have stairs or escalators.

c. The minimum clear width of halls, corridors, passageways, and aisles shall be 36 inches wide and may narrow briefly to 32 inches wide where the route passes through doors or next to furniture and building elements.

d. No rigid or hard objects shall project into the space above the path of travel unless the dimension from the bottom edge of the object to the walk surface is at least 80 inches above the floor.



Notes for accessible interior circulation at the polling place from the accessible entrance to the voting area.

1. Accessible entrance.
2. Accessible route connects the accessible entrance with the voting area.
3. Accessible door to the voting area.

5. Elevators. If elevators are necessary to access the voting area, the elevators shall be on an accessible route and shall comply with the American National Standard Safety Code for Elevators, Dumb-Waiters, Escalators and Moving Walks, ANSI A117.1 1980.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:533, R.S. 36:742, 42 U.S.C. §1973ee et seq., and Public Law 107-252.

HISTORICAL NOTE: Promulgated by the Department of State, Secretary of State, LR 35:

§107 Guidelines for Polling Places

A. The guidelines set forth herein are only guidelines for physical accessibility of polling places and cannot be construed to authorize or require conduct prohibited under any of the following laws, or to supersede, restrict, or limit the application of such laws:

1. the Voting Rights Accessibility for the Elderly and Handicapped Act (42 U.S.C. §1973ee et seq.);

2. the Americans with Disabilities Act of 19909 (42 U.S.C. 12101 et seq.) and ensuing regulations; and

3. the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.) and ensuing regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18: 533, R.S. 36:742, 42 U.S.C. §1973ee et seq., and Public Law 107-252.

HISTORICAL NOTE: Promulgated by the Department of State, Election Division, LR 35:

§109. Exemption Procedures

A. If the present polling place building or facility cannot reasonably be made either permanently accessible or temporarily accessible for election day by the owner or the parish for use on election day, and the parish governing authority cannot locate any other building or facility in the precinct area for use as a polling place on election day that meets these accessibility rules or it is not feasible to move the polling place to an accessible building or facility outside of the precinct, then the parish governing authority may request an exemption for use of the non-accessible polling place.

B. A request for an exemption shall be in writing to the Secretary of State, and shall include the following:

1. an accessibility survey for the present polling place for which the exemption is being sought, identifying all of the deficiencies of the building or facility;

2. a description of all efforts made to relocate the polling place to an accessible building;

3. a description of what continued efforts will be made by the parish to achieve compliance during the period that the exemption is in effect;

4. a statement of the approximate length of time needed to meet the compliance requirements; and

5. the signature of the presiding official of the parish governing authority. Any document(s) supporting the parish's request for the exemption shall be included in the request.

C. The Secretary of State may grant an exemption to the accessibility requirements for a requested polling place in the case of an emergency as provided under R.S. 18:401 et seq., or upon a showing in writing by the parish governing authority that a polling place cannot reasonably be made either permanently accessible or temporarily accessible for an election for non-emergency reasons.

D. Any granted exemption to a polling place is valid for only one election cycle which includes all party primaries and the general election, unless otherwise stated by the Secretary of State.

E. For any polling place which receives an exemption hereunder, the parish governing authority shall certify to the Secretary of State, in writing, that reasonable notice was given to all eligible voters in the precinct that their polling place is not accessible but that they may vote either at the Registrar of Voter's Office during early voting, or at an alternate accessible polling location on election day as directed by the registrar of voters. Reasonable notice shall include posting of public notice at the parish courthouse and at the non-accessible polling place, mailing of notice no later than 21 days to all eligible voters prior to an election, and advertisement in the official parish journal or the local newspaper of general circulation, telephone, television, and/or radio at the cost of the parish governing authority.

F. A certification of exemption from these accessibility requirements may be requested by the parish to the Secretary

of State by telephone or other electronic means, provided it is followed up in writing as soon as practicable as provided for herein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18: 533, R.S. 36:742, 42 U.S.C. 1973ee et seq., and Public Law 107-252.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 35

§111. Repeal Prior Rules and Regulations

A. All rules and regulations adopted by the Department of Elections and Registration in April 1986 are hereby repealed in their entirety.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18: 533, R.S. 36:742, 42 U.S.C. 1973ee et seq., and Public Law 107-252.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 35:

Family Impact Statement

The proposed Rule LAC 31:I.Chapter 1 regard polling place accessibility for the elderly and individuals with disabilities should not have any known or foreseeable impact on any family as defined by R.S. 49:972D or on family formation, stability, and autonomy. Specifically, there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children; and
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Interested persons may submit written comments to Angie Rogers LaPlace, Commissioner of Elections, Department of State, P.O. Box 94125, Baton Rouge, LA 70804-9125. She will be responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for April 30, 2009 at 2 p.m. in the Auditorium at the Archives Building, 3851 Essen Lane, 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 department to receive written comments is 4:30 p.m. on May 1, 2009 after the public hearing.

Jay Dardenne
Secretary of State

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Polling Place Accessibility for the Elderly and Individuals with Disabilities

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no anticipated costs and savings to state or local governmental entities to implement the proposed rule. The proposed rule coincides with current practices which are being utilized by parish governing authorities insuring accessibility of polling places for the elderly and individuals with disabilities.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be 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)

There will be no costs and/or economic benefits to directly persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no impact of the proposed rule on competition and employment.

Charles R. Davis
Undersecretary
0903#049

Robert E. Hosse
Staff Director
Legislative Fiscal Office

Potpourri

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
Cloverleaf Operating Co	Ross Bayou	M	Burrill Swd	001	45265
Cloverleaf Operating Co	Ross Bayou	M	Fisher Su37; Burrill Farrar	001	215020
Ladd Petroleum Corporation	Mosquito Bay	L	Smyth Ra Sua;Sl 6826 Smyth	001	152811(30)
Lotter Gas Co., Inc.	Monroe	M	Humble Arco	001	141512
Lotter Gas Co., Inc.	Monroe	M	Humble Arco	002	141943
Lotter Gas Co., Inc.	Monroe	M	Humble Arco	003	142013
Lotter Gas Co., Inc.	Monroe	M	Humble Arco	004	142014
Lotter Gas Co., Inc.	Monroe	M	Humble Arco	005	142159
Lotter Gas Co., Inc.	Monroe	M	Humble Arco	006	142160
Lotter Gas Co., Inc.	Monroe	M	Humble Arco	007	142161
Lotter Gas Co., Inc.	Monroe	M	Humble Arco	008	142162
Lotter Gas Co., Inc.	Monroe	M	Monterey	001	145345
Lotter Gas Co., Inc.	Monroe	M	Louisiana Gas Lands	002	148766
Lotter Gas Co., Inc.	Monroe	M	Louisiana Gas Lands	003	148767
Lotter Gas Co., Inc.	Monroe	M	Robinson	001	151193
Lotter Gas Co., Inc.	Monroe	M	Robinson	002	151225
Lotter Gas Co., Inc.	Monroe	M	Robinson	003	151226
Lotter Gas Co., Inc.	Monroe	M	Robinson	004	151290
Lotter Gas Co., Inc.	Monroe	M	Robinson	005	151291
Lotter Gas Co., Inc.	Monroe	M	Robinson	006	151398
Lotter Gas Co., Inc.	Monroe	M	Robinson	006	151399
Conley P. Smith Oil Producer	Wildcat-So La Lafayette Dist	L	E A Mcilhenny	001	209765(29)
Mobley & Mccain 1967	Krotz Springs	L	Pardee	001	121258(29)
Geo. P. Hill	Richland	M	C G Pardue	001	141187(29)
Bright & Company	Frogmore	M	Vua;Brown	001	160056(30)

James H. Welsh
Commissioner

0903#052

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 19 claims in the amount of $71,241.64 were received for payment during the period February 1, 2009-February 28, 2009.

There were 18 claims paid and 1 claim denied.

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.

Latitude/Longitude Coordinates of reported underwater obstructions are:

2909.010	9103.040	Terrebonne
2910.861	9028.098	Terrebonne
2918.043	8946.354	Terrebonne
2939.120	8950.137	Plaquemines
2940.253	9009.219	Jefferson
2940.655	8930.425	St. Bernard
2946.128	8942.105	St. Bernard
2947.130	8858.810	St. Bernard
2947.953	8938.105	St. Bernard
2950.192	8941.331	St. Bernard
2950.239	8937.199	St. Bernard
2955.363	8925.880	St. Bernard
3006.239	9002.040	Orleans
3008.265	9003.037	Orleans
3008.456	8956.035	Orleans
3010.142	8948.172	St. Tammany
3010.432	8957.410	St. Tammany
8948.408	2940.500	Plaquemines
9204.464	2936.103	Vermilion

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

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POTPOURRI

Department of Social Services
Office of Community Services

2009 Louisiana Emergency Shelter Grants Program
Anticipated Funds Availability

The Louisiana Department of Social Services (DSS) anticipates the availability of $1,533,558 in grant funds for distribution to applicant units of local government under the 2009 State Emergency Shelter Grants Program (ESGP). Program funds are allocated to the state by the U.S. Department of Housing and Urban Development (HUD) through authorization by the Stewart B. McKinney Homeless Assistance Act, as amended. Funding available under the ESGP is dedicated for the rehabilitation, renovation or conversion of buildings for use as emergency shelters for the homeless, and, for payment of certain operating costs and social services expenses in connection with emergency shelter for the homeless. The program also allows use of funding in homeless prevention activities as an adjunct to other eligible activities. As specified under current state ESGP policies, eligible applicants are limited to units of general local government for all parish jurisdictions and those municipal or city governmental units for jurisdictions with a minimum population of 10,000 according to recent census figures. Recipient units of local government may make all or part of grant amounts available to private nonprofit organizations for use in eligible activities.

Application packages for the state ESGP shall be issued by mail to the chief elected official of each qualifying unit of general local government. The application package can be viewed on the internet at http://www.dss.state.la.us/departments/dss/rfps.html. In order to be considered for funding, applications must be received by DSS/Office of Community Services (OCS) by 4 p.m., Friday, April 3, 2009.

Nonprofit organizations in qualifying jurisdictions that are interested in developing a project proposal for inclusion in an ESGP funding application should contact their respective unit of local government to advise of their interest. To be eligible for funding participation a private nonprofit organization, as defined by ESGP regulations, must be one which is exempt from taxation under subtitle A of the Internal Revenue Code, has an accounting system, a voluntary board, and, practices nondiscrimination in the provision of assistance.

To be eligible for funding, a project/organization must be a participant in a Homeless Management Information System (HMIS). Note that Public Law 109-162, which recently passed, protects victims, and their families, from disclosure of any personally identifying information or individual information collected in connection with services requested, utilized, or denied through grantees' and subgrantees' programs, involving domestic violence, dating violence, sexual assault, and/or stalking.

The state DSS will continue use of a geographic allocation formula in the distribution of the state's ESGP funding to ensure that each region of the state is allotted a specified minimum of state ESGP assistance for eligible ESGP projects. Regional allocations for the state's 2009 ESGP have been formulated based on factors for low income populations in the parishes of each region according to U.S. Census Bureau data. Within each region, grant distribution shall be conducted through a competitive grant award process.

The following table lists the allocation factors and amounts for each region:

Region	Factor	Allocation
Region I New Orleans	.1537939	235,852
Region II Baton Rouge	.1210838	185,689
Region III Thibodaux	.0659078	101,073
Region IV Lafayette	.1537187	235,737
Region V Lake Charles	.0522069	80,062
Region VI Alexandria	.0714394	109,556
Region VII Shreveport	.1235570	189,482
Region VIII Monroe	.0950414	145,752
Region IX Northshore	.0751581	115,259
Region X Jefferson	.0880929	135,096

Regional funding amounts for which applications are not received shall be subject to statewide competitive award to applicants from other regions and/or shall be reallocated among other regions in accordance with formulations consistent with the above factors.

Grant awards shall be for a minimum of $10,000. Applicable grant maximums are as follows:

- Individual grant awards to applicant jurisdictions with a population less than 49,000 shall not exceed $50,000.
- For a jurisdiction with a population over 49,000, the maximum grant award shall not exceed the ESGP allocation for that jurisdiction's respective region.

Grant specifications, minimum and maximum awards may be revised at DSS's discretion in consideration of individual applicant's needs, total program funding requests, and available funding. DSS reserves the right to negotiate the final grant amounts, component projects, and local match with all applicants to ensure judicious use of program funds.

Program applications must meet state ESGP requirements and must demonstrate the means to assure compliance if the proposal is selected for funding. If, in the determination of DSS, an application fails to meet program purposes and standards, even if such application is the only eligible proposal submitted from a region or sub region, such application may be rejected in toto, or the proposed project(s) may be subject to alterations as deemed necessary by DSS to meet appropriate program standards.

Proposals accepted for review will be rated on a comparative basis based on information provided in grant applications. Award of grant amounts between competing applicants and/or proposed projects will be based upon the following selection criteria:

- Nature and extent of unmet need for emergency shelter, transitional housing and supportive services in the applicant's jurisdiction: ..... 40 points
- The extent to which proposed activities will address needs for shelter and assistance and/or complete the development of a comprehensive system of services which will provide a continuum of care to assist homeless persons to achieve independent living: ..... 30 points
- The ability of the applicant to carry out the proposed activities promptly: ..... 15 points

- Coordination of the proposed project(s) with available community resources, so as to be able to match the needs of homeless persons with appropriate supportive services and assistance: ..... 15 points

ESGP recipients are required to provide matching funds (including in-kind contributions) in an amount at least equal to its ESGP funding unless a jurisdiction has been granted an exemption in accordance with program provisions. The value of donated materials and buildings, voluntary activities and other in-kind contributions may be included with "hard cash" amounts in the calculation of matching funds. A local government grantee may comply with this requirement by providing the matching funds itself, or through provision by nonprofit recipients.

A recipient local government may, at its option, elect to use up to 2.439 percent of grant funding for costs directly related to administering grant assistance, or may allocate all grant amounts for eligible program activities. Program rules do not allow the use of ESGP funds for administrative costs of nonprofit subgrantees.

Availability of ESGP funding is subject to HUD's approval of the state's FY 2009 Consolidated Annual Action Plan for Housing and Community Development Programs. No expenditure authority or funding obligations shall be implied based on the information in this notice of funds availability.

Inquiries and comments regarding the 2009 Louisiana ESGP may be submitted in writing to the attention of the ESGP Coordinator at the OCS, Contracts and Eligibility Section, Box 3318, Baton Rouge, LA, 70821, or telephone (225) 342-4583.

Kristy H. Nichols
Secretary

0903#060

CUMULATIVE INDEX
(Volume 35, Number 3)

2009	
Pages	**Issue**
1-183	January
184-384	February
385-609	March

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

AGRICULTURE AND FORESTRY

Animal Health, Board of
Equine infectious anemia testing, 406R
Crawfish Promotion and Research Board
Crawfish Promotion and Research Program, 406R
Commissioner, Office of
Agritourism, 204R
Horticulture Commission
Landscape architect registration exam, 378P
Retail Floristry Examination, 378P
Structural Pest Control Commission
Administration, 205R
Applications, 205R
Examinations, 205R

CIVIL SERVICE

Board of Ethics
Records, 407R, 505N
Reports, 407R, 505N

ECONOMIC DEVELOPMENT

Boxing and Wrestling Commission
Boxing and wrestling standards, 53R
Business Development, Office of
Economic Development Award Program (EDAP), 9ER, 272N
Economic Development Loan Program (EDLOP), 9ER, 272
Entertainment Industries Development
Entertainment Industry Tax Credit Programs
Digital media, 95N
Workforce Development and Training Program, 21ER, 289N
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
Secretary, Office of
Governor's Economic Development Rapid Response Program, 5ER, 285 N

EDUCATION

Elementary and Secondary Education, Board of
Bulletin 104—Louisiana Pre K-12 Educational Technology Standards, 98N
Bulletin 118—Statewide Assessment Standards and Practices, 57R
End-of-course tests, 214R
Erasure analysis, 443R
LEAP alternate assessment, 208R
Testing, 216R
Bulletin 124—Supplemental Educational Services SES Provider Responsibilities, 294N
Bulletin 741—Louisiana Handbook for School Administrators
Carnegie credit for middle school students, 443R
Compulsory attendance, 295N
General career education, 524N
Guidelines for expulsions, 296N
High school graduation requirements, 526N
Other reports, 297N
Placement of students, 297N
Staff misconduct, 298N, 443R
Teacher bill of rights, 300N
Written policies and procedures, 301N
Bulletin 746—Louisiana Standards for State Certification of School Personnel
Introduction, 527N
Math for professionals, 220R
Mild/moderate, 221R
Orientation and mobility, 101N
Out-of-state certificate, 101N
Practitioner licenses, 221R
Professional level certificates, 222R
State as a provider, 222R
Teacher leader endorsement, 528N
Bulletin 1508—Pupil Appraisal Handbook, 102N
Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act
Admission/release, 385ER, 529N
Criminal background checks, 443R
Nonpublic Bulletin 741— Louisiana Handbook for Nonpublic School Administrators
Immunization, 530N
Standing executive committees, 223R
Student Financial Assistance Commission
Student Financial Assistance, Office of
Loan forgiveness Program, 224R
Scholarship/Grant Programs, 227R, 386ER
Definitions, 531N
Go Grant, 132N
Initial and continuous enrollment, 185ER
LEAP Notification, 532N
Post-secondary institutions, 185ER

Tuition Trust Authority
Student Financial Assistance, Office of
START Saving Program, 235R, 387ER
Deposits, 186ER, 532N

ENVIRONMENTAL QUALITY
Environmental Assessment, Office of
Air Quality Division
Annual emissions inventory data submittals, 378P
Secretary, Office of the
Declaratory Ruling No. DR-08-003, 379P
Legal Affairs Division
Asbestos penalties, 62R
Biosolids, 311N
Concentrated animal feeding operations, 302N
Dissolved oxygen criteria for Barataria and Terrebonne Basins, 445R
Emergency engines and air curtain incinerators, 456R
Exemption of VOCs, 533N
Lead penalties, 62R
Mercury risk reduction, 449R
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
Sewage sludge, 311N
Transportation conformity, 133N, 461R

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

FIREFIGHTERS RETIREMENT SYSTEM
Claims for survivor benefits, 334N

GOVERNOR
Administration, Division of
Community Development, Office of
Community water enrichment fund, 135N
Office of Facility Planning and Control
Uniform public work bid form, 335N
Financial Institutions, Office of
Louisiana money transmitters, 534N
Group Benefits, Office of
EPO, 66R
PPO, 66R
Racing Commission
Bleeder medication, 388ER
Claiming rule, 137N
Corrupt and prohibited practices, 25ER
Entries, 26ER
Modern therapeutic measures, 463R
Permitted medication, 137N

Architectural Examiners, Board of
Examination, 64R
Practical experience, 64R
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
Law Enforcement and Administration of Criminal Justice, Commission on
Peace officer training, 238R
Pilotage Fee Commission
Officers of the commission, 463R
Public Defender Board
Trial court performance standards, 139N

HEALTH AND HOSPITALS
Dentistry, Board of
Requirements, licenses, permits, 67R
Examiners for Speech-Language Pathology and Audiology, Board of
Complaint investigation, 389ER
Licensed Professional Counselors, Board of
Licensure requirements, 200ER
Medical Examiners, Board of
Physician Licensure and Certification; 464R
Podiatrists licensure and certification, 240
Short-term training permit, 464R
Waiver of qualifications, 536N
Nursing, Board of
Registered nurses
Disciplinary proceedings, 151N, 340N
Alternative, 151N, 339N
License renewal, 153N, 342N
Peripherally inserted central catheter, 152N, 341N
Optometry Examiners, Board of
Employment restrictions, 536n
Continuing education, 536n
Professional conduct, 536N
Public Health, Office of
Expedited partner therapy, 249R
Marine and freshwater animal food products, 545N
Safe Drinking Water Program, 483R, 547N
Secretary, Office of the
Aging and Adult Services, Office of
Home/Community Based Services Waiver
Elderly and disabled adult, 29ER, 187ER, 396ER
New Opportunity Waiver (NOW), 188ER
Personal care services, 32ER, 199ER, 401ER
Citizens with Developmental Disabilities, Office of
Home/Community Based Services Waivers
Children's Choice, 26ER
New Opportunities Waiver (NOW), 28ER
Skilled nursing services rate increase, 482R
Health Services Financing, Bureau of
Ambulatory surgical center, 391ER
Dental services rate increase, 34ER
Direct service worker registry, 392

HEALTH AND HOSPITALS (continued)
Early and Periodic Screening, Diagnosis and Treatment Program
Dental program reimbursement, 35ER
EarlySteps reimbursement rate increase, 69R
Electronic reporting requirements, 245R
Emergency preparedness, 245R
Facility need review
Bed approval criteria, 37ER, 155N, 393Er
Home and community-based waivers
Disabled elderly adults, 187ER, 396ER
NOW, 188ER, 482R
Home Health Program
Durable medical equipment, 189ER
Hospice
Long term care payment, 190ER
Hospital services
Inpatient, 191ER
Non-Rural/Non State
Hemophilia blood products, 38ER, 156N
Reimbursement rate adjustment, 538N
Small rural, 192ER
Intermediate care facilities
Developmental disabilities, 193ER
Leave of absence days, 539N
Reimbursement rate reduction, 539N
Laboratory/radiology, 399ER
Medicaid Eligibility
Family Opportunity Act Medicaid Program, 69R
Louisiana Health Insurance Premium Payment Program, 541N
Youth aging out of foster care, 194ER
Medical Transportation Program
Emergency aircraft transportation rate increase, 70r
Rotor winged ambulance rate increase, 70r
Mental Health Rehabilitation Program, 195ER
Minimum licensing standards
Emergency medical transportation services, 180P, 466R
Multi-systematic therapy, 38ER, 245R
Nursing facilities
Leave of absence days, 196ER, 400ER
Reimbursement reduction, 542N
Minimum licensing standards
Emergency preparedness, 41ER, 248R
Outpatient hospital services
Private hospitals, 197ER
Small rural hospitals, 42ER
State-owned hospitals, 198ER
Personal care services, 199ER, 401ER
Professional Services Program
Anesthesia services, 403ER
Children's immunizations, 70R
Prosthetics and orthotics, 404ER
Provider accreditation, 71R
Refugee Medical Assistance, 544N
Rural health clinics, 44ER
State children's health insurance, 72R
Targeted case management, 73R, 199ER
Veterinary Medicine, Board of
Veterinary practice, 244R

DEPARTMENT OF INSURANCE
Office of the Commissioner
Regulation 33—Medicare Supplemental Insurance Minimum Standards, 555N
Regulation 97—Vehicle Tracking Systems, 344N

NATURAL RESOURCES
Conservation, Office of
Ground water management, 249R
Orphaned oilfield sites, 180P, 380P, 603P
Secretary, Office of
Certification of land conservation organizations, 73R
Fishermen's Gear Compensation Fund
Loran coordinates, 180P, 380P, 603P

PUBLIC SAFETY AND CORRECTIONS
Corrections Services
Drug-free workplace, 345N
Offender records, 85R
Telephone policy, 87R
Searches of visitors, 487R
Sex offender supervised release, 252R
Gaming Control Board
Application, 82R, 490R
Gaming, 82R, 83R
License, 82R, 84R, 490R
Permits, 84R
Storage, 84R
Retrieval, 84R
Video draw poker, 490R
Management and Finance, Office of
Wind mitigation surveyor, 490R
State Police, Office of
Transportation and Environmental Safety Section
Explosives code, 491R
State Fire Marshal, Office of
Code Enforcement and Building Safety
Emergency elevator access, 577N
Industrialized buildings, 580N
Fire sprinkler systems, 157N
Fire hoses, 157N
Uniform Construction Code Council
Wind mitigation surveyor, 490R

REVENUE
Alcohol and Tobacco Control, Office of
Regulation V—Solicitors, 589N
Regulation IX—Prohibition of Certain Unfair Business Practices, 89R
Policy Services Division
Filing extensions following disasters, 590N
Individual income tax filing extensions, 45ER, 169N, 181P
Interest waiver, 590N
New markets tax credit cap, 44ER
Policy statements, 591N
Sales and use tax exemptions, 593N
Tax matters person, 255R

Tax Commission
Ad valorem taxation, 491R

SOCIAL SERVICES
Community Services, Office of
2009 Louisiana Emergency Shelter Grants Program
Anticipated funds availability, 604P
Daycare services, 170N, 202ER, 404ER, 593N
Developmental and socialization activities program for foster children, 595N
SSBG supplemental funds—intended use report, 380P
Family Support, Office of
2008 Act requirements, 46ER
Day care centers caring for sick children, 348N
Electronic benefits, 171N
Jobs for America's Graduates Louisiana Program, 202ER
Passport denial, 270R
State plan, 270R
Substance abuse testing, 353N
TANF initiatives,
Caseload reduction report, 181P
Legal access and visitation, 355N
SES access and visitation, 47ER

STATE DEPARTMENT
Elections Division
Polling place accessibility, 596N

TRANSPORTATION AND DEVELOPMENT
LOGO signing, 271R

TREASURY
State Employees' Retirement System
Active member vacancies, 271R

WILDLIFE AND FISHERIES
Wildlife and Fisheries Commission
Domesticated aquatic organisms, 357N
General and wildlife management area hunting, 358N
King mackerel, 47ER
Invasive noxious aquatic plants, 372N
Natural areas dedication and servitudes, 501R
Oyster seed ground vessel
Permit appeals board, 503r
Permit renewal and re-issuance, 503R
Oyster season, 405ER
Red snapper, 48ER
Reef fish, 48ER
Resident game hunting season, 374N
Sawfish, 50ER
Shark, 50ER
Coastal, 49ER, 203ER
Shrimp, 202ER
Spanish Lake, 173N
Turkey, 90R, 91R
Bag limit, 90R